

## Changes to employment law

Major changes to employment law in New Zealand come into effect on 6 March 2015. Employees and employers will need to know what the changes are and how those changes will affect them.

The key changes include:

- Extending the right to request flexible working arrangements to all employees
- How employers and employees should agree on rest and meal breaks
- Establishing a process for the transfer of employees in some industries if there is a restructure in the business or a change in business owner
- Clarifying the confidential information that employers are obliged to give to affected employees in dismissal or redundancy situations
- Changes to collective bargaining: reaching new collective agreements, opting out of multi-employer bargaining, removing the 30 day rule for new, non-union employees and allowing pay deductions of employees who take part in partial strikes
- Setting time frames for the Employment Relations Authority to make determinations in an employment dispute.

### **For example, Employers and employees can agree to no rest or meal breaks**

An employee and employer can agree to compensation instead of breaks. The law requires employers to compensate employees if no break is given where a break would be appropriate.

### **When an employer is not required to provide breaks**

An employer does not have to give rest and meal breaks if breaks cannot *reasonably* be given, considering the nature of an employee's work. But the law requires employers to compensate employees if this happens.

### **What is appropriate compensation?**

There is some flexibility about what kind of compensation an employer can give, but it must always be reasonable.

The law also says that giving an employee time off work instead of a break is reasonable if:

- the employee gets the same amount of time off as they would otherwise have taken as a break
- the time off is given on the same basis as the break that the employee would have otherwise taken. For example if the break that was not taken wouldn't have had restrictions, then the compensatory break also cannot have restrictions.

Employers can give other types of compensation, as long as they are reasonable. Compensation is reasonable if it is of a similar value as the break.

### **Example – An employer and employee agree to compensation instead of a break**

Chris is a waiter in a restaurant, he works from 6pm till 10pm. Chris and his employer have agreed he won't stop for a rest break. Chris's employer pays him until 10.10pm every night as compensation for their failure to give him a break.

**Examples – Compensation instead of a break**

Bryce works as a sole-charge nanny doing afterschool care. He works from 3pm to 6pm. To compensate him for not getting a break because of the nature of his work, he leaves work 10 minutes early each night when one of the parents gets home, but is still paid for the full 3 hours' work.

Jim is a fruit picker on an hourly wage. One afternoon a hailstorm was forecast, so Jim worked through his 10-minute break. As a compensatory measure his employer said Jim could finish 10 minutes earlier and still be paid for that 10 minutes.

**Example – Building up time off work to take on one or more occasions**

Jo works in a café for 6 hours a day. She has a half-hour meal break during her work period. Although an additional 10 minute rest break would be appropriate for the duration of her work period, Jo does not get a rest break. Instead, Jo and her employer agree she can accumulate 10 minutes of time to take off in lieu for each shift she works. At the end of her 5-day week she leaves 50 minutes earlier, but is paid her normal wage.

Some of these changes are common sense and do provide more flexibility in the workplace and in some cases increase the employee's rights. If you are an employer you need to be aware of the changes and we encourage you to review the website <http://www.dol.govt.nz/er/services/law/legislationreviews/er-amendment-bill-2014.asp>.

If you have any further questions do not hesitate to contact us