

Employment Obligations During the COVID-19 Pandemic

1 April 2020

Welcome – Today's Presenters



Lynn Booker – Senior Associate

Lynn joined the consultancy in 2017 after almost twenty years in employment relations, including roles where she was employed as a Senior Labour Inspector and an Employment Mediator with the MBIE.



Paul Diver – Director

Paul Diver is highly experienced in collective bargaining, employment relations, organisation development and change management. Paul is available to provide strategic direction and advice on a wide range of ER matters.



Adrian Tocker (CMHRNZ) – Senior Associate

Joining the team in early 2019 with over 20 years' human resources experience, Adrian is involved in assisting our clients in collective bargaining, representation, dispute resolution and advising on all areas of employment practice.

General Guidance

- Continue to manage the health risks to employees and other people affected in the workplace
 - Note Ministry of Health guidelines on H&S workplace practices and PPE
- No changes to employment law obligations
- Employers cannot reduce employees pay or hours without agreement unless they undertake a restructure process
- Working from home should be utilised where practical
- Essential services continue to operate
- Non-essential services closed (work from home where possible)

MUST: Continue to Deal With Each Other in Good Faith

- Continue to be **active and constructive** in maintaining the employment relationship including being **responsive and communicative**
- Don't do anything that will or is likely to **mislead or deceive** employees
- Where you are proposing or considering making decisions will, or is likely to, have an adverse effect terms and conditions of employment, (including continuation of employment), you must:
 - Provide access to information relevant to the proposal; **and**,
 - Provide opportunity for employees to comment on any proposal before a final decision is made

Wage Subsidy

- Your business must:
 - be registered and operating in New Zealand
 - have experienced a minimum 30% decline in actual or predicted revenue over the period of a month when compared with the same month last year, and that decline is related to COVID-19
 - have taken active steps to mitigate the impact of COVID-19
- You must not make any changes to your obligations under any employment agreement, (*including to rates of pay, hours of work and leave entitlement*), without the written agreement of the relevant employee

Wage Subsidy

- Your employees must be legally entitled to work in New Zealand
- You will for the period you receive the subsidy:
 - use your best endeavours (try your hardest) to pay at least 80% of each named employee's **ordinary wages or salary**; and
 - pay at least the full amount of the subsidy to the employee; but
 - where the ordinary wages or salary of an employee named in your application was lawfully below the amount of the subsidy before the impact of COVID-19, pay the employee that amount

Example Employment Situations

1. A worker in an essential service business believes they are at risk of spreading COVID-19 (*though is not required to self-isolate under Ministry of Health guidance for COVID-19*)
2. You want the employee to agree to use annual leave while the workplace is temporarily closed?
3. Can I use the wage subsidy to off-set leave payments to employees who are taking leave?
4. What do I pay employees who are working from home, but cant do 100% of their job?
5. Worker required to self-isolate under Ministry of Health guidance for COVID-19 (*though may not be sick*):
 - Essential service business?
 - Non-essential service business?

April 2020 Public Holidays

There are 3 upcoming public holidays in April:

Good Friday:	Friday 10 April 2020
Easter Monday:	Monday 13 April 2020
ANZAC Day:	Saturday 25 April 2020 – “Mondayised” to 27 April 2020

The public holidays, Good Friday and Easter Monday, fall during the current lockdown period, (11.59pm 25/3/2020 – 22/34/2020), so make sure you are aware of your obligations for these days.

Public Holiday Pay

- At this stage there has been no change to the employer's obligations under the **Holidays Act**, so the existing legal obligations still apply.
- If an employee does not work on a day they would normally work, (e.g. Good Friday – 10 April 2020), they must be paid the wages they would have received had they worked for the day.

We may see some legislative changes with the public holidays in April 2020 and if anything changes, we will update you.

Sick, Bereavement and Alternative Pay

If an employee:

- is sick and has sick leave entitlement available to them,
- suffers a bereavement and has an entitlement to bereavement leave,
- takes an alternative holiday that is owed to them

They must be paid the amount that they would have earned had they worked that day.

Resources

NZ COVID-19 Official Site:	www.covid19.govt.nz
Ministry of Health:	www.health.govt.nz
Ministry of Social Development:	https://workandincome.govt.nz
Employment NZ:	www.employment.govt.nz
Three60 Consult:	www.three60consult.co.nz

Official Contacts

- **Government COVID-19 Helpline**

- This website is the fastest way to find help and advice about the COVID-19 situation in New Zealand.
- If you are unable to find what you need, and are not sure who to contact for help, call the free government helpline on:
- **0800 779 997** (8am–1am, 7 days a week) or on
- **0800 22 66 57** (9am-5pm, Monday-Friday)

- **Healthline** (for free) on **0800 358 5453**

- **Need to Talk?** call or text **1713**

- free, confidential access to counselling and support

Three60 Consult



- Three60 Consult is a flexible and dedicated group of employment relations and conflict resolution experts.
- Our business is founded on building trusting relationships and partnering with our clients to create complete solutions. It means collaboration, connectivity and win-win results. We don't believe there's room for anything else.
- We provide:
 - Employment Relations & HR Assistance
 - Collective Bargaining
 - Mediation & Conflict Resolution *
 - Investigations
 - Audit & Compliance
 - Three60 Learn

* Due to the physical impossibility to hold mediations during New Zealand's lockdown, we are offering **COVID Conciliation sessions**. These sessions will bring parties into the same 'virtual room' for an online, face-to-face mediation session with one of our dispute resolution experts for up to 2 hours, at the reduced, fixed price of \$200. To learn more about these sessions and how they will operate akin to a normal mediation, please contact us on 09 273 8590 or email info@three60consult.co.nz.

**Unite
against
COVID-19**

www.covid-19.govt.nz

Unite
against
COVID-19