



Legally Speaking



Are you meeting your minimum employment requirements?

The summer period can be extremely busy for businesses across North Canterbury. More sunlight hours allow many businesses to take on additional work, which is constantly needed to be balanced with staff's need for a break after a busy and stressful year. As such it is a timely reminder for all types of businesses of some often overlooked, employment obligations.

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As per the Employment Relations Act 2000 ("the ERA"), unless a casual contract, employment agreements should state minimum hours of guaranteed work.

Once agreed, employees are entitled to refuse additional hours of work. The exception being if their agreement includes an availability provision which specifies when they additional hours are expected, for what reason, and the level of compensation (e.g. an overtime clause).

Employees are entitled to receive adequate rest and meal breaks depending on their hours worked in one shift, so employers should ensure staff are receiving the correct breaks where working overtime...

Occasionally work cannot be completed due to reasons outside of employer's control (e.g. weather). If an employer cancels work, they must provide the employee with notice. The notice is determined by the employment agreement.

If no notice period is specified the employ-



er must provide "reasonable notice", or they must pay the employee "reasonable compensation". What is considered reasonable will depend on the circumstances.

A key provision of the ERA is a requirement for employers to keep accurate employment records to show they are meeting the minimum entitlements.

Over busy periods, record keeping may fall to the bottom of the to-do list, however is

it important that employers are keeping records of additional hours of work and leave accrued and taken to ensure they are paying their staff correctly to avoid breaching the ERA.

The Holidays Act 2003 ("the Holidays Act") entitles employees to public holidays. Where public holidays fall on an ordinary working day, and the employee does not work, they are entitled to receive their normal pay.

If an employee is required to work on a public holiday they are entitled to receive 1.5x their normal pay.

The Holidays (increasing sick leave) Amendment Act 2021 ("the Holidays Amendment Act") came in to force 24 July 2021. The Holidays Amendment act increased the minimum sick leave entitlement from 5 to 10 days per year accumulating to a total of 20 days.

All new employees will be entitled to 10 sick days after 6 months continuous employment.

However employees hired before 24 July 2021 are only entitled to the additional sick leave when their next entitlement falls due (their anniversary date).

Where disputes arise, there is a preference for parties to agree on a suitable outcome.

However, where there is a clear breach of employment obligations the Employment Authority may choose to impose a punitive penalty of up to \$50,000 per individual, which can be damaging for many small business accord North Canterbury.