BusinessCentral

EMPLOYER BULLETIN

21 January 2025
A Weekly News Digest for Employers

EMPLOYER NEWS

Minimum wage set for 2025

The adult minimum wage rate will increase by 1.5% to $23.50 an hour from 1 April 2025, Workplace Relations and Safety Minister Brooke van Velden announced.

This minimum wage increase meets the NZ First-National coalition commitment to moderate increases to the minimum wage every year. Cabinet's decision reflects the current economic climate and labour market conditions.

"The New Zealand economy is still recovering from a sustained period of high interest rates and recessionary conditions. In that context, delivering a modest increase in the minimum wage strikes the right balance between supporting workers and limiting further costs on business.

"This increase also reflects the significant progress the Government has now made on inflation, which has now returned to the Reserve Bank's target band for the first time in more than three years."

To read further, please click here.

Reforms to Accredited Employer Work Visa announced

The Government has announced reforms to the Accredited Employer Work Visa (AEWV).

These include removing the median wage threshold, reducing experience requirements to 2 years and introducing new seasonal visa pathways to support employers to fill skill gaps.

The changes will be implemented in 4 different stages over the course of 2025, beginning in January.

Immigration New Zealand (INZ) is also re-designing the Job Check step of the AEWV process. The changes will help streamline the Job Check for low-risk employers and improve processing timeframes. This will be implemented from July 2025.

To read further, please click here.

Business confidence highest since 2021

The latest NZIER Quarterly Survey of Business Opinion, which shows the highest level of general business confidence since 2021, is a sign the economy is moving in the right direction, Finance Minister Nicola Willis says.

"When businesses have the confidence to invest and grow, it means more jobs and higher incomes for Kiwis.

"The survey shows business is feeling more positive after a period doing it tough with a period of high inflation and climbing interest rates now coming to an end.

"Business confidence turning positive for the first time since June 2021, and only the second time since 2017, shows the Government's plan to rebuild the economy is working.

"We are doing our bit to support growth by fast-tracking projects of economic significance, signing trade agreements, refocusing the education system on core skills and removing red tape."

To read further, please click here.

Employment indicators: November 2024

Employment indicators provide an early indication of changes in the labour market.

Changes in the seasonally adjusted filled jobs for the November 2024 month (compared with the October 2024 month) were:

- all industries – up 0.3% (5,980 jobs) to 2.36 million filled jobs
- primary industries – down 0.4% (436 jobs)
- goods-producing industries – down 0.2% (836 jobs)
- service industries – up 0.3% (6,230 jobs).

To read further, please click here.

PM appoints business leader to APEC Business Advisory Council

Prime Minister Christopher Luxon has appointed Sarah Ottrey to the APEC Business Advisory Council (ABAC).

"At my first APEC Summit in Lima, I experienced firsthand the role that ABAC plays in guaranteeing political leaders hear the voice of business," Mr Luxon says.

"New Zealand's ABAC representatives are very well respected and ensure that the New Zealand business community has a say in shaping economic outcomes in the region.

"Sarah Ottrey brings wide-ranging business experience with export focused companies, as well as knowledge of the dynamism of the Asia-Pacific business environment."

To read further including industry-specific results, please click here.

Trade and investment agreements signed with United Arab Emirates

New Zealand's first-class free trade deal and investment treaty with the United Arab Emirates (UAE) have been signed.

In Abu Dhabi, together with UAE President His Highness Sheikh Mohammed bin Zayed, New Zealand Prime Minister, Christopher Luxon, witnessed the signing of the Comprehensive Economic Partnership Agreement (CEPA) and accompanying investment treaty by Trade Minister Todd McClay and his UAE counterpart the Minister of State for Foreign Trade Dr. Thani bin Ahmed Al Zeyoudi.

"Securing trade deals for our exporters has been a top priority for my government as we aim to double the value of our exports in ten years," Mr Luxon says.

"The CEPA will unlock economic opportunities for Kiwi businesses, secure preferential access for our primary sector exporters, and strengthen supply chains with a key partner in the Gulf region."

To read further, please click here.

