BusinessCentral

EMPLOYER BULLETIN

2 September 2024
A Weekly News Digest for Employers

EMPLOYER NEWS

Revenue Action Plan to support delivering infrastructure sooner

The Government has announced a Revenue Action Plan to enable a clear infrastructure pipeline that delivers the critical transport infrastructure our country needs sooner, Transport Minister Simeon Brown says.

"Delivering infrastructure to increase productivity and economic growth is a key priority for the Government. With New Zealand facing a prolonged infrastructure deficit, we need to ensure we have the funding and financing tools needed to support this growth.

"Our Government Policy Statement on land transport reintroduces the successful Roads of National Significance (RoNS) programme and major public transport projects to address the infrastructure deficit and outlines our plan to implement major reforms to the way we fund and finance infrastructure. The Revenue Action Plan delivers on that promise with a roadmap that will unlock new infrastructure."

To read further, please click here.

National Infrastructure Plan to provide a 30-year roadmap

The 30-year National Infrastructure Plan will ensure greater stability of infrastructure priorities to help New Zealand plan for, fund and deliver important projects, Infrastructure Minister Chris Bishop says.

"National campaigned on developing a 30-year national infrastructure plan, and I am pleased to outline our progress toward delivering it in Government.

"Work is underway now to develop the 30-year National Infrastructure Plan which will outline New Zealand's infrastructure needs over the next 30 years, planned investments over the next 10-15 years, and recommendations on priority projects and reforms to fill the gap between what we have now, what we will have soon, and what we'll need in future.

"Led by New Zealand's Infrastructure Commission, the Plan will focus on ensuring we make better use of our existing assets, and that any new investments provide value for money. It will build on the work the Commission has already done on the New Zealand Infrastructure Strategy.

"In developing the National Infrastructure Plan, the Infrastructure Commission will work across central and local government, along with the private and wider infrastructure sector."

To read further, please click here.

A 'Beneficiaries-First' approach to employment

New targets will see a greater proportion of MSD's spending on employment programmes go towards supporting people on Jobseeker benefits, rather than non-beneficiaries.

Social Development and Employment Minister Louise Upston has today outlined the Government's employment investment framework, which will guide how the $1.1 billion available for MSD's employment support schemes is spent.

The framework includes a greater focus on case management, which will rapidly expand to cater for 70,000 people by the end of the year, as well as putting beneficiaries "first in line" for support schemes that boost people's job prospects.

"The previous government's approach saw significant numbers of people who were not receiving any benefit accessing expensive employment schemes," Louise Upston says.

"For example, 62 percent of Mana in Mahi participants weren't on a main benefit in the second half of 2023, while just 31 percent were Jobseeker beneficiaries."

To read further, please click here.

Phase 2 of the Royal Commission of Inquiry into COVID-19 Lessons

Internal Affairs Minister Brooke van Velden says the Government has finalised the detailed terms of reference for Phase 2 of the Royal Commission of Inquiry into COVID-19 Lessons.

"These terms of reference reflect the decision taken by the Government in June to establish Phase 2 of the Royal Commission. Both the ACT-National and New Zealand First-National coalition agreements include commitments to expanding the inquiry to cover outstanding matters of public concern," says Ms van Velden.

"Phase 2 of the Inquiry will review key decisions taken by the Government in 2021 and 2022 related to the use of vaccines and the use of lockdowns, in particular the extended lockdowns in Auckland and Northland. The Inquiry will assess whether key decisions struck a reasonable balance between public health goals and social and economic disruption - such as health and education outcomes."

To read further, please click here.

2025 round of Te Pūnaha Hihiko: Vision Matauranga Capability Fund opens soon

The next round of Te Pūnaha Hihiko: Vision Matauranga Capability Fund will open to applications on 28 August 2024.

Key documents to support the application process are now available to view, including the Call for Proposals and Investment Plan. Applications need to be submitted before 12 noon, 16 October 2024 through Pītau, MBIE's new Investment Management System. We invite those who haven't used Pītau before, to go to the Pitau web page and request access.

Te Pūnaha Hihiko: Vision Mātauranga Capability Fund aims to strengthen capability, capacity, skills and networks between Māori and the science, innovation and technology system and increase understanding of how scientific research can contribute to the aspirations of Māori organisations and deliver benefit for New Zealand.

