

Change in employment relations

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The employment relations area is undergoing change – and employers need to know how new regulations and laws will affect their workplace.

Health and safety has had a shake-up, with the new Health and Safety at Work Act now in operation. The new law is aimed at getting people doing everything they reasonably can to achieve safety in the workplace – identifying possible hazards or risks and taking all reasonably practicable steps to eliminate or minimize those hazards or risks.

While the ‘person in charge of a business unit’ has overall responsibility to achieve a safe workplace, everyone else at work is now also expected to do everything reasonably practicable to do the same. Every workplace must make provision for staff to participate in improving health and safety on an ongoing basis, whether by way of safety reps on a health and safety committee, or by some other form of participation. Businesses operating in lower risk occupations that have fewer than 20 employees will not be required to have safety reps but may choose some other way of involving their staff in ongoing health and safety.

Penalties for non-compliance with the new law are higher than before – up to \$3 million and possibly imprisonment - for non-compliance resulting in death or serious injury.

Compliance with the new law comes down to doing everything reasonably practicable to ensure safety in your workplace. Non-compliance comes down to not doing everything reasonably practicable to ensure the workplace is safe.

If someone in the workplace is hurt, and the employer has failed to do everything reasonably practicable to make sure the workplace is safe, the employer could be held liable. But if the employer had done everything reasonably practicable to make the workplace safe, the employer would not be liable.

Parental leave changes have now come into effect. The Parental Leave and Employment Protection Act provides for more paid parental leave (18 weeks) to greater numbers of employees, including casual and short-term workers.

A welcome aspect of the new law is that parental leave payment can be made even if the employee resigns their position. This will reduce the problem of uncertainty – employers not knowing whether or not their employee will actually return to work after their period of parental leave. It will allow employees to be upfront about whether or not they intend to return to the workplace, giving employers more certainty for business planning.

The new law also provides for ‘keeping in touch’ days where employees can work limited hours during their paid leave if they choose. This will help employees keep their work skills current and make their full return to work easier.

These new provisions will allow for better transitions in and out of parental leave and better communication in the workplace.

Casual work is now more clearly defined in the Employment Relations Amendment Act 2016.

Employment agreements must now specify the number of guaranteed hours of work and must provide for compensation payment if shifts are cancelled with insufficient warning. These provisions address complaints made about 'zero hours' casual contracts in some industries.

The new Act requires employers to keep records that are detailed enough to demonstrate that minimum employment entitlements are being complied with.

The Act also sets out more clearly the circumstances in which an employee can be barred from secondary employment with another employer – protecting commercially sensitive information, conflicts of interest etc.

Holiday pay continues to cause headaches in some workplaces.

Some high profile organisations have admitted underpaying holiday pay as a result of inadequacies in their payroll operation.

Payroll operators are facing difficulties in sorting out what to pay for annual holidays for employees who work irregular hours. The difficulty arises from the fact that the requirements set by the Holidays Act stem from the 1940s when working weeks were based on traditional Monday to Friday hours. This is no longer the case for a significant number of employers and workers.

BusinessNZ recommends changing the Act so that the unit of calculation of holiday pay is based on hours rather than days or weeks, since employment patterns these days are so flexible that there is no consistent definition of a week or a work day.

As employment regulations undergo amendment, it's important for businesses to keep up to date with the changes. Your regional business organisation can provide the latest information and advice on new employment relations requirements.

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