Ecostore commits $323k to 'cultural shift' in safety

AI technology with real time hazard alerts is central to a new safety commitment WorkSafe New Zealand has accepted from the well-known household brand, Ecostore.

It comes after a worker suffered chemical burns to his eyes while making dishwasher powder in March 2023. The worker was injured while trying to shut off a pressurised hose that had come loose and was spraying hazardous liquid into the air at Ecostore's factory in Pakuranga, Auckland.

WorkSafe investigated and found an inadequate supply of personal protective equipment (PPE), particularly eyewear, staff training gaps for chemical handling, and lack of emergency management.

To read further, please click here.

EMPLOYMENT COURT: ONE CASE

Forfeiture provision found to be unenforceable

Caleys Ltd (Caleys) operated a window furnishings business. Ms Deadman was employed as a sales and business development representative. She commenced employment in September 2022 and resigned in November 2022 without giving her required one months' notice. Caleys sought to recover from Ms Deadman a portion of one month's salary based on the forfeiture provision in her employment agreement.

The Employment Relations Authority (the Authority) determined that the provision in question was not enforceable because the forfeiture clause was, by its nature, a penalty clause designed to compel performance of the notice period and was not a genuine assessment of liquidated damages. On that basis, it did not uphold Caleys' claim.

Caleys challenged the Authority's determination, and the matter proceeded before the Employment Court (the Court).

Ms Deadman had previously been diagnosed with vertigo. On 16 and 17 November 2022, she took two days off work as unpaid sick leave. She said it became apparent to her that the job was not suitable for her as she was exhausted and stressed and did not feel she could do her best for the company. Ms Deadman said she rang the sales manager to advise that she was resigning, with her last day being the following day, Tuesday 22 November. Caleys' evidence was that she was reminded at that point of the requirement to give one month notice, but that she insisted she wanted to leave.

Two weeks later the director, Mr Pepper, wrote to Ms Deadman. The letter said "You have elected to terminate without giving one months' notice, and in doing so are liable to make payment of [one] months' salary in lieu thereof." He stated that Ms Deadman owed Caleys $4,461.52 under the forfeiture provision in the employment agreement and that her final pay of $1,303.85 had been deducted from the amount owing." He then requested payment of the outstanding sum of $3,157.67. Ms Deadman did not respond or make the payment sought.

The Court had to consider whether Caleys was entitled to the amount of $3,157.67 from Ms Deadman under the forfeiture clause. The question for the Court was whether the consequence stipulated in that forfeiture clause was out of all proportion to Caleys' legitimate interests in securing performance or deterring breach.

Until recently, the common law in New Zealand distinguished between liquidated damages provisions and penalty provisions. Where a forfeiture clause set out "a genuine covenanted pre-estimate of damage", it was enforceable as a liquidated damages clause; but if it did not, it was deemed a penalty and unenforceable.

However, the Supreme Court revisited and developed the relevant principles and although it reaffirmed the principle that penalties are not enforceable, it rejected the dichotomy between liquidated damages and penalties. It held that there was a broader category of contractual clauses providing for consequences on breach that are enforceable.

The Court said, as a general rule, where an employment agreement contains a forfeiture clause, the Court will scrutinise any claims closely. The Court accepted that the forfeiture clause was designed to protect Caleys' interests in performance of the notice requirement. It then considered whether the forfeiture clause was proportionate to those interests. The Court said the fact that assessing the damages arising in the case was difficult indicated that the forfeiture clause was not a genuine pre-estimate of damage, nor did it represent readily calculable monetary losses flowing directly from the failure to provide notice. Therefore, the Court did not consider that the provision was proportionate to the losses suffered or that could have been suffered.

The Court said that the clauses are common in employment agreements and noted that as with most employment relationship problems, each case will turn on its own facts, but the wording of the clauses is often problematic. Had the provision referred to the forfeiture of one month's salary, or the cost or damages incurred by the company as a result of the failure to provide notice, whichever was the lesser, it may well have been enforceable. But in this case, on the evidence before the Court, it would not have resulted in an order that Ms Deadman pay, as the company was unable to prove actual loss.