Up to $2 million per year over two years is available for projects through two schemes: Connect Scheme and Placement Scheme. The Connect Scheme builds new connections between Māori organisations and the science, innovation and technology system. The Placement Scheme supports an individual through placement in a Partner organisation.

To read further, please click here.

Bill to strengthen the economy passes first reading

The Government continues to introduce measures that will strengthen the economy and ensure New Zealand businesses and individuals have a more secure future, Revenue Minister Simon Watts says.

"The Taxation (Annual Rates for 2024-25, Emergency Response, and Remedial Measures) Bill, which passed its first reading today, proposes several measures aimed at delivering the Government's key promise to New Zealanders to improve economic conditions.

"The centrepiece of the Bill proposes a streamlined way to apply tax relief for future emergency events, including earthquakes and floods. In future, these will be activated by Order in Council rather than relying on primary legislation.

"This will mean a swifter government tax response to such emergency events and earlier certainty for affected taxpayers.

"A more rapid response means a more rapid recovery and we want to ensure the system is prepared before an emergency event occurs."

To read further, please click here.

Improved asbestos information now available

Guidance making it easier to safely manage and work with asbestos has been published by WorkSafe New Zealand.

Asbestos remains New Zealand's number one work-related killer, with an estimated 240 people dying each year from preventable asbestos-related diseases.

"Knowing how to identify and manage asbestos safely in homes and buildings is the first step in addressing this issue, which is why it's important we make asbestos information more accessible for people," says WorkSafe's principal advisor asbestos, Rob Birse.

WorkSafe is working closely with industry groups and technical experts to develop the updated guides.

"We have partnered with the industry to deliver targeted asbestos information for specific audiences instead of a one-size-fits-all guidance document. This makes it easier for people to find exactly what they need in a shorter amount of time."

To read further, please click here.

Linked employer-employee data: June 2023 quarter

Quarterly linked employer-employee data (LEED) provides statistics on filled jobs, job flows, worker flows, mean and median earnings for continuing jobs and new hires, and total earnings.

'Filled jobs' in linked employer-employee data (LEED) is defined as the number of jobs on the 15th day of the middle month of the reference quarter. There is no distinction between full-time or part-time jobs.

This release contains actual data and compares data for the June 2023 quarter with the March 2023 quarter.

Changes in the filled jobs were:

- All industries – up 2.6 percent (59,140 jobs)
- Primary industries – down 4.0 percent (4,270 jobs)
- Goods-producing industries – up 0.9 percent (4,280 jobs)
- Service industries – up 3.4 percent (59,170 jobs).

To read further, please click here.

EMPLOYMENT COURT: ONE CASE

Employment Court upholds finding of unjustified dismissal

Ms Grant applied to the Employment Relations Authority (the Authority) against her two employers (the Plaintiffs), Carrington Resort Jade LP (the Resort) and Carrington Holiday Park Jade LP (the Holiday Park), as she was employed by both simultaneously. The Authority decided she had been unjustifiably dismissed. The Plaintiffs challenged the Authority's decision in the Employment Court (the Court). The Court decided to uphold all the Authority's findings and dismissed the Plaintiffs' challenge.

Ms Grant first worked for the Resort from October 2019 to November 2020 as a cleaner under a casual employment agreement. In November 2020, she ceased working for the Resort and started working for the Holiday Park until December 2021, also under a casual employment agreement. In December 2021, she ceased working for the Holiday Park and returned to work for the Resort. However, she was dismissed by letter in May 2022. No reason for the dismissal was stated in that letter.

The Authority had to determine whether Ms Grant was a casual or permanent employee when she worked for the Plaintiffs. Considering the Resort had not provided a written agreement for her second period of employment, the Authority assessed Ms Grant's wage and time records.

Ms Grant worked consistently every week over set days. Even though there had been a casual agreement in place during her first period of employment for the Resort, there was no such agreement covering the second period, meaning it was ambiguous as to what the nature of employment was. Therefore, the Authority decided that she was a permanent employee for the entirety of her employment with the Plaintiffs.

