Employment Relations Amendment Act 2026

Public Act	2026 No 4
Date of assent	20 February 2026
Commencement	see section 2

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The Parliament of New Zealand enacts as follows:

1 Title

This Act is the Employment Relations Amendment Act 2026.

2 Commencement

This Act comes into force on 21 February 2026.

Section 2: editorial change made by the PCO, on 8 March 2026, under sections 86(1) and 87(m) of the Legislation Act 2019 (2019 No 58).

3 Principal Act

This Act amends the Employment Relations Act 2000.

Part 1
Main amendments

Subpart 1—Amendments relating to specified contractors

4 Section 6 amended (Meaning of employee)

(1) After section 6(1)(c), insert:

(d) excludes a specified contractor.

(2) After section 6(6), insert:

(7) In this section, **specified contractor** means a person (**person A**) who has entered into an arrangement with another person (**person B**) under which person A either performs work for person B or performs work for a third party that is facilitated by person B, and—

(a) that arrangement includes a written agreement that specifies that person A—

(i) is an independent contractor; or

(ii) is not an employee; and

(b) person A is not restricted from performing work for any other person, except while performing work for person B or facilitated by person B; and

(c) either—

(i) person A is not required to perform, or be available to perform, work for person B or facilitated by person B at a specified time or on a specified day or for a minimum period; or

(ii) person A is allowed to subcontract the work for person B or facilitated by person B to another person (**person C**) and person B—

(A) does not require person C to undergo vetting before being subcontracted by person A; or

(B) requires person C to undergo vetting before being subcontracted by person A, but only to ensure compliance with any relevant statutory requirements, or, if justified by the nature of the work, to check for a relevant qualification or criminal record, or both (as the case may be); and

(d) the arrangement may not be terminated for the reason that person A declines any work offered to them by person B (whether for or facili-

tated by person B) that is additional to the work that person A agreed to perform under the arrangement; and

(e) person A had a reasonable opportunity to seek independent advice before entering into the arrangement.

(8) Person A is not restricted from performing work for any other person under subsection (7)(b) if the hours of work for person B or facilitated by person B are such that they have the effect of restricting person A's ability to perform work for any other person.

Subpart 2—Amendments relating to remedies for personal grievance if contributing behaviour by employee

5 Section 123 amended (Remedies)

After section 123(2), insert:

(3) This section is subject to sections 123B and 123C.

6 Section 123A amended (Remedies where controlling third party caused or contributed to personal grievance)

After section 123A(4), insert:

(4A) The Authority or the court must not make an order under subsection (2) awarding—

(a) the remedy in section 123(1)(b) against the controlling third party if the Authority or the court determines that—

(i) an action of the employee contributed to the situation that gave rise to the personal grievance; and

(ii) that action amounts to serious misconduct (*see* section 123B):

(b) the remedy in section 123(1)(c) against the controlling third party if the Authority or the court determines that an action of the employee contributed to the situation that gave rise to the personal grievance (*see* sections 123B and 123C).

7 New sections 123B and 123C inserted

After section 123A, insert:

123B Remedies not available if contributing behaviour by employee amounts to serious misconduct

Despite section 123, the Authority or the court must not provide for any remedy if the Authority or the court determines that—

(a) an action of the employee contributed to the situation that gave rise to the personal grievance; and

(b) that action amounts to serious misconduct.

123C Reinstatement and compensation not available if contributing behaviour by employee

Despite section 123, the Authority or the court must not provide for any of the following remedies if the Authority or the court determines that an action of the employee contributed to the situation that gave rise to the personal grievance:

(a) the remedy in section 123(1)(a):

(b) the remedy in section 123(1)(c).

8 Section 124 amended (Remedy reduced if contributing behaviour by employee)

(1) In the heading to section 124, replace "**Remedy**" with "**Available remedies**".

(2) In section 124, insert as subsection (2):

(2) Remedies may be reduced in accordance with subsection (1) by up to 100%.

