

New Zealand Employment Checklist



About the Employment Compliance Register

The New Zealand *Employment Compliance Register* from LexisNexis® Regulatory Compliance informs all New Zealand employers administering employment relationships within their organisations. The module outlines the laws as they apply to an employer, with detailed steps to be taken to ensure compliance. It covers obligations of an employer to ensure employees are provided with their legislated entitlements and ensure that all dealings with employees and unions are conducted in good faith. The Employment Relations Act 2000 (NZ) is the primary employment statute in New Zealand, and this register covers how this act provides an overall framework for establishing and maintaining mutually beneficial relationships between employers and employees.

About the Expert

Tania Goatley

Partner, Bell Gully



Tania has assisted with cyber security breaches across multiple jurisdictions and has advised on the first mandatory reportable privacy breach under the Privacy Act. Regularly advises clients on privacy and cybersecurity issues, including advising:

- » a client operating in the telecommunications sector as to how to deal with a breach that involved the public disclosure of phone numbers that were designated as 'unlisted'.
- » the receivers of a New Zealand retailer that went into liquidation on how to deal with, use, and protect databases containing customer information across multiple jurisdictions.
- » a multinational media company about its privacy and cyber security practices, including assisting managing data security incidents and corresponding with official agencies to mitigate any fallout.

She has a strong media law background, advising on defamation claims, appearing in Court on name suppression issues, and providing media law training to journalists. She advises on all aspects of intellectual property law, including copyright, passing off, and trademark infringement disputes and litigation.

In addition to her particular areas of expertise, Tania provides general advice on commercial and contractual disputes and litigation with successful outcomes for her clients.

Chambers Asia Pacific 2023 ranks Tania as a leading lawyer for intellectual property and technology, media and telecommunications. The Legal 500 Asia Pacific 2023 recommends Tania for data protection, intellectual property and technology, media and telecommunications.

Tania is recognised as a media and entertainment lawyer of the year and trademark lawyer of the year in the Women in Business Law Awards APAC 2023 shortlists.

Tania is an active member of the International Association for the Protection of Intellectual Property (AIPPI) and the Intellectual Property Society of Australia and New Zealand (IPSANZ).

Expertise

Media and Communications, Consumer Law, Intellectual Property, Litigation and Dispute Resolution, Privacy and Data Protection, Information, Communications and Technology, and Cybersecurity.

About the Expert

Dudley Kneller

Partner, Gadens

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Dudley leads the Intellectual Property and Technology Group at Gadens nationally. He has international and domestic experience advising on commercial, regulatory and technology matters with specialisations in financial technology, cyber risk, privacy and strategic sourcing and supply projects.

He has over 20 years' experience practising across Australia, Europe and the UK, and has worked on projects based in a range of countries, including the Philippines, India and across South America.

Dudley is consistently recognised by his peers as a leading lawyer through various local and international agencies, including Best Lawyers, Doyles Guide, Lexology and Who's Who Legal in the areas of Information Technology Law, Commercial Law, and Privacy and Data Security Law.

EMPLOYMENT CHECKLIST

This checklist has been designed to help you identify your requirements.

Overview

Requirement	Needs work	Don't know	Meets requirement
Does the organisation deal with employees and unions in good faith, and does it provide employees with at least their minimum employment entitlements?			

Good Faith Principle

Requirement	Needs work	Don't know	Meets requirement
Does the organisation deal with employees and unions in good faith?			

Does the organisation communicate honestly and negotiate transparently with employees and unions?

Union Matters

Requirement	Needs work	Don't know	Meets requirement
Does the organisation accommodate union visits and meetings, permit educational leave for union members, and exert no influence on the union membership status of employees?			

Does the organisation never take any action that may interfere with an employee's union membership status?

Does the organisation permit union representatives to access workplaces?

Does the organisation allow employees who are union members to attend union meetings?

Does the organisation deduct union fees from the salaries of union members?

Does the organisation allow eligible employees to take employee relations education leave?

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Collective Bargaining

Requirement	Needs work	Don't know	Meets requirement
Does the organisation undertake collective bargaining when required, negotiate in good faith, make use of the services available to overcome bargaining difficulties, and formalise the resulting agreement correctly?			
Does the organisation act in good faith during the collective bargaining process?			
Does the organisation notify other parties and affected employees when initiating collective bargaining?			
Does the organisation gain consent from negotiating parties before joining an active bargaining process?			
Does the organisation deduct bargaining fees from the wages of certain employees when a bargaining fee clause is incorporated into a collective agreement?			
Does the organisation request mediation to assist with problematic employment matters and participate in mediation in good faith?			
Does the organisation follow the correct procedure for referring problematic collective bargaining matters to the Employment Relations Authority and participate actively in facilitation?			
Does the organisation apply for an Employment Relations Authority determination when bargaining cannot progress?			
Does the organisation include the required information in collective agreements and apply the agreement to the appropriate employees?			
Does the organisation notify all other parties to a collective agreement when it intends to join an existing agreement?			
Does the organisation cease to apply the provisions of a collective agreement when it expires, unless collective bargaining to replace the agreement has been initiated?			

