BusinessCentral

EMPLOYER BULLETIN

7 October 2024
A Weekly News Digest for Employers

EMPLOYER NEWS

Reforming the building consent system

The Government is investigating options for a major reform of the building consent system to improve efficiency and consistency across New Zealand, Building and Construction Minister Chris Penk says.

"New Zealand has some of the least affordable housing in the world... At the heart of the issue is unreasonably high building costs and a cumbersome consenting system.

"There are currently 67 Building Consent Authorities (BCAs) across the country, each with different practices and approaches. We have a single building code that is supposed to apply consistently to all building work nationally. However, there are many instances of builders submitting the exact same plans to different BCAs and finding differing interpretations of the building code.

"In a recent survey of Master Builders Association members 80 per cent reported having to deal with multiple BCAs, and 66 per cent experienced delays."

The aim is to establish a more consistent and streamlined model, with options including voluntary consolidation of building control functions, merging BCAs regionally and setting up a single point of contact for builders to submit plans to. Building inspection may be contracted out to existing BCAs or private consenting providers. The Government will also look at liability settings across the whole building system.

"Under the current settings, councils and their ratepayers are liable for defective work. Joint and several liability means councils can be 'the last person standing' available to foot the bill when things go wrong. This creates a highly conservative and risk averse approach, which contributes cost and draws out deadlines."

To read further, please click here.

New Zealand Government [29 September 2024]

Minor variations no longer major problem

It is now easier to make small changes to building plans without having to apply for a building consent amendment, Building and Construction Minister Chris Penk says.

"Previously builders who wanted to make a minor change, for example substituting one type of product for another, or changing the layout of a room, often had to apply for an amendment to their building consent, which inevitably adds time and delay.

"The Government has made changes to regulations to clarify definitions of a minor 'variation' and 'customisation'.

"Our overarching ambition is to move towards a more enabling, risk-based, proportionate approach to consenting.

"Making it easier to substitute like-for-like building products will allow for greater competition and gives effect to one of the Commerce Commission's recommendations from its building supplies market study. It also connects with the Government's work to make it easier to use overseas building products that meet New Zealand standards.

"These changes will also apply to MultiProof designs that have been pre-approved, meaning Building Consent Authorities must make a decision within 10 working days of receiving an application with a MultiProof design, rather than the usual 20 working days."

To read further, please click here.

New Zealand Government [1 October 2024]

Progressing remote building inspections

The Government is progressing plans to increase the use of remote inspections to make the building and consenting process more efficient and affordable, Building and Construction Minister Chris Penk says.

"According to a recent report, productivity levels have remained unchanged since 1985, which is staggering given technological advancements since that time.

"Builders must book inspections in advance and, if the inspection does not go ahead at the expected time, the building work grinds to a halt. In some parts of the country like the Mackenzie District, there is only one building inspector who must travel long distances to sites. In other parts inspectors spend long periods of time in congested traffic.

"Remote inspections are an important productivity enhancing solution that reduces the need for inspectors to travel, allows more inspections to take place each day and enables inspectors to work across regions.

"We want to hear feedback from the public to ensure we find a solution that provides homeowners and buyers with assurance about the quality and safety of buildings, while also delivering important efficiencies. We also want to hear from councils."

To read further, please click here.

New Zealand Government [2 October 2024]

Annual number of homes consented down 20 percent

There were 33,632 new homes consented in New Zealand in the year ended August 2024, down 20 per cent compared with the year ended August 2023, according to figures released by Stats NZ.

In the year ended August 2024, there were 15,597 stand-alone houses consented, down 9.7 per cent compared with the year ended August 2023. There were 18,035 multi-unit homes consented, down 27 per cent – the lowest in the last three years.

Of the multi-unit homes, townhouses, flats and units are down 20 per cent compared with the year ended August 2023. Retirement village units are down 40 percent and apartments are down 55 per cent. For apartments, this is the lowest in 10 years.