During her employment with the Plaintiffs, Ms Grant had received annual holidays on a "pay as you go" basis. However, because the Authority decided she had been a permanent employee, the Plaintiffs were in breach of the Holidays Act 2003 for each period of employment Ms Grant worked for more than 12 months. The Authority required the Plaintiffs to pay Ms Grant compensation for unpaid annual holiday pay.

The Authority went on to determine whether Ms Grant had been unjustifiably dismissed. In May 2022, she was approached by Mr Tan, the general manager for the Plaintiffs, who told her she had taken too long to clean a particular area. The next week, she was informed that Mr Tan had held her pay back

as he needed time to inspect her work. Concerned, she tried to arrange a meeting with Mr Tan. She had interpreted Mr Tan's decision as an allegation that she had falsified her timesheets. When she approached him in person, he told her to schedule an appointment and walked away. She followed him and heated words were exchanged. It was then he said that he would terminate her contract. His decision was finalised when he drafted and sent her a letter of dismissal.

The Authority described Mr Tan's decision as a spontaneous action, which was taken without consultation, warning or notice of any kind. It ultimately decided Ms Grant's dismissal was unjustified considering it was not the decision a fair and reasonable employer would have made.

The Plaintiffs had also applied to the Authority to have Ms Grant's claims struck out. The Plaintiffs argued Ms Grant's claims were frivolous, advanced in bad faith, and based on insufficient grounds. The Court stated that a strike-out application was a serious step as "it could cut off a claim at the knees" and so should be reserved for clearcut cases. The threshold was high. A claim was not frivolous simply because it had no reasonable prospects of succeeding. Something more was required. A claim is frivolous or trifling if it is impossible to take seriously, or the claim was silly or lacked seriousness. The Court ultimately disagreed with the Plaintiff's characterisation of Ms Grant's claims being frivolous, as they clearly fell within the jurisdiction of the Authority to resolve.

The Authority awarded Ms Grant compensation of $29,000 for hurt and humiliation, as well as $9,137.83 for lost wages, with interest. The Plaintiffs were also required to pay a total of $3,267.33 for unpaid annual holiday pay. The Court upheld the remedies granted by the Authority.

Carrington Jade LP v Grant [[2024] NZEmpC 127; 17/07/24; Judge Corkill]

EMPLOYMENT RELATIONS AUTHORITY: FOUR CASES

Employee found to be permanent instead of casual

NRE worked for Rolleston Motels (2013) Limited (Rolleston) as a housekeeper for almost 18 months. In accordance with the casual nature of her employment agreement, Rolleston ended work with her by notifying her that she would not be offered any more hours. She applied to the Employment Relations Authority (the Authority) and claimed she had been a permanent part-time employee, and so had been unjustifiably dismissed.

During its hiring process, the head housekeeper, Ms Gregg, promised NRE 22 hours to be worked from Sunday to Thursday. NRE said she could not work Saturdays because according to her court order it was the only day she could see her son. Rolleston's employment agreement thoroughly established that NRE was a casual employee. Despite the phrasing, NRE believed that she would have regular hours of work.

The main roster showed there were three housekeepers, including NRE, who worked five days a week, Monday to Sunday. Underneath that section, there were two other names, along with their contact details, listed under the heading "Casuals." NRE said this roster reflected her permanent hours. In contrast, other employees said the main roster only reflected staff availability. In any case, NRE worked on the days she was rostered on for, starting and finishing her shifts at consistent times. In the end she regularly worked at least 20 hours across five to six days, with few exceptions, for nearly eighteen months.

Rolleston's general manager, Ms Ellis, sent a letter to all housekeeping staff on 19 October 2022 proposing to change their hours. The letter stated most were on casual agreements meaning no set days or hours could be offered. Under the new arrangement, the shifts were redistributed so NRE and the staff labelled casuals in the roster were allocated 16 hours, while Ms Gregg was allocated 22 hours. NRE alone worked fewer hours in this arrangement while the casuals were given many more hours. NRE was also rostered to work Saturdays.

The next day, NRE questioned Ms Ellis on her reduced hours and being rostered to work Saturdays. Ms Ellis claimed she did not have any input on the proposal and recommended she talk to Ms Gregg about the matter. Exasperated, NRE responded "I simply cannot afford to stay working here as 7 hours isn't enough to survive on." She said, "I feel my only option is to resign from this job… and find alternative employment with similar hours." Ms Ellis acted that day as if NRE had in fact resigned, as she immediately advertised for a new housekeeper role on Facebook.

