BusinessCentral

EMPLOYER BULLETIN

9 September 2024
A Weekly News Digest for Employers

EMPLOYER NEWS

Tatauranga umanga Māori – Statistics on Māori businesses: 2023

Statistics New Zealand's release presents information on two subsets of Māori businesses – Māori authorities and other Māori enterprises (Māori businesses that are economically significant but are not Māori authorities).

Key facts in 2023:

- 1,338 Māori authorities and 3,849 other Māori enterprises were identified for this release of the total 5,187 businesses, 372 (7.2 percent) were identified as Māori tourism businesses.
- 17 percent of Māori geographic units were located in the Auckland region.
- Māori authorities employed around 12,300 people while other Māori enterprises employed around 39,200 people.
- Around 22 percent of Māori authorities operated in primary industries.
- The average size of Māori farms was almost 3 times as large as the average New Zealand farm.
- Māori authorities exported $816 million worth of goods, 29 percent of this to China.
- Other Māori enterprises exported $534 million worth of goods.
- The total income for Māori authorities was $5.1 billion, down 6.6 percent from the 2022 financial year.
- More Māori businesses reported offering support for physical health, mental health, and wellbeing to employees compared with all New Zealand businesses.

To read further, please click here.

Seeking feedback on applying the consumer data right to banking and electricity

The government is progressing the development of a 'consumer data right', through the in-progress Customer and Product Data Bill, to give individuals and businesses greater choice and control over their data.

MBIE has published two discussion documents seeking feedback on applying the Bill to the banking and electricity sectors. The government is seeking feedback to ensure the settings are right for banking, and to understand what is important for electricity as detailed policy work begins. Consultation ends on 10 October 2024.

Discussion documents can be found here.

Record investment to get transport back on track

The government has invested a record $32.9 billion investment in New Zealand's transport network through the 2024-27 National Land Transport Programme (NLTP).

"I'm pleased to see that this NLTP adopted by the NZ Transport Agency board… boosts funding by 35 per cent compared to the last three years," Transport Minister Simeon Brown says.

"The NLTP prioritises 17 Roads of National Significance to create a pipeline of roading infrastructure across the country. Takitimu Northern Link Stage 1 is already underway with Ōtaki to North of Levin to begin construction next year. NZTA is now adding seven further projects to begin procurement, enabling works and construction in the next three years.

"Kiwis will see fewer potholes on our roads as we invest significantly in resealing, rehabilitation, and drainage maintenance.

"A record $6.4 billion will be invested in public transport services and infrastructure to increase travel choices and deliver more reliable services in our main cities. The City Rail Link will double Auckland's rail capacity and reduce congestion when it opens in 2026.

"We are also replacing nine priority bridges across the State Highway network and progressing work on a second Ashburton Bridge as a Road of Regional Significance. The Government will also replace the important Pages Road Bridge in Christchurch.

"We know that Kiwis are safer on our roads when road rules are enforced, and that alcohol and drugs are the leading contributor to fatal crashes. That's why this NLTP will increase road policing to crack down on drunk and drugged drivers."

To read further, please click here.

International trade: June 2024 quarter

These statistics provide information on imports and exports of goods and services between New Zealand and our trading partners.

Total exports of goods and services for the June 2024 quarter were $26.2 billion, up from $25.8 billion in the June 2023 quarter. Total imports of goods and services for the June 2024 quarter were $27.0 billion, up from $26.9 billion in the June 2023 quarter. The total two-way trade for the June 2024 quarter was $53.2 billion.

The top movements of our services export categories in the June 2024 quarter compared with the June 2023 quarter were travel, transportation, government services and charges for the use of intellectual property. The top movements of our services import categories were travel; insurance and pension; transportation; and personal, cultural, and recreational services.

The merchandise (goods) terms of trade rose two percent. Goods export and import prices rose. Export volumes and values for goods fell, and for imports they rose. The services terms of trade fell 8.6 percent, with services export prices falling and import prices rising.

