Starting employment

Starting a new job is an exciting and challenging time. It’s important for employers to use good hiring processes, and for everyone to follow minimum rights and responsibilities.

- **Who is an employee**
- **Hiring**
- **Sample appointment letters**
- **Employment agreements**
- **Trial and probationary periods**
- **Unions & bargaining**
- **Rights and responsibilities**
- **Right to work in New Zealand**

Hours and wages

Hours and wages

All about pay, hours at work, record keeping and what breaks employees are entitled to.

- **Pay and wages**
- **Rests and breaks**
- **Hours of work**
- **Keeping accurate records**

Leave and holidays

Leave and holidays

Employees become entitled to annual holidays, public holidays, sick leave, bereavement leave, parental leave and other types of leave as long as they meet certain conditions.

- **Minimum leave and holidays entitlements**
- **Public holidays**
- **Annual holidays**
- **Sick leave**
- **Bereavement leave**
- **Parental leave**
- **Other types of leave**
- **Calculating payments for holidays & leave**
- **Jury service**
• Workplace policies

**Workplace policies**

Clear workplace policies and procedures support employment agreements and mean everyone knows how things are meant to be done. This section provides help in some key areas.

- What are workplace policies?
- Employee performance
- Health and safety at work
- Productive workplaces
- Protected disclosures
- Workplace change
- Restraint of trade
- Work equipment and clothing
- Tests and checks
- Employment for disabled people

• Resolving problems

**Resolving problems**

The best way to prevent employment relationship problems between an Employer and Employee.

- Employment relationship must do's
- Types of problems
- Steps to resolve
- Preventing relationship problems
- Escalating unresolved issues

• Ending employment

**Ending employment**

There are several ways in which employment relationships may be ended, such as resignation, retirement, dismissal or redundancy.

- Resignation
- Abandonment of employment
- Constructive dismissal
- Retirement
- Dismissal
- Redundancy
- Giving and accepting notice
- Final pay
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    - **Describing the job**
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    - **Things an agreement must contain**
    - **Offering employment agreements**
    - **Employment agreement builder**
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  - Holidays and anniversary dates
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- Falls within leave period
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- Alternative holidays
- Restricted shop trading days
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    - Requirement for medical examination
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      - Parental leave eligibility – who can take it
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Returning to work
Ending leave scenarios

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Employment during and after disasters
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Calculating payments for holidays and leave
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Public holidays payments
Sick & bereavement leave payments
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Employment relationship must do's

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Glossary of terms

Terms and definitions listed alphabetically.
Alternative holiday

If an employee works on a public holiday that is an otherwise working day for them (and they are not just employed to work on public holidays), they are entitled to a full paid day off on a different otherwise working day for them. This is called an alternative holiday (or sometimes a ‘day in lieu’), and it compensates an employee for working on a public holiday.

Read more about alternative holidays here.

Annual holidays

Every employee is entitled to at least four weeks paid annual holidays each year when they have worked for their employer for 12 months. In some situations an employee can be paid 8% of their gross earnings with their regular pay instead of getting paid time off (see ‘Pay-as-you-go’ below).

Read more about annual holidays here.

Average daily pay

Average daily pay is a way of determining what an employee should be paid on a day that they would have otherwise worked, and didn’t. It is determined by dividing the employee’s gross earnings for the last 52 weeks (or as many weeks as employed if less than 52 weeks) by the number of whole or part days that the employee has worked over that period, including any paid holiday or leave but excluding any other day the employee did not work. This can be used to calculate payment for public holidays, alternative holidays, sick leave and bereavement leave if:

- it isn’t possible or practical to work out the employee’s relevant daily pay or
- the employee’s pay varies within the pay period where the holiday or leave falls.

Read more about average daily pay here.

Average weekly earnings

This is 1/52 of an employee’s gross earnings for the 12 months up to the end of the last pay period before they take an annual holiday. In some situations average weekly earnings may be calculated
over less than 52 weeks.

Read more about average weekly earnings here.

B

**Bereavement leave**

Paid time off work after the employee taken when someone close to the employee dies, where;

- the employee has been continuously employed for the employer for six months; or (if this doesn’t apply)
- over a period of 6 months, the employee has worked for the employer at a minimum of 1 hour per week; no less than 40 hours per month; at an average of 10 hours per week

Employees get three days paid bereavement leave when a close relative or family member dies, or get one day in other situations where the employer agrees the employee has suffered bereavement.

Read more about bereavement leave here.

C

**Casual work**

The term ‘casual’ is not defined in the Holidays Act 2003 or the Employment Relations Act 2000. ‘Casual’ is usually used to refer to a situation where an employee has no guaranteed hours of work, no regular pattern of work, and no ongoing expectation of employment. The employer doesn’t have to offer work to the employee, and the employee doesn’t have to accept work if the employer offers it. If this is the employee’s situation, it needs to be made clear in the employment agreement.