The Court said it appeared that Caleys made a deduction of $1,303.85 from Ms Deadman's final pay in reliance on the forfeiture provision and as that forfeiture provision was unenforceable, the deduction was unlawful. There was also no indication that Ms Deadman was meaningfully consulted on the deduction prior to it being made, which was also unlawful. The sum ought to be repaid. Ms Deadman did not, however, make a claim of her own, but the Court said if she wished to enforce the matter, she could do so in the Authority. Caleys Limited's challenge was unsuccessful. Ms Deadman was not required to pay Caleys the amount sought. Both parties were self-represented, so there was no issue as to costs.

Caleys Limited v Deadman [[2024] NZEmpC 200; 18/10/24; Judge Beck]

EMPLOYMENT RELATIONS AUTHORITY: FOUR CASES

Unilateral health monitoring changes to collective agreement found to be unlawful

On 20 June 2024, Lyttelton Port Company Limited (LPC) implemented mandatory health monitoring for all of its employees. That initiative was recommended by the Transport Accident Investigation Commission (TAIC) which is an independent crown entity and a standing commission of enquiry. It investigates selected maritime, aviation and rail accidents and incidents that occur in New Zealand. From 1 July 2024, employees of LPC would be subjected to health monitoring of some type depending on their role.

That health monitoring was prescribed in a Health Monitoring Procedure and implemented through a Health Monitoring Policy. That reflected LPC's Health Management Plan and included Health Monitoring Consent and Health Assessment Forms (collectively the Health Monitoring Policy and Procedure). The Health Monitoring Policy and Procedure was put in place after consultation with employees at LPC.

The Maritime Union of New Zealand (MUNZ) said its members who were employees of LPC (MUNZ Members) could not be subjected to health monitoring pursuant to the Health Monitoring Policy and Procedure because it was not lawful or reasonable. MUNZ and LPC were unable to resolve the issue of the lawfulness of the Health Monitoring Policy and Procedure and LPC lodged a statement of problem in the Employment Relations Authority (the Authority).

The Authority heard evidence that discussions about health monitoring between LPC and MUNZ took place over a period of time from June 2022. When the new collective agreement between LPC and MUNZ was signed in July 2023, neither party had raised health monitoring as an issue.

The matter turned on the question of whether the Health Monitoring Policy and Procedure was consistent with the collective agreement or whether the Health Monitoring Policy and Procedure was a variation to the terms of employment set out in the collective agreement.

The Authority noted that the collective agreement already provided for health monitoring of vision, hearing and respiratory conditions whereas the Health Monitoring Policy allowed for these along with blood pressure testing, blood glucose testing and strength and balance testing.

The Authority found that clauses in the collective agreement did not permit LPC to unilaterally implement new procedures in respect of health and safety. Medical checks could only be expanded in certain occupations such as diving where it was a requirement.

The Authority found that the collective agreement was not permissive to the introduction of wider ranging and ongoing testing and monitoring of employee's health, particularly in relation to cardiovascular disease, diabetes, and fitness. Specific measures relating to health monitoring were already provided for in the collective agreement, and those could not be widened by the introduction of the Health Monitoring Policy and Procedure. Allowing LPC to implement it would permit a variation to the existing terms of employment for MUNZ members and that could only be done by agreement.

LPC submitted it is obliged to take steps to implement further health monitoring of its employees. That was not only due to its obligation to protect employees, but because LPC would be exposed to potential prosecution and liability if an accident occurred that might have been prevented by the proposed monitoring.

The Authority acknowledged that LPC accepted the TAIC recommendations and conducted extensive reviews of employee health requirements in that regard. However, the Authority did not accept that the obligations LPC had, which arose out of the Health and Safety at Work Act 2015 and the TAIC recommendations, provided the company with a basis to implement the Health Monitoring Policy and Procedure for MUNZ members without agreement obtained through collective bargaining. LPC's obligations in this regard were not considered akin to mandatory obligations such as mandatory orders made by the government during the Covid-19 pandemic relating to workplace vaccination.

