BusinessCentral

EMPLOYER BULLETIN

21 October 2024
A Weekly News Digest for Employers

EMPLOYER NEWS

Overseas investment changes to get New Zealand off the bench

Associate Finance Minister David Seymour says the Government has committed to action on overseas investment, where the country's policy settings are the worst in the developed world and holding back wage growth.

"Cabinet has agreed to the principles for reforming our overseas investment law. At the core of these principles is … that investment can proceed unless there is an identified risk to New Zealand's interests. This process will be guided by a government policy statement.

"International investors report that our rules impose significant compliance costs, delays, and uncertain outcomes. That's not to mention the potential investors who are discouraged from even considering New Zealand as an opportunity and simply go elsewhere."

To read further, please click here.

Big year of building reforms

Significant reforms are underway in the building and construction portfolio to help enable more affordable homes and a stronger economy, Building and Construction Minister Chris Penk says.

"If we want to grow the economy, lift incomes, create jobs and build more affordable, quality homes we need a construction sector that is firing on all cylinders," Mr Penk says.

"A recent report found that the sector supports 20 per cent of all jobs in New Zealand and contributes $99 billion dollars in sales. However, the report also found that productivity levels in the sector are the same as they were in 1985 and that the time taken to build a home has increased to a staggering 19 months on average.

"Much of this lost productivity is due to the building consent system which adds layers of regulations that can make even the simplest projects a nightmare.

"This red tape strangles productivity and makes building more expensive - with the flow on effect being that we are building fewer homes than we could be. This is why the Government has prioritised bold, structural reforms which are easily the largest since the Building Act was introduced in 2004.

"We know that there are enormous economic and social benefits for Kiwis if they have stable housing and that change is long overdue.

"The guiding principles for these reforms is that building needs to be easier and that regulations surrounding it should be streamlined, proportionate to the risk, consistent nationwide and place liability in the appropriate places."

To read further, please click here.

Government to provide significant regulatory relief for business

The Government will reform New Zealand's Anti-Money Laundering and Countering Financing of Terrorism (AML/CFT) system to provide significant regulatory relief for businesses, Associate Justice Minister Nicole McKee says.

"Cabinet has approved an AML/CFT reform work programme which will ensure streamlined, workable, and effective regulations.

"The reforms will deliver a critical Government priority to cut red tape and improve the quality of regulation. My aim is to provide regulatory relief to businesses and the public, enabling law enforcement to crack down on organised crime, and ensuring that New Zealand upholds its international reputation."

"I have heard from countless New Zealanders that the current regulations are unnecessarily risk-averse, resulting in complicated, repetitive processes. Simple tasks shouldn't be made confusing and difficult to complete," Mrs McKee says.

"The reforms will be undertaken in three parts. The first part is already well-advanced and will deliver immediate relief via two bills – the first of which, the Statutes Amendment Bill, has already been introduced to Parliament.

"The second part will focus on structural changes and a sustainable funding model, to create a more effective and efficient system. The final part will make additional regulatory changes to implement international standards and deliver a more risk-based system."

To read further, please click here.

Electronic card transactions: September 2024

The electronic card transactions (ECT) series cover debit, credit, and charge card transactions with New Zealand-based merchants. The series can be used to indicate changes in consumer spending and economic activity.

Changes in the value of electronic card transactions for the September 2024 month were compared with August 2024. Net spending in the retail industries was unchanged but increased specifically in the core retail industries by 0.3 percent ($19 million). Hospitality, consumables, apparel and motor vehicles (excluding fuel) retail spending went up, while durables and fuel went down.

The non-retail (excluding services) category increased by $31 million (1.4 percent) from August 2024. This category includes medical and other health care, travel and tour arrangement, postal and courier delivery, and other non-retail industries.

The services category was up $4.5 million (1.3 percent). This category includes repair and maintenance, and personal care, funeral, and other personal services.

The total value of electronic card spending increased from August 2024, up $28 million (0.3 percent).