The main contributors to the export movements in the June 2024 quarter were dairy and meat, while for import movements it was in petroleum and petroleum products.

To read further, please click here.

Milestone reached for fixing the Holidays Act 2003

Minister for Workplace Relations and Safety Brooke van Velden says Cabinet reached another milestone on fixing the Holidays Act with approval of the consultation exposure draft of the Bill ready for release next week to participants.

"This Government will improve the Holidays Act with the help of businesses, workers, and payroll providers," says Ms van Velden.

"I want to ensure that business owners and workers can focus on what they do best, rather than spending valuable time and resources trying to understand and comply with the legislation."

The Ministry of Business, Innovation and Employment [MBIE] has selected 100 organisations and individuals to consult with in the Government's targeted consultation, aiming to provide a balance of diverse perspectives and technical expertise. MBIE will also be working with public service agencies – notably Health NZ and the Ministry of Education – to understand the impacts of the draft Bill for them, given the historical difficulties that have led to large-scale remediation programmes in those sectors.

To read further, please click here.

Government confirms RMA reforms to drive primary sector efficiency

The Government is moving to review and update national level policy directives that impact the primary sector.

It will slash red tape and remove one-size-fits-all regulations, to enable and empower local decision-making and free up farming. As part of its reforms to the Resource Management Act, the Government is progressing a second RMA Amendment Bill alongside a comprehensive package of regulatory changes that will drive primary sector growth and productivity.

"In the primary sector, these changes relate to freshwater, indigenous biodiversity, commercial forestry, marine aquaculture, quarrying, and water storage," Agriculture Minister Todd McClay says.

"This integrated approach will look to align settings in a way that makes better sense for farmers, foresters, and other land users."

The Government will also pause the rollout of freshwater farm plans until finalising improvements to the freshwater farm plans system. This as a key tool to manage freshwater risks, to make it more cost-effective and practical for farmers, is a priority for this Government.

All of these changes are part of a broader effort to modernise the resource management system, making it easier to update national policies and boost the primary sector.

To read further, please click here.

More choice and competition in building products

A major shake-up of building products which will make it easier and more affordable to build is on the way, Building and Construction Minister Chris Penk says.

"We have introduced legislation that will improve access to a wider variety of quality building products from overseas, giving Kiwis more choice and injecting some competition into the market.

"The building supply chain is dominated by a few big companies which makes us vulnerable to price increases, supply chain disruption and shortages – as witnessed with the GIB crisis in 2022.

"Building costs have increased by more than 40 percent since 2019 and building productivity has not materially improved since 1985... It is unacceptable that it is around 50 percent more expensive to build a standalone home in New Zealand than Australia.

"That's why we are removing red tape and making it easier to import high quality building products.

"The Building (Overseas Building Products, Standards, and Certification Schemes) Amendment Bill was introduced to Parliament. The Bill introduces changes to the Building Act which will reduce barriers for using quality overseas building products in New Zealand.

"Building Consent Authorities will still need to assess proposed building work to ensure products are being used for their stated purpose and that the finished product of the building work complies with the Building Code to ensure our homes and buildings are healthy, safe and durable.

"These changes are part of a comprehensive package of reforms designed to make building in New Zealand easier and more affordable. Other changes include streamlining building consent changes by making it easier for minor variations and customisation to be made without the need for a new consent and exempting projects under $65,000 from paying the building levy."

To read further, please click here.

Government makes it faster and easier to invest in New Zealand

Associate Minister of Finance David Seymour is encouraged by significant improvements to overseas investment decision timeframes, and the enhanced interest from investors as the Government continues to reform overseas investment.

"There were about as many foreign direct investment applications in July and August as there was across the six months prior. This is an encouraging start to the work being done to bring more investment to New Zealand and grow the economy," says Mr Seymour.

"On 6 June 2024 I issued a new ministerial directive letter to Land Information New Zealand (LINZ) to make consent processing timeframes faster under the Overseas Investment Act. The directive letter contains an expectation that 80 per cent of consent applications will be processed in half the statutory timeframe.