In accepting that LPC was in a difficult position, the Authority observed that if LPC wished to implement the Health Monitoring Policy and Procedure, it could only do so through agreement with MUNZ members.

In summary, the Health Monitoring Policy and Procedure was found to be inconsistent with the collective agreement and was effectively an attempt to unilaterally vary MUNZ members' terms and conditions of employment in connection with health monitoring. There was no basis upon which LPC could unilaterally vary MUNZ members' terms and conditions of employment in connection with health monitoring. Therefore, the Health Monitoring Policy and Procedure was not lawful for MUNZ members and could not be enforced.

Maritime Union of New Zealand V Lyttelton Port Company Ltd [[2024] NZERA 573; 30/09/24; P Van Keulen]

Authority orders reinstatement following flawed investigation process

Mr Lavea was employed by ISS Facility Services Limited (ISS) as a rubbish collector at Wellington Hospital. On 27 August 2021, Mr Lavea was approached by his supervisor, Ms Doull, who was concerned that certain bins had not been emptied. Together, Mr Lavea and Ms Doull went to check on the bins. Mr Lavea said that Ms Doull repeatedly made racist remarks against Samoans. He said he asked her to stop making such comments. However, Ms Doull said that Mr Lavea had "pushed" her. Mr Lavea denied that. Later that day, Mr Lavea was suspended from work. After some delays and disputes about the existence and provision of video footage, Mr Lavea was dismissed.

Mr Lavea raised a claim in the Employment Relations Authority (the Authority) and alleged that he had been unjustifiably dismissed and discriminated against. He sought compensation for hurt and humiliation, lost wages and reinstatement. Two colleagues of Mr Lavea who witnessed Ms Doull make such remarks also raised claims of unjustified disadvantage on the basis of discrimination. ISS submitted the decision to dismiss Mr Lavea was justified and rejected the claims of discrimination.

The first issue considered by the Authority concerned an apology made by Mr Lavea on 11 October 2021 when he met with ISS staff to address the allegation that he had pushed Ms Doull. Even though ISS considered the apology to be an admission of guilt, the Authority did not agree. The evidence more closely aligned with Mr Lavea being apologetic for causing disruption and becoming upset rather than actually admitting having committed an assault.

The Authority noted the good elements of procedural fairness ISS used, including raising the concerns with Mr Lavea and giving him a fair opportunity to respond. The more troubling aspects for ISS related to how it conducted its investigation of the allegation. Ms Doull was not interviewed following her complaint nor were witness statements taken from those who observed interactions between Ms Doull and Mr Lavea prior to the alleged assault. ISS felt the interactions were not relevant and delayed asking for the relevant CCTV footage. When the request was finally made the footage had been deleted as it is not kept indefinitely. ISS also felt the concerns raised about alleged discriminatory comments were a distraction raised by the union supporting Mr Lavea and not relevant to the matter at hand.

The Authority found that Mr Lavea had established a claim for unjustified dismissal. This was based on the conclusion that ISS had not sufficiently investigated the matter and did not genuinely consider his explanations before reaching the decision both that he had committed the assault, and that it was appropriate to dismiss him. The decision was based on a series of decisions to exclude some possibilities, and to prefer others, all of which narrowed and tainted the final decision to dismiss such that it was not made with a truly open mind, or fairly considering all relevant matters. Further, the Authority did not consider the provided CCTV footage to be as compelling as ISS submitted.

Turning to the matter of Mr Lavea's colleagues and their disadvantage claim the Authority heard that ISS had not followed up on their concerns about Ms Doull's alleged racist comments as ISS felt these allegations were either "created" or irrelevant. Having raised their concerns and then having them disregarded, in the view of the Authority, amounted to a disadvantage in their employment.

The Authority supported Mr Lavea's claim for reinstatement to either his previous role or one no less advantageous. The Authority was not persuaded by ISS's argument that Mr Lavea had committed an assault so having him return was not appropriate. In the Authority's view, the allegation that an assault had taken place had not been established and the size and resources of the employer made the reinstatement option practical and appropriate.