On a monthly scale, the new homes consented in August 2024 are down 9.1 per cent compared with August 2023 and down 5.3 percent compared with July 2024. This follows a seasonally adjusted rise of 26 per cent in July 2024.

In the year ended August 2024, all regions except Otago consented fewer new homes compared with the year ended August 2023. This was for the first time since the year ended October 2017.

To read further, please click here.

New Zealand Government [1 October 2024]

Supporting better access to data

The launch of a new data tool will provide Kiwis with better access to important data, Statistics Minister Andrew Bayly says.

"To grow our economy and improve productivity we must adopt smarter ways of working, which means taking a more data driven approach to decision-making.

"As Statistics Minister one of my key ambitions is to make data more accessible for the general public and business owners, who might not have big budgets for market research but could benefit from the wealth of data held by Statistics New Zealand (Stats NZ).

"Through the Census, surveys and administrative data, Stats NZ collates data about our population, economy, our lifestyle, habits and behaviours.

"However, the presentation has typically been aimed at a technical audience, with data provided in a 'wholesale' format.

"The launch of Aotearoa Data Explorer marks a shift towards presenting data in a more accessible format. Aotearoa Data Explorer replaces the NZ.Stat tool and offers a more user-friendly way to easily access Stats NZ data and build customised tables and graphs."

To read further, please click here.

New Zealand Government [2 October 2024]

Government partnership boosting vineyard productivity

The Government is backing a new world-leading programme set to boost vineyard productivity and inject an additional $295 million into New Zealand's economy by 2045, Agriculture Minister Todd McClay announced.

The Next Generation Viticulture programme will transform traditional vineyard systems, increasing profitability by $22,060 per hectare by 2045 without compromising wine quality.

The Government is co-investing $5.6 million over seven years in partnership with New Zealand Winegrowers Incorporated and several vineyards to drive profitability through innovative canopy management systems.

Building on success seen in the Kiwifruit and Apple industries, the programme employs a renewed approach to canopy management and growing configurations, enabling vines to intercept more light.

"This programme will increase productivity and ensure the long-term viability of our wine industry, all while maintaining the exceptional quality we are internationally known for," Mr McClay says.

Seven vineyards, supported by the Bragato Research Institute, will trial the programme.

To read further, please click here.

New Zealand Government [30 September 2024]

Government secures market access for blueberries to Korea

The Government has secured market access for New Zealand blueberries to Korea, unlocking an estimated $5 million in annual export opportunities for Kiwi growers Minister for Trade and Agriculture Todd McClay announced.

"This is a win for our exporters and builds on our successful removal of $190 million in Non-Tariff Barriers (NTBs) in the past year. We are steadfast in our efforts to reduce barriers, open new markets and return greater value to exporters' back pockets."

"Increased market access is a key part of the Government's strategy to increase trade value for New Zealand's safe and high-quality produce. This will contribute towards our ambitious goal of doubling exports by value within ten years."

This achievement sees the conclusion of long running negotiations and comes on the back of increased bilateral engagement following the Prime Ministers visit earlier this year. Korea published the legal requirements for the import of New Zealand blueberries last week.

Officials from the Ministry for Primary Industries (MPI) will now move swiftly to implement the necessary compliance measures to ensure that New Zealand exporters are able to begin shipping blueberries to Korea as early as this season (December/January).

To read further, please click here.

New Zealand Government [1 October 2024]

Business count indicators: August 2024

Stats NZ has released its household labour force survey estimated working-age population table.

This shows the population benchmarks used to produce household labour force survey estimates, for the upcoming labour market statistics release.

To access the data, definitions and metadata, please click here.

Statistics New Zealand [2 October 2024]

Household labour force survey estimated working-age population: September 2024 quarter

Stats NZ has released its household labour force survey estimated working-age population table.

This shows the population benchmarks used to produce household labour force survey estimates, for the upcoming labour market statistics release.

To access the data, definitions and metadata, please click here.

