



A-Z OF EMPLOYING

Disputes

Our guide for Employers and Managers

**SUPPORTING,
FACILITATING &
REPRESENTING
BUSINESS**

Business**Central** 

Disputes

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This is only a guide.
It should not be a
substitute for
professional advice.

Please seek advice
from our AdviceLine
Team if you require
specific assistance.

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Overview

Under the Employment Relations Act 2000 (the Act), “*dispute*” means a dispute about the interpretation, application or operation of any employment agreement. Because of the transitional provisions of the Act, this applies to employment contracts that were entered into under the Employment Contracts Act 1991, as well as employment agreements. A dispute is a separate and distinct type of employment relationship problem. It may be about the express and/or implied terms of an agreement or contract.

Employment Relations Act 2000

Section 129 stipulates how disputes must be pursued under the Employment Relations Act 2000.

129 Person bound by, or party to, employment agreement may pursue dispute under this Act

- 1) Where there is a dispute about the interpretation, application, or operation of an employment agreement, any person bound by the agreement or any party to the agreement may pursue that dispute in accordance with Part 10.
- 2) If the dispute relates to a collective agreement, the person or party pursuing the dispute must ensure that all union and employer parties to the agreement have notice of the existence of the dispute.

Under this Act, every employment agreement must contain a plain language explanation of the services available for resolving employment relationship problems, including disputes. That explanation may set out your organisation’s preferred process for dispute resolution, but must incorporate the 90 day period within which an employee may raise a personal grievance, after the action claimed to give rise to the grievance has occurred. It must also refer to the employee’s right to seek the assistance of the Mediation Services provided by Ministry of Business, Innovation and Employment (formerly the Department of Labour) (MBIE).

Institutions

The Employment Court (the Court) has stated that the law relating to the interpretation of contracts under this Act is the same as that developed during the 1990s by it and the Court of Appeal. Part 10 of the Act provides for the institutions under the Act. The first of these is the Ministry’s Mediation Services; this then is the first stage of dispute resolution. Disputes that remain unresolved by mediation can progress to the Employment Relations Authority (the Authority) and/or the Employment Court.

The Authority or Court may determine a dispute where:

- ▶ There is a matter in dispute (not merely a disagreement), and
- ▶ The parties disagree on that matter, and
- ▶ The matter relates to a provision in an employment agreement, and
- ▶ The Authority or Court agrees there is a dispute which it has the jurisdiction to decide.

The jurisdiction of the Employment Court in relation to disputes is:

- ▶ To hear challenges to determinations made by the Authority
- ▶ To make decisions on questions of law referred to it by the Authority

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- ▶ To determine the matter where it is removed to the Court from the Authority by a party to it.

Refer to the A-Z Guides on **Employment Relationship Problems**, **Personal Grievances**, **Mediation**, and the **Employment Relations Authority** for more information on each of these subjects.

Remember:

- ▶ Always call AdviceLine to check you have the latest guide (refer to the publication date below).
- ▶ Never hesitate to ask AdviceLine for help in interpreting and applying this guide to your fact situation.
- ▶ Use our AdviceLine employment advisors as a sounding board to test your views.
- ▶ Get one of our consultants to draft an agreement template that's tailor-made for your business.
- ▶ Visit our website www.businesscentral.org.nz regularly.
- ▶ Attend our member briefings to keep up to date with all changes.
- ▶ Send your staff to Business Central Learning courses and conferences designed for those who manage employees.

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