Subpart 3—Amendments relating to specified remuneration threshold

9 Section 5 amended (Interpretation)

In section 5, insert in their appropriate alphabetical order:

annual remuneration, in relation to an employee, has the meaning given to it by section 67I(4)

specified remuneration threshold has the meaning given to it by section 113B

10 New sections 67I and 67J inserted

After section 67H, insert:

67I Termination of employment of employee whose annual remuneration meets or exceeds specified threshold

(1) This section applies to an employee if the employee's annual remuneration meets or exceeds the specified remuneration threshold.

(2) The employer, in making a decision whether to terminate the employee's employment agreement, is not required to comply with section 4(1A)(c) in observing the obligation in section 4 to deal in good faith with the employee.

(3) If the employer terminates the employee's employment agreement, the employer is not required to comply with a request under section 120 that relates to the employee.

(4) An employee's **annual remuneration** is calculated as follows:

$$ar = (r \div d) \times 364$$

where—

ar is the employee's annual remuneration

r is the total remuneration that the employer has paid to the employee in the period that consists of the pay periods that start and end within the 364 days immediately before the first day of the pay period within which the employer notifies the employee of the dismissal

d is the number of part or full days for which the employee has held the position with the employer in the 364 days immediately before the first day of the pay period within which the employer notifies the employee of the dismissal.

(5) For the purposes of the definition of annual remuneration (*see* subsection (4)), **remuneration** includes—

(a) a PAYE income payment (as that term is defined in section RD 3(1) of the Income Tax Act 2007) that is made by the employer, other than an accident compensation earnings-related payment:

(b) any other benefit arising from an employee share scheme under section CE 2 of the Income Tax Act 2007.

67J Employer and employee may agree that sections 67I and 113A do not apply

Despite section 238, an employer and employee may agree in writing, as a term of the employee's employment, that both sections 67I and 113A do not apply.

11 New sections 113A and 113B inserted

After section 113, insert:

113A Employee whose annual remuneration meets or exceeds specified threshold may not pursue personal grievance for unjustified dismissal or unjustified disadvantage

(1) This section applies to an employee if—

(a) the employee is dismissed by their employer; and

(b) the employee's annual remuneration meets or exceeds the specified remuneration threshold.

(2) The employee may not bring a personal grievance or legal proceedings in respect of the dismissal, including—

(a) a personal grievance on the ground specified in section 103(1)(a):

(b) a personal grievance on the ground specified in section 103(1)(b) if the ground relates to the dismissal.

(3) This section does not prevent the employee from bringing a personal grievance or legal proceedings—

(a) on the ground specified in section 103(1)(b) if the ground does not relate to the dismissal:

(b) on any of the grounds specified in section 103(1)(c) to (k).

113B Specified remuneration threshold

(1) The **specified remuneration threshold** is—

(a) $200,000; or

(b) if an increase has occurred under this section, the amount that resulted from the last increase.

Increases to specified remuneration threshold

(2) The specified remuneration threshold must increase in a given year if the amount of average ordinary weekly earnings for the first quarter of that year, as specified in the relevant Quarterly Employment Survey, is more than the amount of average ordinary weekly earnings for the first quarter of the year in which the specified remuneration threshold last increased (the **year of last increase**), as specified in the relevant Quarterly Employment Survey.

(3) The specified remuneration threshold must be increased by the percentage that results from the following formula:

$$a = ((b - c) \div c) \times 100$$

where—

a is the percentage by which the specified remuneration threshold must increase

b is the amount of average ordinary weekly earnings for the first quarter of the given year, as specified in the relevant Quarterly Employment Survey

c is the average ordinary weekly earnings for the year of last increase, as specified in the relevant Quarterly Employment Survey.

(4) If the amount that results from the percentage increase is not a whole number, it must be rounded to the nearest whole number.

(5) The amount that results from the application of subsection (3) and, if applicable, subsection (4)—

(a) takes effect as the specified remuneration threshold on 1 July of the given year; and

(b) continues to have effect until the threshold is next increased under this section.

(6) Before the amount that results from the application of subsection (3) and, if applicable, subsection (4) takes effect as the specified remuneration threshold, the chief executive must publish that amount on an Internet site maintained by or on behalf of the department.

(7) Any correction that is made to the amount of average ordinary weekly earnings for the first quarter of the given year must be disregarded until the next increase to the specified remuneration threshold, which must reflect the corrected amount in the calculation of that increase and must otherwise be made in accordance with subsections (2) and (3).