Statistics New Zealand [2 October 2024]

Strong support for NZ minerals strategy

Over 90 per cent of submissions have expressed broad support for a New Zealand minerals strategy, indicating a strong appetite for a considered, enduring approach to minerals development, Resources Minister Shane Jones says.

A summary of the 102 submissions on the draft strategy has been published by the Ministry of Business, Innovation and Employment. It shows 96 per cent of submitters are broadly supportive of developing a plan to manage the future of mining in New Zealand.

"The Minerals Strategy for New Zealand is the Coalition Government's transformative vision for an enduring minerals sector – a sector that has suffered from the lack of a clear long-term strategic direction," Mr Jones says.

"Through the responsible development of our natural resources, this Government will increase national and regional prosperity, provide the minerals needed for new technology and the clean energy transition, and double the value of our mineral exports to $2 billion by 2035. With the right direction and settings, mining will boost regional opportunities and jobs, increase our self-sufficiency, and be a critical part of the Government's export-led focus.

"This approach has obviously struck a chord with submitters who have been broadly supportive of our proposal subject to further amendments that consider environmentally responsible mining, the Treaty of Waitangi, enhancing economic, regulatory, and social responsibilities, building social licence, and driving the use of innovation and research.

To read further, please click here.

New Zealand Government [30 September 2024]

EMPLOYMENT COURT: ONE CASE

Employee reinstated to work following unfair redundancy

Mr Amesbury was employed by Stellar Elements New Zealand Ltd (Stellar) from 2022 until his position was made redundant in 2024. The Employment Relations Authority initially determined that his redundancy constituted unjustified dismissal and ordered interim reinstatement to the same or similar position. Stellar challenged that determination in the Employment Court (the Court) and claimed reinstatement should never have been ordered.

Mr Amesbury was initially hired as a principal consultant in October 2022 during a period of optimistic sales projections. Those projections never materialised and from an external view he was unable to engage in billable work. In October 2023, he was temporarily reassigned to a service line owner role, which focused on non-billable activities. After a dispute over a bonus, he withdrew his application for a permanent position, but continued in the temporary service line owner role as he was told it would likely continue past March 2024.

In March 2024, Stellar notified Mr Amesbury of its restructuring proposal to reduce the number of principal consultant roles, due to a declining workload. Mr Amesbury argued the principal consultant role was generating billable work and so ought to have been retained. He contested that Stellar overlooked his act of good faith by agreeing to take on non-billable duties. Although he suggested redistributing billable work among existing consultants, Stellar deemed his suggestion impractical, and ultimately terminated his position.

The Court reconsidered the outcome of interim reinstatement. The Employment Relations Act 2000 (the Act) allows for reinstatement if an applicant establishes a serious claim, and the balance of convenience (the impact of granting an interim order) favours the applicant. An assessment of the overall justice of the case is also necessary.

The Court first evaluated Mr Amesbury's case regarding unjustified dismissal. It determined that the selection criteria relied on by Stellar were unfair, since Mr Amesbury was not at the time working in the principal consultant position. An employer could be expected to consider the actual work an employee was engaged in when making redundancy decisions.

The Court also assessed whether redeployment could have been offered. Although there was no formal secondment, Stellar had asked Mr Amesbury to work in the service line owner role, which he did so in good faith. The real nature of Mr Amesbury's employment was arguably as service line owner, not principal consultant. There was also a possibility of him being appointed to his temporary role, but he was led to believe there was a preferred candidate and was never informed that the candidate failed to accept the position.

Furthermore, Stellar's failure to consider alternative positions meant the outcome was potentially predetermined. There was no engagement with Mr Amesbury's suggestion of redistributing work. He was instead informed he did not need to continue working. He said he did not understand that he was expected to engage in consultation regarding the restructure. There was also the possibility that Stellar had an ulterior motive based on the dispute over his bonus. Mr Amesbury received no information as to what restructuring approach Stellar was adopting or information on steps being taken elsewhere in the company. The Court therefore determined that insufficient consultation information had been provided.

