

September 2015 Essential Update

Legal Latest

Employment Standards Legislation tabled

The Government have tabled an Omnibus Bill covering changes to 5 different pieces of Employment Legislation – with a view to closing submissions on 6th October and having it effective for April 2016. This legislation is the promised answer to a number of serious basic infringements of current employment law – the lack of employment agreements or other wage records; zero-hour contracts; unlawful deductions from wages and payments below the minimum wage.

As such it seeks to put stricter controls in place over what are termed Minimum Employment Entitlements. It extends parental leave and increases its flexibility; strengthens both employment standards and the ability to enforce them; and effectively prohibits certain practices.

Parental Leave:

- **Maternity leave will become Primary Carer Leave**, which broadens the possible entitlement to paid parental leave to those other than the mother.
- Staff not entitled to Primary Carer Leave will be able to request **Negotiated Carer Leave** to enable them to receive Paid Parental Leave payments – but there are a number of grounds for refusal.
- **Eligibility to receive paid parental leave payments** will be **extended** to any entitled person who has worked an average of 10 hours per week over any 26 of the past 52 weeks (be that paid or self-employment). These payments will now clearly be based on all employments or on net income for self-employed (though I believe net income will need definition if it is to be measured weekly).
- **Keeping-in-touch Days** will be able to be agreed by the Employer and Employee after 28 days after the birth – these will give the employee paid work for up to 40 hours in total during parental leave – without it being deemed the employee has returned to work.
- A number of minor changes, like requiring notice of return to work would become the greater of 21 days or their resignation notice period.

Employment Relations Act:

- **Mediation will no longer be used to enforce breaches of employment standards**, it will become the sphere of Labour Inspectors and the Authority.
- There will be an additional requirement to **keep records that can demonstrate clear compliance** with the standards.
- **Employment Standards** are being defined to include – in addition to Employment Agreements; minimum wages; wages protection; leave pay and records – Equal Pay Act; Breastfeeding facilities and Meal breaks
- **Some Actions will be able to be brought by an Employee** – specifically where no employment agreement is retained or no copy provided
- **It will be illegal (and may give rise to a personal grievance):**
 - to require an employee to be available for work without paying reasonable compensation for being so available (**no Zero-hour contracts**)

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Included in this month's update:

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 - Proposed Employment Standards law
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- **Did You Know?** – The Warehouse stands against Domestic Violence

For more information

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Essential HR News

Follow our weekly updates

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Recent blogs include:

- **Improving profit with flexibility**
- **Performance management trends**
- **Use of CCTV at work**
- **Recruiting is only ½ the battle**
- **Deducting pay for short notice**
- **Absenteeism and the RWC**

Mike's Whereabouts

Ashburton: Oct. 1, 7, 12, 21, and 28

Darfield: Oct 13 and 27

Methven: Oct 6

Did you Know?

The Warehouse Group have said that employees who are victims of domestic violence may use an additional 10 days paid leave per year to help themselves get to a safer position. They've also granted unpaid leave for those taking care of family violence victims.

SMEs are often put off by the cost of this sort of benefit, but the alternative is managing the individuals' extremely negative feelings – often resulting in poor work that then heaps more pressure on them and the Employer.

A great example of standing up for staff against an insidious problem in society.

- to cancel shifts without reasonable notice (which will have to be in the agreement) and without compensation; or
- to prohibit an employee from working for another employer – without good reasons as spelt out in the agreement
- **Wage and time records will need to record actual hours worked each day** in a pay period **and the related pay** (either in written form or in readily available written form)
- The Employment Court will be able to declare (after investigating an application from a Labour Inspector) that Individuals and/or companies have been involved in the breach of a minimum entitlement provision. They can also award a **Pecuniary Penalty** (up to \$50,000 for an individual) for which **insurance will be unlawful**.
- **The Court can issue a Banning Order** if someone has been declared to have breached minimum entitlements; or has persistently breached (or been involved in such) employment standards. **A banning order makes it illegal to be an employer as an individual** (so no hiding behind a company structure) for up to 10 years.

Holidays Act and Minimum Wages Act:

- **Extends penalties for breaches to include individuals** (just as for breaches of the ERA)
- **Entitles an Employee to bring a penalty action against their employer; and to recover holiday pay or wage shortfalls** from their employer or, if allowed by the Court, from someone else involved in the breach
- **Records have to be maintained in line with Wage and Time records**

Wages Protection Act:

- **No unreasonable deductions will be able to be made from an employee's pay**, it will become the sphere of Labour Inspectors and the Authority.

For now it is critical that you work on getting a system in place that will meet the basic requirements – then we can help you work on the details. Call me if you need advice on this.

Also if there is anything you want me to lobby for let me know by October 5.

Helpful Hint

Doing the Right Things

“There is nothing quite so useless as doing with great efficiency something that should not be done at all.” *Peter Drucker.*

If you are running harder and harder just to keep up, the first thing you should do (really) is to stop and take an overview of things – where are you spending most of your time? Are they tactical (operational tasks) or strategic (things that make a difference)? Choose one thing that you do not really have to do – and don't so it (maybe delegate); and then choose one thing you can do now on a priority strategy that you have left on one side.

Doing Things Right

Now you can focus on doing them right – in detail; professionally; efficiently.

Need help brainstorming your strategy? I can help think through the volume of issues affecting staff.

Essential Essentials

Keep on top of your staffing issues:

I have been giving a lot of thought to the issues my clients face and why some of them are much more difficult to solve than they should be. Mostly this is due to missing systems or documentation or too great a delay in addressing them.

So Essential HR has introduced the **Essential Employee Care Service**. This service is customised for each client to deliver just the HR support the organisation needs, for a fixed monthly fee. And key to this service is a Help Desk service that means you can phone as much as you like to ensure you take action before it is too late.

- Examples: a small business with an owner and three staff will get all their employment documentation; and guidance on disciplinary and change processes for a flat monthly charge of only \$99 plus a weekly charge of \$10.50 (being \$3.50 per employee), for a minimum of 1 year.

- You have the admin sorted, but need mentoring for your team leaders and guidance at a strategic level? A company with 25 staff may pay \$99 per month and \$1 per employee per week.

If by planning in advance you avoid 1 PG that can mean a \$15,000 saving.

To discuss this way of dealing with your needs or for a free assessment, please call us.

Here's an Idea or Two

Flatbed Truck available

Tandem Solutions have a 5m 3T flatbed available to transport those urgent bits and pieces – like a single piece of GIB – anywhere round Christchurch. Ideal for avoiding the lost time of sending two men offsite to fetch it! Contact Trudy on 021 668597.

No More Dents

I came across this amazing solution to those very unprofessional-looking dents in your motor vehicle. Look up Dent2go <http://www.dent2go.co.nz/> Just give Steve a call on 027 937 1800

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