"This means applicants can expect timeframes for most consent applications to be cut down to between 5 and 50 working days.

"Every consent decision received after the directive letter came into effect has been decided in under half of the statutory timeframe. Between 24 November 2021 and 14 April 2024, only 13 per cent of consent decisions were being made in half the statutory timeframe.

"There has been a large boost in foreign direct investment applications, totalling 16 across July and August, compared with 17 over the previous 6 months at an average of 2.8 per month.

"I am also pleased to see that decisions not covered by my directive, such as variations and exemptions, are also moving faster.

"Every variation application received since the letter has also been decided in half the timeframe. Before this only 40 per cent were.

"Feedback from investors has been overwhelmingly positive."

To read further, please click here.

EMPLOYMENT RELATIONS AUTHORITY: FIVE CASES

An unreasonable way of managing excessive absenteeism

Mr Hinchliffe was employed by Enatel as a building and site services coordinator. His employment ran from 8 May to 2 June 2023, ending in a dispute where Mr Hinchliffe did not attend work, and Enatel terminated his employment for abandonment. At the Employment Relations Authority (the Authority), Mr Hinchliffe asked to be reinstated to his position with his final written warning removed, and to have restoration of some benefits, compensation and reimbursement of his lost wages.

8 May 2023 was Mr Hinchcliffe's first and last day at Enatel. After his first day, Mr Hinchliffe was absent due to sickness for two weeks and he provided medical certificates to support this. On 18 May 2023, Enatel invited him to a disciplinary investigation meeting to be held on 22 May 2023, to discuss serious misconduct relating to excessive absenteeism and poor communication leading to a breakdown of trust and confidence.

The parties met on 22 May 2023 where Enatel raised issues of excessive absenteeism and poor communication. Mr Clifford, the decision-maker and operations manager, was not satisfied that Mr Hinchliffe was "legitimately away". The medical certificates did not state that he was medically examined and he did not communicate about the situation with Enatel very well. Mr Clifford was quite critical of the medical certificates in circumstances where a medical certificate would usually be reasonably relied upon.

Mr Hinchliffe thought the meeting was an investigation meeting and did not know it was a disciplinary meeting. The next day, Enatel issued him a final written warning, dated 22 May 2023, for excessive absenteeism and misrepresentation or deceit that could undermine good faith and trust and confidence in him.

On 23 May 2023, Mr Hinchliffe raised a personal grievance in a letter to Enatel alleging unfair treatment, harassment and victimisation. He complained that he did not have a staff parking space and his own office. He also complained that his request to start work after 8:45am, instead of 8:00am, was turned down. Mr Clifford maintained an office and car park were not discussed at the interview. The start and finish times had been discussed during the hiring process, including that they had to align with the main factory site hours, where the bulk of building and maintenance work took place.

To Mr Hinchliffe, it seemed that Mr Clifford was unwilling to accommodate any of his requests on working conditions and benefits, and he did not feel comfortable working under the current conditions imposed on him, which he felt were contrary to his employment agreement and position description. He assured them that he would apply for mediation. Enatel tried following up with Mr Hinchliffe a few times but he refused to come back to work. It sent a letter terminating his employment, effective immediately, due to abandonment of employment.

A fair and reasonable employer could have some justifiable concerns about the level of communication by Mr Hinchliffe over the period of absence as he would often fail to pick up calls from Enatel or keep them updated on the situation. However, it committed a procedural failing when its invitation letter did not mention misrepresentation or deceit, which formed the final written warning.

Enatel described excessive absenteeism in its employment agreement as misconduct. Whilst the absence was inconvenient and difficult for Enatel, it was Mr Hinchliffe's first period of absence. Prolonged periods of sickness that impact on a business are often assessed as cases of medical incapacity rather than misconduct. The period of absence allowed for medical incapacity generally exceeds any sickness entitlements. The final written warning for it was not fair and reasonable where it was due to unwellness. As for Mr Hinchliffe's dismissal, he was not told that a failure to attend work would be an unauthorised absence and that, if it continued, it could result in the end of his employment. The way dismissal could have been justified would be through a disciplinary process discussing Mr Hinchliffe's failure to attend work.

