BusinessCentral

EMPLOYER BULLETIN

26 August 2024
A Weekly News Digest for Employers

EMPLOYER NEWS

Overseas merchandise trade: July 2024

In July 2024, compared with July 2023:

- goods exports rose by $770 million (14 percent), to $6.1 billion
- goods imports rose by $558 million (8.5 percent), to $7.1 billion
- the monthly trade balance was a deficit of $963 million.

To read further, please click here.

New Review: Migrant workers being exploited in AEWV work visa scheme

Te Kāhui Tika Tangata Human Rights Commission today released a Human Rights Review of the Accredited Employer Work Visa (AEWV) scheme which sets out a range of urgent human rights concerns and provides recommendations for improving the scheme.

Some workers told the Commission they had paid tens of thousands of dollars to recruitment agents but did not get the promised jobs, did not receive the hours or pay rate in their employment agreement, or were dismissed under dubious circumstances, said the Commission's Equal Employment Opportunities Commissioner Saunoamaali'i Dr Karanina Sumeo.

The Commission spoke with migrant workers, community and union advocates, immigration advisors and employers. All have concerns about the persistent failings of the scheme, including that workers were being recruited to exploitative or non-existent jobs.

Workers told the Commission about being scared to raise breaches of minimum entitlements and fearing losing their employment and immigration status. Workers described feeling bonded to their employer, with one worker calling the visa their "handcuffs"

To read further, please click here.

Updated settings to restore ETS market confidence

Settings for the New Zealand Emission Trading Scheme have been updated to ensure New Zealand has a more credible market, Climate Change Minister Simon Watts says.

"Since coming into Government, we have been clear we want a credible ETS-led approach to reduce emissions, and we were willing to make tough decisions to achieve this.

"To ensure the market operates as intended, we need settings to align with New Zealand's climate targets and give participants confidence that their investments to reduce emissions will be rewarded.

"The feedback we received is consistent with our decisions, and we have made the necessary changes that extends further than the advice we received from the Climate Change Commission.

"The Government will retain the current auction floor price, the cost containment reserve price, and current reserve volumes of New Zealand units in the Emissions Trading Scheme. These settings are doing their job and should be left alone.

To read further, please click here.

New pathway for essential seasonal workers

The coalition Government is providing immediate relief to employers with upcoming seasonal peaks by creating a new subcategory of the Specific Purpose Work Visa (SPWV).

"We know in the coming months a number of sectors will need a significant number of additional workers to undertake key seasonal roles," Immigration Minister Erica Stanford says.

"Alongside the changes to the Recognised Seasonal Employer (RSE) scheme, we're also making it easier for employers to access other essential seasonal workers they need. This is an interim, time-limited, streamlined pathway and is more in line with the length of seasonal work.

"This pathway will continue to have some key requirements to support the integrity of our immigration system and provide New Zealanders with the first opportunity for roles. This includes requiring the role be advertised by employers that have AEWV accreditation, the role pays at least $29.66 an hour and is for at least 30 hours a week. Reflecting seasonality, the role must not exceed 9 months in duration."

To read further, please click here.

20 Government actions free up the rural economy

Hard working men and women of rural NZ are doing their bit to help rebuild our economy, says Agriculture Minister Todd McClay.

"With interest rates and on-farm inflation having turned a corner, farmers continue to innovate and boost productivity while working to meet environmental obligations.

"With 80 percent of all the goods exports coming from the primary sector, and more than 350,000 Kiwis employed because of rural activity, farming, forestry and horticulture, it remains a mainstay of NZ economic activity."

Mr McClay says the Government's ambitious target of doubling exports by value over 10 years is an opportunity to work with the primary sector to add value and deliver greater returns at the farm gate.

"The Government has huge respect for our farmers and foresters. We will continue to partner with them to drive down costs, simplify regulations and build trust as we get Wellington out of farming."

To read further, please click here.

Electrical and gas accidents 2023 annual report now available

Since 1993, electrical and gas (natural and LPG) accidents in New Zealand have been analysed according to high-risk groups to provide information about trends, frequency, common causes and severity.

