

A-Z Guide

EMPLOYMENT RELATIONS AUTHORITY



Contents

Contents	1
What is the Employment Relations Authority?	2
The Process	2
The Pre-Investigation Conference	2
The Investigation Meeting	3
Oral determinations	3
The Outcome	3

What is the Employment Relations Authority?

The Employment Relations Authority (“the Authority”) is an independent, investigative body that works in an informal way to settle employment relationship problems that have not been solved through agreement or mediation.

The Authority can investigate, establish facts, and make determinations about a wide range of employment relationship problems. The Authority deals with:

- Personal grievance claims
- Applications to enforce restraint of trade agreements
- Questions about good faith
- Union rights in relation to bargaining
- Union rights in relation to access to workplaces
- Wage arrears claims
- Enforcement orders
- Strikes and notices to strike
- Disputes about the interpretation of employment agreements

The Process

A person (“the applicant”) who wishes to have their dispute decided by the Authority must fill out a simple application form called a Statement of Problem. That form requires an explanation in ordinary language of the facts that caused the problem, the steps that have been taken so far to try and resolve that problem, and the way the applicant would like the problem resolved. The Authority then forwards this application to the other party (“the respondent”) and gives the other party 14 days to respond in the form of a Statement in Reply.

Where the respondent does not provide a Statement in Reply and does not co-operate with the Authority’s directions, the Authority may proceed to hold an investigation meeting and determine the problem in that party’s absence.

The Pre-Investigation Conference

The Authority may conduct a pre-investigation conference with the parties. The conference can be used to clarify the issue or issues to be investigated, clarify the process of investigation, elaborate on the claims and remedies sought, discuss any relevant law, determine who the witnesses will be, and set down a timetable for the exchange of documents and briefs, including information relevant to the problem. Sometimes the parties are directed to attempt or re-attempt mediation at this point as under the Employment Relations Act 2000, mediation is the preferred method of settling any disputes.



The Investigation Meeting

If the attempts to settle the dispute via mediation are unsuccessful, the Authority will hold an investigation meeting. The investigation meeting is where both parties are given the opportunity to present their version of the dispute and make any submissions to the Authority, before it makes a binding decision.

Investigation meetings are relatively informal but are more formal than mediation. Parties may cross-examine one another and be cross-examined by the Authority Member presiding. The Authority may call witnesses to assist it in its investigation. It is not a Court of record, which means that while the Member may take notes of events no formal record of the proceeding is made and retained. The Authority Member has discretion as to whether or not the parties appearing before it are sworn.

There is no requirement to be represented by a lawyer or advocate in the Authority. A person can choose to represent themselves, however it is advisable to take advice on the issues before attending the investigation meeting.

Oral determinations

The Authority is now required to give its oral determination or an oral indication of its preliminary findings wherever practicable at the conclusion of an investigation meeting. This change supports the Authority's objective of delivering speedy, informal, and practical justice by introducing requirements about the timeliness and mode of delivery of Authority determinations.

Oral determinations will be required wherever practicable with a written version required within one month. Where an oral determination is not given, a written determination must be issued within three months unless exceptional circumstances apply.

The Authority may reserve its determination of a matter if it is satisfied that there are good reasons as to why it is not practicable for it to provide an oral determination or an oral indication of its preliminary findings at the conclusion of the investigation meeting.

The Outcome

Following the investigation meeting, the Authority will decide in favour of one party or the other. Depending on the dispute in question, the Authority has the power to:

- Award reimbursement of lost wages to an employee
- Award unpaid wages
- Award compensation for hurt and humiliation
- Award compensation for loss of any benefit
- Order reinstatement
- Order compliance



Make recommendations to the employer/employee to prevent further disputes The Employment Relations Act 2000 also contains several penalty provisions which may be sought by either party and ordered by the Authority. Generally, the penalties are fines payable to the Government, but a penalty can be made payable to the party which seeks it.

At the conclusion of its investigation the Authority will issue a written determination and may award costs. That determination is binding and enforceable in the Authority, the District Court and the Employment Court. Determinations of the Authority may be challenged in the Employment Court.

Refer to the **A-Z Guides on Mediation and Full and Final Settlements**, for more information about the services provided by the Employment Relations Authority.

Remember

- Always call AdviceLine on 0800 300 362 to check you have the latest guide.
Never hesitate to ask AdviceLine for help in interpreting and applying this guide to your situation.
- Use our AdviceLine employment advisors as a sounding board to test your views.
- Get EMA Legal or one of our consultants to draft an agreement template that's tailor-made for your business.

This guide is not comprehensive and should not be used as a substitute for professional advice.

All rights reserved. This document is intended for members use only, it may not be reproduced or transmitted without prior written permission.

Published: **February 2025**

ema.co.nz | 0800 300 362



EMA TERMS AND CONDITIONS FOR THE SALE AND USE OF TEMPLATES

1. The EMA designated as "Seller" herein agrees to sell and deliver to you, the party designated as "Buyer", this digital template subject to the terms and conditions set forth in these Terms and Conditions of Sale.
2. The Seller hereby warrants that the Templates are original, free from any claims or rights of any third party, and do not infringe on any copyright, patent, trademark, or any other intellectual property rights.
3. The Buyer acknowledges that the Templates purchased under this Agreement are for their exclusive use and shall not be distributed, sold, leased, or licensed to any third party without the prior written consent of the Seller. For the benefit of doubt, this includes the use of this material as input into an Artificial Intelligence (AI) engine which may then mean that the integrity of the product - and our material - is compromised.
4. The Seller reserves the right to modify the Templates, their features, and their pricing at any time without prior notice.
5. The Buyer agrees to comply with all applicable laws and regulations regarding the use of the Templates and acknowledges that the Seller shall not be held liable for any violations thereof.
6. The Buyer shall pay for the Templates in accordance with the payment terms set forth in this Agreement. Failure to make timely payment may result in termination of this Agreement and revocation of the Buyer's right to use the Templates.
7. The Templates are provided "as is" without warranty of any kind, either express or implied, including, but not limited to, the implied warranties of merchantability and fitness for a particular purpose.
8. The Templates are not a substitute for legal advice or are guaranteed to suit your particular circumstances. The Seller recommends that you carefully consider your particular organisations' unique expectations and practices and have the material confirmed by a legal practitioner as suitable for them.
9. This Agreement is governed by and construed in accordance with the laws of New Zealand in which the Seller is located. The purchase is also governed - where appropriate - by the general EMA terms and conditions as located on the EMA Website.

