BusinessCentral

EMPLOYER BULLETIN

23 September 2024
A Weekly News Digest for Employers

EMPLOYER NEWS

Government eliminates $190 million in trade barriers to boost the economy

The Government has successfully removed trade barriers affecting nearly $190 million worth of exports to help grow the economy, Minister for Trade and Agriculture Todd McClay has announced.

"In the past year, we have resolved 14 Non Tariff Barriers (NTBs), returning significant value to kiwi exporters. These efforts directly boost our trade value and make it easier for businesses to expand into key international markets," Mr McClay says.

NTBs, which include regulatory obstacles like complex certification processes and import restrictions, currently affect $9.8 billion worth of New Zealand's trade, with the primary sector facing the greatest impact.

Issues included a barrier that had affected $5 million in trade devices exports to Mexico; labelling issues in South Korea that cleared a shipment of New Zealand cheese worth $1.8 million; reducing regulatory burdens for wine and spirits exporters in the EU; restoring onion exports to Indonesia, NZ's largest onion market, through streamlined phytosanitary certification; and restoring log exports to India by changing NZ's fumigation practices.

"New Zealand exported $96.3 billion worth of goods and services in 2023. Over the next 12 months we will continue our focus on reducing NTBs including around costly EU deforestation regulations, Canadian dairy import restrictions, $300m of cosmetics exports to China and restrictions on structural timber exports to Australia."

To read further, please click here.

Draft critical minerals list released for consultation

A draft list of minerals deemed essential to New Zealand's economy and strengthening its mineral resilience has been released for consultation, Resources Minister Shane Jones says.

The draft Critical Minerals List identifies 35 minerals essential to economic functions, are in demand internationally, and face high risk of supply disruption domestically and internationally.

"If access to some of these enabling minerals, such as aggregates to build infrastructure or phosphate to support our agricultural sector, was suddenly restricted or halted there would be serious implications for our economy," Mr Jones says.

"The draft list covers a range of minerals with many different applications within our economy and considers minerals that are needed internationally where New Zealand may be able to contribute to supply. It also considers risks to domestic and international supply chains, and where there is a need to build more supply resilience."

Once finalised, the Critical Minerals List will contribute to New Zealand's work on important international supply chains and allow the Government to investigate specific actions for securing better access to the minerals deemed critical. This could include strategies for developing specific minerals. The Government will release a finalised version before the end of the year.

To read further, please click here.

Increased certainty for contractors coming

Workplace Relations and Safety Minister Brooke van Velden says upcoming changes to the Employment Relations Act will provide greater certainty for contractors and businesses.

"The coalition Government has agreed to amending the Employment Relations Act to provide a gateway test that businesses can use when responding to a claim that a person is an employee and not a contractor," says Ms van Velden. "If the working arrangement in question meets the four factors set out in the test, then the person is considered to be a contractor. If one or more of these factors are not met, then the existing test will apply."

The criteria for the gateway test are:

- a written agreement with the worker, specifying they are an independent contractor, and
- the business does not restrict the worker from working for another business (including competitors), and
- the business does not require the worker to be available to work on specific times of day or days, or for a minimum number of hours OR the worker can sub-contract the work, and
- the business does not terminate the contract if the worker does not accept an additional task or engagement.

"Work is underway to progress these changes through the Employment Relations Amendment Bill which I hope to introduce in 2025.

"This new approach will provide businesses with more certainty to proceed with innovative business models involving contractors where this is appropriate, and also enable businesses to offer better terms and conditions to their contractors with less concern that it might impact the contractor's status.

"There are a range of workers and businesses across the country who are involved in contracting relationships, and who will benefit from increased clarity of worker status, which this Government will deliver.

"I believe these changes could improve conditions for some contractors, reduce risk for firms, and help ensure businesses compete on quality, price and productivity," Ms van Velden says.

To read further, please click here.

Endeavour Fund projects for economic growth

New Zealand's largest contestable science fund is investing in 72 new projects to address challenges, develop new technology and support communities, Science, Innovation and Technology Minister Judith Collins says.

"This Endeavour Fund round being funded is focused on economic growth and commercial outputs," Ms Collins says.

