BusinessCentral

EMPLOYER BULLETIN

27 January 2025
A Weekly News Digest for Employers

EMPLOYER NEWS

Refreshed team to drive economic growth in 2025

Prime Minister Christopher Luxon has delivered a refreshed team focused on unleashing economic growth.

"Last year, we made solid progress on the economy. Inflation has fallen significantly and now a steady march of interest rate cuts are translating into real financial relief for households. Having set the building blocks for rebuilding the economy, 2025 is all about going for growth and I am refreshing my team to underline this priority," Mr Luxon says.

"In addition to her role as Minister of Finance, Nicola Willis becomes Minister for Economic Growth – formerly known as the Economic Development portfolio.

"Her focus will be on leading the Government's growth agenda to unleash the potential of our businesses to grow, develop talent and attract investment. That will mean co-ordinating and strengthening efforts that are already underway to deliver economic growth – and taking responsibility for new initiatives designed to promote growth and productivity in the New Zealand economy."

Mr Luxon also named other members appointed to the executive branch in the health, universities and science, transport, tourism and hospitality, and small business and manufacturing sectors.

To read further, please click here.

Electronic card transactions: December 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.

Electronic card transactions for the December 2024 month showed that (compared with November 2024) spending in the retail industries increased 2.0% ($130 million), including by 1.8% ($103 million) in the core retail industries.

Specifically, durables were up $57 million (3.7%); consumables up $36 million (1.4%); fuel up $19 million (3.8%); hospitality up $12 million (1%) and apparel up $10 million (3.1%). Motor vehicles (excluding fuel) were down $2.4 million (1.3 percent).

Non-retail (excluding services) increased by $22 million (1%) from November 2024 and services themselves were up $7.4 million (2%).

The total value of electronic card spending increased from November 2024 by $139 million (1.5%). In actual terms, cardholders made 183 million transactions across all industries in December 2024, with an average value of $58 per transaction. The total amount spent using electronic cards was $11 billion.

Transactions still generally increased across the December 2024 quarter (compared with the September 2024 quarter). Spending in the retail industries increased $203 million (1.1 percent) and in the core retail industries by $231 million (1.3 percent). Services also went up $20 million (1.8 percent). However, non-retail reduced by $23 million (0.3 percent) from the September 2024 quarter.

The total value of electronic card spending increased by $193 million (0.7 percent) compared with the September 2024 quarter.

To read further, please click here.

Increase to the Visa Application Centre (VAC) service fees

As of 31 December 2024, the service fee an individual pays to Visa Application Centres (VAC) has changed.

To ensure they pay the correct fee, employees can use Immigration's online tool to find out what they need to pay. They can also check the VAC websites before submitting their application.

To read further, please click here.

New appointments bring business expertise to the Employment Relations Authority

Two new appointed members and one reappointed member of the Employment Relations Authority have been announced by Workplace Relations and Safety Minister Brooke van Velden.

"I'm pleased to announce the new appointed members Helen van Druten and Matthew Piper to the Employment Relations Authority (ERA) and welcome them to their roles," says Ms van Velden.

"Currently, 76% of ERA members have significant experience in the public sector, but only 48% in private business. I would like to see a greater balance in the backgrounds of ERA members to better reflect the proportions of public and private sector employment.

"Helen van Druten joins the ERA from Restaurant Brands NZ. Matthew Piper most recently worked as General Manager Employment Relations for the Warehouse Group."

To read further, please click here.

Annual inflation at 2.2% in December 2024

New Zealand's consumers price index (CPI) increased 2.2% in the December 2024 quarter, compared with the December 2023 quarter, according to figures released by Stats NZ. This follows a similar increase in the September 2024 quarter.

"This is the second consecutive quarter that the annual inflation rate has been within the Reserve Bank of New Zealand's target band of 1 to 3%," prices and deflators spokesperson Nicola Growden said. Between the June 2021 and June 2024 quarters annual inflation was above the target band.

"Prices are still rising, but not as much as previously recorded," Growden said.

The largest contributor to inflation was rent, up 4.2%. Almost a fifth of the 2.2% annual increase in the CPI was rent prices. Lower petrol prices, down 9.2%, made a significant contribution to offsetting the rise. This included removal of the Auckland regional fuel tax.