The parties resolved that NRE was still employed, but on 30 October 2022, Ms Ellis claimed NRE began bullying other staff, which she disputed. NRE asked, "Are you saying that if I don't resign you will fire me because of the bullying?" Rolleston set up a meeting with Ms Ellis on 14 November 2022 to resolve these new issues. NRE asked three times for details of the bullying allegations, without response. Towards the end of the meeting, Ms Ellis said NRE "[wouldn't] be getting any more hours." NRE took this to mean she had no more work and had been dismissed. She left and messaged Ms Ellis to emphasise she did not receive any response on the bullying allegations, and that her hours were changed without discussion for "no real reason other than you have given my work to others."

The Authority assessed what was said by the parties at the 14 November 2022 meeting. It found Ms Ellis could have been interpreted as telling NRE that Rolleston could not offer more hours beyond what was allocated following the restructure. Despite that, it was possible for NRE to construe that Ms Ellis dismissed her.

NRE felt forced to resign when Ms Ellis refused to restore her roster, exasperated when Ms Ellis rejected responsibility for the matter and became defensive when Ms Ellis advertised for more housekeepers. NRE was invited to a meeting convened for the purpose of discussing allegations, but she did not receive an adequate response. She received no assurances that she would not be dismissed for such allegations. Against that background, a reasonable person could interpret Ms Ellis' statement as the end of the employment relationship.

Despite the relationship being documented as casual, the Authority found the parties' behaviour over time created a reasonable expectation of ongoing work, meaning NRE was a permanent employee. Rolleston provided a pattern of regular hours and days that NRE grew to reasonably rely on. She came to expect that she would "never not be offered" work at these times. Rolleston's true casuals only provided relief work compared to the consistent pattern of permanent staff, like NRE.

The Authority ordered Rolleston pay NRE three months of lost wages at $6,292 and $20,000 as compensation for the hurt and humiliation caused by the unjustified dismissal. Since NRE was a permanent employee, it left an avenue open for the matter of holiday pay to be determined. Costs were reserved.

NRE v Rolleston Motels (2013) Limited [[2024] NZERA 280; 13/05/24; L Vincent]

Employer acts fairly and reasonably in terminating for medical incapacity

Mr Shield was employed by Move Logistics & Warehousing Limited (Move Logistics) as a store person from April 2018, until his employment was terminated in September 2019 on the basis of medical incapacity. He raised personal grievances in the Employment Relations Authority (the Authority) for unjustified dismissal and disadvantage. He also claimed wage arrears and sought compensation for hurt and humiliation.

In May 2018, Mr Shield was injured at work. He took leave and began receiving ACC compensation but returned later that month. In March 2019, Move Logistics initiated a disciplinary process for a matter unrelated to his injury. The disciplinary meeting never took place, due to Mr Shield being unwell. ACC determined that his continued absence was due to the 2018 injury.

In April 2019, Move Logistics expressed their suspicion to ACC that Mr Shield's ongoing absence was not genuine. ACC advised that Mr Shield had seen a neurologist who concluded that his inability to work was linked to the 2018 accident. Move Logistics accepted that and the disciplinary process never went any further.

It reached out to Mr Shield in June and July for updates on his recovery. Arrangements were made to discuss a return-to-work plan. However, those meetings failed to occur. In August 2019, Move Logistics emailed Mr Shield, and asked about his rehabilitation. Mr Shield replied that treatment was making him worse, so another meeting was arranged for early September. Before the meeting, ACC advised that Mr Shield was particularly unwell, and that they were unable to provide the requested file notes in time. Mr Shield suggested rescheduling the meeting to later that month. Move Logistics decided to send Mr Shield an email and letter invitation to an incapacity meeting. It regarded failure to attend as misconduct, unless Mr Shield was able to provide medical reasons and proof to support his absence. Mr Shield agreed to meet.