The round involves funding of more than $236 million during the next five years. Examples of projects funded in this Endeavour Fund round include energy efficiency in supercomputers and quantum computers, and combatting the invasion of the pest gold clam.

"Core science like this, which delivers for New Zealand and New Zealanders, is what I want to see our science funding go to and I plan to refocus science funding and investment plans on growing the economy and productivity to reflect this," Ms Collins says.

A full list of recipients can be found on the MBIE website, linked here.

Members appointed to retail crime MAG

The Government has appointed four members to the Ministerial Advisory Group for victims of retail crime, Justice Minister Paul Goldsmith and Associate Justice Minister Nicole McKee say.

"I am delighted to appoint Michael Hill's national retail manager Michael Bell to the group, as well as Waikato community advocate and business leader Ash Parmar, Foodstuffs' North Island retail and property general manager Lindsay Rowles, and Chief Executive Officer of Retail NZ Carolyn Young," Mr Goldsmith says.

"The group, led by Sunny Kaushal, can now move at pace to table proposed legislation."

"I'm particularly interested to see some options on how security guards and business owners can better protect themselves.

"New Zealand has seen an exponential growth in retail crime over the past five years, with an 86 per cent increase in retail crime of all types and, very concerningly, a 72 per cent increase in sexual assault-related offences at retail locations," Mrs McKee says.

To read further, please click here.

Quarterly current account deficit $7.2 billion

New Zealand's seasonally adjusted current account deficit widened by $269 million to $7.2 billion in the June 2024 quarter, according to figures released by Stats NZ.

In the quarter, the primary income deficit widened by $291 million to $3.8 billion.

The overseas earnings of New Zealand investors increased by $36 million, while the earnings of overseas investors in New Zealand increased by $263 million, largely profits from overseas-owned companies.

The seasonally adjusted goods deficit widened by $110 million to $2.6 billion. Goods imports increased by $183 million and exports increased by $74 million. The seasonally adjusted services deficit narrowed by $28 million to $501 million – exports increasing $127 million, and imports increasing $99 million.

At 30 June 2024, New Zealand's net international investment liability position was $205.3 billion (49.7 percent of GDP), $6.2 billion wider than on 31 March 2024. New Zealand has a net liability position as it has more liabilities with the rest of the world than assets.

"In the June 2024 quarter, we borrowed more from overseas than we acquired in overseas financial assets," Jones said. "This, together with weaker overseas market performance and the stronger New Zealand dollar, contributed to the widening of [our] position."

New Zealand's annual current account deficit was $27.8 billion (6.7 percent of GDP) in the year ended 30 June 2024. This compares with a $27.6 billion deficit in the year ended 30 March 2024 (6.7 percent of GDP).

To read further, please click here.

GDP decreases 0.2 percent in the June 2024 quarter

New Zealand's gross domestic product (GDP) fell 0.2 percent in the June 2024 quarter, following a 0.1 percent increase in the March 2024 quarter, according to figures released by Stats NZ.

Retail trade and accommodation; agriculture, forestry, and fishing; and wholesale trade industries all fell. Activity in retail and wholesale trade has been in steady decline since 2022. Forestry and logging drove the fall in the agriculture, forestry, and fishing industry.

Despite the overall fall in GDP, 7 out of the 16 industries increased. The largest rise was in manufacturing.

"A rise in transport equipment, machinery, and equipment manufacturing drove the increase. This was the largest rise in manufacturing activity since the December 2021 quarter," national accounts industry and production senior manager Ruvani Ratnayake said.

GDP per capita decreased by 0.5 percent in the June 2024 quarter. The last time GDP per capita increased was in the September 2022 quarter. On an annual basis, to the year ended June 2024 GDP per capita fell 2.7 percent.

The expenditure measure of GDP was flat (0.0 percent) in the June 2024 quarter.

Household spending was up 0.4 percent, driven by increased spending on non-durable items including fruit and vegetables; and services. Spending on durables fell for the fourth consecutive quarter, driven by reduced spending on new motor vehicles and telecommunication equipment such as mobile phones.

To read further, please click here.

Business key to regional economic dialogue

Local businesses and industries need to be front and centre in conversations about how regions plan to grow their economies, Regional Development Shane Jones says.