"Petrol makes up about 4% of the CPI basket," Growden said. "If petrol was excluded, the CPI would have increased 2.7% in the 12 months to December 2024." Between the December 2023 and December 2024 quarters, the weighted average price of 1 litre of 91 octane petrol fell 26 cents from $2.81 to $2.55.

To read further, please click here.

Invest New Zealand opens doors to the world

The Government has unveiled a bold new initiative to position New Zealand as a premier destination for foreign direct investment (FDI) that will create higher paying jobs and grow the economy.

"Invest New Zealand will streamline the investment process and provide tailored support to foreign investors, to increase capital investment across critical infrastructure, fostering greater innovation in key sectors and attracting world-class talent," Mr McClay says.

The new agency will focus on attracting FDI, streamlining investment processes, increasing research and development (R&D) investment in New Zealand by multinational companies, and encouragement of skilled professionals.

"This initiative will help unlock tens of billions of dollars in global investment opportunities, significantly increase the capital available to support key roading and energy infrastructure and make New Zealand a more attractive and predictable destination for investors.

"With Invest New Zealand leading the charge, we're rolling out the welcome mat to the world. Streamlining processes and supporting investors as they navigate our legal and commercial landscape," Mr McClay says.

To read further, please click here.

Reform of New Zealand's science, innovation and technology system

The Government announced changes it is making to New Zealand's science, innovation and technology system to drive economic growth, set a clear direction and position New Zealand for a prosperous future.

Changes are designed to maximise the value of public investment and create a more dynamic science, innovation and technology system that can respond to priorities and keep pace with technological advancements.

A Prime Minister's Science, Innovation and Technology Advisory Council will be established for strategic direction and oversight. New Zealand's seven existing Crown Research Institutes will be combined and reorganised into new institutions. Callaghan Innovation will be disestablished, with its most important functions transferred to other parts of the science, innovation and technology system.

Invest New Zealand will be established for foreign direct investment. New Zealand Trade and Enterprise will focus on driving export growth, facilitating trade and access to international markets to ensure New Zealand businesses have the necessary support to expand their international reach. Finally, the Government will develop a national policy for managing intellectual property for science, innovation and technology-funded research.

To read further, please click here.

Economic growth the key to better days ahead

Turbocharging New Zealand's economic growth is the key to brighter days ahead for all Kiwis, Prime Minister Christopher Luxon said in the Prime Minister's State of the Nation Speech in Auckland.

"Right now it is a tough time for many Kiwis – we've experienced the biggest recession since the early 1990s.

"We've already made significant reforms in 2024 – take fast-track, stopping wasteful spending, new roads, RMA reform, stopping ram raids, new trade deals, backing farmers, banning cellphones in class, FamilyBoost, making foreign investment easier, increasing speed limits, and focusing councils on the basics."

In his speech Mr Luxon announced the major changes to the science and innovation sector and overseas investment. He also highlighted some of the other areas that would be key for growth – including competition, RMA reform, fixing health and safety rules, backing tourism and mining, and making life easier for farmers.

"Too often we see reports of Kiwis getting a raw deal because of a lack of competition. In banking, energy, retail, construction and groceries."

"I want our kids to know that New Zealand is where the opportunities are – not Australia or the UK."

To read further, please click here.

Changes to Employment New Zealand module requirements and domestic workforce threshold for AEWV coming into effect

The requirements to complete Employment New Zealand's online modules for the AEWV are being removed on 27 January 2025.

These will be removed for all current and future accredited employers and Recognised Seasonal Employers (RSEs). Immigration New Zealand (INZ) will instead provide employers and workers with links to freely available Employment New Zealand or INZ webpages, that set out employment rights and obligations at the most appropriate points in the immigration process, including in their visa approval letter. Employers are still expected to provide employment and settlement information to migrant workers.

Additionally, the domestic workforce threshold required for triangular employers hiring certain construction roles will reduce from 35% to 15% to align with the requirements for triangular firms in other sectors. This will also come into effect from 27 January 2025.

These changes are part of the reforms to the Accredited Employer Work Visa (AEWV) the Government announced on 17 December 2024.

To read further, please click here.

EMPLOYMENT COURT: ONE CASE

Employment relationship must exist for a union to initiate collective bargaining

High Performance Sport New Zealand Ltd (HPSNZ) and The Athletes' Cooperative Inc (TAC) disputed whether TAC had issued a valid notice to engage in collective bargaining, given that it did not employ anyone described in the notice's intended coverage clause. The Employment Relations Authority (the Authority) decided the notice was valid and so required HPSNZ to engage in collective bargaining. HPSNZ applied to the Employment Court (the Court) to challenge the Authority's determination.

