

A word from Success Personnel...

The Employment Standards Legislation Bill is planned to be introduced at the same time as the new Health and Safety at Work Act. It will include a package of measures aimed at strengthening enforcement of employment standards.

Employment standards are requirements such as the minimum wage, annual holidays and written employment agreements.

Record-keeping requirements for wages, time, holidays and leave will be made consistent across all employment legislation.

The key requirement is that employers can produce a record of the number of hours worked each day in a pay period, and the pay for those hours, in an easily accessible form on request from the employee or from a labour inspector.

Labour inspectors will be able to request any record or document from employers that they consider will help them determine whether a breach has occurred – for instance financial records or bank statements.

Infringement notices will be introduced for clear-cut breaches of these obligations with a maximum penalty of \$1,000 per breach with a cap of \$20,000 if there are multiple breaches.

For the most serious breaches, such as exploitation, cases will be heard at the Employment Court and carry maximum penalties of \$50,000 for an individual and the greater of \$100,000 or three times the financial gain for a company. Previously the maximum fine was \$10,000 for an individual and \$20,000 for a company.

Individuals will also face the possibility of being banned as a manager if they commit serious or persistent breaches of employment standards, or are convicted of exploitation of migrant workers under the Immigration Act.

Persons other than the employer – such as directors, senior managers, legal advisors and other corporate entities – will also be held accountable for breaches of employment standards if they are knowingly and intentionally involved when an employer breaks the law. These cases can be pursued even if the employer ceases to exist.

A senior payroll manager for example, under direction from the company's director, who has set up the payroll system in such a way that employees do not receive their full holiday entitlements, could be caught by these provisions because they could meet the definition of an 'officer' of the company. However, a more junior payroll clerk would not be covered.

Should you require any further information on this, or any other employment matter, please contact Graham at Success Personnel Ltd. 078430973, or graham@successhr.co.nz.

The introduction of the Health and Safety at Work Act 2015, has also been accompanied by the Health and Safety at Work Regulations 2016. It is clause 5 of these regulations that emphasises a major shift in the management of risks and hazards in the workplace. It is now the duty of the PCBU (Person in Charge of a Business or Undertaking) "to identify hazards that could give rise to reasonably foreseeable risks to Health and Safety." A lot more focus is now being put on Health as well as Safety. This is where it has become even more critical to ensure that you have a drug free environment.

A regular drug and alcohol testing program of your employees should be included in your company policies and employment documentation. Areas that are not always included in a regular testing program however, are company vehicles, offices, and smoko rooms. We are finding that some of these are now failing a meth test.

And be careful of any household items that are being sold second hand or on trademe. A meth contaminated mattress or lounge suite could easily result in dangerous levels of contamination in your previously clean house.

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