



More power to enforce minimum employment rights

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Clearer record keeping requirements

From 1 April 2016 new employment standards legislation reinforces employer obligations to keep accurate employment records and produce them when requested by a labour inspector.

Good record keeping protects the employer in the case of a dispute and ensures that an employee's entitlements are correctly met.

The key requirement in the new legislation is that employers should be able to produce a record of the number of hours worked by employees each day in a pay period, and the pay for those hours. This should be in an easily accessible format on request from an employee or from a labour inspector. Employers will have flexibility as to what form this record takes.

What is changing?

For most employers who already comply with minimum employment standards they will not notice much change. There will not be any additional costs associated with complying with the new requirements, because they are already recording all the information as a necessary part of running their business.

For employees who work regular hours each day for regular pay, to which they already agreed to with the employer, a statement of what the regular hours and pay is all that is needed to comply. It could be set out in the employment agreement, for example. However, if employees do not work these usual hours (or have no usual hours) an accurate record of the hours worked each day and the pay received for those hours will be required.

Additional hours worked by employees on salaries do not generally need to be recorded, as long as they are in accordance with the employment agreement. However, employers will still need to record additional hours worked by salaried employees if this is needed to show that minimum employment entitlements are being met.

**Need to know more about enforcing
employment standards?
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What you need to know

The new laws are aimed at businesses that are not currently meeting their employment obligations - such as minimum wage rates, annual leave and hours of work. These businesses will face relatively minor costs getting to grips with and complying with the new requirements; but, they will risk receiving tough financial penalties if they do not comply.

From April, labour inspectors will have the power to issue infringement notices for clear-cut breaches of the obligations to keep required records, reducing the need to take proceedings to the Employment Relations Authority or Employment Court. The minimum infringement fine level is set at \$1,000, with a cap of \$20,000 in a 3 month period if there are multiple breaches. Once issued, the employer has a set time to pay the fine, seek a review of the decision or request a hearing on the matter.

Labour inspectors will also have increased information gathering powers, including being entitled to request any record or document from employers that they consider will help them determine whether a breach has occurred, for instance financial records or bank statements.

Agencies including the Labour Inspectorate, Immigration New Zealand, Companies Office and Inland Revenue will be empowered to share information in order to identify and investigate alleged breaches of the law.

There will be increased requirements for record keeping by employers

Try these top tips:

- › Keep updated records - employers must record details on a daily basis as required by the changes
- › Keep files for long enough - businesses must keep details for at least six years
- › Maintain accurate information to be able to accurately calculate pay for leave or a final payment when an employee resigns
- › Keep a clear description of all roles to help with performance management
- › Ensure you supply detailed and accurate records when you outsource your payroll

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