WorkSafe's electrical and gas accidents annual report for 2023 is now available. It analyses trends and highlights risks from electrical and gas accidents.

To read further, please click here.

Landmark sentencing puts safety advisors on notice

A traumatic brain injury suffered by a Taranaki worker has led to the first sentencing of a consultancy under the Health and Safety at Work Act 2015.

Safe Business Solutions (SBS) consultants gave paid health and safety advice to the employer of Grant Bowling, who was knocked unconscious by the bucket of an agricultural vehicle in August 2020. He suffered two brain bleeds, permanent loss of taste and smell, and was diagnosed with post-traumatic stress disorder.

SBS had identified a "desperate need" for a traffic management plan and had undertaken to provide one, but hadn't done so by the time of the collision six months later. A WorkSafe investigation found no steps were taken to manage the risks of uncontrolled traffic, aside from a small sign about speed at the entrance. A fine of $70,000 was imposed, and reparations of $28,403 were agreed

To read further, please click here.

Delivering more competitive banking for Kiwis

The Government will act on all 14 recommendations made by the Commerce Commission's final report into bank competition, Finance Minister Nicola Willis and Commerce and Consumer Affairs Minister Andrew Bayly say.

"The Commerce Commission has proven what's been long suspected: New Zealand's banking sector is uncompetitive, and Kiwis are not being well served by a highly profitable, two-tier oligopoly.

"The report calls out the market behaviour of New Zealand's big four banks," Willis says. "They are highly profitable compared with international peers, they lack innovation and do not aggressively compete for customers.

"Instead, 'competition' between them resembles a cosy pillow fight, with profit margins coming first and everyday Kiwis coming second.

"As a result, New Zealand bank customers are getting a raw deal. They face higher prices, fewer choices, and poorer service, even when compared with customers of the same parent banks in Australia."

To read further, please click here.

Regional Deals framework announced

The Government has launched a framework to establish Regional Deals between central and local government that will drive economic growth and deliver the infrastructure New Zealand needs, Local Government Minister Simeon Brown says.

"New Zealand is facing an infrastructure deficit. Water pipes are bursting, roads have been falling apart, and there simply isn't enough houses. With a growing population, it is critically important we are delivering the long-term infrastructure we need for growth in our cities and regions.

"As part of our plan to rebuild the economy and address the infrastructure deficit, we will be establishing Regional Deals with councils to deliver for New Zealanders," Mr Brown says. Implementing Regional Deals is a commitment under the National-ACT coalition agreement.

To read further, please click here.

EMPLOYMENT COURT: ONE CASE

Health and safety failings lead to award of damages

Associate Professor Wiles was employed in the faculty of medical and health sciences at the University of Auckland (the University). During the COVID-19 pandemic, she provided a significant amount of commentary for mainstream media platforms, which was often posted to social media. She also made some direct social media posts, discussed the pandemic at some private speaking engagements and made marae and other community visits. She also undertook a small handful of media appearances that were not directly relevant to COVID-19.

While her commentary was generally well received, she endured some particularly objectionable harassment from around March 2020. Both Associate Professor Wiles and her colleague, Professor Hendy, raised their concerns with the University. The intensity of the criticism and abuse increased markedly from September 2020. In January 2021, Associate Professor Wiles had her personal information posted to a public website. She brought this to the attention of the Police.

At a meeting on 28 June 2021, the University advised Associate Professor Wiles and other academics that they should consider pulling back from providing COVID-19 commentary as it did not form part of their jobs. The University also rejected the call for an external review of harassment issues and advised they would conduct an internal review.

On 12 July 2021, Associate Professor Wiles raised a personal grievance claiming unjustifiable disadvantage, breaches of contract and breaches of good faith. Specifically, that the Vice-Chancellor did not take any meaningful or proactive steps to protect her safety, causing her ongoing disadvantage. She felt the actions and inactions of the University had been purely reactionary and inadequate.