In considering the compensation claim by Mr Lavea, the Authority heard evidence that Mr Lavea engaged in a verbal altercation with his supervisor including stepping towards her during the argument. He had accepted that he had not acted properly in the moment. A deduction of 15% was considered appropriate.

The union submitted on behalf of Mr Lavea that both ISS and Ms Doull should have to take remedial steps to address the allegations of racist behaviour. Both ISS and Ms Doull denied any such behaviour. After hearing the totality of the evidence, the Authority was of the view that racist and discriminatory language was used by not just Ms Doull but by management throughout ISS.

ISS was ordered to pay Mr Lavea a sum equivalent to 10 weeks' ordinary time remuneration and $17,000 without deduction for hurt, humiliation and injury to feelings (that sum being $20,000 reduced by 15% for contribution).

The Authority recommended that ISS arrange for culturally appropriate education from an appropriately qualified and experienced third party for all of ISS management (including Ms Doull) to prevent further harassment or adverse treatment on the grounds of race of any employee. Costs were reserved.

Lavea v ISS Facility Services Ltd [[2024] NZERA 541; 06/09/24; C English]

Authority determines employment ending was not abandonment

Mr Dhindsa was employed by Veer Transport Ltd (Veer) as a truck driver from January 2023. Soon after commencing employment, absenteeism issues arose that led to Veer issuing Mr Dhindsa a second warning on 7 June 2023. Shortly afterwards, Mr Dhindsa received approval to take time off until 26 June 2023.

Mr Dhindsa asked Veer for financial support around 16 June 2023 and an agreement was reached to pay out his entire annual leave entitlement. That was stated as his final payment on his payslip. A further agreement was also reached for Mr Dhindsa to remain off work until 31 June 2023.

On 28 June 2023, Mr Dhindsa notified Veer that he had injured himself two days earlier and would be off work until 10 July 2023. What followed was a complex set of communications between ACC and Veer. There was confusion around the lump sum annual leave payment from Veer, which had given ACC the impression that Mr Dhindsa's employment had been terminated. On 7 September 2023, Veer advised ACC that Mr Dhindsa's employment had in fact ceased on 6 June 2023.

Mr Dhindsa asked Veer to correct that information, which it did not. Mr Dhindsa raised a personal grievance for unjustified disadvantage and unjustified dismissal on 8 September 2023. He sought lost wages and compensation. In response, Veer submitted Mr Dhindsa was not dismissed and that his employment ceased for reason of abandonment.

The Employment Relations Authority (the Authority) found that Mr Dhindsa's employment ended on 8 September 2023. Considering Veer's advice to Mr Dhindsa that his employment ceased because of abandonment, the Authority observed that there was no reasonable basis to form that view, and the communication amounted to a dismissal.

The Authority found the actions of Veer were not those of a fair and reasonable employer. Any concerns about his absence were not put to him in a way which he could fairly respond to, and he was not given a reasonable opportunity to comment on whether dismissal was fair and reasonable. These were not minor deficiencies, and they have resulted in Mr Dhindsa being treated unfairly – he was not provided a fair opportunity to understand Veer's concerns or provide comment.

The Authority observed that Veer employed a significant number of staff and could be reasonably expected to do more to investigate its concerns. The flaws in how Veer dealt with Mr Dhindsa's employment coming to an end were not technical or minor. Mr Dhindsa was found to have been unjustifiably dismissed.

Mr Dhindsa's claim for unjustified disadvantage arising from his allegation that Veer did not do enough to work constructively with ACC around his employment status did not succeed. Evidence before the Authority demonstrated that Veer complied with ACC's requests for information, which ultimately led to ACC accepting Mr Dhindsa was employed at the time of his accident and thereby enabling him to access ACC support and compensation.

Veer was ordered to pay Mr Dhindsa $8,000 as compensation for hurt and humiliation and lost remuneration less accident-related earnings relating to the period of 8 September 2023 to 15 October 2023. Costs were reserved.

Dhindsa v Veer Transport Ltd [[2024] NZERA 617; 15/10/24; M Urlich]

Signatory to employment agreement found not to be the true employer

In 2023, Mr Tonga arrived in New Zealand with the intention to find work. He was introduced to Mr Ogotau who was the sole director of Award Living Ltd (Award). Award provided labour for construction projects.