Prior to the meeting, Mr Shield again advised he had been unwell. Move Logistics felt as though their attempts to engage Mr Shield were being frustrated. In a final attempt to seek feedback, it required Mr Shield to provide a written response setting out the reasons for his absence, his prognosis, a return-to-work date, and an indication as to when he would be fully fit. Mr Shield rejected the numerous attempts made to engage with Move Logistics and failed to provide any future prognosis or a return date.

Move Logistics reiterated to Mr Shield that it was not undertaking a disciplinary process as it believed the genuineness of his absence. It highlighted its obligation to follow a formal incapacity process. In response, Mr Shield referred to the April 2019 correspondence with Move Logistics and demanded an apology for its suspicion. He refused to attend any further meetings until he received one. He also disputed that his absence had any impact on the business. At that point, Move Logistics decided to send Mr Shield a letter, terminating his employment on the basis of medical incapacity.

After assessing its conduct, the Authority found that Move Logistics had sufficiently raised their concerns with Mr Shield prior to termination. They had provided reasonable opportunity for response and had genuinely considered Mr Shield's explanation. Move Logistics had to show it conducted a full and fair investigation, by which it established grounds that a fair and reasonable employer could rely on to terminate Mr Shield's employment. The Authority had to assess whether the employer had "genuinely considered" the employee's explanation, and that the employer kept an "open mind."

Although the April 2019 emails suggested Move Logistics held suspicions around the genuineness of Mr Shield's injury, the Authority accepted that Move Logistics did not progress the matter following ACC's reply.

Move Logistics referred to the multitude of reasons as to why Mr Shield refused to attend the meetings. The Authority determined that Move Logistics' decision to terminate Mr Shield's employment was based on his written response about his prognosis, rather than his failure to meet in person.

Move Logistics waited a reasonable amount of time for Mr Shield to recover. After six months, they asked him about his prospects returning to work. As Mr Shield could not provide any prognosis or return-to-work date, Move Logistics balanced their business needs to recruit a replacement, against whether it would be unfair to terminate Mr Shield. The decision was held to be fair and reasonable, meaning Mr Shield was justifiably dismissed.

Mr Shield also tried to claim that he had been disadvantaged by unjustified actions through the April 2019 emails. There was no evidence to substantiate his claim. The manager involved was not Mr Shield's manager, and Mr Shield never returned to work after that date.

The Authority ordered Move Logistics pay to Mr Shield a total of $759.91 in wage arrears and holiday pay. Costs were reserved.

Shield v Move Logistics & Warehousing Limited [[2024] NZERA 221; 18/04/24; P Cheyne]

Flawed redeployment process leads to unjustified dismissal

Mr Straayer was employed as the manager of the CAR team at WorkSafe New Zealand (WorkSafe). Following a restructuring initiated in June 2018, Mr Straayer's position was made redundant. He was advised his last day of work would be 12 September 2018, however, his computer access was shut off

the day before and he was not given an opportunity to farewell his team. The WorkSafe chief executive had also promised to meet with him to hear his concerns before his employment ended. However, this did not happen.

Mr Straayer claimed he had been unjustifiably dismissed. He argued the restructuring was essentially a sham because WorkSafe had no substantive reason to make his position redundant. He felt targeted, bullied, that the outcome had been predetermined, and that he should have been appointed to one of the four positions created as part of the restructuring.

The Employment Relations Authority (the Authority) heard compelling evidence supporting the reasons for changing its organisational structure and found that WorkSafe had produced a sound business case. The rationale had been developed in consultation with an external consultant.

While Mr Straayer submitted that he was targeted in the process, the Authority found no evidence to support his claim. The issue had been raised by Mr Straayer during the restructuring process and WorkSafe had strongly refuted the allegation. The Authority also dismissed the bullying claims which came to light only after his employment concluded. WorkSafe had no opportunity to investigate any concerns Mr Straayer may have had.

However, while the Authority found no issue with the restructuring proposal, it did find flaws with WorkSafe's redeployment process. Before Mr Straayer was to be interviewed for one of the four newly created positions, a recruitment company provided WorkSafe's interview panel with a report that was critical of Mr Straayer's background experience and leadership skills. The Authority found the contents of the report should have been disclosed to Mr Straayer.