The Employment Relations Authority removed the proceedings to the Employment Court (the Court) for a hearing on the basis that there were important questions of law to be determined.

In acknowledging the challenging climate for the University and its staff, the Court observed that there was an underdeveloped strategy for dealing with the issues that arose. It was argued that a framework should have been developed given that harassment was a known risk for academic staff, especially women. The University should also have been aware of that harassment towards staff increasing as the pandemic response went on.

The Court found the University should have moved more quickly to put measures in place to protect and support Associate Professor Wiles and her colleagues as required. The onus was on the University to obtain the right advice and proactively implement a plan. Instead, while University personnel were sympathetic, they still seemed reliant on Associate Professor Wiles and her colleagues to suggest actions they would like the University to take.

Although the University was monitoring social media and recording incidents of harassment, the Court observed that the steps taken were insufficient. It was not until February 2022 that the University emailed Associate Professor Wiles to say it was willing to meet with her to discuss her request for an individual risk assessment, which was then conducted between March and June that year.

The Court was critical of the approach taken by the University at the meeting of 28 June 2021. Simply discouraging participation in public activities and asking them to go on paid leave was not reasonable. The University had health and safety obligations to provide adequate protection and support to its employees. The University breached these obligations through its inadequate approach, which created an unjustifiable disadvantage. Associate Professor Wiles was entitled to expect the University to have put together a plan to keep her safe and to have supported her about concerns they were notified of over a year ago.

The University argued that a good deal of the abuse Associate Professor Wiles received arose from outside activities on social media, which were not her work but her publicly available COVID-19 commentary, that caused her to be a target for abuse. Under the University's Outside Activities Policy, the University encouraged outside activities consistent with its objectives, acknowledging that such activities enhanced the academic status of the individual concerned and the reputation of the University. The University accepted that when Associate Professor Wiles was commenting publicly on COVID-19 matters, that constituted work.

The Court found that actions and inactions of the University were not in accordance with its obligation to be active and constructive in its employment relationship. They were in breach of the contractual term to act as a good employer.

The University had breached its express and implied contractual obligations to protect Associate Professor Wiles' health and safety. Further, the Court found that the University breached its statutory duties of good faith and to be a good employer by failing to engage constructively regarding Associate Professor Wiles' safety.

The Court ordered that the University pay Associate Professor Wiles $20,000 in general damages, which also encompassed compensation for hurt and humiliation. The breach of Associate Professor Wiles' employment agreement by the University was not intentional so no penalty was ordered, as the Court also recognised that the University continued to take steps to improve its response. There was a statutory breach of good faith, but it was not deliberate, serious, sustained, or intended to undermine the employment relationship. Costs were reserved.

Wiles v University of Auckland [[2024] NZEmpC 123; 08/07/24; Judge Holden]

EMPLOYMENT RELATIONS AUTHORITY: FOUR CASES

Employee found to be constructively dismissed

Ms Rumble was employed by European Profile Company Limited (EPCL) as an administrator for approximately three years until she resigned on 1 February 2023. Ms Rumble claimed she was constructively dismissed when she was left feeling like she had no choice but to resign. She argued her employer did not follow a fair process when looking into a concern about her conduct, including failing to investigate Ms Rumble's complaint about the managing director's behaviour towards her.

EPCL was a family business, with Mr Burt as director and Mr C Burt as general manager. Mr Burt and Ms Rumble already had a previous altercation on 9 January. On 24 January, a second incident occurred. Things escalated again between Ms Rumble and Mr Burt, which caused Ms Rumble to have an outburst in the office. Mr Burt wanted to resolve the issue with a meeting so they could move forward and asked the new office manager to also attend to record notes.

The next day Mr Burt asked Ms Rumble to come and have a chat with him in the tearoom with the new office manager present. Ms Rumble was initially pleased the new office manager would be there because she was concerned about Mr Burt's conduct towards her. Once they sat down and Mr Burt said the new office manager would record minutes of their meeting, Ms Rumble became alarmed and asked if it was a formal meeting. Mr Burt confirmed it would be and Ms Rumble informed him he had to give her notice of that type of meeting and an opportunity to have a support person. Things escalated from there.