HPSNZ, a publicly funded organisation and subsidiary of Sport New Zealand, worked with national sporting organisations. The national sporting organisations were solely responsible for running their given sport. Athletes entered into agreements with those organisations directly.

TAC, a union, represented the interests of some elite athletes. In July 2022, it initiated collective bargaining with HPSNZ, naming such athletes in the intended coverage clause. HPSNZ declined because it did not employ any of the athletes itself, so the coverage clause did not pertain to any of its employees. TAC applied to the Authority, resulting in the above determination. The Court had to determine whether TAC validly initiated collective bargaining when it gave its notice. It also had to decide whether HPSNZ was required to engage in this collective bargaining.

The Court first reviewed the Authority's reasoning for the decision it reached. The Authority found that under the Employment Relations Act 2000 (the Act), it was only necessary for the proposed employer party to be an "employer". That meant the Act did not require the proposed employer party to employ any current employee who would be covered by the proposed coverage clause. It followed that even though HPSNZ did not employ anyone who was a member of TAC, it was an employer for the purpose of initiating collective bargaining under the Act, meaning it had to engage in collective bargaining once TAC gave notice.

The Court heard evidence from various former and current elite athletes and their families, who expressed concern about how the pressures of elite sport could have a serious detrimental impact on an athlete's wellbeing. They appreciated that an independent organisation like TAC was there to provide assistance and protection to those who needed support.

The Court went on to assess the arguments from both parties. TAC essentially held onto the Authority's argument. Its side was that even though HPSNZ did not employ any of its members, a proper reading of the Act showed that there did not need to exist an employment relationship for a union to initiate bargaining with an employer. TAC argued that the Act allowed collective bargaining to be initiated by not only union members who were employed, but also those who aspired to be employed, so long as a "connection or nexus existed". HPSNZ disagreed and noted that such a reading would imply that any union could initiate bargaining with any employer in New Zealand. It argued that even though the Act allowed for expanded definitions of "employer" and "employee", the circumstances of the case did not warrant such an expanded definition.

The Court went on to assess the relevant law. It found that the collective bargaining provisions in the Act assumed that an employment relationship existed between TAC and the proposed employer party. Otherwise, the provisions would be unworkable.

The Court discussed a previous decision from the Supreme Court that successfully established an expanded definition of "employee". It found that non-employees (described as "not, in contractual terms, strangers to the employer") were to be considered employees in law, under the Act. However, in this case, the "non-employees" in question were also past employees of the business, who were owed ongoing contractual obligations despite their employment being terminated. They were also likely to be re-employed in the near future, as the work they undertook was seasonal. These factors were sufficient to establish such non-employees as employees in law. Considering the factual differences between the two cases, the Court decided that the members of TAC did not fall within the Supreme Court's expanded definition of employee.

The Court ultimately decided that for a union to initiate collective bargaining, that union must be in an employment relationship with an employer. There can only be such a relationship if there are union members who are employed by an employer. It followed that even though TAC was a union and HPSNZ was an employer, there was no such employment relationship between the parties for the purposes of the Employment Relations Act 2000, and so TAC's members were not sufficiently connected to HPSNZ.

It followed that because there was no employment relationship between the parties, TAC was not permitted to initiate collective bargaining with HPSNZ, meaning it could not validly give notice to do so. Therefore, with no valid notice in play, HPSNZ was not required to engage in collective bargaining. Costs were reserved.

High Performance Sport New Zealand Ltd v The Athletes' Cooperative Inc [[2024] NZEmpC 250; 16/12/24; Chief Judge Inglis]

EMPLOYMENT RELATIONS AUTHORITY: FOUR CASES

Workers were independent contractors rather than employees

Mr and Mrs Johnson worked for Armer Farms (N.I.) Ltd (Armer). They raised an employment relationship problem with the company and applied to the Employment Relations Authority (the Authority) to have the matter resolved. Before hearing their substantive claim, the Authority first had to determine whether they were in fact employees of Armer rather than independent contractors, which was the position Armer held.

