



Employment Relations (Prescribed Matters) Amendment Regulations 2020

Patsy Reddy, Governor-General

Order in Council

At Wellington this 2nd day of June 2020

Present:

Her Excellency the Governor-General in Council

These regulations are made under section 237 of the Employment Relations Act 2000 on the advice and with the consent of the Executive Council.

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Regulations

- 1 Title**
 These regulations are the Employment Relations (Prescribed Matters) Amendment Regulations 2020.

2 Commencement

These regulations come into force on 28 June 2020.

3 Principal regulations

These regulations amend the Employment Relations (Prescribed Matters) Regulations 2000 (the **principal regulations**).

4 Regulation 3 amended (Interpretation)

After regulation 3(2), insert:

- (3) Any term or expression that is defined in the Act and used, but not defined, in these regulations (for example, lockout, strike, and union) has the same meaning as in the Act.

5 Form 3 of Schedule replaced

In the Schedule, replace form 3 with the form 3 set out in the Schedule of these regulations.

Schedule

Form 3 of Schedule replaced

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Form 3 Record of strike or lockout

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Section 98(a), Employment Relations Act 2000

Instructions to employer for completing this form

- 1 Complete 1 form for each strike or lockout.
- 2 If the strike or lockout was in more than 1 location, complete 1 form for each location.
- 3 Return the completed form within 1 month after the end of each strike or lockout to:
 strike.notices@mbie.govt.nz
or
 Work Stoppages
 Ministry of Business, Innovation, and Employment
 PO Box 1473
 Wellington 6140

Information to be provided

- 1 Name of the business:
- 2 Main industry of the business:
- 3 What type of industrial action was involved? (*tick the type that applies and use a separate form for each type*)
 - a strike (*see notes below*)
 - a lockout (*see notes below*)
- 4 If the industrial action was a strike involving partial non-compliance with employees' terms and conditions of employment, what type or types of action were involved? (*tick as appropriate*)
 - a partial discontinuance of work through a refusal or failure to accept engagement for work that forms part of the employees' normal duties, for example, a ban on particular types of work, an overtime ban, or similar
 - a reduction in the employees' normal performance of work, normal output, or normal rate of work, for example, a "go slow", a "work to rule", or similar

- employees breaking their employment agreement, whether or not that act involves any reduction in the employees' normal performance of work, normal output, or normal rate of work
- 5 Where did the strike or lockout take place? [*name of nearest city or town*]
- 6 How many employees were involved in the strike or lockout? [*number, including non-striking employees suspended because of the unavailability of normal work during a strike or lockout*]
- 7 Describe the group of employees involved according to their membership of a union, an occupation, or other relevant characteristic:
- 8 Do the employees involved include any of the following? (*tick as appropriate*)
- part-time employees
- shift workers
- employees whose normal span of hours includes weekends
- 9 When did the strike or lockout begin? [*date and time*]
- 10 When did the strike or lockout end? [*date and time*]
- 11 On how many days was work affected by the strike or lockout? [*number of days*]
- Answer questions 12 to 14 if the strike or lockout included—*
- (a) *a total withdrawal of labour by some or all of the employees; or*
- (b) *a lockout; or*
- (c) *wages or salaries deducted for the duration of the strike or lockout.*
- Otherwise, go to question 15.*
- 12 What was the duration of the strike or lockout? [*duration in hours*]
- 13 How many hours were lost by all employees during the strike or lockout (including all hours normally worked at all times and regular overtime that would have been worked)? [*For example, total lost time = duration of strike or lockout (in hours) × number of employees involved. Include all hours normally worked at all times and regular overtime and penal rates that would have been worked.*]
- 14 What was the total amount of wages and salaries lost by all employees during the total time of the strike or lockout? [*amount, including all wages and salary normally earned at all times and regular overtime and penal rates that would have been paid*]
- 15 What were the main reasons for the strike or lockout? (*tick all that apply*)
- dispute over whether the parties acted in good faith
- dispute arising from negotiation of coverage of employment agreement
- dispute over wage provisions of an employment agreement
- dispute over a safety or health issue

dispute over the way the employment agreement is interpreted or applied

dispute over alleged breach of agreement

dispute over hours of work provisions of employment agreement

dispute over redundancy provisions of employment agreement

dispute over leave provisions of employment agreement

dispute over overtime or shift provisions of employment agreement

other [*describe*]

16 How was this underlying dispute finally resolved? (*tick 1 only*)

not resolved

negotiations between employer and employees or their representatives

mediation services provided by the Ministry of Business, Innovation, and Employment

mediation services provided by a private provider

a determination or an order of the Employment Relations Authority

a decision of the Employment Court or other third party

other [*describe*]

17 How was the strike or lockout ended? (*tick 1 only*)

without negotiations or other action

negotiations between employer and employees or their representatives

mediation services provided by the Ministry of Business, Innovation, and Employment

mediation provided by a private provider

a determination or an order of the Employment Relations Authority

a decision of the Employment Court or other third party

other [*describe*]

18 Details of person completing this form:

Name:

Position:

Business address:

Telephone number:

Email address:

Date:

Signature:

Notes

- 1 The meanings of strike and lockout in the Employment Relations Act 2000 are set out at the end of this form.
- 2 Under the Employment Relations Act 2000, an employer is obliged to keep a record of all this information whenever there is a strike or lockout.

*Meanings of strike and lockout in Employment Relations Act 2000***81 Meaning of strike**

- (1) In this Act, **strike** means an act that—
- (a) is the act of a number of employees who are or have been in the employment of the same employer or of different employers—
 - (i) in discontinuing that employment, whether wholly or partially, or in reducing the normal performance of it; or
 - (ii) in refusing or failing after any such discontinuance to resume or return to their employment; or
 - (iii) in breaking their employment agreements; or
 - (iv) in refusing or failing to accept engagement for work in which they are usually employed; or
 - (v) in reducing their normal output or their normal rate of work; and
 - (b) is due to a combination, agreement, common understanding, or concerted action, whether express or, as the case requires, implied, made, or entered into by the employees.
- (2) In this Act, **strike** does not include an employees' meeting authorised—
- (a) by an employer; or
 - (b) by an employment agreement; or
 - (c) by this Act.
- (3) In this Act, **to strike** means to become a party to a strike.

82 Meaning of lockout

- (1) In this Act, **lockout** means an act that—
- (a) is the act of an employer—
 - (i) in closing the employer's place of business, or suspending or discontinuing the employer's business or any branch of that business; or
 - (ii) in discontinuing the employment of any employees; or
 - (iii) in breaking some or all of the employer's employment agreements; or
 - (iv) in refusing or failing to engage employees for any work for which the employer usually employs employees; and

- (b) is done with a view to compelling employees, or to aid another employer in compelling employees, to—
- (i) accept terms of employment; or
 - (ii) comply with demands made by the employer.
- (2) In this Act, **to lock out** means to become a party to a lockout.

Michael Webster,
Clerk of the Executive Council.

Explanatory note

This note is not part of the regulations, but is intended to indicate their general effect.

These regulations, which come into force on 28 June 2020, amend the Employment Relations (Prescribed Matters) Regulations 2000 (the **principal regulations**). The main purpose of these regulations is to replace form 3 in the Schedule of the principal regulations to reflect some of the amendments made to the Employment Relations Act 2000 by the Employment Relations Amendment Act 2018 (for example, removing references to partial strikes in the form following the repeal of section 95A of the Employment Relations Act 2000).

Issued under the authority of the Legislation Act 2012.

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These regulations are administered by the Ministry of Business, Innovation, and Employment.