Ms Rumble sent Mr C Burt a formal complaint about Mr Burt's behaviour before she left work that day. She set out what happened at the meeting along with her concerns. She said she found being called "pathetic" to be insulting. She said her request for a support person and notice of the nature of the meeting appeared to anger Mr Burt, and that he proceeded to intimidate her by saying he would not play her games.

On 29 January, Mr C Burt sent Ms Rumble a long email in response to her formal complaint about Mr Burt. He informed Ms Rumble that her conduct and the incident on 24 January was going to be investigated. Her complaint was not acknowledged, and the email described her as a terrible employee.

As a result of that email, Ms Rumble was distressed and acquired a medical certificate declaring her unfit for work until 10 February. Ms Rumble handed in her resignation on 1 February by way of email after taking advice. She gave four weeks' notice. She requested either garden leave from 13 February for the remainder of her notice period, or if she was required to return to work, no direct contact with Mr Burt, and to limit her work to her contracted duties with no requirement she train new staff or be involved in production processing.

There was no direct reply to Ms Rumble's resignation email. Instead, Mr Burt sent a letter by email inviting Ms Rumble to a formal disciplinary meeting on 3 February. Mr Burt stated he was considering terminating her employment due to her serious and repeated misconduct with reference to the matters set out in Mr C Burt's 29 January email. She was invited to "reconsider her reticence and attend a formal meeting to discuss the matter".

Ms Rumble said she resigned because her complaint about Mr Burt's behaviour towards her was not investigated, and instead she was the one placed under investigation. Mr C Burt's email blamed her for the conflict and implied nothing was going to be done about her being called "pathetic", Mr Burt's conduct at work or the flawed process EPCL followed when it raised concerns about her. EPCL predetermined the outcome of its concerns with her. Overall, its conduct was sufficiently serious to cause her resignation.

The Employment Relations Authority found Ms Rumble was constructively dismissed. EPCL was ordered to pay Ms Rumble $6230.79 in lost wages and $20,000 compensation for hurt and humiliation because of the unjustified dismissal. Costs were reserved.

Rumble v European Profile Company Limited [[2024] NZERA 168; 22/03/24; S Kennedy-Martin]

Significant procedural flaws lead to unjustified dismissal

Mr Muru commenced employment with MCM Cartage Limited (MCM) on 19 December 2022 as a truck driver with a minimum of 30 hours' work per week. His employment agreement included a 90-day trial period provision. He was also given the use of a company vehicle. MCM suddenly ended its business and Mr Muru's employment, which Mr Muru argued constituted unjustified dismissal.

Mr Muru was advised work would break for Christmas and recommence on 4 January 2023. Having not heard anything from MCM in the new year, Mr Muru called Mr Ross, MCM's sole director, disputing

his wages. Mr Ross' partner confirmed that Mr Muru was not entitled to any pay as there had been no work for him. MCM and Mr Muru then agreed that he would work night shifts on 15 and 16 January 2024. He was also invited to a barbecue at Mr Ross' place on 16 January. Mr Muru assured Mr Ross that he would go but he did not end up going, as Mr Ross did not give him the start time of the event.

Mr Ross was upset that Mr Muru did not come, and on 17 January he texted him saying, "I think its best we call it quits… I'm going to [take] the trucks and the Ute to turners and sell them." Mr Muru told him that he did not come as he was not informed of the start time, but Mr Ross disregarded that. MCM advised Mr Muru that there would be no further work, it would sell the company vehicles and that Mr Muru must return his vehicle or else the Police would be contacted. Mr Muru took the threat seriously and cleaned and returned the vehicle as requested. Mr Muru then raised a personal grievance for unjustified dismissal.

While MCM had not sought to use the trial provision to terminate Mr Muru's employment, the Employment Relations Authority (the Authority) considered whether the trial provision did apply. The trial provision provided that MCM could end the employment agreement by giving Mr Muru two weeks' notice during the trial period or pay him in lieu of working. As it happened, Mr Muru did not receive any notice of his dismissal, nor did MCM provide him with wages in lieu of his being required to work out the two weeks' notice.

