



COVERSHEET

Minister	Hon Brooke van Velden	Portfolio	Minister for Workplace Relations and Safety
Title of Cabinet paper	Employment Relations Amendment Bill: Report back to Cabinet and policy changes for Select Committee	Date to be published	8 December 2025

List of documents that have been proactively released

Date	Title	Author
October 2025	Employment Relations Amendment Bill: Report back to Cabinet and policy changes for Select Committee	Office of the Minister for Workplace Relations and Safety
13 October 2025	Employment Relations Amendment Bill: Report back to Cabinet and policy changes for Select Committee CAB-25-MIN-0356 Minute	Cabinet Office
1 October 2025	Updated Regulatory Impact Statement - Providing better certainty for Contractors	MBIE

Information redacted

YES / NO (please select)

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Some information has been withheld for the reasons of Legal professional privilege and International Relations.



Cabinet

Minute of Decision

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Employment Relations Amendment Bill: Report Back and Policy Changes for Select Committee

Portfolio **Workplace Relations and Safety**

On 13 October 2025, following reference from the Cabinet Expenditure and Regulatory Review Committee, Cabinet:

Gateway test

- 1 **agreed** to the following package of targeted changes to the gateway test in the Employment Relations Amendment Bill (the Bill) to improve its certainty:
 - 1.1 amend the intention criterion to require there be a written agreement that specifies that the worker is an independent contractor or not an employee;
 - 1.2 amend the restriction criterion to specify that contracting someone to work the equivalent of full-time hours does not in itself constitute a restriction on working for others;
 - 1.3 amend the sub-contracting criterion to allow businesses to require:
 - 1.3.1 a vet of sub-contractors to ensure they have particular qualifications, where it is reasonable to require those qualifications given the nature of the work; and/or
 - 1.3.2 a criminal record check to ensure the sub-contractor does not have any relevant convictions, where it is justified by the nature of the role;
- 2 **noted** that the Minister for Workplace Relations and Safety intends to recommend the Education and Workforce select committee make a technical change to the drafting of the gateway test to ensure it clearly applies in situations when the worker is not performing the work directly for the hiring business;

Income threshold

- 3 **agreed** that, for the purposes of the income threshold, income be defined as PAYE income payments and employee share schemes (as defined in the Income Tax Act 2007) received from the employer;
- 4 **agreed** that an employee's remuneration, for the purposes of the threshold, be calculated on the pay period immediately before an employee is notified of termination;

- 5 **agreed** that remuneration be calculated using the following principles:
- 5.1 the calculation should be based on the remuneration that the employee received in the previous 52 weeks from their employer, whilst employed in the same role;
 - 5.2 the calculation is pro-rated to the number of weeks worked, where an employee has not been in paid employment with the employer, and in the same role, for 52 weeks;
- 6 **agreed** that the income threshold be initially set at \$200,000 per annum;

Next steps

- 7 **noted** that the agreed changes to the Bill will be recommended to the select committee via the departmental report;
- 8 **noted** that, in June 2025, Cabinet agreed to consider the Bill again after it was reported out of select committee [CAB-25-MIN-0189];
- 9 **rescinded** the decision referred to in paragraph 8 above.

Rachel Hayward
Secretary of the Cabinet