It also questioned WorkSafe's approach to assessing Mr Straayer's suitability for redeployment into a new or existing role. Mr Straayer was not asked for comment on this assessment. The Authority noted there were two other roles Mr Straayer was not told about. One of which WorkSafe was considering for rescoping, and the other was filled. However, the person in that role was known to be leaving soon. While it was by no means certain Mr Straayer would have been employed in those roles, the problem was that he was not made aware they were an option for discussion.

The Authority criticised WorkSafe's actions and observed that it did not give Mr Straayer all the information he needed to engage fully with the restructuring process. It had failed to be responsive and communicative regarding redeployment options, and in maintaining the employment relationship. It failed to meet the obligations imposed under the Employment Relations Act 2000.

The Authority concluded that WorkSafe followed a fair and reasonable process when it decided to make Mr Straayer's role redundant. However, the decision not to redeploy Mr Straayer, on the basis that no other suitable positions existed, did not involve a fair and reasonable process and was unjustified. WorkSafe's actions also disadvantaged Mr Straayer. WorkSafe was ordered to pay Mr Straayer $75,000 in lost wages and $25,000 as compensation for hurt and humiliation. Costs were reserved.

Straayer v WorkSafe New Zealand [[2024] NZERA 243; 26/04/24; G O'Sullivan]

Employee dismissed under invalid trial period clause

Mr Campbell began working for T Julian Contracting Limited (TJCL) as a digger operator on 23 May 2022. His employment agreement contained a trial period clause. The parties signed the agreement on 26 May 2022, three days after Mr Campbell began working for TJCL.

On 12 June 2022, Mr Campbell told TJCL that he needed to leave work to go home because his children were unwell. He decided to stay home for a further two days to look after them. Mr Campbell then received a text from TJCL's director, Mr Julian, saying that when Mr Campbell returned to work, they would "need to talk." Upon his return the next day, Mr Julian told Mr Campbell, "You may as well go home. I don't want you employed by me anymore." Mr Campbell did not return to TJCL after being dismissed by Mr Julian. He received a letter of termination notifying him that he had been dismissed under the trial period clause.

Mr Campbell applied to the Employment Relations Authority (the Authority) and claimed the trial period clause was invalid because he signed the agreement after he had started working. He also claimed the trial period clause was not raised to his attention at the beginning of his employment. TJCL could not point to evidence showing that it intended Mr Campbell's employment to be subject to a trial period clause. There was nothing explicitly stated on TJCL's job advertisement or job application form. For those reasons, Mr Campbell was likely first made aware of the trial period clause when he received a copy of the employment agreement on 24 May 2022, the day after he started working at TJCL.

Mr Campbell was not notified of the trial period clause at the start of his employment, and he had signed the employment agreement well after he started work. The trial period clause was found not to have been properly executed, and so Mr Campbell was found not to be bound by it.

TJCL claimed that it dismissed Mr Campbell for his conduct and work performance issues that had been previously raised with him. However, there was no documentary evidence to show Mr Campbell's alleged conduct and work performance issues were properly raised prior to his termination. The letter of termination did not sufficiently specify which of Mr Campbell's actions constituted serious misconduct, or refer to previous instances where Mr Campbell was warned about his conduct.

Although it was likely Mr Julian held concerns around Mr Campbell's performance, there was insufficient evidence to show those concerns were sufficiently raised with him during his employment or amounted to serious misconduct. The Authority ordered TJCL to pay Mr Campbell lost wages which amounted to $14,400, and $7,000 as compensation for hurt and humiliation. Costs were reserved.

Campbell v T Julian Contracting Limited [[2024] NZERA 308; 24/05/24; A Leulu]

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

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

Customer and Product Data Bill (05 September 2024)

Improving Arrangements for Surrogacy Bill (18 September 2024)

Regulatory Systems (Economic Development) Amendment Bill (19 September 2024)

Inquiry into banking competition (25 September 2024)

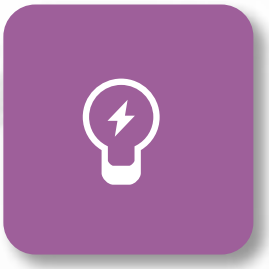
Social Workers Registration Amendment Bill (6 October 2024)

Taxation (Annual Rates for 2024–25, Emergency Response, and Remedial Measures) Bill (9 October 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.

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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.