Mr Hinchliffe was reimbursed $5,769.23 for four weeks' wages. The Authority ordered $8,000 as compensation for some loss of dignity and injury to feelings. However, it did not think reinstatement practicable or reasonable, so did not order that. Mr Hinchliffe contributed to the situation and so the Authority then reduced the award by 20 per cent. Finally, Mr Hinchliffe was entitled to reimbursement of his filing fee of $71.56.

Hinchliffe v Enatel [[2024] NZERA 214; 16/04/24; H Doyle]

Employer holds meeting without process

Ms Reisima was employed by Oranga Tamariki on 23 February 2007 at Te Au Rere a te Tonga Youth Justice Residence in Palmerston North (the Residence). She was covered by the "Oranga Tamariki - Ministry for Children and PSA Collective Employment Agreement" (the CEA) that ran from 2 December 2018 until 30 June 2021. She made several claims against Oranga Tamariki for unjustified disadvantage. These included allegations of bullying, unjustified actions against her, failing to address her safety concerns, and that it breached its own internal policies. Ms Reisima also sought compensation for hurt and humiliation, as well as reimbursement of sick leave and of legal costs.

Ms Reisima's personal grievance of unjustifiable disadvantage was made up of approximately 40 separate workplace incidents, spanning over a decade. Oranga Tamariki successfully had several of Ms Reisima's claims discarded, on the basis that they were raised outside the statutory 90-day period.

The personal grievance the Employment Relations Authority (the Authority) considered occurred in Napier Court on 11 June 2020. Ms Reisima had escorted a young person and had spoken to the court on his behalf. A worker from the Napier Court advised Oranga Tamariki that Ms Reisima had interfered with the court process. The complaint was that Ms Reisima had spoken to the Judge when she did not have authority to and had not been invited to speak.

On returning to work the next day, Ms Reisima's reporting team leader, Mr Fouva'a, called her into a meeting. Other senior managers were also in attendance. Ms Reisima was not given notice about the meeting. She asked whether she could bring a support person but was told this would not be necessary. Oranga Tamariki explained the complaint from the Napier Court, which she had also not received beforehand.

Ms Reisima felt she had no opportunity to respond to this complaint and was given no further description of the nature of the complaint. At the closure of the meeting, senior manager Mr Malu told Ms Reisima that she would no longer do court escorts until he was satisfied that Ms Reisima understood the issue and what was expected, in terms of her role and proper court etiquette.

Mr Malu accepted that he had predetermined the decision to take Ms Reisima off escorts before meeting with her. Oranga Tamariki argued Mr Malu's "low-level" process approach was consistent with a relevant clause in the CEA. The Authority disagreed. It did not think this was a low-level or reasonable process. From Ms Reisima's point of view, she was subject to an unfair disciplinary process. She was given no forewarning of the meeting with three members of senior management; she did not have a support person, and the outcome of the meeting was predetermined. She then received a sanction in being taken off escort duties.

Ms Reisima was not specific enough in other claims for the Authority to consider a breach. She needed to provide relevant health and safety legislation in alleging Oranga Tamariki failed to provide her a safe working environment, and the specific internal policies she claimed they breached.

Oranga Tamariki acted in an unjustified manner towards Ms Reisima regarding its investigation of the Napier Court incident, which caused disadvantage to her employment. She was entitled to an award for compensation for the humiliation, loss of dignity and injury to feelings that she suffered. The Authority assessed the level of harm and loss to Ms Reisima to be $12,000. Costs were reserved.

