

Entitlements for employees

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Every employee has some minimum standards of employment which employers must meet.

Employees have entitlements such as the right to minimum hourly pay, four weeks paid annual leave, sick and bereavement leave, compensation for working on public holidays, certain break entitlements, parental leave, and to be consulted over redundancy.

If you think your minimum standards of employment are being breached, you should first talk to your employer. You never know, it may just be a simple mistake.

However, if your employer denies having breached your rights, you can make a complaint to a Labour Inspector at the Ministry of Business, Innovation and Employment.

A complaint to a Labour Inspector does not need to be made by the affected employee but can be made on their behalf by a friend, family member, or lawyer.

The Labour Inspector will carry out an investigation and if they conclude that there has been a breach of minimum conditions of employment, the Labour Inspector will attempt to resolve the matter by requiring your employer to make an enforceable undertaking.

An enforceable undertaking is an agreement made by the employer to rectify any breaches, and to pay employees any money owed, or to take any other action that the Labour Inspector determines is appropriate.

If an employer refuses to enter into an enforceable undertaking, the Labour Inspector may issue an Improvement Notice.

An Improvement Notice requires an employer to comply with the provision that they are in breach of.

If an employer ignores or fails to comply with an Improvement Notice, the Labour Inspector can apply to the Employment Relations Authority for an order that the employer comply with the terms of the Improvement Notice.

The ERA may also issue the employer with a penalty.

Failure to comply with the order, or to pay the penalty, may result in the Labour Inspector filing proceedings with the



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Employment Court.

The Employment Court can impose a fine on the employer of up to \$40,000.

When determining what fine to impose, the Employment Court will consider:

- the employer's failures to comply with orders made by the ERA.
- the possible sanctions, for example imprisonment.
- the employer's level of blameworthiness.
- the employer's circumstances, including their financial position.
- whether the employer has committed other breaches in the past.

■ the need to deter and censure the employer.

The Courts take breaches of minimum rights of employment very seriously and any failure to comply with Court orders is equal to contempt. Continued breaches, and failures to pay fines and penalties, may lead to further enforcement action.

Employers should willingly assist with any investigations made by a Labour Inspector, and should immediately remedy any breaches and comply with any requests if found to be in breach of legislative provisions.