

# EMPLOYMENT AGREEMENTS

## *EMPLOYERS AND EMPLOYEES HAVE RIGHTS AND RESPONSIBILITIES IN THE EMPLOYMENT RELATIONSHIP*

### ACTS WITH WHICH YOU SHOULD BE FAMILIAR

Employment Relations Act 2000  
 Minimum Wage Act 1983  
 Child Support Act  
 Wages Protection Act 1983  
 Equal Pay Act 1972  
 Holidays Act 1981  
 Health and Safety in Employment Act 1992  
 Human Rights Act 1993  
 Privacy Act 1993  
 Parental Leave and Employment Protection Act 1987  
 Copies are available at your local library or can be purchased from booksellers.

#### *Case History*

*An employee had to travel 30km weekly to pick up her pay cheque from the Treasurer. This cheque was often marked "not negotiable", which meant she could not cash it.*



*This is illegal*

### WHAT IS AN EMPLOYMENT AGREEMENT?

If you are employing anybody then an employment agreement exists. This may be written or unwritten. Every employer and employee is covered by The Employment Agreements Act which sets out rights and obligations

### TYPES OF AGREEMENTS

There are two types of agreements individual and collective.

#### **Individual Agreements**

Are binding on only one individual and one employer.

Individual agreements can be verbal or written. An employee can request a written copy of the agreement at any time. Individual workers may be bound by more than 1 agreement.

#### **Collective Agreements**

Which involve one or more employer and two or more workers. These must be in writing. Agreements negotiated under the Employment Agreements Act 1991 continue under the Employment Relations Act 2000 until 31<sup>st</sup> July 2003. They then need to be renewed acknowledging legal changes that have occurred. When a collective agreement applies to 20 or more people, a copy must be lodged with the Secretary of Labour, PO Box 3705, Wellington.

## **BASICS OF AN AGREEMENT**

There are statutory requirements covered in following legislation

- Employment Relations Act 2000
- Holiday Act 2003
- Min Wages Act 1983
- Wages Protection Act 1993
- Equal Pay Act 1972
- Parent Leave Act 1987
- Accident Rehabilitation Compensation Insurance Act 1992

Employment agreements *must* include

- Personal Grievance and Dispute Procedures, an expiry date and must comply with the minimum conditions of the acts which includes;
- Minimum wages for those over 20
- Equal Pay
- Protection against unlawful deductions from pay
- Paid Statutory holidays and annual leave
- Paid Special leave for domestic and bereavement reasons
- Parental leave

Employment Agreements *should* cover

- Rates of pay, wages and allowances
- Hours of work
- Type of work
- Holidays and other entitlements

## **NEGOTIATING AN INDIVIDUAL AGREEMENT**

You have to negotiate in good faith, which means both you and the employee have to listen to the other's point of view.

Beyond that, there is a requirement that if and when you reach an agreement the employer has to be confident that the employee is able to understand its provisions. Particular care has to be taken if the employee is young, sick or emotionally distressed. Particular care must also be taken if the employee has a mental, educational or communication disability. You must also ensure the person has the opportunity to seek independent advice and doesn't rely on your advice or the advice of someone acting on your behalf.

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## **PERSONAL GRIEVANCES**

The Act gives all employees the right to pursue a personal grievance if they have any of the following complaints:

- Unjustifiable dismissal
- Unjustifiable action which disadvantages the employee
- Discrimination
- Sexual harassment
- Racial harassment
- Duress over membership of a union or other employee organisation

In any employment relationship problem the employee and the employer both have the right to be represented by any person or organisation they choose, such as a union, an employers' association, a lawyer, a community law office, an industrial relations advocate or a friend. If you choose to have a representative, he or she may be able to:

- give you advice on particular employment related issues
- help you prepare for an investigation in the Employment Relations Authority
- help you prepare your case and represent you at the hearing.

As mentioned, virtually anything can be negotiated into an employment agreement provided both parties agree.

## **PROBLEM SOLVING**

If problems do arise in an employment relationship, employees and employers can get help by contacting Employment Relations Infoline, however the first steps are very important. The following steps are a guide to resolving a problem:

- 1 Be clear about the facts – make sure that what you think has happened or is happening is not just based on an assumption you have made or a misunderstanding.
- 2 Talk to each other – employers and employees should try to resolve the problem by discussing it with each other. Union members can ask their union, and employers can ask their employers' association, to approach the other party for them.

If an employee believes they have a personal grievance, they must raise it with his or her employer within 90 days of the action complained of, or the date they became aware of it whichever is the later.

- 3 Clarify whether you do have a problem, and if so, what your problem is. – Don't delay this step. Discuss your problem with family or friends or advisers to clarify what the problem actually is. Search the Employment Relations Infoline web site ([www.ers.dol.govt.nz](http://www.ers.dol.govt.nz)) for basic information on employment rights, entitlements and obligations or call the Employment Relations Infoline (0800 800 863) and talk to experts such as your employers' association, union, lawyer, community law office or other experts.

- 4 If the problem is not resolved by discussion either party may contact the Employment Relations Infoline who may provide mediation services. These services include information, mediation or advice on what services are available and how to access them. The Employment Relations Authority may be the next stop. The Authority will consider whether there is still a chance to resolve the problem by mediation.

If you are not satisfied with a determination of the Authority, go to the Employment Court for a judicial hearing. The Court may also direct the parties to get further mediation assistance if it thinks that may be useful.

**SEEK GOOD ADVICE EARLY IN THE PROCESS TO AVOID  
UNNECESSARY EXPENSE**

### **STAFF RECORDS**

It is important to keep staff records noting starting dates, qualifications, review outcomes, employees expectations and ambitions, training courses undertaken etc. Staff must know that these records are treated as “confidential”.

### **FURTHER RESOURCES**

The easiest way to obtain further information on the Employment Relations Act and the Employment Relations Service, is to view our website at:

[www.ers.dol.govt.nz](http://www.ers.dol.govt.nz)

When you need additional information on bargaining or about an issue that has arisen in your workplace, the Employment Relation Service can be contacted on:

**0800 800 863** [info@ers.dol.govt.nz](mailto:info@ers.dol.govt.nz)

**If you would like a list of our other community resources, or to be put on our  
mailing list, contact us at:**



Phone (09) 486-4820

Fax (09) 486-4823



Visit North Shore Community and Social Services Inc.  
Mary Thomas Centre, 3 Gibbons Rd, Takapuna



Write P.O.Box 33 284, Takapuna, North Shore City



email [info@nscss.co.nz](mailto:info@nscss.co.nz)

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