Read more about casual work here.

**Collective agreement**

A collective agreement is an employment agreement that is binding on one or more unions (commonly referred to as ‘multiple union collective agreement, or MUCA), and one or more employers and two or more employees (commonly referred to as ‘multiple employer collective agreement, or MECA). There are matters which collective agreements must cover and they have an expiry date no later than 3 years after they came into effect.

Read more about collective agreements here.

D

**Date of confinement**

When a pregnant woman goes into labour.

**Deductions**

An employer can only make deductions from an employee’s pay if these deductions are required by
law (eg PAYE tax), or are reasonable and agreed to in writing by the employee. In some circumstances deductions can be made where there have been overpayments.

Read more about deductions here.

Determination

The decision of a member of the Employment Relations Authority about a case.

Read more about determinations here.

Employment advocate

Employment advocates do not have to be lawyers but have a similar role to lawyers in terms of assisting and representing parties eg in mediation or the ERA. They are not bound by the same rules of conduct as lawyers are. They may or may not have legal training.

Employment agreement

Every employee must have a written employment agreement. The agreement can be either an individual agreement or collective agreement. ‘Employment agreement’ has a broader meaning that includes all other documents and other agreements forming part of the contractual agreement between the employee and employer. There are certain things that must be in the employment agreement.

Read more about employment agreements here.

Employment relationship problem

This includes any problem relating to or arising out of an employment relationship, including disputes and personal grievances.

Employment relationship

There are many types of employment relationships, eg between:

- an employer and employee,
- employees
- a manager and employee
- a union and a member of that union
- a union and an employer
- different unions covering employees in the same workplace.

Entitlement

Usually refers to your minimum rights by law and anything extra that you get as part of your employment agreement. Your minimum rights by law are things like minimum wage, and holidays and leave rights.
Fixed-term employment

This refers to employment with a set start and end date or event. There are special rules for being employed on a fixed-term agreement. Employees can only be employed for a fixed-term if there is a genuine reason for the fixed-term (eg covering for parental leave, seasonal work like fruit picking, or until a project is completed). This reason, and the date or event that will end the employment must be in the employment agreement.

Read more about fixed-term employment here.

Full time

A common term to refer to the fact that you work around 35-40 hours per week.

Intellectual property

Intellectual property rights protect the expression of someone’s idea in something they have made or created.

Individual employment agreement

This is an agreement between an employer and an employee. There are matters which an individual employment agreement must cover.

Read more about individual employment agreements here.

Labour inspector

Labour Inspectors are warranted officers who have powers under the Employment Relations Act and make sure that workplaces meet at least the minimum standards and requirements of employment law.

Read more about Labour inspectorate here.

Mediation
Mediation is a voluntary and confidential process where an independent mediator helps people work through their issues and develop solutions together. The Ministry of Business, Innovation and Employment provides free mediation services to help people resolve their employment relationship problems quickly and effectively.

Read more about mediation here.

**Minimum wage**

This is the lowest amount an employee can be paid per hour. There are some exceptions and exemptions to this. There is no minimum wage for employees younger than 16.

Read more about current minimum wage rates here.

**Ordinary weekly pay**

This is used to help determine how much to pay an employee for annual holidays. (It is compared to the employee’s average weekly earnings and the higher rate is used). Ordinary weekly pay includes everything an employee is normally paid weekly, including:

- regular allowances, such as a shift allowance
- regular productivity or incentive-based payments (including commission or piece rates)
- the cash value of board or lodgings
- regular overtime.

Intermittent or one-off payments as well as discretionary payments and employer contributions to superannuation schemes are not included in ordinary weekly pay.

If it isn’t possible to work out ordinary weekly pay the following formula must be used:

1. Go to the end of the last pay period, then
2. from that date, going back 4 weeks (or if the pay period is longer than 4 weeks, going back the number of weeks in the pay period), and
3. taking the gross earnings for that period (a), and
4. deducting from the gross earnings any payments that are irregular or that the employer is not bound to pay (b), and
5. dividing the answer by 4.

\[
\frac{a - b}{4}
\]

Read more about ordinary weekly pay here.

**Otherwise working day**

An otherwise working day is a day that an employee would have worked had the day not been a public holiday, sick leave, bereavement leave, annual holiday or alternative holiday for that employee.
Part time

Usually means you work less than 30 hours per week, eg 15 or 20. As a part-time employee you have the same rights as a full-time employee.

Pay-as-you-go

If an employee is:

- employed on a fixed-term employment agreement of less than 12 months or
- working such intermittent or irregular hours that it is not practical for the employer to provide four weeks annual holidays,

then the employee may be paid 8% of their gross earnings with their pay instead of getting 4 weeks annual holidays. The employee must agree to this in their employment agreement and the 8% must be paid as an identifiable part of their pay.