The Employment Relations Act 2000 defines an employee as a person of any age, employed by an employer, to do any work for hire or reward under a contract of service. If a person's employment status is in doubt, the Authority would take a broad approach and consider all relevant matters to determine what that person's employment status is. Such matters include the intentions of the parties, evidenced by the written and oral terms of the agreement, and how the relationship operates in practice. Determining employment status is an intensely fact-specific inquiry and the Authority specifically considers the control, integration and fundamental tests.

The Authority assessed the intent of the parties based on the terms of the working arrangement. It noted the parties named in the agreement were Armer and "M & J Contracting Limited" – with Mr Johnson as "Guarantor". The agreement was 40 pages long. It stated that M & J Contracting Ltd was obliged to provide "sufficient personnel to operate, maintain and manage the Farm". The agreement was for a one-year term and specified the number of cows to be milked in that period. It provided a pay rate based on the amount of milk solids sold. The Authority made much of the fact that M & J Contracting Ltd invoiced for its work, which strongly indicated that Mr and Mrs Johnson had been engaged as independent contractors. It was not persuaded by Mr and Mrs Johnson's argument that the agreement was a sham as they could produce no evidence that that was the case.

Armer argued that the Sharemilking Agreements Act 1937 applied, which provided that those working on dairy farms and who received a percentage share of profits were definitionally independent contractors. However, Mr and Mrs Johnson did not receive such a percentage share of profits, and their agreement

specified that they were not subject to the Sharemilking Agreements Act 1937. The Authority also did not find industry practice to be a relevant factor in determining Mr and Mrs Johnson's employment status.

The Authority considered whether Mr and Mrs Johnson had control over their working arrangements. It accepted Armer's version of events, where although it would step in to support Mr and Mrs Johson in certain circumstances, the couple retained discretion to operate as they pleased. It also favoured Armer on whether Mr and Mrs Johnson had been integrated into Armer's business. The "low level of direct involvement of Armer … and the apportionment of significant cost and risk" to Mr and Mrs Johnson was not characteristic of an employment relationship.

The fundamental test is an examination of whether a person has worked on their own account. Factors indicating that is the case could include whether the person has the ability to sub-contract work, delegate performance to others or provide their own tools and equipment. It also includes whether payment is made upon task completion rather than time worked, the presence of risk or opportunity to make a profit, and who business goodwill accrued to. On the evidence, the Authority found most, if not all, of those factors were present, and in the affirmative for Mr and Mrs Johnson. The couple were definitively found to be in business on their own account.

The Authority ultimately decided the couple had been independent contractors during the time they were engaged to work for Armer. Their substantive claims would be determined on that basis at a later date. Costs were reserved.

Johnson v Armer Farms (N.I.) Ltd [[2024] NZERA 576; 01/10/24; S Kinley]

Employer fails to disclose selection process or seek feedback in restructure

Mr Esthaufik was employed by Formstress Precast Ltd (Formstress) as a CAD draughtsperson in October 2018 until being made redundant on 24 August 2023. He raised a claim with the Employment Relations Authority (the Authority) alleging that he was unjustifiably disadvantaged by Formstress's failure to follow a fair and reasonable consultation process and unjustifiably dismissed.

Formstress internally assessed the skills of the employees within the drafting team and as a result proposed to make three positions redundant, one of which was Mr Esthaufik's role. A meeting was held on 22 August 2023. The parties had conflicting accounts of what transpired. Mr Esthaufik said he was told that his role had been disestablished. He claimed Formstress told him to remove his possessions from the worksite and not return until he was required to attend another meeting, scheduled for 24 August 2023. Formstress denied those claims. It claimed to have advised Mr Esthaufik that his role was identified as one that might be redundant. It said before it made that decision, it wished to hear Mr Esthaufik's feedback at the 24 August 2023 meeting.

Either way, at the conclusion of that meeting, Mr Esthaufik was provided with a letter detailing the process Formstress was using. The letter did not set out the selection criteria that Formstress used to propose the change to Mr Esthaufik's role.

Formstress heard feedback from Mr Esthaufik at the 24 August 2023 meeting. After a break of about five hours, the meeting was reconvened, and Formstress confirmed its decision to make his role redundant.

The Authority was satisfied Formstress had a business need to make changes as it endeavoured to deal with a significant downturn. The workload of the drafting team had declined markedly and there was a strong need to make cost savings. While the business case was sound, the Authority found Formstress committed a procedural flaw in not disclosing the selection criteria to Mr Esthaufik nor giving him a fair opportunity to comment on it.