The Court concluded it was strongly arguable that Stellar had not fulfilled its good faith obligations, leading to Mr Amesbury's unjustified dismissal on both substantive and procedural grounds.

Next, the Court considered reinstatement and its practicability. Stellar argued it was not practicable because there was no other similar position available. The Court felt Stellar viewed the situation too narrowly, especially since it would have further redeployment options across Australia and New Zealand. The Court believed that permanent reinstatement would be practicable.

The Court then turned to whether reinstatement would be reasonable. The evidence suggested other roles could have been explored. It was arguably reasonable to reinstate Mr Amesbury to the role he was employed in, or one which was similar.

In assessing the balance of convenience, the Court weighed various factors, including the adequacy of damages and the relative strength of each parties' case. Mr Amesbury had faced significant difficulties since termination, including a tough job market, being bound by a restraint of trade provision and personal circumstances that exacerbated his financial struggles. His wife's inability to work due to health reasons further complicated the situation and left the couple in a dire financial predicament.

The Court ultimately held that the balance of convenience favoured Mr Amesbury, as damages would not adequately compensate his loss. The overall justice favoured granting interim reinstatement. Consequently, the Court upheld Mr Amesbury's claim, dismissing Stellar's appeal and deciding he was entitled to costs.

Stellar Elements New Zealand Limited v Amesbury [[2024] NZEmpC 136; 13/07/24; Judge Corkill]

EMPLOYMENT RELATIONS AUTHORITY: THREE CASES

Flawed redundancy process leads to unjustified dismissal

Mr Tasker was employed by Parkers Beverage Company Limited (PBCL) as a production supervisor until being made redundant in December 2022. He lodged a claim with the Employment Relations Authority (the Authority), alleging an unjustified dismissal that arose through procedural flaws in a restructure proposal.

PBCL gave Mr Tasker a letter on 16 December 2022. It was undertaking a review that could result in a restructuring of the business, including the disestablishment of his role. The letter set out that the rationale for the proposal was based around cashflow and other issues but was light on detail.

Mr Tasker gave some feedback at a 10-minute meeting on 20 December 2022. He was shortly to go on leave, so asked if he would have a job to return to, but was told no. Before he left the site, he was asked to hand over his keys. Two or three days later, PBCL called him to say his role was made redundant. He did not receive formal notice of the decision. PBCL submitted it took professional advice, and no decisions had been made at the meeting on 20 December 2022.

The Authority felt PBCL did not satisfactorily prove a justification for the dismissal. It criticised PBCL's minimal detail and felt PBCL did not provide enough information for Mr Tasker to consider. PBCL also failed to genuinely consider any of Mr Tasker's feedback prior to making the decision to terminate.

Other employees had already been told that there would be no further work for them. The formal dismissal a few days later was a forgone conclusion. PBCL also did not discuss alternative roles or possible redeployment. The Authority found PBCL's dismissal was both substantively and procedurally unjustified, and that Mr Tasker was unjustifiably dismissed.

Mr Tasker had planned to take annual holidays during what turned out to be his notice period. He argued that he should have received his accrued annual holiday payment on top of his wages for the notice period. The Authority found Mr Tasker's accrued annual holidays were not used to pay out his notice. Rather, he received paid leave for taking annual holidays, which coincided with his period of notice. Mr Tasker was hence not entitled to additional payment for that period.

Mr Tasker sought a penalty for PBCL's failure to provide wage and time details. While the Authority found PBCL had failed to provide these, the impact was not significant enough to warrant a penalty being imposed. He also sought a penalty for PBCL breaching good faith when it failed to provide details supporting its proposal for change. While the Authority agreed PBCL had not met its good faith requirements, the failure was not deliberate, serious, or sustained, as required by the Employment Relations Act 2000. It also considered this issue to be adequately covered by Mr Tasker's unjustified dismissal and remedies awarded. The Authority declined to impose any penalties.

PBCL was ordered to pay Mr Tasker $15,000 as compensation for humiliation, loss of dignity, and injury to feelings and $5,460 as compensation for lost wages. Costs were reserved.