Cardholders made 157 million transactions across all industries in September 2024, with an average value of $55 per transaction. The total amount spent using electronic cards was $8.6 billion.

Comparing the September 2024 quarter to the June 2024 quarter, spending in the retail industries decreased $135 million (0.7 percent) and spending in the core retail industries decreased $91 million (0.5 percent). The non-retail category was up $185 million (2.7 percent) and the services category was up $6.2 million (0.6 percent). Electronic card spending totalled $27.2 billion, down $11 million (no percent change) compared with the June 2024 quarter.

To read further, please click here.

Dairy export quota Bill passes first reading

The Government's work to boost export value has hit another milestone, with a new dairy Bill passing its first reading in Parliament, Agriculture Minister Todd McClay announced.

"The Dairy Industry Restructuring (Export Licences Allocation) Amendment Bill will modernise New Zealand's dairy export quota system to grow export and farmgate returns," Mr McClay says.

"More dairy companies are manufacturing niche and high-value products, but the current system excludes many of them from receiving dairy export quota - this is a lost opportunity for those businesses and for New Zealand."

"The Bill proposes changes to the export quota system that… will maximise and further boost dairy's $23 billion in annual export revenue by allowing a wider range of exporters to tap into new markets and opportunities," Mr McClay says.

The Bill also enables portions of individual quotas to be reserved for dairy exporters currently ineligible for quota and those only eligible for less than 200 tonnes.

"It will also unlock quota for non-bovine animal dairy exporters, such as sheep, goat and deer milk processors, opening up new export opportunities and revenue streams."

To read further, please click here.

Annual inflation at 2.2 percent

New Zealand's consumers price index increased 2.2 percent in the September 2024 quarter, compared with the September 2023 quarter, according to figures released by Stats NZ.

The 2.2 percent annual increase follows a 3.3 percent annual increase in the June 2024 quarter.

"For the first time since March 2021, annual inflation is within the Reserve Bank of New Zealand's target band of 1 to 3 percent. Prices are still rising, but not as much as previously recorded," consumer prices manager Nicola Growden said.

Higher rent prices was the biggest contributor to the annual inflation rate, up 4.5 percent – almost a fifth. Of the five broad regions measured, rent prices in the South Island excluding Canterbury had the biggest annual increase and Wellington had the smallest.

Prices for local authority rates and payments increased 12.2 percent in the 12 months to the September 2024 quarter (16 percent contribution to the CPI increase).

"This is the largest rates increase since 1990," Growden said.

Partly offsetting the annual CPI increase was lower prices for petrol, which fell 8.0 percent, and vegetables, falling 17.9 percent. This decrease follows high prices for potatoes, kūmara, and onions last year.

The consumers price index rose 0.6 percent in the September 2024 quarter, compared with the June 2024 quarter. The increase in local authority rates and payments contributed over half of this. The movement follows a 9.8 percent increase last year.

The 8.4 percent increase in vegetable prices was primarily driven by rising prices for tomatoes (16 percent of the quarterly increase).

While prices rose overall, a 6.5 percent fall in petrol prices across the country was the largest downwards contributor to the 0.6 percent quarterly movement. This included the removal of the Auckland regional fuel tax of 10 cents per litre plus GST on 30 June 2024.

To read further, please click here.

Annual Report: ACC supports 2 million new claims in 50th year

ACC's Annual Report shows it accepted 2.04 million new injury claims in 2023/24, supported injured people with over $4 billion of treatment and rehabilitation services, and paid almost $3 billion of compensation payments.

The ACC scheme, which celebrated its 50th anniversary in April, continued to grow in 2024, with new injury claims increasing by 3.6 percent on the previous year and new weekly compensation claims up by 3.9 percent to 165,000.

In 2023/24, the Outstanding Claims Liability (OCL) calculation increased by $8.7 billion to $60.2 billion, as a result of court decisions which have expanded scheme boundaries, expected increases in claim volumes and costs of claims, and ACC's declining rehabilitation performance, which was partly offset by the impact of discount rates and inflation. At the same time, ACC's Investment Fund grew to $51.6 billion, up from $47.4 billion last year, driven by a 7.6 percent return (before costs).