The Authority referenced past case law, which established that failure to inform the employee of the selection criteria a company intended to rely on was a breach of good faith. To ensure that the redundancy process was procedurally fair, employers had to ensure that they complied with their good-faith obligations when making selection decisions and that the proposed selection criteria should be consulted on. The final selection criteria were to be applied fairly and consistently to make a redundancy decision, and affected employees had to have an opportunity to respond and discuss assessments.

The Authority was not just concerned with process. Mr Esthaufik told the Authority that he could do all the work that went through the drafting team. If the opportunity to fully discuss the selection criteria had been provided by Formstress during the redundancy process, then Mr Esthaufik's view of his capability could have been more fully discussed between the parties and might have been a matter Formstress could further reflect on in their final deliberation.

The Authority reflected on the resources available to Formstress and noted the business had previously conducted restructures and had experience in complex matters such as business mergers. It found that the deficiencies here were not minor or technical and meant Formstress was unable to demonstrate it acted fairly and reasonably in dismissing Mr Esthaufik. Therefore, Mr Esthaufik's dismissal for redundancy on 24 August 2023 was unjustified.

Formstress was ordered to pay Mr Esthaufik $16,000 in compensation for the hurt and humiliation, $7,450.22 in lost wages and $596 of holiday pay borne of those wages. Costs were reserved.

Esthaufik v Formstress Precast Ltd [[2024] NZERA 583; 03/10/24; M Urlich]

Decision to decline parental leave payments is reversed

In July 2024, MLA applied to Inland Revenue (IRD) for paid parental leave payments under the Parental Leave and Employment Protection Act 1987 (the Act). However, IRD declined the application because MLA had not met the requirements of working at least 26 of the 52 weeks preceding her due date. MLA challenged that decision in the Employment Relations Authority (the Authority).

The Authority turned to the legislation to guide its determination. MLA was a biological mother due to give birth to her child, making her the primary carer under the Act. To qualify for parental leave payments under the Act, a person "employed as an employee" must have worked an average of 10 hours per week for any 26 of the 52 weeks preceding their due date. While not further defined in the Act, "employee" is defined in accordance with the Employment Relations Act 2000, which includes a person "intending to work".

MLA claimed she was an "employee" for the purposes of receiving parental leave payments. Before moving to New Zealand, MLA was offered work on 14 April 2023. She accepted the offer on 17 April 2023, with an expected start date of September 2023. However, MLA did not actually start work in New Zealand until 15 January 2024. She was due to give birth on 7 July 2023. IRD declined her paid parental leave application because she would have only worked in New Zealand for 24 weeks and 6 days between January and July, falling short of the 26 weeks required under the Act. The Authority determined that from MLA's acceptance of offer in April 2023, she was a "person intending to work" as defined by the ERA, and therefore an employee.

The Ministry of Business, Innovation and Employment (MBIE) claimed that the existence of an employment relationship was not sufficient to become eligible for paid parental leave. It argued that MLA should have "actually worked" any 26 of the 52 weeks before her due date. The Authority turned to previous case law, which had established that "actual work" was required for an employee to be entitled to extended parental leave. However, that precedent was deemed outdated following legislative amendments to the Employment Relations Act 2000. Therefore, the case was no longer a binding authority in court.

The Act allowed unworked hours to count towards eligibility if the person in question would have been working but for a range of specified circumstances for "that hour". The Authority found that part of the Act was not relevant to MLA's situation, as it was not directed at identifying whether someone was employed as an employee prior to the due date. Rather, it dealt with whether a specific unworked hour should still be included in calculating the average of 10 hours a week. Since MLA consistently worked 40 hours per week once she started, the hours of work were not an issue.

As MLA was a person "intending to work" from April 2023 and she worked more than 10 hours a week when she started work, the Authority determined that MLA was an eligible employee and entitled to parental leave payments. However, although MLA had to return to work earlier than intended because of her payments being declined, the Authority was unable to change her return-to-work date. Parental

leave payments ended either after a period of 26 weeks or the date an employee returns to work, whichever is earlier.

The Authority therefore reversed IRD's decision to decline MLA's paid parental leave. MLA was entitled to the payment from when she commenced leave until the date of her returning to work. As MLA represented herself, there were no issues with costs.