Reisima v The Chief Executive of Oranga Tamariki [[2024] NZERA 222; 19/04/24; A Gane]

Failure to provide statutory rights has costly outcome

Ms Caldeira was employed by LCNZ Ponsonby Pty Limited (LCNZ), trading as Laser Clinic Ponsonby, in Auckland. She raised a claim with the Employment Relations Authority (the Authority) alleging LCNZ constructively dismissed and/or unjustifiably disadvantaged her. These claims largely centered on how her requests for flexible working arrangements were handled and a change to her work roster.

Ms Caldeira's employment agreement set her hours of work in advance, in accordance with a roster and notified at least 14 days in advance. It provided her an average of 15 hours per week from 8am to 12am, Monday to Sunday. Shortly after commencing work, Ms Caldeira became pregnant and asked for additional hours. She moved from doing two days, totaling 15 hours a week, to around 24 hours a week over Sunday, Monday and Wednesday. No variation agreement was signed.

Ms Caldeira emailed a complaint to LCNZ on 20 September 2022 raising concerns about being shamed or made to feel guilty for having sick days off for her pregnancy. She also felt that her requests for flexible working arrangements were being treated differently from one of her pregnant colleagues. A follow-up meeting was held on 25 September 2022, but Ms Caldeira remained dissatisfied.

Things came to a head on 12 October 2022 when Ms Caldeira messaged her manager to say she would be in late due to sickness. The text conversation went badly, with the manager inferring Ms Caldeira was in breach of contract. Ms Caldeira took the whole day off and provided a letter from her midwife to confirm her unwellness. The following day, Ms Caldeira noticed that the roster had been changed and she was no longer rostered to work Monday shifts. LCNZ told her they were legally able to do this. A meeting about the matter on 16 October 2022 did not resolve the situation. Ms Caldeira verbally resigned the next day and sent this in writing on 18 October 2022.

LCNZ refuted Ms Caldeira's claims, saying it always acted in good faith about flexible work arrangements. It maintained there was a business reason for the roster change.

In considering the exchange of 12 October 2022, the Authority noted there was no clear policy around how sick leave was to be requested. As a pregnant employee, Ms Caldeira was entitled to take up to 10 days' unpaid special leave for reasons connected with her pregnancy, under the Parental Leave and Employment Protection Act 1987 (the Act). The Authority did not receive evidence that LCNZ considered its obligations under the Act in any way.

Although Ms Caldeira did not request special leave, as an employer, LCNZ ought reasonably to have been aware of her entitlements and respond accordingly. While Ms Caldeira's request to start later may have impacted LCNZ's resourcing on particular days, including on 12 October 2022, it was a resourcing issue LCNZ could reasonably be expected to manage.

LCNZ submitted that, as both parties to the conversation had English as a second language, care should be taken in reading too much into the discussion. The Authority accepted this but felt the manner the manager responded to Ms Caldeira's text messages was reactive and not appropriate, impacting negatively on Ms Caldeira. Objectively, how the manager responded were not the actions of a fair and reasonable employer.

There was no evidence the parties agreed to change Ms Caldeira's hours. LCNZ should have, in good faith, first consulted her before making the significant roster change. Ms Caldeira had been working

Monday shifts since shortly after her employment started. She had a very regular pattern of work that had become the status quo. Good faith required the parties to be communicative.

LCNZ submitted that the change to the roster was based around business needs. The Authority did not agree. The change was, more likely than not, informed by LCNZ's concerns about Ms Caldeira's attendance. The Authority also found that the roster change was in breach of the employment agreement.

The Authority concluded that Ms Caldeira's resignation was foreseeable in the circumstances and she established a claim for unjustified constructive dismissal. LCNZ Ponsonby Pty Limited was ordered to pay Ms Caldeira $20,000 as compensation for her hurt and humiliation, along with her costs of $2,250 and reimbursement of the Authority application fee of $71.55.