The nationwide series of summits aims to facilitate conversations about regional economic growth and opportunities to drive productivity, prosperity and resilience through the Coalition Government's Regional Infrastructure Fund (RIF).

"These summits [will ask] each region to identify what's most important in terms of future growth and development, and how they will work collaboratively with central government to leverage and progress opportunities where our priorities meet," Mr Jones says.

To read further including a list of upcoming summits, please click here.

NZ hosts Annual CER Trade Ministers' meeting in Rotorua

Trade Minister Todd McClay will meet with Australian Trade Minister Don Farrell for the annual Closer Economic Relations (CER) Trade Ministers' meeting in Rotorua this weekend.

"CER is our most comprehensive agreement covering trade, labour mobility, harmonisation of standards and political cooperation. It underpins an important trading relationship worth $32 billion annually," Mr McClay says.

"Our focus will be on… eliminating non-tariff barriers across the Tasman. We will also discuss a range of international issues in the WTO, OECD and CPTPP, as well as the EU Deforestation Regulations and sustainable supply chains."

Businesses with prominent interest in the trans-Tasman market will also meet Ministers over the weekend.

To read further, please click here.

EMPLOYMENT RELATIONS AUTHORITY: FIVE CASES

10,927 employees' agreements breached but with minor effect

A Nursing Pay Equity Claim Settlement Agreement (the Agreement) was entered into by healthcare workers (the Employees) of Te Whatu Ora-Health New Zealand (Te Whatu Ora); their Union, the New Zealand Nurses Organisation Incorporated (NZNO); and Te Whatu Ora. The agreement required implementing amended pay rates within six weeks of the settlement date. The settlement date was 2 August 2023, so Te Whatu Ora was required to implement the amended pay rates by 13 September 2023.

NZNO and 10,927 employees claimed that Te Whatu Ora breached the agreement by not implementing the amended pay rates within the agreed timeframe, for Auckland, Counties Manukau, Waitemata District and Nelson/Marlborough. The delays for these areas ranged from six to nine weeks after 13 September 2023.

A compliance order was not necessary as Te Whatu Ora had implemented the amended pay rates eventually. The Authority had to decide whether this delay was a breach of an employment agreement, and if so, what the appropriate remedies would be in terms of penalties, interest and costs.

The Authority determined that there had been a breach of the employment agreements. The Authority referred to the Equal Pay Act 1972, which sets out that employment agreements are deemed to have been varied if a valid pay equity claim settlement applies. Therefore, by implementing the amended pay rates outside of the timeframe set out in the settlement, Te Whatu Ora had breached the employees' employment agreements.

A breach of an employment agreement can result in a penalty. The Authority acknowledged that the delay was due to Te Whatu Ora's payroll facing very challenging circumstances. It had genuinely tried as hard as possible to implement the amended pay rates after 13 September 2023. However, the Authority also recognised that the delay was not due to a mistake. Employees were affected and public and employee confidence should be maintained in pay equity claim settlements. Thus, the Authority determined that a penalty was appropriate. In this it expressed its disapproval and discouraged further breaches by Te Whatu Ora and future parties to pay equity claim settlement agreements.

The maximum penalty for an individual breach was $20,000, but multiplying this by 10,927 individual breaches would have produced an enormous and unrealistic penalty. The breaches were globalised into being a single breach of the same obligation.

The Authority determined that Te Whatu Ora had tried to act in good faith. Te Whatu Ora was aware of the importance of the agreement and worked hard to make the payments as soon as possible in the face of very challenging circumstances. The breaches were not intentional or deliberate. For Auckland, Counties Manukau and Waitemata, the delay was due to district payroll teams being overwhelmed with a significant amount of work. The Holidays Act remediation payments especially had to be prioritised, and Te Whatu Ora had been transparent about this to NZNO. For the Nelson/Marlborough districts, the delay was due to the payroll team struggling, as their leadership had resigned while they were going through a restructure.

The Authority noted that the employees only experienced minor loss in the time they could not use the money, and that Te Whatu Ora implemented the amended pay rates reasonably quickly after 13 September 2023. The Authority also noted that the employees were not particularly vulnerable, and Te Whatu Ora had no previous conduct of this nature. Due to these factors, the Authority reduced the starting penalty to $8,000.

