



**New Zealand
School Property Agency**

Construction Contracts (Retention Money) Amendment Act 2023

General Information for Schools

The Construction Contracts Act 2002 (**Construction Contracts Act**) is one of the most important laws related to building and construction in New Zealand. It has been amended by the Construction Contracts (**Retention Money**) Amendment Act 2023 (**2023 Amendment Act**), to introduce new requirements related to retentions. The new requirements applied to all contracts entered into or renewed from **5 October 2023**.

What are retentions?

A retention is an amount that a client holds back from the payments it makes to a contractor and then releases once the work is completed. The idea is that the promise of receiving the retention money will motivate the contractor to finish the job in a timely manner, and if they do not complete the job then the client can use the retention money to have the work finished by somebody else.

The New Zealand School Property Agency's (**NZSPA**) templates for [Medium Works and Major Works contracts for School-led projects](#) both allow schools to hold retentions.

Why do schools need to be aware of the 2023 Amendment Act?

Schools that hold retentions on their construction projects have to comply with the new requirements of the 2023 Amendment Act from 5 October 2023.

Further information on contracts for school-led property projects and maintenance are available on the NZSPA's website: [Contracts for school-led property projects and maintenance – Education in New Zealand](#)

What changed once the 2023 Amendment Act came into force on 5 October 2023?

The 2023 Amendment Act made several important changes:

- There are new requirements that apply if you hold retentions in a bank account: The account must be used exclusively for holding retention money, and any interest earned in the account belongs to the **school**. The **school** can choose to have individual accounts for each contractor's retention money or a single account for all contractors, but in the latter case, detailed accounting records must be maintained to show whose retentions are whose.
- The **school** must provide certain information to the **Contractor** when taking a retention, and then at least every three months thereafter for as long as the retention is held. The required information includes the amount held, contract specifics, bank account

information (if the retentions are held in a bank account), or financial instrument details.

- Retention money must either be held in a separate bank account or secured through a suitable financial instrument, like insurance or a bond.
- The **school** can only use this money to address defects after providing the **Contractor** with a 10-working-day notice in writing to fix the issues.

What happens if schools fails to comply with the 2023 Amendment Act?

There are penalties for organisations that do not comply with the retention requirements:

- A fine of up to \$200,000 for failing to keep retention money as required,
- A fine of up to \$50,000 for failing to maintain proper accounting and records of retention money, and
- A fine of up to \$50,000 for failing to provide regular reports on retention money.

Further information:

For further guidance and information, you can speak with your local property advisor or seek independent legal advice. Follow the links below to access materials related to the new changes.

- [Construction Contracts \(Retention Money\) Amendment Act 2023 No 12, Public Act – New Zealand Legislation](#)
- [Construction Contracts Act 2002 No 46 \(as at 01 July 2022\), Public Act Contents – New Zealand Legislation](#)
- [Construction Contracts Act 2002 – Building Performance](#)
- [Accord live webinar - Construction Contracts \(Retention Money\), what this means for the sector. - YouTube](#)

For advice on how to set up bank accounts for this purpose, you can get in touch with your [Ministry School Finance Advisor](#).