As Award was not an accredited employer, Mr Ogotau referred Mr Tonga to an agent. The agent gave Mr Tonga an employment agreement whereby the employment relationship would be with Company C. Mr Tonga was told that the reason he would be employed by Company C related to his work visa.

Mr Tonga worked on a building project in Auckland. He worked from April to June 2023 but was only paid for the first two weeks. Mr Tonga subsequently brought a claim to the Employment Relations Authority (the Authority) for outstanding wages as well as a personal grievance for unjustified disadvantage.

However, it was unclear which business had employed Mr Tonga. He initially lodged documents in the Authority identifying Company C as his employer. He later made an application with Award as his employer and Company C as the controlling third party. Therefore, the first question for the Authority was whether Mr Tonga's employer was Award or Company C.

The Authority stated the fact that Mr Tonga was given a written employment agreement with Company C did not determine that Company C was his actual employer at the time. The Authority considered several other factors in determining who the employment relationship was truly between.

One factor was that Mr Ogotau had acknowledged that he had a relationship with Mr Tonga. Mr Ogotau emailed the Authority from an Award email address and said he deeply regretted the situation and was committed to finding a suitable resolution. Award had also accepted prior to the investigation that there was money owing to Mr Tonga.

The Authority also looked at how Mr Tonga's dealings were all with Mr Ogotau. It was Mr Ogotau that gave Mr Tonga instructions about his work and arranged his hours of work. These hours were recorded on a timesheet titled 'Award Living', and it was Mr Ogotau who paid Mr Tonga for his first two weeks.

The Authority also considered how Mr Tonga had no contact with the Company C director who had signed the employment agreement. Mr Tonga had never met or spoken to that director and his understanding was always that he was going to work with Mr Ogotau.

Upon reviewing those factors, the Authority determined that Mr Tonga was employed by Award for the time that he was undertaking work in Auckland.

Mr Tonga claimed that he had not been paid for 274.25 hours of work, which was able to be confirmed with timesheets. As per his employment agreement, Mr Tonga's pay rate was supposed to be $29.66 an hour. The Authority calculated that Mr Tonga was therefore owed $8,134.25 for those hours.

Award was ordered to pay Mr Tonga $8,134.25 in wages, $871.54 in holiday pay, and interest on top. Costs were reserved.

Tonga v Award Living Ltd [[2024] NZERA 591; 04/10/24; 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.

Bills open for submissions to select committee: Sixteen Bills

Racing Industry Amendment Bill (22 January 2025)

Employment Relations (Employee Remuneration Disclosure) Amendment Bill (23 January 2025)

Victims of Sexual Violence (Strengthening Legal Protections) Legislation Bill (23 January 2025)

International Treaty Examination of the US Tuna Treaty Amendments to Annex II of the Treaty on Fisheries between the Governments of certain Pacific Island States and the Government of the United States of America (23 January 2025)

International treaty examination of the Agreement on Climate Change, Trade and Sustainability (23 January 2025)

International treaty examination of the Agreement Under the United Nations Convention on the Law of the Sea on the Conservation and Sustainable Use of Marine Biological Diversity of Areas Beyond National Jurisdiction (23 January 2025)

Employment Relations (Pay Deductions for Partial Strikes) Amendment Bill (30 January 2025)

Budget Policy Statement 2025 (3 February 2025)

Offshore Renewable Energy Bill (6 February 2025)

Broadcasting (Repeal of Advertising Restrictions) Amendment Bill (7 February 2025)

Resource Management (Consenting and Other System Changes) Amendment Bill (10 February 2025)

Crimes Legislation (Stalking and Harassment) Amendment Bill (13 February 2025)

Crimes (Increased Penalties for Slavery Offences) Amendment Bill (13 February 2025)

Pae Ora (Healthy Futures) (3 Day Postnatal Stay) Amendment Bill (17 February 2025)

Gene Technology Bill (17 February 2025)

Local Government (Water Services) Bill (23 February 2025)

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

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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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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.