MLA v Ministry of Business, Innovation and Employment [[2024] NZERA 601; 09/10/24; P Cheyne]

Employee resigns of own accord and is not constructively dismissed

Ms Yang commenced employment with Te Whatu Ora Te Pae Hauora o Ruahine o Tararua Midcentral, previously known as MidCentral Health Board (MidCentral), on 5 January 2022. Her employment was under an intern pharmacist training agreement. On 15 June 2022, Ms Yang resigned, with her letter of resignation stating, "Unfortunately, I have been forced to resign due to the workplace bullying and the hostile work environment I have been experiencing in the last several months." She claimed she had been constructively dismissed.

Ms Yang said that MidCentral failed to give her adequate training. Ms Yang also said her communication skills were criticised, and she was made to do errands irrelevant to her training plan. She said she raised concerns about bullying, but no tenable solutions were put forward by MidCentral. Ms Yang said under the circumstances, although she resigned, she was effectively unjustifiably dismissed.

MidCentral denied Ms Yang's claims. It said it employed her on a fixed-term employment agreement to allow her to complete an internal training programme. It followed the training guidelines on supervised practice in respect of Ms Yang's internship and that it had a record of supporting and developing pharmacy interns.

Shortly after Ms Yang commenced employment, concerns were raised regarding her performance. MidCentral provided Ms Yang with additional support to try to remedy those concerns. In late May 2022, Ms Yang was advised that she might need to prepare herself for a further six months as an intern to ensure she met all the pharmacist competencies. Accordingly, at the time Ms Yang resigned, MidCentral was in the process of deciding upon the steps it would take to assist her, and to provide remediation for the deficiencies it had become concerned about. It rejected any suggestion that it failed to provide training. It further rejected any suggestion that it failed to deal with any bullying allegations.

MidCentral said Ms Yang informally raised concerns on one occasion, asking for advice on how to manage a colleague, and that it took the appropriate steps. Ms Yang also claimed she suffered an allergic reaction to a cleaning sanitiser, but MidCentral said it was not aware of her raising any issues during her employment. The Employment Relations Authority (the Authority) said there was no evidence that Ms Yang raised her concerns with MidCentral in a manner that would have made her decision to resign foreseeable.

Ms Yang got a job offer before she resigned. In her evidence to the Authority, she made it clear that the reason she resigned, despite what was contained in her resignation letter, was because she wanted to be eligible to sit her final exam. Accordingly, any issues she had with MidCentral's treatment of her bullying complaints did not lead to the termination of her employment. Therefore, it could not be said she was constructively dismissed.

The Authority found Ms Yang had discussed concerns regarding the behaviour of a colleague with MidCentral, and MidCentral acted on those concerns in consultation with her. Ms Yang did not make out her claims that she received inadequate training through some fault of MidCentral, and her complaints about the cleaning sanitiser and discrimination were not supported by the evidence. The Authority concluded Ms Yang was not constructively dismissed from her employment with MidCentral. Costs were reserved.

Yang v Te Whatu Ora Te Pae Hauora o Te Whatu Ora Te Pae Hauora o Ruahine o Tararua Midcentral (previously MidCentral Health Board) [[2024] NZERA 602; 9/10/24; G O'Sullivan]

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: Ten Bills

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/

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

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ADVICELINE

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

TRAINING SERVICES

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

OCCUPATIONAL HEALTH AND SAFETY CONSULTANTS

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

EMPLOYMENT RELATIONS CONSULTANTS

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

LEGAL

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

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ADVICELINE

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

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

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

TRAINING SERVICES

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

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

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

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

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OCCUPATIONAL HEALTH AND SAFETY CONSULTANTS

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

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

EMPLOYMENT RELATIONS CONSULTANTS

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

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

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

LEGAL

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

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

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

A QUICK GUIDE TO HOLIDAY PAY PRACTICES IN NEW ZEALAND

NATIONAL PUBLIC HOLIDAYS 2025

New Year's Day - Wednesday, January 1
Day after New Year's Day - Thursday, January 2
Waitangi Day - Thursday, February 6
Good Friday - Friday, April 18
Easter Monday - Monday, April 21
ANZAC Day - Friday, April 25
King's Birthday - Monday, June 2
Matariki - Friday, June 20
Labour Day - Monday, 27 October
Christmas Day - Thursday, 25 December
Boxing Day - Friday, 26 December

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.