

30 October 2023

Committee Secretariat
Finance and Expenditure Committee
Parliament Buildings
Wellington

Via online form.

Re: Employment Relations (Protection for KiwiSaver Members) Amendment Bill

Dear Committee Secretariat,

The Association of Digital Service Providers Australia New Zealand (DSPANZ) welcomes the opportunity to make this submission on behalf of our members and the business software industry. This submission has been prepared with input from the [Digital Advisory Group - Payroll Working Group](#).

About DSPANZ

Digital Service Providers Australia New Zealand is the gateway for the government into the dynamic, world-class business software sector in Aotearoa New Zealand and Australia. [Our members](#) range from large, well-established companies to new and nimble innovators working at the cutting edge of business software and app development on both sides of the Tasman.

Our submission provides the below feedback on the *Employment Relations (Protection for Kiwisaver Members) Amendment Bill*.

Our Understanding of the Bill

The proposed Bill aims to restore protections for KiwiSaver members that were repealed by the *Employment Relations Amendment Act 2008*. The Bill also seeks to prevent potential discrimination against employees who are members of a KiwiSaver scheme or a complying superannuation fund.

It specifically addresses situations where employers might offset pay increases against workers' KiwiSaver contributions or offer different terms of employment; conditions of work; fringe benefits; or opportunities for training, promotion and transfer to KiwiSaver members (Clause 110AA).

Total Remuneration Arrangements

DSPANZ seeks clarification on whether total remuneration arrangements, in which an employer negotiates that KiwiSaver Employer Contributions will form part of an employee's remuneration, will no longer be allowed.

The newly inserted section 110AA suggests that an employee's salary or wages should not include any amount that recognises compulsory contributions made by the employer in relation to the employee (Clause 110AA (3)(a)).

However, it would be helpful if the Bill could provide greater clarity on this matter.

Application to Existing Employment Agreements

If the Bill impacts total remuneration arrangements, we seek further clarification on whether this applies to existing employment agreements or only future ones.

Section 18 of the newly inserted Part 4 in Schedule 1AA of the *Employment Relations Act 2000* states that the amendments apply to "other matters" occurring on or after the effective date, regardless of when an employee's employment agreement was entered into.

The term "other matters" is unclear, creating ambiguity that could include existing total remuneration agreements.

We seek clarification to allow employers sufficient time to prepare for changes to employment agreements (whether these are existing or future agreements) and to make the necessary adjustments to payroll configuration to accommodate this potential change.

DSPANZ believes that greater clarity in the wording of the Bill regarding these issues would benefit all parties involved. We welcome the opportunity to provide further feedback on our submission.

Yours faithfully,

**Matthew Prouse,
President & Director
DSPANZ.**