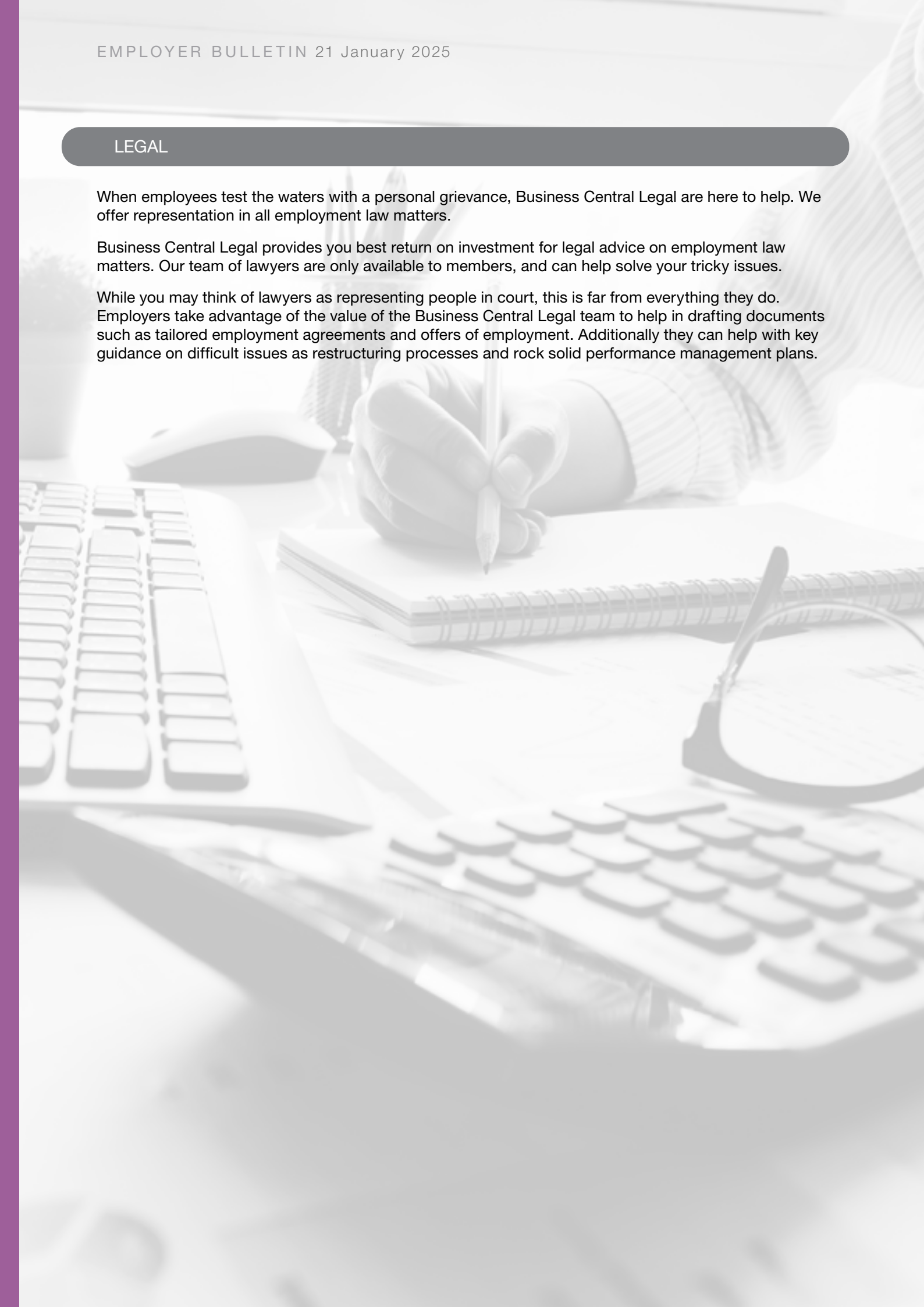
Our Consultants have a wide range of experience and are prepared to help. Whether you need to update your agreements or policies, or embark on performance management, they have the experience to make a difference. There are so many areas they can help; it may be union issues and managing a difficult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