Chief Executive Megan Main says a higher proportion of injuries are requiring time off work during recovery and the length of time injured workers are unable to work has been growing. The cost of services ACC provides to support recovery have also increased significantly over the past three years. These factors have combined to increase the average cost of claims.

To read further, please click here.

Stronger fuel reserves to drive economic stability

New Zealand's fuel resilience is being strengthened to ensure people and goods keep moving and connected to the world in case of disruptions, Associate Energy Minister Shane Jones says.

"New Zealand imports nearly all of its engine fuels, making us particularly vulnerable to international and domestic supply disruptions," Mr Jones says.

"Ensuring we hold enough reserve stocks in the right place to ride out possible disruptions is a key pillar of fuel security. It is a critical insurance policy to safeguard against the potentially devastating impacts

that a severe and sustained fuel disruption might have.

"I am not satisfied that 21 days' cover for diesel is enough, nor is the jet fuel stockholding rule sufficient to avoid disruptions to international aviation such as that we experienced in 2017.

"For this reason, I am seeking feedback on increasing diesel reserves to 28 days' stock to help reduce any potential impact of a disruption to supply.

"I am also concerned about security of supply of jet fuel at Auckland Airport," Mr Jones says. "In September I informed the fuel companies which own the jet fuel infrastructure at the airport of my plan to seek Cabinet agreement on regulations that would mandate sufficient jet fuel to be held near Auckland Airport."

Consultation closes on December 6.

To read further including the full discussion document, please click here.

EMPLOYMENT RELATIONS AUTHORITY: FOUR CASES

A settlement is breached, but did that cause disadvantage?

Mr Larsen was in dispute with his employer, Fire and Emergency New Zealand (FENZ), relating to his transfer from Auckland to a Whangārei station. Mediation resulted in a Record of Settlement (the Settlement) dated 13 August 2018. Mr Larsen raised a claim with the Employment Relations Authority (the Authority) arguing that FENZ had breached the terms of the Settlement. He also claimed FENZ caused disadvantage by requiring him to use his accrued annual leave and by seeking to impose or deprive him of various obligations, when changing his work location.

The Settlement provided that Mr Larsen would commence duties as a station officer in Whangārei from November 2020 at the latest, with there being an option for him to start earlier if a station officer slot became available between then and November 2020. A position at the Whangārei Station became available in May 2019. The New Zealand Professional Firefighters Union (NZPFU) objected to Mr Larsen being relocated here, pointing to requirements in transfer situations contained in its collective agreement. While Mr Larsen was not a union member, his employment agreement was a mirror of the collective terms. As a result of the objection, FENZ withdrew the transfer offer. The "peace" clause of Mr Larsen's employment agreement set out that, where there was a dispute, the status quo prevailed until the dispute was resolved.

Mr Larsen was unfit for work from 1 July 2019 until he was cleared to return on 24 April 2020. Mr Larsen believed he was instructed to take accrued leave until 30 July 2020. When Mr Larsen was to return to work, FENZ ordered him to work at the St Heliers Station in Auckland from 31 July 2021. Mr Larsen declined this because he felt the instruction was unlawful and unreasonable, and that he should be working at the Whangārei Station per the Settlement. FENZ put him on unpaid leave from 31 July 2021.

Mr Larsen remained on unpaid leave until 4 February 2023, when he was placed back on the payroll while settlement options continued to be explored. That status continued until Mr Larsen started work in Whangārei in mid-January 2024.

The Authority found FENZ breached the Settlement. Mr Larsen had been ready to start work in Whangārei on 3 July 2021. FENZ stopped him from doing so due to NZPFU's dispute. Mr Larsen claimed that he was disadvantaged by this course of action.