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Individual Employment Agreements

Requirement	Needs work	Don't know	Meets requirement
Does the organisation negotiate employment agreements with individuals fairly and supply the required supporting information when documenting provisions?			
Does the organisation create and record an individual employment agreement for every employee who is not covered by a collective agreement?			
Does the organisation deal with employees in matters relating to individual employment agreements in good faith and avoid undermining collective agreements?			
Does the organisation alert eligible employees to the existence of any collective agreement applicable to their work?			
Does the organisation specify the reasons for ending employment in fixed-term employment agreements and include a robust hours of work clause in casual employment agreements?			
Does the organisation negotiate with prospective employees as fairly as possible and provide them with the opportunity to seek independent advice?			
Does the organisation include the required information in individual employment agreements?			
Does the organisation specify the duration of trial and probationary periods in employment agreements?			
Does the organisation provide reasons when it restricts an employee's ability to work for other employers through secondary employment provisions?			
Does the organisation include and observe a reasonable period of notice for the cancellation of shifts in the provisions of employment agreements, or pay employees for cancelled shifts?			
Does the organisation include an availability provision in the employment agreements of staff whom it requires to be available for work?			
Does the organisation only include restraint of trade clauses in employment agreements that are reasonable and that protect a genuine proprietary interest?			

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Foreign Workers

Requirement	Needs work	Don't know	Meets requirement
Do organisations that intend to hire foreign workers comply with all applicable requirements, including but not limited to their obligations under employment and immigration laws?			
Are those organisations that intend to hire foreign workers aware of the limitations applicable to their working rights under respective visas, and do organisations support visa applications by providing the necessary documentation, where applicable?			
Has the organisation taken reasonable steps to ensure that it is not employing foreign workers who are not eligible to work in New Zealand or are in breach of their visa conditions, and that the organisation complies with all applicable laws relating to the recruitment of foreign workers?			
Does an employer intending to hire a foreign worker on an Accredited Employer Work Visa (AEWV) get accredited, submit a job check application, and comply with any obligations under the visa application?			

Employee Entitlements

Requirement	Needs work	Don't know	Meets requirement
Does the organisation provide employees with all of their legislated entitlements, including payment of wages, rest and meal breaks, breastfeeding facilities, and flexible work arrangements (where possible), and training for apprentices?			
Does the organisation pay all employees at least the applicable minimum wage for their work and follow the correct process to obtain minimum wage exception permits?			
Does the organisation take every reasonable step to provide the facilities and breaks necessary to allow employees to breastfeed in the workplace?			
Does the organisation provide employees with reasonable opportunities for rest and meal breaks or compensation if taking breaks is not possible?			
Does the organisation consider and respond to all requests from employees to vary their working arrangements?			
Does the organisation support apprentices in every reasonable way to complete their training?			
Does the organisation obtain written consent from employees before making wage deductions?			
Does the employer enrol eligible employees into KiwiSaver and have procedures in place to manage KiwiSaver deductions and employer contributions?			

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Holidays and Leave

Requirement	Needs work	Don't know	Meets requirement
Does the organisation provide employees with all of their public holiday, annual holiday, and sickness and bereavement leave entitlements and arrange leave for eligible employees to train and perform military service?			
Does the organisation pay time and a half to employees who work on public holidays and provide them with a paid alternative holiday?			
Does the organisation transfer the Waitangi Day, ANZAC Day, and Christmas period public holidays if they fall on weekends when employees do not normally work?			
Does the organisation provide employees with at least 4 weeks of annual holidays for every 12 months they are employed?			
Does the organisation pay employees a rate based on their average weekly earnings or ordinary weekly pay when they take annual holidays, and does it consider requests to pay out a portion of holiday entitlements?			
Does the organisation provide employees with at least 14 days' notice if it requires them to take annual holidays during a closedown period?			
Does the organisation provide employees with at least 10 days of paid sick leave each year and bereavement leave as required?			
Does the organisation provide a leave of absence to enable employees to perform voluntary service or training in the armed forces?			
Does the organisation provide leave and the proper notifications to employees who are armed forces personnel for the purposes of deployment during wartime and national emergencies?			
Does the organisation provide leave and the proper notifications to employees who are armed forces personnel for the purposes of voluntary service during situations of national interest?			
Does the organisation have processes and procedures to ensure that, where applicable, it is providing its employees with access to family and domestic violence leave entitlements?			

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Enabling Access and Correction of Personal Data

Requirement	Needs work	Don't know	Meets requirement
Does the organisation grant parental leave for employees according to their entitlements, assist employees to apply for government parental leave payments and restore employees to their former positions at the end of their parental leave?			

Does the organisation recognise the category of leave that applies to employees who become parents and provide the correct entitlements?

Does the organisation provide one period of extended leave to primary carers and their partners on request and consider requests for additional extended leave periods?			
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Does the organisation provide the required parental leave notifications to employees?