The Authority then considered consistency and proportionality, set out by the Employment Court in Borsboom v Preet PVT Ltd. In Roberston v Stevryn Holding Limited and others, the employee was not paid at all for 10 months and then inadequately for four months. The penalty was $16,000. In Byun and F & B Vulcan Limited there was a failure to pay wages and holiday pay to a vulnerable employee on a work visa. The penalty was $8,000. The Authority contrasted this with Te Whatu Ora's honest breach, which was remedied relatively quickly with limited loss. The Authority determined $6,000 was a proportionate and consistent penalty.

NZNO and the Employees requested that the Employees receive the $6,000, however the Authority decided that it should be paid to the Crown. NZNO and the employees also requested Te Whatu Ora pay interest on the basis that the delay deprived the Employees of the use of money. As the Employees had been back paid already, the Authority concluded there was no unpaid money where interest applied. Costs were reserved.

New Zealand Nurses Organisation Incorporated v Te Whatu Ora - Health New Zealand [[2024] NZERA 257; 02/05/24; H Doyle]

Employer correctly calculates its notice period

Mr Tighe-Umbers was employed by Jetconnect Limited (Jetconnect) as a pilot until his dismissal on 24 April 2022. Mr Tighe-Umbers was advised with a letter of termination on 24 January 2022, stating that his three months' notice would commence on 25 January 2022 and end on 24 April 2022. He claimed he was unjustifiably dismissed as he was given notice one day less than Jetconnect was required to provide him. He argued that his final day should have been 25 April 2022. He sought a declaration that Jetconnect was required to give him three months' clear notice and failed to do so, alongside reinstatement, reimbursement of lost wages and compensation.

Mr Tighe-Umbers' claim for unjustified dismissal centred around the termination clause of the collective agreement between the New Zealand Air Line Pilots' Association Industrial Union of Workers Incorporated (NZALPA), and Jetconnect. The clause required Jetconnect to provide three months' written notice of termination of employment. The parties disputed the application, operation, and interpretation of the clause.

Jetconnect denied Mr Tighe-Umbers was unjustifiably dismissed. It felt it correctly interpreted and applied Mr Tighe-Umbers' notice, his final day being 24 April 2022.

The issue was what counted as three months' notice from 24 January 2022. Mr Tighe-Umbers said the day itself that notice was given could not be considered the day notice commenced, because it was not a full day of the month. To him, three months' notice of termination commenced on 25 January 2022. The collective agreement did not define the notice to this level of detail.

The Employment Relations Authority (the Authority) referred to case law including Sheridan v Pact Group, where it was found that a two-week notice period started after the date notice was given. Two weeks

unequivocally meant 14 days. Mr Tighe-Umbers' notice period was described in months. As the number of days in a given month varies, three months cannot be converted into a perfect quantity of days. The collective agreement did not refer to three literal months' notice.

To decide on the final day of the notice period, the Authority applied an objective approach and the Legislation Act 2019 (the Act). Following the guidance set out in the Act, the three months' notice period ends immediately before the corresponding day in the ending (third) month, being 24 April 2022. This was because the purpose of a notice period was to give the parties a specified period as notice of the end of the employment relationship.

The Authority concluded that Jetconnect's approach in interpreting and implementing the notice provisions of the collective agreement was correct. It determined that the three months' notice period started on 25 January 2022, the day after the notice was given and ended on 24 April 2022, immediately before the corresponding day in the ending month. Mr Tighe-Umbers was given proper notice and did not have a personal grievance of unjustified dismissal. Costs lay where they fell.

Tighe-Umbers v Jetconnect Limited [[2024] NZERA 234; 22/04/24; A Gane]

Significant procedural flaws inevitably result in unjustified dismissal

Ms O'Connor was employed as a courier driver by Mr Symons from 14 December 2020 until her dismissal on 26 July 2021. She raised a claim with the Employment Relations Authority (the Authority) alleging an unjustified dismissal.