FENZ practically struggled to comply with its Settlement obligations because of NZPFU's dispute. The issues it raised had merit – transferring Mr Larsen would be unlawful outside of the Settlement. There

were also health and safety issues due to the workplace hostility that occurred as a result of Mr Larsen being given the transfer outside of the collective agreement requirements.

It was understandable that Mr Larsen's transfer was placed on hold while the parties tried to find a workable solution. Moreover, Mr Larsen refused eight reasonable proposals, each of which would have placed him at work at the Whangārei Station. He could have made a compassionate grounds application for the other vacancies outside of the NZPFU's dispute.

The Authority found that FENZ could rely on its peace clause to fall back on. Its instruction for Mr Larsen to report to the St Heliers Fire Station was lawful and reasonable, as was the decision not to pay him when he failed to do so. In contrast, Mr Larsen's insistence he be appointed to the May 2019 role at the Whangārei Station was unreasonable. His disadvantage claim did not succeed.

FENZ claimed Mr Larsen was under a contractual obligation that required him to use his accrued annual leave entitlement. This was not actually in Mr Larsen's individual employment agreement, but from the 2015 collective agreement. FENZ relied on a provision that did not exist for Mr Larsen. It could have not done this and instead directed Mr Larsen to take leave where agreement could not be reached. While FENZ's action here was substantively justified, it was procedurally unjustified due to being implemented in a procedurally unfair manner. However, the Authority declined Mr Larsen's request to reinstate his annual leave, noting that his use of it in advance gave him the benefit of the paid time away from work.

Mr Larsen was entitled to a remedy of compensation for his distress in connection to the annual leave matter. FENZ was ordered to pay him $5,000 for this. Costs were reserved.

Larsen v Fire and Emergency New Zealand [[2024] NZERA 318; 29/05/24; R Larmer]

Asking employee to resign is unjustified dismissal

Ms Ross performed work for S & D Decorators Limited (S&D) as a sub-contractor in late 2022 before entering an employment arrangement with S&D in January 2023. Ms Ross lodged a claim with the Employment Relations Authority (the Authority) claiming she was unjustifiably dismissed and disadvantaged in her employment. She also advanced claims for lost wages and wage arrears that were owing from short payments made in February 2023.

Issues arose early in the employment relationship regarding the quality of Ms Ross' work. S&D believed it was conducting a performance review of her work. However, the review was not integrated into a formal process and Ms Ross said she addressed any concerns as they were brought to her attention.

In February 2023, S&D begrudgingly granted Ms Ross one week of annual leave in advance. She also took two weeks off as sick leave starting on 28 February 2023. S&D sent her a letter dated 1 March 2023 which stated she had not properly participated in, and thereby failed, her performance review. S&D wrote that it required her resignation. It went on to set out her final payment details and to wish her well for the future.

The Authority did not find any evidence of a formal performance review plan being implemented. S&D had given Ms Ross corrective action reports while she was a contractor. However, it had not raised its reports with her concerning the time she was an employee. S&D next marked Ms Ross' employment agreement with asterisks where it had concerns with her work. In return, she requested more details on the issues. S&D had not been forthcoming on this. Finally, it claimed it planned to hold a performance review on 1 March 2023. However, the evidence did not support this. Instead, that was when S&D told Ms Ross to resign.

Although S&D wrote to her on 2 March 2023 asking her to return to work, the Authority felt it to be "too little too late". Ms Ross was dismissed by the letter sent on 1 March 2023. That amounted to an unjustified dismissal. The Authority also found that S&D owed Ms Ross lost wages and arrears from February 2023.

Ms Ross' claim for compensation was upheld. However, the Authority considered it appropriate to make a deduction for blameworthy conduct. It considered that Ms Ross contributed to the employment

relationship breaking down, particularly when she insisted on taking leave very shortly after starting work with S&D. Ms Ross' actions were not in good faith considering the workload S&D had and the impact her leave would have on other employees.

S&D asked the Authority to consider damages caused by Ms Ross as a contractor and expenses it incurred through Ms Ross' employment. The Authority declined those claims. Its scope was only for employment relationships and not contracting matters. The employment-based claims here were then not correctly raised as counterclaims.