(8) In this section,—

average ordinary weekly earnings, in relation to the Quarterly Employment Survey, means the average ordinary weekly earnings per full-time equivalent employee (seasonally adjusted, total industries) or any measure that is equivalent to that measure

first quarter means the period beginning on 1 January and ending on the close of 31 March

Quarterly Employment Survey means the Quarterly Employment Survey published by Statistics New Zealand or, if that survey ceases to be published, any measure certified by the Government Statistician as being equivalent to that survey.

Subpart 4—Amendments relating to collective agreements and new or prospective employees

12 Section 30A and cross-heading repealed

Repeal section 30A and the cross-heading above section 30A.

13 Section 62 amended (Terms and conditions for first 30 days of employment of new employee who is not member of union)

(1) Replace section 62(3) to (5) with:

(3) At the time when the employee enters into an individual employment agreement with an employer, the employer must—

(a) inform the employee—

(i) that the collective agreement exists and covers work to be done by the employee; and

(ii) that the employee may join the union that is a party to the collective agreement; and

(iii) about how to contact the union; and

(iv) that, if the employee joins the union, the employee will be bound by the collective agreement; and

(b) give the employee a copy of the collective agreement; and

(c) if the employee agrees, inform the union as soon as practicable that the employee has entered into an individual employment agreement with the employer.

(4) If the work to be done by the employee is covered by more than 1 collective agreement, the employer must—

(a) comply with subsection (3) in relation to the collective agreement that binds more of the employer's employees in relation to the work that the new employee will be performing than any of the other collective agreements; and

(b) inform the employee of the existence of the other agreement or agreements.

(5) An employer who fails to comply with this section is liable to a penalty imposed by the Authority.

(2) Repeal section 62(6).

14 Section 62A repealed (Employer must share new employee information with union unless employee objects)

Repeal section 62A.

15 Section 63 repealed (Terms and conditions of employment of employee who is not member of union after expiry of 30-day period)

Repeal section 63.

16 Section 63A amended (Bargaining for individual employment agreement or individual terms and conditions in employment agreement)

Repeal section 63A(1)(c) and (d).

17 Section 63B repealed (Additional employer obligations when bargaining for terms and conditions of employment under section 62)

Repeal section 63B.

Subpart 5—Other amendments

18 Section 67B amended (Effect of trial provision under section 67A)

(1) Replace section 67B(2) with:

(2) An employee whose employment agreement is terminated in accordance with subsection (1) may not bring a personal grievance or legal proceedings in respect of the dismissal, including—

(a) a personal grievance on the ground specified in section 103(1)(a):

(b) a personal grievance on the ground specified in section 103(1)(b) if the ground relates to the dismissal.

(2) Replace section 67B(3) with:

(3) Neither this section nor a trial provision prevents an employee from bringing a personal grievance or legal proceedings—

(a) on the ground specified in section 103(1)(b) if the ground does not relate to the dismissal:

(b) on any of the grounds specified in section 103(1)(c) to (k).

19 Section 103A amended (Test of justification)

(1) After section 103A(3)(d), insert:

(e) whether the employer was obstructed by the employee from taking—

(i) an action specified in any of paragraphs (a) to (d):

(ii) an action that relates to any other factor that the Authority or the court considers in accordance with subsection (4).

(2) Replace section 103A(5) with:

(5) The Authority or the court must not determine a dismissal or an action to be unjustifiable under this section solely because of defects in the process followed by the employer if the defects did not result in the employee being treated unfairly.

Part 2
Transitional amendment

20 Schedule 1AA amended

In Schedule 1AA,—

(a) insert the Part set out in the Schedule of this Act as the last Part; and

(b) make all necessary consequential amendments.

Schedule
New Part 9 inserted into Schedule 1AA

s 20

Part 9
Provisions relating to Employment Relations Amendment Act 2026

26 Interpretation

In this Part,—

2026 amendment Act means the Employment Relations Amendment Act 2026

commencement date means the date on which the 2026 amendment Act comes into force

different position, in relation to an employee, means a position that is different from the position that the employee held immediately before the commencement date

same position, in relation to an employee, means the position that the employee held immediately before the commencement date.

