



DUKESONS
BUSINESS LAW

URGENT NEED TO REVIEW EMPLOYMENT AGREEMENTS

Please feel free to pass this Update (in its entirety, including the disclaimer) on to anyone whom might be interested.

This update provides general information only and does not constitute legal advice. If you want legal advice on any of these issues, please feel free to contact me. Let me know if you don't want to receive these emails.

Not a new topic but an extremely important one - if you haven't had your employment agreements reviewed/updated within the last 2-3 months you should, now. Failure to do so may result in significant fines or, at the very least, not being able to take advantage of provisions that could be useful. I still receive employment agreements that have special leave provisions (long since dead), probationary clauses (pretty hopeless - the new trial period provisions are likely to be much more useful), outdated provisions relating to medical certificates and sickness or injury, and so on.

Employment Agreements:

- **Must**, amongst other things, contain provisions dealing with pay on public holidays; and employment protection provisions;
- **May** contain genuine trial period provisions for up to 90 days (a desirable option for many employers); total remuneration clauses for Kiwisaver (an option favoured by some employers);
- **Should** contain provisions dealing with an employee's request to cash up to one week's annual leave or to transfer a public holiday, unless you deal with these matters in a separate policy (which I would recommend).

Unfortunately, many contracts contain provisions that should really be put into separate policies so that they can be changed without the need for an employee's agreement. Now would be a good time to review your form of agreement to ensure that for future employees, those kinds of matters will not be included in your form of agreement. Examples would include disciplinary procedures, health and safety, use of computers and emails, use of motor vehicles, and sexual harassment.

A trap for the do it yourselfers is that fixed term contracts are only valid if they comply strictly with the requirements of the legislation - otherwise they will be open ended contracts. I have had to advise several clients within the last 6 months that what they thought were fixed term contracts are not fixed term contracts.

There is still much confusion between casual and part time employees. The form of contract that is needed for a casual employee is quite different to that for a permanent employee (whether part time or full time).

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Employment law is an understandable source of frustration for many employers but in the long run, properly prepared agreements and reliance on professional advice will prove more cost effective than cutting corners at the front end.