Mr Muru's employment was terminated summarily by text message. MCM failed to comply with any of the minimum procedural fairness tests under the Employment Relations Act 2000. MCM's actions, and how it acted, were not consistent with what a fair and reasonable employer could have done in all the circumstances at the time of Mr Muru's dismissal.

The Authority did not penalise MCM for failing to provide wage and time details, or for failing to provide a copy of the employment agreement to Mr Muru.

MCM was ordered to pay $1296 in lost wages, $103.68 in holiday pay, wage arrears of $1620 for the period of 4-17 January, an additional $1,620 for the unpaid contractual notice, $414.72 in annual holiday pay arrears and $16,500 in compensation for hurt and humiliation. Costs were reserved.

Muru v M C M Cartage Limited [[2024] NZERA 227; 19/04/24; J Lynch]

Casual employee found to be unjustifiably dismissed

Mr Ford was employed by Haven Falls Funeral Home Limited (Haven Falls) from January 2020 until February 2020. After week three of an eight-week training programme, Mr Ford was advised that there was a scheduling issue with his course trainers. He was told he could return to his home in Whanganui on 2 February 2020 and Haven Falls would be in touch with him on 22 February 2020 to confirm arrangements for future training. When Mr Ford reached out to Haven Falls after his return home, he was advised that his employment was terminated because of performance and behaviour issues. Haven Falls believed his employment was of a casual nature, so it was under no obligation to offer further employment.

Mr Ford claimed that he was employed on a permanent basis and raised a personal grievance claiming that he was unjustifiably dismissed. Haven Falls countered that it simply chose not to continue Mr Ford's training and employment, which it was entitled to do based on the fact that he was brought on as a casual employee.

While Mr Ford's employment agreement set out that the employment was of a casual nature, some clauses, including redundancy and termination for medical incapacity, were indicative of a permanent agreement. Mr Ford's regular work pattern for the first three weeks of his employment were indicative of a permanent agreement. Haven Falls submitted that it followed guidance from the Ministry of Business Innovation and Employment (MBIE) in the preparation of the agreement and it was its clear intent that the nature of the employment was to be casual. It claimed Mr Ford was rostered for the first eight weeks to complete his training and then he would be on an on-call roster.

Mr Ford submitted that his work was regular and full-time, there was a mutual expectation of continuity of employment, his start and finish times were consistent and he was required to give notice if absent or on leave. There was nothing casual about the employment relationship.

While there was a mutual expectation that Mr Ford would complete an extended period of training of eight weeks, the Authority felt there was no common understanding about whether Mr Ford would have continuity of employment after the training period, or on what basis. The Authority found that at the time Mr Ford's employment ended, he was a casual employee. However, the actions of Haven Falls were not those of a fair and reasonable employer. While Haven Falls relied on its belief that Mr Ford was a casual employee and they did not need to offer further employment, Mr Ford had actually been engaged for a period of eight weeks.

The Employment Court in Rush Security Services Ltd t/a Darien Rush Security v Samoa stated that dismissals of casual employees can occur during a period of engagement. Casual employment only allowed the employer to fail or refuse to engage the employee for a further period of employment.

Since Mr Ford was in a period of casual engagement, if Haven Falls wished to terminate his employment, they needed to follow a fair process. Haven Falls failed to do this. No evidence was presented that Haven Falls ever formally raised its concerns with Mr Ford, communicated a preliminary view that Mr Ford's performance and behaviour meant that his employment should be terminated, or provided Mr Ford with any opportunity to respond. It followed that Haven Falls could not consider Mr Ford's explanation or comments, given he was provided with no opportunity to make them. The flaws were far more than minor, and the Authority found that Mr Ford was unjustifiably dismissed.