Does the organisation assist employees applying for parental leave payments?			
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Does the organisation consider requests from employees taking parental leave to return to work for short periods of time?

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Fair Treatment in the Workplace

Requirement	Needs work	Don't know	Meets requirement
Does the organisation never favour one employee over another on discriminatory grounds, subject employees to duress, or permit sexual or racial harassment to occur in the workplace?			
Does the organisation never discriminate against an employee on prohibited grounds?			
Does the organisation never permit sexual harassment in its workplaces, and does it take steps to prevent repetition of sexual harassment incidents?			
Does the organisation never permit racial harassment in its workplaces, and does it take steps to prevent repetition of racial harassment incidents?			
Does the organisation never threaten employees with termination or disadvantage conditional upon their membership of a union or employee association?			
Does the organisation pay female employees the same rate that it would pay male employees for the same, or substantially similar work, and negotiate pay equity claims in good faith?			
Does the organisation ensure that it does not employ young people in roles or under conditions that are not permitted or suitable?			
Does the client organisation engage labour hire staff (or similar) and exercise control or direction over such staff, which could be deemed a triangular employment relationship, and if so, does the client organisation treat such staff fairly and reasonably so that they cannot be said to have caused or contributed to a personal grievance?			
Does the organisation have policies and procedures in place to prevent or otherwise respond to workplace bullying?			

Dismissal

Requirement	Needs work	Don't know	Meets requirement
Does the organisation only dismiss employees after following a fair process and providing a reasonable notice period, and does it supply, on request, statements of reasons for dismissal?			
Does the organisation only dismiss employees for justifiable reasons and after following a fair process?			
Does the organisation provide, on request, a statement of reasons for dismissal?			

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Grievances and Authorities

Requirement	Needs work	Don't know	Meets requirement
Does the organisation cooperate with investigations, and does it meet the conditions of notices and orders issued by labour inspectors, the Employment Relations Authority and the Employment Court?			
Does the organisation attempt to resolve personal grievances raised by employees?			
Does the organisation allow labour inspectors to access workplaces to perform investigations and does it provide them with documents on request?			
Does the organisation participate in Employment Relations Authority investigations?			
Does the organisation attend and cooperate with hearings in the Employment Court?			
Does the organisation ensure it has policies and processes in place that support employees to make protected disclosures and maintain the confidentiality of any disclosures made?			
Does the organisation meet the conditions of compliance orders issued by the Employment Relations Authority or the Employment Court?			
Does the organisation never employ a person as an officer or allow them to be involved in the hiring of employees in defiance of a banning order?			
Does the organisation fulfil the terms of any enforceable undertakings agreed with a Labour Inspector?			
Does the organisation implement the changes required by improvement notices before the specified date?			
Does the organisation pay the amount specified in a demand notice, or lodge an objection with the Authority?			
Does the organisation apply to the Court of Appeal within 28 days if it wishes to appeal a decision made by the Employment Court?			

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Business Restructures

Requirement	Needs work	Don't know	Meets requirement
Does the organisation facilitate the transfer of protected workers between employers, if the workers choose to transfer their employment during a business restructure, by providing the necessary information, making the required disclosures, and negotiating in good faith?			
Does the organisation facilitate the transfer of protected workers between employers if they choose to transfer their employment during a business restructure?			
Does the organisation negotiate redundancy payments with any protected employees who transfer their employment to the organisation during a restructure but whose services are not required?			
Does the organisation disclose, on request, individual employee information and employee transfer cost information to the prospective new employers of transferring workers?			
Does the organisation apportion the costs of the outstanding entitlements of transferring workers between itself and the other employers who are parties to the transfer?			

Strike and Lockouts

Requirement	Needs work	Don't know	Meets requirement
Does the organisation only conduct lawful lockouts, only seek an injunction to break an unlawful strike, notify unions and authorities in advance of lockouts, give notice to the public of lockouts or strikes that will affect passenger road and rail transport services?			
Does the organisation recognise a lawful strike, and does it only participate in lawful lockouts?			
Does the organisation notify employees, unions and authorities before commencing a lockout?			
Does the organisation provide additional notice before commencing a lockout that will affect an essential service and may impact the public interest?			
Does the organisation keep records and perform the prescribed notifications during a strike?			
Does the organisation suspend employees before ceasing to pay their wages during a strike?			
Does the organisation keep a record of strikes and lockouts?			

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Record Keeping and Policy

Requirement	Needs work	Don't know	Meets requirement
Does the organisation keep records demonstrating that employees receive their entitlements, does it allow employees to access and make corrections to their personal information, and does it ensure that employees are aware of any workplace surveillance programs?			
Does the organisation keep records demonstrating that employees receive their minimum entitlements?			
Does the organisation keep accurate wages and time records at all times?			
Does the organisation keep accurate holiday and leave records at all times?			
Does the organisation allow employees to access and correct personal information on request?			
Does the organisation inform employees of workplace surveillance measures when practicable?			

Your Free Demonstration

If you would like a demonstration of the Employment compliance register, click or scan the QR code. →



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