Ms O'Connor refused to sign her initial employment agreement as she did not agree with some of the conditions. Mr Symons undertook to provide a new agreement, but this did not happen and ultimately the employment proceeded without one. Difficulties arose early on with Ms O'Connor being taken off her business delivery route in favour of a residential run. Mr Symons said this was due to complaints about her, but the substance of the complaints was not provided. Ms O'Connor also felt she lacked training, and she and other drivers reported hazardous driveways, but Mr Symons did not investigate these.

During the week of 5 July 2021, Ms O'Connor took four days' sick leave. During her absence, three other employees drove her usual courier van. On 8 July 2021, Mr Symons texted Ms O'Connor and advised her that the van had a broken taillight. Ms O'Connor replied that the van was not damaged when she had driven it. After a brief further exchange, the matter went no further until it appeared to feature as one of the reasons for her dismissal.

On 21 July 2021, Ms O'Connor had a single vehicle accident while reversing a courier van down a driveway. The lefthand front bumper of the van was partially dislodged. The van was issued a warrant of fitness later that day. The parties disputed the facts of the surface conditions, weather, driving speed and weight of the van load.

Mr Symons invited Ms O'Connor to a meeting on 26 July 2021 under the pretext of reviewing the accident of 21 July 2021. She was not told this was a disciplinary meeting. At the meeting, Mr Symons raised various issues and did not believe Ms O'Connor's explanation for the accident. That evening, he rang her and then sent a text advising he was terminating her employment for serious misconduct.

The Authority found significant flaws in the procedure of the 26 July 2021 meeting. Ms O'Connor was not told the meeting was disciplinary in nature, nor was she advised of the specific allegations against her prior to the meeting. She was not invited to bring along a support person and/or representative, and she was not told her employment was in jeopardy. The issues that Mr Symons raised, including several from earlier in Ms O'Connor's employment, and "complaints" he claimed to receive about Ms O'Connor, were never provided to her at the time nor seemed to be investigated.

The Authority found that Mr Symons carried out an unfair and inadequate inquiry into the accident on 21 July 2021. Objectively, Mr Symons' predetermination, failure to properly investigate and his dismissal of Ms O'Connor in the circumstances were not what a fair and reasonable employer could have done in all

the circumstances. With all the uncertainty surrounding the reasons for Mr Symons proceeding with the dismissal, he could not properly reach that decision. Ms O'Connor succeeded in her claim for unjustified dismissal.

The Authority did not consider penalties for breaches of good faith and failure to provide an employment agreement, as these were only raised in the initial statement of problem. A further claim for outstanding wages for Waitangi Day 2021 did not succeed as Ms O'Connor had received her lawful entitlement for that day.

Mr Symons was ordered to pay Ms O'Connor $5,974.82 as reimbursement for lost wages and $20,000 as compensation for humiliation, loss of dignity and injury to feelings. Costs were reserved.

O'Connor v Noel Symons T/A Taonga Postal [2024] NZERA 304; 22/05/24; A Dallas]

Sexual harassment causes employee to resign

WFW was employed by ZUW in an after-school role from 5 April 2022 as a takeaway food assistant. On 20 October 2022, WFW formally resigned from her employment due to being sexually harassed. WFW raised a claim with the Employment Relations Authority (the Authority) alleging an unjustified constructive dismissal because of the alleged sexual harassment, alongside unjustified disadvantage.

Initially, WFW's job went well, however a few months into the role she alleged that S, ZUW's sole director and shareholder, started talking to her inappropriately in a sexual manner when they were alone. She said that she became anxious and nervous about working with him, particularly when she knew she was going to be working alone with S. She called in sick on a few occasions and then told her mother, X, what had been said to her by S on 14 October 2022.

The Authority first covered the nature of the employment, because it was unclear whether the agreement was permanent or casual. While some clauses indicated a casual agreement such as pay-as-you-go holidays, other clauses such as abandonment and restructuring provisions were indicative of a permanent agreement. The Authority set this matter to one side and invited submissions from the parties for a later determination.

Turning to the matter of the alleged sexual harassment, the Authority was guided by the definition set out in the Employment Relations Act 2000 (the Act). The definition of sexual harassment includes the use of language of a sexual nature that is unwelcome or offensive to the person subjected to it, and has a detrimental effect on the employee's employment, job satisfaction or job performance.