Penal rate

An identifiable additional amount that is payable to an employee under the employee’s employment agreement for working on a particular day or type of day.

Period of preference

If you are taking parental leave and your employer decides that your job is a key position, or there is a redundancy situation, and your job won’t be kept open for you; you go into a 26 week ‘period of preference’ at the end of your leave. This means that at any time during this 26 week period, if your employer has a job that is really similar to your job, your employer must offer it to you first before offering it to anyone else.

Personal grievance

A personal grievance is a type of complaint that an employee may bring against their employer. There are specific reasons that an employee can raise a personal grievance for eg unjustified dismissal, sexual harassment or discrimination. If you think you have a personal grievance, you need to let your employer know within 90 days of it happening or you first becoming aware of it. In some situations an employee cannot bring a personal grievance for unjustified dismissal: refer to ‘Trial period’ below.
**Probation period**

Probation periods are different to trial periods. Employers need to follow the usual dismissal procedure to dismiss during a probation period and an employee who is dismissed during a probation period can bring a personal grievance for unjustified dismissal.

[Read more about probationary periods here.](#)

**Public holiday**

Employees are entitled to 11 paid public holidays every year if they fall on days that the employee would otherwise be working. The holidays are: Christmas Day, Boxing Day, New Year’s Day, January 2nd, Waitangi Day, Good Friday, Easter Monday, Anzac Day, Queen's Birthday, Labour Day and the Provincial Anniversary Day. If a public holiday falls on a Saturday or Sunday and this is not an otherwise working day for the employee, the public holiday is moved to the following Monday (or Tuesday if 25 or 26 December or 1 or 2 January fall on a Sunday) for that employee.

[Read more about public holidays here.](#)

**Relevant daily pay**

Relevant daily pay means the pay an employee would have been paid if they had been working on the day concerned. This includes:

- payments such as commission, bonuses if the employee would have received them on the day
- overtime, if the employee would have received this on the day
- the cash value of board or lodgings if this has been provided by the employer

It excludes any employer contribution payment into an employee superannuation fund.

An employment agreement can have a special rate of relevant daily pay if it is the same or greater than the rate above.

Relevant daily pay is used to calculate payment for public holidays, alternative holidays, sick leave and bereavement leave (unless the criteria for using average daily pay instead have been met and the employer chooses to use average daily pay).

[Read more about relevant daily pay here.](#)

**Restraint of trade**

Restraint of trade clauses prevent employees from working in similar businesses in a way that may affect their former employer’s business.

[Read more about restraint of trade here.](#)

**Seasonal job**
A seasonal job usually describes a situation where an employer employs workers on a fixed-term agreement to complete a job that comes up every 'season', for a limited time eg to pick apples. After the work is completed (eg when all the apples are picked) the employment agreement ends. See ‘fixed-term’ above.

**Sick leave**

Is paid time off work if the employee, their spouse, partner, dependent child or other person who depends on them is sick or injured. Five days sick leave each year is available after;

- being continuously employed by an employer for six months, or
- working for the employer for an average of 10 hours per week; and at least one hour every week or 40 hours every month, over a period of six months.

Read more about sick leave here.

**Starting-out workers**

Starting-out workers are:

- 16 and 17-year-old employees who haven’t done six months of continuous employment with their current employer
- 18 and 19-year-old employees who have been paid one or more specified social security benefits for six months or more and who have not yet completed six months’ continuous employment with any employer since they started being paid a benefit. Once they have completed six months’ continuous employment with a single employer, they will no longer be a starting-out worker, and must be paid at least the adult minimum wage rate
- 16 to 19-year-old employees whose employment agreement states that they have to undertake industry training for at least 40 credits a year in order to become qualified in the area they are working in.

Different types of minimum wage rates has information on the three different types of minimum wage.

T

**Time-and-a-half**

If employees work on a public holiday (unless they work only on public holidays), they are entitled to be paid at least ‘time-and-a-half’. This means that their standard hourly rate is multiplied by 1.5. For example, if an employee is normally paid $20.00 per hour (and doesn’t have relevant penal rates), they would be paid $30.00 per hour ($20.00 x 1.5 = $30.00) for working on a public holiday.

Read more about time-and-a-half here.

**Trial period**

An employer may employ a new employee on a trial period of up to 90 calendar days. If the employer dismisses the employee during the trial period the employee can’t take a personal grievance for unjustified dismissal.
Union

A union is an organisation that supports employees in the workplace by acting as an advocate for them collectively (and with the consent of the employee, individually). Unions bargain for collective employment agreements with employers and help employees with information and advice about work-related issues. People have to pay a fee to be a union member.

Registering as a union (external link) has more information.

Read more about unions here.