Mr Ford was expected to perform work under the roster for the last four weeks of the committed initial engagement for an extended training period of eight weeks. Due to this, Haven Falls was ordered to pay Mr Ford lost wages in the amount of four weeks' pay. It was also ordered to pay annual holiday pay at a rate of 8% on top of the four weeks' pay, along with interest. It was further ordered to pay Mr Ford compensation of $20,000 for hurt and humiliation. Costs were reserved.

Ford v Haven Falls Funeral Home Limited [[2024] NZERA 224; 19/04/24; S Kinley]

Interim reinstatement application declined

This case dealt with an application from LHM for interim reinstatement and a permanent non-publication order regarding his name and details. LHM was employed by XPN until his dismissal in December 2023. He claimed that the dismissal was unjustified, and he should be reinstated on an interim basis until the Employment Relations Authority (the Authority) fully determined his claim. XPN submitted that it followed a fair and reasonable process and its decision to dismiss LHM was justifiable. It strongly opposed LHM's interim reinstatement application.

The Authority was satisfied that there was sufficient reason to grant an interim non-publication order regarding LHM's name and identifying details. However, the application for blanket non-publication of the contents of pleadings, affidavits or statements of evidence lodged on the matter was too broad and was declined.

LHM was employed on a permanent part-time basis as a medical practitioner by XPN in 2015. In 2019, LHM commenced a fulltime role with a primary employer, in addition to his part-time employment with XPN. In February 2022, XPN's Clinical Director raised with LHM a concern that the amount of leave he took for his commitments to his primary employment was more than XPN anticipated. Further discussions took place around XPN's concerns about his continued absences, and the ongoing impact it was having on its operations. LHM's employment was terminated in late 2023.

The first question the Authority had to consider was whether there was an arguable case that LHM was unjustifiably dismissed. An arguable case meant a case with some serious or arguable but not necessarily certain prospects of success. The Authority found LHM's claim met the low threshold of an arguable case for a personal grievance for unjustified dismissal. At the very least, there was a dispute

between the parties as to the reasonableness of the solutions proposed by LHM during the process leading to his dismissal. The Authority was satisfied that there was an arguable case that LHM was unjustifiably dismissed. The arguable case threshold for permanent reinstatement was established.

In relation to the balance of convenience, the Authority had to weigh the interests of LHM against those of XPN. The Authority considered the parties' submissions. One element was any detriment to LHM in not being reinstated on an interim basis. Another was potential disruption to XPN's business, employees and work systems, such as its roster. The Authority found the balance of convenience weighed in favour of XPN. Any detriment to LHM in not being reinstated in the interim could be remedied through an award of damages if his claim was successful.

The Authority said LHM's claim turned on whether XPN was justified in terminating his employment, in circumstances where he had taken steps to address XPN's concerns that formed the basis of the employment relationship problem. If LHM's dismissal was found to be unjustified, then consequences would likely flow from that, including awards of financial remedies.

The Authority set down a date for its substantive investigation. In the meantime, LHM continued to be employed in a full-time role as a medical professional with his primary employer. LHM's reasons to be reinstated on an interim basis did not outweigh the impact reinstatement would have on XPN. The overall justice of the matter did not weigh in favour of interim reinstatement, so LHM's application for interim reinstatement was declined. Costs were reserved.

LHM v XPN [[2024] NZERA 220; 17/04/24; J Lynch]

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: Seven Bills

Building (Earthquake-prone Building Deadlines and Other Matters) Amendment Bill (26 August 2024)

Land Transport (Drug Driving) Amendment Bill (29 August 2024)

Regulatory Systems (Immigration and Workforce) Amendment Bill (04 September 2024)

Regulatory Systems (Economic Development) Amendment Bill (05 September 2024)

Customer and Product Data Bill (05 September 2024)

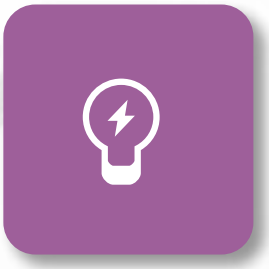
Improving Arrangements for Surrogacy Bill (18 September 2024)

Inquiry into banking competition (25 September 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/

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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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.