Tasker v Parkers Beverage Company Limited [[2024] NZERA 307; 24/05/24; R Anderson]

Employer withdrawing offer dismisses person intending to work

Ms Davis accepted an offer with the Port Hills Foundation Charitable Trust (Port Hills) to handle its social media content. Port Hills later withdrew this position, saying the work had been "cancelled". Ms Davis applied to the Employment Relations Authority (the Authority) and claimed she was unjustifiably dismissed. She sought compensation, lost earnings, and costs. She also sought reimbursement for her lost earnings at the value of the relevant minimum wage, as the work had been offered for less than that. Finally, she sought penalties against Port Hills, to be paid in whole or part to her.

Port Hills provided charitable assistance to recipients. Ms Davis' family was in a tough spot, the same as Port Hills' recipients. Ms Davis' partner at the time did odd cash jobs for Port Hills' president, Ms Quartermain. He referred Ms Davis to Ms Quartermain to do social media work. Ms Quartermain directly contacted Ms Davis with a role for her and her daughter, L, working 12 hours at $120 per week. She said, "I am looking for [L] or anyone to work… See if [L] or you are interested." Port Hills would only initially employ one person "to review every 2-4 weeks AND Until more funds are available for more hours or to employ 2 people".

Ms Davis was eager to turn around her life after recent events. She said her and L were "keen" and responded to Ms Quartermain by offering to work for $150 a week. Port Hills ignored the counteroffer. The employment agreement it gave a few days later still only offered $120 a week. The parties signed the agreement, but Ms Davis was concerned about its inclusion of a trial period. When she questioned this, then followed up about starting the employment, Ms Quartermain messaged back, "There is no contract now it is CANCELLED."

Ms Davis instructed a representative to contact Ms Quartermain. In response, she said the offer of employment was conditional on signatures from Port Hills board members being included on the employment agreement, "otherwise there is no confirmation of employment and No Employment Contract FINAL TEXT". Ms Davis' representative asked for a copy of what Ms Davis signed. Ms Quartermain's final response was, "GOODBYE – YOU ARE BLOCKED." Ms Quartermain continued to argue to the Authority that no employment relationship arose.

Two witnesses who were present when the employment agreement was signed did not recall any discussion about board approval. Ms Quartermain had brought a computer to show Ms Davis how to do the job right away, which the Authority felt showed she had taken the employment as unconditional. The parties' messaging also did not establish the offer was subject to further approval. As a result, Ms Davis relied on Ms Quartermain's authority to finalise the offer and acceptance, without thinking she was subject to anyone else confirming it. These factors indicated the agreement was not conditional.

The Authority concluded Ms Davis accepted an unconditional offer of employment. She became a person intending to work as per the definition of employee under the Employment Relations Act 2000. When Ms Quartermain declared the contract cancelled, she dismissed Ms Davis. The Authority found that was not a fair and reasonable manner to dismiss Ms Davis, meaning the dismissal was unjustified.

Ms Davis was seriously disappointed and very angry that the opportunity to elevate herself and her family was taken away. The Authority ordered Port Hills to pay her $6,000 in compensation for humiliation, loss of dignity, and injury to her feelings. It reimbursed her what Port Hills ought to have paid her for the first round of work before review, which it set at three weeks. This included increasing the hourly rate to the relevant minimum wage of $22.79. The total was $817.20 gross before tax.

The Authority also issued two penalties to Port Hills to generally deter its behaviour. Port Hills issued an employment agreement below minimum wage and therefore acted "contrary to law". Ms Quartermain completely ignored Ms Davis when she asked for more renumeration. The Authority expected Ms Quartermain to have known of Ms Davis' circumstances. That meant to offer employment at significantly below minimum wage carried a hint of exploitation for an alleged charity.

The Authority penalised Port Hills $2,000 for the employment agreement that was contrary to law, with $500 to be paid to Ms Davis because she ought not to have had to bring the claim. Similarly, it penalised Port Hills $1,000 for failing to provide an employment agreement when asked, with $200 to be paid to Ms Davis. Finally, it ordered Port Hills pay a $2,250 contribution to Ms Davis' costs, the tariff for half a day's investigation meeting.

