

## A Guide to Minimum Rights For Employees and Contractors

This guide will tell you what minimum terms employees are entitled to. We suggest you use it as a checklist on what you should be negotiating for as a contractor. Also available from the NZWG: *A Guide to Negotiating Contracts*

*This is a guide only, not a comprehensive or complete list of all employment/contractual rights and may not be accurate for all situations. It should not be used as a substitute for legal or other expert advice.*

Employees	Contractors
<p><b>Annual Holidays</b></p> <p>Three weeks' paid annual holiday (at the end of each year of employment with any one employer). Becomes four weeks as at 1 April 2007.</p>	<p><b>Annual Holidays</b></p> <p>No minimum annual holiday entitlement.</p> <p>Contractors normally work for shorter periods of time. A contractor's rate should take into account that they need to provide for both holidays and for 'down time' between jobs.</p>
<p><b>Public Holidays</b></p> <p>There are 11 public holidays per year. If they fall on the days an employee would normally work they are entitled to be paid for that day.</p> <p>If an employee works on a public holiday they must be paid the greater of time and a half or the rate included in the employment agreement for working on that day/at that time.</p> <p>If the public holiday falls on a day that they would normally work they are also entitled to an alternative holiday.</p> <p>The 11 public holidays are: Christmas Day, Boxing Day, New Year's Day, Second of January (or another day in its place), Waitangi Day, Good Friday, Easter Monday, Anzac Day, Queen's Birthday, Labour Day, the anniversary of the province in which the employee is employed.</p>	<p><b>Public Holidays</b></p> <p>No minimum public holiday entitlement.</p> <p>Contractors are typically expected to work through holidays (and indeed work overtime without overtime rates). When negotiating contracts contractors should take these issues into account.</p> <p>Contractors should request that a premium payment be made for working on a public holiday. For example, if working on a daily rate, add 50% if you're expected to work on a public holiday. If working on a weekly rate, add 20% for each public holiday worked in that week.</p>
<p><b>Sick Leave</b></p> <p>After six months with an employer, an employee is entitled to five days' paid sick leave during the next 12 months of employment. Sick leave can be taken for themselves or to care for their spouse, dependent child or parent.</p>	<p><b>Sick Leave</b></p> <p>No minimum sick leave entitlement.</p> <p>Contractors often work through sickness because there is no sick leave allowance in their contracts.</p> <p>Contractors should ensure their rate includes a small premium to cover times when they genuinely need to take sick leave.</p>
<p><b>Bereavement Leave</b></p> <p>After six months with an employer, an employee is entitled to paid bereavement leave of: three days on the death of a spouse, parent, child, sibling, grandparent, grandchild or the spouse's parent; and one day if the employer accepts that the employee has suffered a bereavement.</p>	<p><b>Bereavement Leave</b></p> <p>No minimum bereavement leave entitlement.</p> <p>Contractors should ensure their rate includes a small premium to cover times when they need to take bereavement leave.</p>
<p><b>Equal Pay</b></p> <p>The employer cannot differentiate in pay rates between employees if the only difference is their sex.</p>	<p><b>Equal Pay</b></p> <p>Contractors negotiate their rate separately but like employees cannot be paid less solely on the basis of their sex.</p>

<p><b>Equal Rights</b></p> <p>The employer cannot discriminate in hiring or firing, training or promoting because of the employee's race, colour, national or ethnic origin, sex or sexual orientation, marital or family status, employment status, age, religious belief or political opinion, or if they have a disability.</p>	<p><b>Equal Rights</b></p> <p>Contractors cannot be discriminated against because of race, colour, national or ethnic origin, sex or sexual orientation, marital or family status, employment status, age, religious belief or political opinion, or if they have a disability.</p>
<p><b>Parental Leave</b></p> <p>You and your partner can apply for unpaid leave when your baby is born or when you adopt a child under 5. You may also be entitled to up to 14 weeks of paid parental leave. The payment can be taken by one parent or shared between two eligible partners. It's illegal for your employer to either dismiss or discriminate against you because you're pregnant or if you take or have taken mandated parental leave.</p>	<p><b>Parental Leave</b></p> <p>No minimum right to take unpaid leave.</p> <p>Contractors may be entitled to up to 14 weeks of paid parental leave. The payment can be taken by one parent or shared between two eligible partners.</p>
<p><b>Collective Agreements</b></p> <p>If there is a collective agreement covering your work and you are a member of the union that negotiated it your conditions are those set out in the collective agreement. You and your employer can agree on extra conditions but you can't get less than what is in the collective agreement.</p>	<p><b>Collective Agreements</b></p> <p>The Employment Relations Act, which enables unions to negotiate collectively on behalf of worker, does not apply to contractors.</p> <p>Contractors may request that their union negotiate collectively on their behalf. However, there is no requirement on an employer to negotiate with the union concerning contractors.</p>
<p><b>Problem Solving</b></p> <p>Employees can access a variety of legislative based avenues for solving problems. These include mediation, recourse to the Employment Relations Authority and actions in the Employment Court.</p>	<p><b>Problem Solving</b></p> <p>If agreed both parties may access mediation and services provided by the Employment Relations Authority. Otherwise, problem solving is determined by dispute resolution provisions in the contract.</p> <p>Contractors should ensure their contracts contain adequate provisions for dealing with disagreements. Contracts should provide for independent mediation and arbitration.</p>
<p><b>Grievances</b></p> <p>The Employment Relations Act gives all employees the right to pursue a personal grievance if they have any of the following complaints:</p> <ul style="list-style-type: none"> <li>▪ unjustifiable dismissal</li> <li>▪ unjustifiable action which disadvantages the employee</li> <li>▪ discrimination</li> <li>▪ sexual harassment</li> <li>▪ racial harassment</li> <li>▪ duress over membership of a union or other employee organisation.</li> </ul>	<p><b>Grievances</b></p> <p>Limited to civil action unless covered by other legislation (ie. equal pay, equal rights).</p>
<p><b>Union Membership Rights</b></p> <p>Employees have an absolute right to make their own decision about whether they want to join a union and, if so, which union. It is illegal for an employer to put unreasonable pressure on them to join or to not join a union, or to discriminate against them because they joined or didn't join a union.</p>	<p><b>Union Membership Rights</b></p> <p>Contractors have an absolute right to make their own decision about whether they want to join a union and, if so, which union. However, it is not illegal for an employer to put unreasonable pressure on them to join or to not join a union, or to discriminate against them because they joined or didn't join a union.</p>
<p><b>Labour Inspectors</b></p> <p>Labour Inspectors can enforce the laws that relate to certain statutory minimum entitlements, such as annual leave, sick leave, public holidays and minimum wages. If it appears that an employer has breached any of these laws, an employee can ask a Labour Inspector to investigate the matter on their behalf, or they can take an action themselves.</p>	<p><b>Labour Inspectors</b></p> <p>Labour Inspectors do not cover contractors.</p> <p>Contractors must ensure that the contracts they are entering into are fair and have appropriate dispute resolution provisions as any breach of the agreement will need to be remedied via such provisions.</p>

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