Provision relating to specified contractors

27 Person is specified contractor on and from commencement date unless proceedings brought before commencement

(1) This clause applies to a person—

(a) who, on the commencement date, meets the definition of a specified contractor in relation to an arrangement that the person entered into before the commencement date; but

(b) only if, as at the commencement date, proceedings under section 6 have not been brought before the Authority or the court in respect of the person to determine whether the person is an employee in relation to the arrangement.

(2) The person is a specified contractor in relation to the arrangement on and from the commencement date.

(3) Subclause (2) applies even if, on or after the commencement date,—

(a) the person (or another person on the person's behalf) brings proceedings under section 6 before the Authority to determine whether the person is an employee in relation to the arrangement; and

(b) the Authority determines that the person is an employee in relation to the period of the arrangement that falls before the commencement date.

(4) In this clause,—

arrangement means an arrangement under which a person agrees with another person (**person B**) to perform work for person B or facilitated by person B

specified contractor has the meaning given to it by section 6(7).

Provisions relating to specified remuneration threshold

28 Section 67I does not apply to certain employees for period of up to 12 months

(1) Section 67I does not apply in respect of an employee whose annual remuneration meets or exceeds the specified remuneration threshold if the employee—

(a) holds the same position with the employer by whom they were employed immediately before the commencement date; or

(b) as a result of a restructuring, holds a different position with the employer by whom they were employed immediately before the commencement date; or

(c) as a result of a restructuring, holds a different position with an employer other than the employer by whom they were employed immediately before the commencement date.

(2) Subclause (1) applies in respect of the employee for as long as subclause (1)(a), (b), or (c) applies to the employee or for a period of 12 months from the commencement date, whichever ends first.

(3) Despite subclauses (1) and (2), the employee and their employer may agree in writing, as a term of the employee's employment, that section 67I applies in respect of the employee.

29 Section 113A does not apply to certain employees dismissed within 12 months of commencement

(1) Section 113A does not apply in respect of an employee whose annual remuneration meets or exceeds the specified remuneration threshold if—

(a) the employee is dismissed by their employer within 12 months of the commencement date; and

(b) at the time of the dismissal, the employee—

(i) holds the same position with the employer by whom they were employed immediately before the commencement date; or

(ii) as a result of a restructuring, holds a different position with the employer by whom they were employed immediately before the commencement date; or

(iii) as a result of a restructuring, holds a different position with an employer other than the employer by whom they were employed immediately before the commencement date.

(2) Despite subclause (1), the employee and their employer may agree in writing, as a term of the employee's employment, that section 113A applies in respect of the employee.

30 Application of dispute resolution procedures that enable employees to bring personal grievance or legal proceedings

(1) This clause applies in respect of a dispute resolution procedure—

(a) that is contained in an employment agreement that was entered into before the commencement date; and

(b) that has the effect of enabling an employee, who may not bring a personal grievance or legal proceedings in respect of a dismissal under this Act as amended by the 2026 amendment Act, to bring a personal grievance or legal proceedings in respect of a dismissal.

(2) The dispute resolution procedure applies on and from the commencement date as if the procedure did not have the effect of enabling the employee to bring a personal grievance or legal proceedings in respect of a dismissal.

31 Specified remuneration threshold must not increase before 1 July 2027

Despite section 113B(2), the specified remuneration threshold must not increase before 1 July 2027.

32 Application of section 113B to first increase of specified remuneration threshold

Section 113B applies in respect of the first increase of the specified remuneration threshold as if a reference to the year of last increase were a reference to the year in which the 2026 amendment Act commenced.

Legislative history

17 June 2025	Introduction (Bill 175–1)
15 July 2025	First reading and referral to Education and Workforce Committee
8 December 2025	Reported from Education and Workforce Committee (Bill 175–2)
10 February 2026	Second reading
11 February 2026	Committee of the whole House (Bill 175–3)
17 February 2026	Third reading
20 February 2026	Royal assent

This Act is administered by the Ministry of Business, Innovation, and Employment.

Wellington, New Zealand:
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