The Authority heard evidence from WFW about the inappropriate comments S allegedly made to her. These were both suggestive and descriptive and included questions of a sensitive nature. It also heard from X on the effects on her daughter and how the comments made WFW not wish to return to work. X gave evidence that she contacted the parents of Z, a former employee of ZUW and, without telling Z what WFW had alleged, received notes from Z about her similar experiences with S.

S gave their own evidence, refuting the claim and submitted they were untrue. Counsel for S pointed at what they felt were inconsistencies in the evidence and comments by S being taken out of context. Submissions further claimed WFW and Z were motivated by money and that their evidence demonstrated elements of collusion.

The Authority was not persuaded that the evidence of WFW and Z was unreliable and uncredible. Both had described similar experiences with S. In response to the allegation of collusion, the Authority observed that WFW readily accepted matters not necessarily helpful to her claim and was a straightforward witness. Neither WFW nor Z embellished their evidence. The evidence did not support the two had colluded to provide evidence to the Authority that was false.

The Authority was satisfied on the balance of probabilities that S, who is much older than Z, used language of a sexual nature with WFW. The Authority was further satisfied that WFW was subjected to behaviour that was unwelcome and offensive to her, and it had a detrimental effect on her employment, performance of her role and job satisfaction.

The Authority found that established her claim of sexual harassment. As a result, WFW succeeded in alleging she suffered sexual harassment by a representative of her employer. This caused her disadvantage, and the sexual harassment was an unjustified action by her employer.

WFW's resignation was caused by her sexual harassment. The sexual harassment was a serious breach of duty that made the workplace unsafe. It was foreseeable in the circumstances that WFW would resign to protect herself from further sexual harassment. This made her resignation a constructive dismissal.

WFW succeeded in both her claims of sexual harassment causing unjustified disadvantage and unjustified constructive dismissal. ZUW was ordered to pay to WFW $20,000 in compensation. Costs and the potential for a loss of wages award were reserved.

WFW v ZUW [[2024] NZERA 306; 23/05/24; H Doyle]

Employee unjustifiably dismissed before starting any work

Mr Molloy operated Little Headquarters Bar at the Auckland Viaduct and was working towards opening Headquarters, a new hospitality venue at the Viaduct. Both Little Headquarters and Headquarters were operated under EMYM Limited (EMYM). Ms Goodin never worked a day for EMYM but claimed to be unjustifiably dismissed at the Employment Relations Authority (the Authority).

A social media advisor, who was an independent contractor, posted general job advertisements on EMYM's Instagram for Headquarters. Ms Goodin expressed her interest and the social media advisor invited her to an interview. The first interview was with the venue manager of Little Headquarters. She approved Ms Goodin and provided her with a bundle of documents: a standard employment agreement, tax code and Kiwisaver forms, a personal details form and policies. The office manager explained they did not have any Headquarters employment agreements, which was why she was given a Little Headquarters employment agreement to sign. The office manager told the Authority that the plan was to swap the agreements over to Headquarters agreements once those agreements were available.

The office manager also made it clear that the role was conditional on Mr Molloy approving her. Ms Goodin met Mr Molloy who seemed happy with her. The comprehensive pack of employment documents was offered again but this time particulars were filled out by the office manager. Ms Goodin completed, signed and returned them. EMYM also posted a photo of Ms Goodin on Headquarters' Instagram with a "HIRED" banner across it.

On 26 December 2022, Ms Goodin messaged the LHQ venue manager about training work at Little Headquarters. There was no immediate response as there was confusion on what Ms Goodin's role was. Ms Goodin signed a hostess employment agreement and thought hostess and front-of-house roles were the same thing. Mr Molloy did not agree that it was a hostess role and offered a glassie (back-of-house) job, as she was inexperienced in hospitality. He suggested that Ms Goodin may have been misled by the social media advisor.

The Authority found that an objective observer would conclude that Ms Goodin was a person intending to work and accepted front-of-house employment. The job advertisements had no information on job specifics. Ms Goodin was given the information pack and told that the job would be confirmed if Mr Molloy approved of her, which he did, and she returned the signed employment pack. A lack of offer letter or employer signature in the agreement did not prevent it from being valid. Ms Goodin was offered and accepted employment with EMYM.