Davis v The Port Hills Foundation Charitable Trust [[2024] NZERA 311; 27/05/24; A Baker]

External delays not held against employer

Ms Keung and the Board of Trustees of Waatea School (the Board) entered into a Record of Settlement (the Settlement) on 21 February 2022. The Board was delayed in fulfilling the Settlement due to several obstacles. Ms Keung argued the Board had breached the Settlement. She claimed that as a result of the Board's delays, she did not receive the benefit of a timely and complete settlement as agreed. She sought compliance orders, repayment of monies owing and penalties.

The Settlement provided that Ms Keung's employment would end on 21 February 2022. Clause 6 stated the parties would jointly instruct a specific staff member to report back to the parties "as soon as possible" on Ms Keung's renumeration entitlements and records. These were specified as her salary entitlements for 2020/21, the actual days taken off because of sickness in 2020/21, the days taken as leave without pay and her accrued entitlement to paid sick leave.

Clause 7 then required the Board to "reinstate any shortfall" in Ms Keung's "contractual entitlement to salary" and her "entitlement to sick leave". This was to be based off the report from Clause 6, in accordance with specific caveats – that the parties had already agreed on compensation for 27 days of sick leave, and that there was no dispute over her entitlement to management units, with "no extra compensation [payable] in this regard".

Ms Keung felt there were issues with how the terms of the Settlement were fulfilled. The staff member who was supposed to compile the report went overseas for a short time and thought they could work on it remotely. This staff member discovered the Ministry of Education's policies prevented her from accessing the pay data from an overseas ISP address.

Therefore, Mr Osbourne, a board member, took responsibility over the report. He first requested information from the Ministry of Education. When his request was not handled, he escalated the matter to the Deputy Secretary for Education. He received a significant volume of pay records in May 2022, which he took time to work through.

During that time, Ms Keung filed her statement of problem to the Employment Relations Authority (the Authority) on 24 May 2022. While the parties exchanged correspondence, Mr Osbourne continued to work on finalising the report. The Board relied on this information to pay Ms Keung a total of $10,993.05 from 2022 to 2023, including corrections of 30 unpaid leave days to wages and other underpayments.

Ms Keung argued she did not get to provide joint instruction to the original staff member assigned to the report. She also argued the Board should have acted faster to provide her with the relevant information. She claimed she was owed a specific allowance, which resulted in an owing balance of $49,000. She also felt some of her records were not captured correctly. She said she did not know if one other allowance was calculated fully, that five of her recorded days off were due to being sick, and as a result her final sick leave calculation was inaccurate, and her leave without pay was only calculated up to mid-2021.

The Authority found the Board realistically fulfilled the clauses to the best of its ability. Having its staff member obstructed and being subject to delays was outside its control, and it took appropriate responsive actions in these scenarios. Ms Keung had the ability to give her joint instruction and feedback to Mr Osbourne instead and was not deprived of any opportunities. Ultimately, the Board indeed delivered the information "as soon as possible", fulfilling Clause 6.

The Authority found the Board's calculations were reliable, being grounded in the data Mr Osbourne received. Clause 7 expressly specified "contractual entitlement to salary" and excluded "extra compensation". Therefore, the allowances were excluded. After the payments the Board had already made, the only remaining figure was to pay $2,535.61 of salary.

Similarly, the settlement only required recording Ms Keung's approved, legal sick leave. Any debates she had on the purpose of other leave did not need to be captured in the report. Finally, the settlement's purpose had been to expressly close many of the matters Ms Keung had applied about, such as the breakdown of her days off. Being that settlements are full and final, the Authority would not re-open these questions.

Ms Keung applied for the Board to receive a penalty for its delay in paying the settlement figure. The Authority weighed both the Board's continuous best efforts to pay, and that the final figure was in genuine dispute, so could not be resolved until the hearing. It concluded the settlement was not breached due to the genuine dispute and did not issue a penalty.