S&D was ordered to pay Ms Ross arrears of wages of $337.50, unpaid overtime of $922.50, unpaid KiwiSaver employer contributions of $175.16, unpaid annual holiday pay of $467.10 and $5,881.14 in compensation for lost wages. It also had to calculate annual holiday pay of $571.29 and KiwiSaver contributions of $214.23 on the awards of arrears of wages, unpaid overtime and compensation for lost wages. Finally, the Authority calculated compensation for hurt and humiliation starting at $5,000 and reduced that figure by 10% for Ms Ross' contribution, which brought it to $4,500. Costs were reserved.

Ross v S & D Decorators Limited [[2024] NZERA 401; 04/07/24; S Kinley]

Employees must be consulted on transferring in a business sale

Mr Kohavy worked as a territory manager for Paragon Multiplex Limited (Paragon) from 2016 to 2023. In March 2023, co-directors and shareholders Mr and Mrs Coates announced to Paragon staff that the business had been sold to another company owned and operated by T. Some staff were offered positions with that company. Some were not. Mr Kohavy, as an unlucky employee who was not offered further employment, raised a claim with the Employment Relations Authority (the Authority) alleging he had been unjustifiably dismissed.

Negotiations for the sale of the company commenced in January 2023 with a nondisclosure agreement being signed on 2 February 2023. The sale went unconditional on 15 March 2023. The Coates' legal advisors told them to not reveal details of the sale to staff until they were ready to give full notice of purchase, on 17 March 2023. Mr Coates discussed offering employment to Mr Kohavy and other staff with the purchasing business owner, T. However, nothing came of those discussions for Mr Kohavy, who finished with Paragon on 31 March 2023 and found he had not received an offer from the purchaser. The Coates claimed they did their best to make arrangements for staff with the purchaser as well as paying out notice.

In the Employment Relations Act 2000 (the Act), where an employer who is proposing to make a decision that will or is likely to have an adverse effect on the continuation of an employee's employment, it must provide access to information about the decision that is relevant to the continuation of the employee's employment, and an opportunity to comment on this before a decision is made. Paragon had already decided by the time they talked to staff on 17 March 2023 that the business was to be sold and the employment agreements terminated.

The Coates were genuinely concerned about possible information leaks, but the Authority observed they did not consider options other than not telling staff. The family-run business only had a small group of staff. A fair and reasonable employer should have considered making an offer to the potential purchaser to consult with the staff, subject to them signing a non-disclosure agreement. This would supplement the employees' existing good faith obligations.

The Authority referenced case law which also involved a transfer of business. The Employment Court there concluded that in those circumstances, a fair and reasonable employer could have considered options for exploring whether it could maintain the integrity of the parties' commercial position and still inform employees of the proposal in a confidential manner.

The Authority noted there were tight timeframes at some points of the process, which might have impacted on the ability for proper consultation and feedback. It also noted how the Coates followed up with T once they learned that Mr Kohavy and others had not been offered employment. However, they had told staff not to contact T directly and to wait for him to contact them. The Authority was critical of

this and felt the Coates should have done more. A fair and reasonable employer would have followed up to check that everything was on track.

Mr Kohavy's claim for unjustified dismissal was upheld and he was entitled to remedies. Paragon was ordered to pay Mr Kohavy $11,778.83 in lost wages and compensation for humiliation, loss of dignity and injury to feelings, of $12,000. Costs were reserved.

Kohavy v P & W Coates Limited (Previously known as Paragon Multiplex Limited) [[2024] NZERA 399; 03/07/24; N Craig]

Employer fails to consult on redundancy

Mr Kliushneu was employed by Carlin Boutique Hotel (the Hotel) as a restaurant manager and sommelier. He claimed he had been unjustifiably dismissed by way of a restructuring that was not genuine, and had been unjustifiably disadvantaged in his employment.