EMYM had offered Ms Goodin a front-of-house role in writing, which she accepted. Then before she had commenced, EMYM took the role away from her. This amounted to a dismissal, as she was sent away and not allowed to work in the job she had agreed to. There was no process followed, so it was unjustifiable.

Ms Goodin was entitled to five weeks' wages plus holiday pay and Kiwisaver on that sum. EMYM was ordered to pay the employer Kiwisaver contribution at 3%, on top of $1,875 in wages and $150 in holiday pay. The Authority also ordered $12,000 in compensation for hurt and humiliation. The Authority did not

consider Ms Goodin declining the lower-level role, which Mr Molloy offered as a substitute, to mean she contributed to her dismissal. No deductions were made on that basis. Costs were reserved.

Goodin v EMYM Limited T/A Little Headquarters [[2024] NZERA 305; 23/05/24; N Craig]

LEGISLATION

Note: Bills go through several stages before becoming an Act of Parliament: Introduction; First Reading; Referral to Select Committee; Select Committee Report, Consideration of Report; Committee Stage; Second Reading; Third Reading; and Royal Assent.

Inquiry into banking competition (25 September 2024)

Smokefree Environments and Regulated Products Amendment Bill (No 2) (27 September 2024)

Social Workers Registration Amendment Bill (6 October 2024)

Taxation (Annual Rates for 2024–25, Emergency Response, and Remedial Measures) Bill (9 October 2024)

Overviews of bills-and advice on how to make a select committee submission-are available at: https://www.parliament.nz/en/pb/sc/make-a-submission/

The purpose of the Employer Bulletin is to provide and to promote best practice in employment relations.

If you would like to provide feedback about the Employer Bulletin, contact: comms@businesscentral.org.nz
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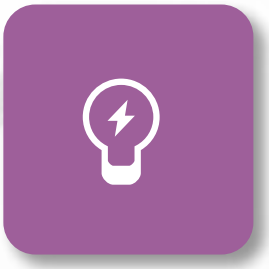

ENTERPRISE SERVICES

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ADVICELINE

AdviceLine is your link to first-rate employment relations advice. Business Central understands the difficulties employers can have with managing employees, so supports you with dedicated employer advisors.

TRAINING SERVICES

Our training team provide you with practical training solutions across various employment topics to help upskill your staff, giving your business a competitive edge.

OCCUPATIONAL HEALTH AND SAFETY CONSULTANTS

Health and Safety and the well-being of your employees should be of paramount importance to any employer. To help you along the way, we have a friendly and knowledgeable Health and Safety Consultant.

EMPLOYMENT RELATIONS CONSULTANTS

Employment Relations can be a difficult area to navigate. When you need close guidance on employment matters, you can rely upon our seasoned ER Consultants to be there to help.

LEGAL

When employees test the waters with a personal grievance, Business Central Legal are here to help. We offer representation in all employment law matters.

ENTERPRISE SERVICES

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ADVICELINE

AdviceLine is your link to first-rate employment relations advice. Business Central understands the difficulties employers can have with managing employees, so supports you with dedicated employer advisors.

This service is 100% inclusive of your membership. There is no time limit to your call, and the team is available 8am–8pm Monday to Thursday and 8am–6pm Friday.

Our Employer Advisors are well trained and comprise a mixture of legal and business backgrounds. They understand your issues and can help advise you on legal requirements and best practices. They are backed up by a large resource base they can call on to support with you with written resources, guides, and templates.

TRAINING SERVICES

Our training team provide you with practical training solutions across various employment topics to help upskill your staff, giving your business a competitive edge.

Whether it be best practice processes under the Employment Relations Act and the Health and Safety at Work Act, leadership training or personal development, the Business Central training team are dedicated to facilitating your business's professional learning.

For more information about Business Central's public and customised in-house courses, or to register for a course, contact the team today.

For regular training updates in your area, subscribe to our Training Update newsletter.

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OCCUPATIONAL HEALTH AND SAFETY CONSULTANTS

Health and Safety and the well-being of your employees should be of paramount importance to any employer. To help you along the way, we have a friendly and knowledgeable Health and Safety Consultant.