Caldeira v LCNZ Ponsonby Pty Limited [[2024] NZERA 255; 02/05/24; S Blick]

Casual employee dismissed from engagement of work

Mr Rodgers claimed J.S. Wright Contracting Limited (Wright Contracting) unjustifiably dismissed him from his role as a truck driver and failed to pay him his wages for work completed. Wright Contracting did not participate in the investigation meeting, although director and sole shareholder Mr Wright provided some information away from it. Before the determination, the company went into liquidation.

The employment relationship commenced when Mr Rodgers saw a Facebook post asking for someone willing to do floating work. The parties discussed about five weeks' work of truck driving from Christchurch to Hamilton. Mr Rodgers acknowledged work was uncertain between locations. After this, he would meet Mr Wright in Queenstown at the end of the floating stint to discuss future working arrangements.

Mr Rodgers started this journey around 20 September 2023 with a stopoff midway in Wellington. During the trip, they added on an extra stop in Auckland. The parties discussed work, perks and payment before the relationship rapidly deteriorated. Mr Wright called Mr Rodgers saying he was letting him go around 26 September 2023. He was flown home at the end of the day on 27 September 2023.

Wright Contracting claimed it did not employ Mr Rodgers but engaged him as a contractor. The Employment Relations Authority (the Authority) assessed Mr Rodgers' status and found the real nature of the relationship was one of employment. It considered whether the employment was permanent, fixed term or casual. The Authority found the arrangement best fit the characteristics for casual employment. Mr Rodgers drove the truck where and when required, as and when he was available. He did not know where he would be going for the full period of work, which was subject to contingencies like location and Wright Contracting's contract requirements. The employment ending earlier was in line with the conditions the parties agreed on.

The Authority then considered whether Wright Contracting unjustifiably dismissed Mr Rodgers. Mr Wright claimed he did not dismiss Mr Rodgers; he only said he had no more work for him. However, at that time, Mr Rodgers had accepted the Auckland engagement. Mr Wright's call cut that short. He ended the engagement prematurely and told Mr Rodgers he was letting him go.

Although the engagement had some variables in that it would only have lasted as long as it took to drive to Auckland, Mr Rodgers was entitled to be treated fairly during that engagement including if it was to end prematurely before driving to Auckland. Wright Contracting did not follow a fair process before telling Mr Rodgers his employment had ended.

Once an engagement is in place for a casual employee, an employer must act in a fair and reasonable way before deciding to dismiss including having a good reason and after following a fair process. If a casual employee is dismissed during an agreed engagement without substantive and procedural justification, they could succeed in a personal grievance for unjustified dismissal. Wright Contracting unjustifiably dismissed Mr Rodgers.

Mr Rodgers sought a penalty for Wright Contracting making an unlawful deduction by withholding his wages. The Authority considered Mr Rodgers had performed work in good faith and went without payment for a significant time. It ordered Wright Contracting to pay a penalty of $3,000, three quarters going to Mr Rodgers. Wright Contracting was also ordered to pay Mr Rodgers one week's wages totalling $1,550, owed holiday pay, a further week of wages totalling $1,550, compensation of $10,000 and costs of $1,500.

Rodgers v J.S. Wright Contracting (In Liquidation) [[2024] NZERA 274: 09/05/24; L Vincent]

Employee experienced some disadvantage in a long list of allegations

Mr Miles commenced employment with Citadel on 1 May 2022 as an investor relations and business development manager. The employment relationship soured quickly through various situations which Mr Miles claimed all contributed to his unjustified dismissal and disadvantage.

Mr Miles raised forty-four personal grievances of Citadel imposing unjustifiable disadvantage. The Employment Relations Authority (the Authority) discarded most of these. He had a number of issues with the work environment. Citadel had a "Subordinate of the Month" nomination each month which Mr Miles found to be dehumanising. An ex-employee said it was a humorous activity with an element of bonding in it. Co-director Mr Moinfar and other colleagues had a recurring joke where they compared the cost of an item to a teacher's salary. Mr Miles found this offensive and demeaning since his partner was a teacher, and he said Mr Moinfar was aware of this. Mr Moinfar said Mr Miles had not made him aware of any discomfort and if he had done so, he would have stopped.