Mr Kliushneu claimed he attended two video conference calls before he went on leave for a non-work-related injury. These calls involved brainstorming sessions about how to increase the Hotel's financial profitability. The Hotel engaged a third party to facilitate these calls, with participants appearing to be those in senior roles. There was no discussion about Mr Kliushneu's role being affected.

Sometime later, Mr Kliushneu received an email offering him an alternative role on reduced hours and pay. He recalled an out-of-work conversation with his manager where he said he would take the alternative job offered if necessary. Despite this, Mr Kliushneu responded formally via email, saying he would seek advice in relation to the proposed job change.

Before Mr Kliushneu could respond any further, he was emailed to say that the restaurant would be closing to external guests from a certain date. There was a further email from Mr Carlin, the Hotel's director, who notified Mr Kliushneu that his role was made redundant due to "financial reasons".

The Hotel failed to provide any evidence that it had consulted with Mr Kliushneu about his redundancy. Although he had not been completely out of the loop on the proposed restructure, such correspondence mainly constituted management discussions, as opposed to consultations about his specific role. The offer of an alternative role was ultimately ignored. The Hotel breached its duties of good faith, to provide employees with access to information relevant to the continuation of their employment and the opportunity to comment on it.

Further, the Employment Relations Authority (the Authority) agreed with Mr Kliushneu that his redundancy was likely not genuine. He was convinced the Hotel "got rid of" him. He noted the Hotel had advertised for a "restaurant supervisor" role following his termination. This left him questioning whether there was a genuine reason for disestablishing his role.

The Authority concluded that the Hotel failed to act fairly and reasonably, particularly as they failed to follow a proper process regarding Mr Kliushneu's ongoing employment. That amounted to an unjustified dismissal.

Despite the end of his employment being sudden and unexpected, Mr Kliushneu confirmed he had been planning before the redundancy to set up his own business. He then claimed to have suffered immense stress due to the redundancy. The Authority did not find this supported by the evidence. Mr Kliushneu would go on to withdraw that claim.

In relation to compensation for hurt and humiliation, Mr Kliushneu claimed his termination caused more general stress due to financial worries. Although he did not see a doctor, he referred to being depressed for three months. The Authority found it likely that Mr Kliushneu suffered humiliation when the Hotel advertised the restaurant supervisor soon after making him redundant.

The Hotel submitted its dire financial situation to the Authority. Due to this, the Authority set an order of compensation at $12,000. It also ordered the Hotel to pay costs and the Authority filing fee. Costs were reserved.

Kliushneu v The Carlin Hotel Limited (In Receivership) [[2024] NZERA 472; 05/08/24; Baker A]

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: Six Bills

Arms (Shooting Clubs, Shooting Ranges, and Other Matters) Amendment Bill (29 October 2024)

District Court (District Court Judges) Amendment Bill (29 October 2024)

Sentencing (Reform) Amendment Bill (29 October 2024)

Parliament Bill (6 November 2024)

Building (Overseas Building Products, Standards, and Certification Schemes) Amendment Bill (14 November 2024)

Budapest Convention and Related Matters Legislation Amendment Bill (28 November 2024)

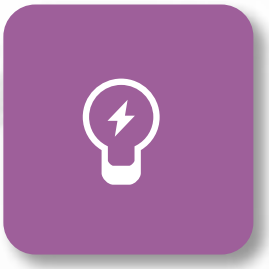
Overviews of bills-and advice on how to make a select committee submission-are available at: https://www.parliament.nz/en/pb/sc/make-a-submission/

CLICK HERE

A QUICK GUIDE TO HOLIDAY PAY PRACTICES IN NEW ZEALAND

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
or for further information, call the AdviceLine on 0800 800 362



ENTERPRISE SERVICES

0800 800 362
advice@businesscentral.org.nz
www.businesscentral.org.nz

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

0800 800 362
advice@businesscentral.org.nz
businesscentral.org.nz

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.

04 470 9930, training@businesscentral.org.nz, businesscentral.org.nz

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.