Adrienne has extensive experience with helping companies navigate Health and Safety requirements. She understands companies need to see sound return on investment for their well-being initiatives. Adrienne offers full support with compliance issues such as induction training and hazard identification and management. Additionally she can help with preparation for ACC 'Workplace Safety Management Practices'.

EMPLOYMENT RELATIONS CONSULTANTS

Employment Relations can be a difficult area to navigate. When you need close guidance on employment matters, you can rely upon our seasoned ER Consultants to be there to help.

Having someone equipped to help you do the work can take the stress out of a tricky situation.

Our Consultants have a wide range of experience and are prepared to help. Whether you need to update your agreements or policies, or embark on performance management, they have the experience to make a difference. There are so many areas they can help; it may be union issues and managing a difficult

relationship or it could be confirming a restructuring selection matrix.

LEGAL

When employees test the waters with a personal grievance, Business Central Legal are here to help. We offer representation in all employment law matters.

Business Central Legal provides you best return on investment for legal advice on employment law matters. Our team of lawyers are only available to members, and can help solve your tricky issues.

While you may think of lawyers as representing people in court, this is far from everything they do. Employers take advantage of the value of the Business Central Legal team to help in drafting documents such as tailored employment agreements and offers of employment. Additionally they can help with key guidance on difficult issues as restructuring processes and rock solid performance management plans.

A QUICK GUIDE TO HOLIDAY PAY PRACTICES IN NEW ZEALAND

CHRISTMAS AND NEW YEAR PUBLIC HOLIDAYS 2024/2025

Christmas Day Wednesday 25 December 2024
Boxing Day Thursday 26 December 2024
New Year's Day Wednesday 1 January 2025
2 January Thursday 2 January 2025

PUBLIC HOLIDAYS

All employees for whom the day would otherwise be a working day and do not work on that day, will be entitled to a paid public holiday not worked.

All employees for whom the day would otherwise be a working day and do work on that day, will be entitled to at least time and a half for the hours worked on that day and an alternative holiday.

Employers therefore need to consider whether the day on which the public holiday falls is otherwise a working day for each employee in order to determine public holiday entitlements. The otherwise working day test applies to all employees regardless of whether they are permanent, fixed term or casual employees, or have just commenced employment.

OTHERWISE WORKING DAY

In most situations it will be clear whether the day on which the public holiday falls would otherwise be a working day for an employee.

However, if it is not clear an employer and employee should consider the following factors with a view to reaching an agreement on the matter.

- The employee's employment agreement;
- The employee's work patterns;
- Any other relevant factors, including:
    - whether the employee works for the employer only when work is available;
    - the employer's rosters or other similar systems;
    - the reasonable expectations of the employer and the employee that the employee would work on the day concerned;
- Whether, but for the day being a public holiday, the employee would have worked on the day concerned.

CHRISTMAS/NEW YEAR CLOSEDOWN AND PUBLIC HOLIDAYS

If a public holiday falls during a closedown period, the factors listed above, in relation to what would otherwise be a working day, must be considered as if the closedown were not in effect. This means employees may be entitled to be paid public holidays during a closedown period.

ANNUAL HOLIDAYS, PUBLIC HOLIDAYS, TERMINATION OF EMPLOYMENT

A public holiday that occurs during an employee's annual holidays is treated as a public holiday and not an annual holiday.

An employee who has an entitlement to annual holidays at the time that their employment ends will be entitled to be paid for a public holiday if the holiday would have:

- Otherwise been a working day for the employee; and
- Occurred during the employee's annual holidays had they taken their remaining holidays entitlement immediately after the date on which their employment came to an end.

When applying the provision, you are only required to count the annual holidays entitlement an employee has when their employment ends (not accrued annual holidays). Employees become entitled to 4 weeks annual holidays at the end of each completed 12 months continuous employment.

PUBLIC HOLIDAY TRANSFER

The Holidays Act 2003 allows an employer and employee to agree in writing to transfer a public holiday to any 24-hour period.

This means, with agreement, a public holiday may be transferred:

- By a few hours to match shift arrangements; or
- To a completely different day

In the absence of a written agreement, a public holiday is observed midnight to midnight.

Please note that this guide is not comprehensive. It should not be used as a substitute for professional advice. For specific assistance and enquiries, please contact AdviceLine.