The Authority's outcome was to declare the remaining salary payable to Ms Keung. Costs were reserved.

Keung v The Waatea School Board of Trustees [[2024] NZERA 324; 31/05/24; C English]

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

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

Marine and Coastal Area (Takutai Moana) (Customary Marine Title) Amendment Bill (15 October 2024)

Arms (Shooting Clubs, Shooting Ranges, and Other Matters) Amendment Bill (24 October 2024)

District Court (District Court Judges) Amendment Bill (29 October 2024)

Sentencing (Reform) Amendment Bill (29 October 2024)

Parliament Bill (6 November 2024)

Building (Overseas Building Products, Standards, and Certification Schemes) Amendment Bill (14 November 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.

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

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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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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.

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

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

EMPLOYMENT RELATIONS CONSULTANTS

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

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

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

relationship or it could be confirming a restructuring selection matrix.

LEGAL

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

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

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

A QUICK GUIDE TO HOLIDAY PAY PRACTICES IN NEW ZEALAND

CHRISTMAS AND NEW YEAR PUBLIC HOLIDAYS 2024/2025

Christmas Day Wednesday 25 December 2024
Boxing Day Thursday 26 December 2024
New Year's Day Wednesday 1 January 2025
2 January Thursday 2 January 2025

PUBLIC HOLIDAYS

All employees for whom the day would otherwise be a working day and do not work on that day, will be entitled to a paid public holiday not worked.

All employees for whom the day would otherwise be a working day and do work on that day, will be entitled to at least time and a half for the hours worked on that day and an alternative holiday.

Employers therefore need to consider whether the day on which the public holiday falls is otherwise a working day for each employee in order to determine public holiday entitlements. The otherwise working day test applies to all employees regardless of whether they are permanent, fixed term or casual employees, or have just commenced employment.

OTHERWISE WORKING DAY

In most situations it will be clear whether the day on which the public holiday falls would otherwise be a working day for an employee.

However, if it is not clear an employer and employee should consider the following factors with a view to reaching an agreement on the matter.

- The employee's employment agreement;
- The employee's work patterns;
- Any other relevant factors, including:
    - whether the employee works for the employer only when work is available;
    - the employer's rosters or other similar systems;
    - the reasonable expectations of the employer and the employee that the employee would work on the day concerned;
- Whether, but for the day being a public holiday, the employee would have worked on the day concerned.

CHRISTMAS/NEW YEAR CLOSEDOWN AND PUBLIC HOLIDAYS

If a public holiday falls during a closedown period, the factors listed above, in relation to what would otherwise be a working day, must be considered as if the closedown were not in effect. This means employees may be entitled to be paid public holidays during a closedown period.

ANNUAL HOLIDAYS, PUBLIC HOLIDAYS, TERMINATION OF EMPLOYMENT

A public holiday that occurs during an employee's annual holidays is treated as a public holiday and not an annual holiday.

An employee who has an entitlement to annual holidays at the time that their employment ends will be entitled to be paid for a public holiday if the holiday would have:

- Otherwise been a working day for the employee; and
- Occurred during the employee's annual holidays had they taken their remaining holidays entitlement immediately after the date on which their employment came to an end.

When applying the provision, you are only required to count the annual holidays entitlement an employee has when their employment ends (not accrued annual holidays). Employees become entitled to 4 weeks annual holidays at the end of each completed 12 months continuous employment.

PUBLIC HOLIDAY TRANSFER

The Holidays Act 2003 allows an employer and employee to agree in writing to transfer a public holiday to any 24-hour period.

This means, with agreement, a public holiday may be transferred:

- By a few hours to match shift arrangements; or
- To a completely different day

In the absence of a written agreement, a public holiday is observed midnight to midnight.

Please note that this guide is not comprehensive. It should not be used as a substitute for professional advice. For specific assistance and enquiries, please contact AdviceLine.