Mr Miles' employment agreement gave him the use of a company car, a Tesla. On 13 September 2022, Mr Moinfar told him to purchase a van and use it for his commuting instead of the Tesla. He understood it was a punishment for his having taken a sick day the previous day. Mr Moinfar had been made aware of Mr Miles telling his coworkers that he had not been genuinely sick. Mr Miles was not given the opportunity through a proper disciplinary process to refute the allegation that he had not been genuinely sick, and the assignment of the van occasioned him as the registered (though not the actual) owner of the vehicle to incur parking fines. The van usage was temporary and Mr Miles could use the Tesla again after a week. On a separate weekend, Citadel checked with Mr Miles that he did not need to use his Tesla for work-related personal reasons. When he confirmed this, his Tesla was given to be used by another employee. He claimed this contributed to his grievances.

During Mr Miles' Christmas leave break in December 2022, he was contacted by a neighbour of Fortland Park, the site of Citadel's events centre and sales office. The neighbour said that Citadel's alpaca had escaped. As a result, he was onsite at Fortland Park until the early hours of the morning, attempting to get the alpaca back onto Citadel land. This occurred twice more over the Christmas holiday. The other co-director, Ms Foenander, reacted with amusement when he had made her aware of the situation.

Citadel were meant to finalise an "Information Memorandum" around the time that Mr Miles started working, but this was delayed for a couple of months. It was only available on 17 February 2023 and Mr Miles was immediately pressured to sign up prospective investors. Due to Citadel's delay, potential investors did not have sufficient time to carry out their due diligence on the Information Memorandum. Mr Miles felt pressured into achieving what he regarded as an impossible task. It caused him anxiety and frustration, especially in his perception that it impacted his ability to reach the targets to qualify for a staged discretionary bonus payment.

On 20 February 2023, Mr Miles was invited to a "catch-up". When he asked Mr Moinfar to confirm that it was a performance meeting, Mr Moinfar responded with "sure, whatever that means". Poor performance was never raised informally previously, so this was out of the blue. Mr Miles brought his sister to the meeting who read a prepared statement. Mr Moinfar left before the statement was finished as he found its suggestion of a resolution a "demand for cash." Mr Miles' sister then emailed the statement to Mr Moinfar, raising issues of breach of contract, unjustified disadvantage, and inappropriate workplace culture, among other things. After the meeting, Mr Miles left his work property on his desk and told Citadel he would not be returning.

Mr Miles raised a personal grievance for unjustified dismissal and disadvantage. The Authority found that Mr Miles resigned on his own accord. Upon assessment of Citadel's causation and foreseeability of Mr Miles' resignation, he was not constructively dismissed. There was no indication that the meeting of 20 February 2023 was intended to end Mr Miles' employment, nor did any of the incidents cause him to resign.

The Authority found that Mr Miles was unjustifiably disadvantaged in being punished for falsifying sick leave without proper process, and Citadel's delay in producing the Information Memorandum. Citadel was ordered to pay Mr Miles $15,000 as compensation. Costs were reserved.

Miles v Citadel Capital Limited and Forland Capital Limited [[2024] NZERA 285; 14/05/24; E Robinson]

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.

Bills open for submissions to select committee: Five Bills

Improving Arrangements for Surrogacy Bill (18 September 2024)

Regulatory Systems (Economic Development) Amendment Bill (19 September 2024)

Inquiry into banking competition (25 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/

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A QUICK GUIDE TO HOLIDAY PAY PRACTICES IN NEW ZEALAND

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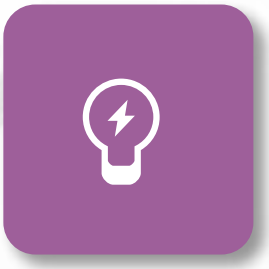

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AdviceLine is your link to first-rate employment relations advice. Business Central understands the difficulties employers can have with managing employees, so supports you with dedicated employer advisors.

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.

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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.