



A-Z OF EMPLOYING

Employment Relations Education Leave

Our guide for Employers and Managers

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FACILITATING &
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BUSINESS**

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Employment Relations Education Leave

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Overview

- ▶ Employment relations education leave is leave that can be allocated to employees by their union to increase the employees' knowledge about employment relations for the purpose of improving relations among unions, employees and employers and in particular to promote good faith.
- ▶ Employment relations education leave is calculated by unions based on the number of their members employed by any one employer.
- ▶ Unions, employers and employees must fulfil their obligations to one another before any employee is entitled to take employment relations education leave.

Introduction

Part 7 of the Employment Relations Act 2000 provides for employment relations education leave. The leave is only available to those employees who are members of a union. The objective of providing this education is to increase those employees' knowledge about employment relations and promote the object of the Act, especially the duty of good faith.

Employment relations education is provided by a number of organisations in New Zealand who have courses in employment relations and good faith. The education is mostly in the form of short courses, approved by the Minister.

A list of approved courses may be found on the Ministry of Business, Innovation and Employment website, employment.govt.nz

Eligibility

An employee who is eligible for employment relations education leave is an employee who is a member of a union.

The Act covers the calculation and allocation of employment relations education leave.

Terms:

eligible employee, in relation to a union or an employer, means an employee who is a member of a union.

specified date means -

(a) 1 March; or

(b) such other date in a year as is specified in a collective agreement for the purposes of this Part

year means -

(a) if a collective agreement does not provide a specified date as an alternative date to 1 March, a period of 12 months beginning on 1 March and ending on the close of the last day of February in the following year, the first such year being 1 March 2001 to 28 February 2002:

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(b) if a collective agreement does provide a specified date as an alternative date to 1 March, a period of 12 months beginning on the specified date.

Calculation

Section 74 stipulates how unions should calculate the employment relations education leave to allocate to members in respect of their employment. While allocation (below) may be varied away from the Act by agreement, calculation may not.

74 Calculation of maximum number of days of employment relations education leave

(1) The maximum number of days of employment relations education leave that a union is entitled to allocate in respect of an employer is based on the number of full-time equivalent eligible employees employed by the employer as at the specified date in a year, and is determined in accordance with the following table:

Full-time equivalent eligible employees as at the specified date in a year	Maximum number of days of employment relations education leave that union entitled to allocate
1-5	3
6-50	5
51-280	1 day for every 8 full-time equivalent eligible employees or part of that number
281 or more	35 days plus 5 days for every 100 full-time equivalent eligible employees or part of that number that exceeds 280

(2) For the purposes of calculating the number of full-time equivalent eligible employees employed by an employer,

(a) an eligible employee who normally works 30 hours or more during a week is to be counted as 1:

(b) an eligible employee who normally works less than 30 hours during a week is to be counted as one-half.

Allocation

Section 73 stipulates that it is the employee's union that allocates the leave to its members. Without the employer's agreement, the union is not entitled to allocate more than 5 days employment relations education leave to any one eligible employee. It does not roll over from one year to the next unless the employer agrees.

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73 Union entitled to allocate employment relations education leave

- (1) *A union is entitled to allocate employment relations education leave to eligible employees in accordance with this Part.*
- (2) *The maximum number of days of employment relations education leave that a union is entitled to allocate in a year in respect of an employer's eligible employees is the number of days calculated in accordance with section 74, unless the employer agrees to the allocation of additional days.*
- (3) *The maximum number of days of employment relations education leave that a union is entitled to allocate in a year to an eligible employee is 5 days, unless the employee's employer agrees to the allocation of additional days.*
- (4) *Employment relations education leave expires if it is not allocated by the end of the year in respect of which it is calculated under section 74, unless the employer agrees that the leave may be carried forward to the next year.*

Obligations

Unions

The obligations of unions in respect of calculation, allocation and notice to affected employers and employees are set out in sections 75 to 77.

Once a union has calculated the number of days of employment relations education leave it may allocate in respect of its members employed by any one employer, it must notify the employer of those calculations within one month of the specified date each year. Until it has done this the union may not allocate those days to its members.

Where a union is party to a collective agreement with more than one employer, a union may allocate employment relations education leave calculated in respect of one employer to the employees of another employer who is a party to the collective agreement where there is agreement to do so.

When a union allocates employment relations education leave to an individual employee, they must give notice detailing that leave to both the employee and their employer.

75 Union to notify employer of maximum number of days of employment relations education leave calculated

- (1) *After calculating the maximum number of days of employment relations education leave, a union must give the employer concerned a notice containing*
 - (a) *the maximum number of days calculated in respect of the employer; and*
 - (b) *the details of the calculation.*
- (2) *The union must comply with subsection (1) within 1 month after the specified date in each year.*

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(3) *Until a union complies with this section, the union must not allocate employment relations education leave.*

(4) *If a union fails to comply with subsections (1) and (2), the union forfeits one-twelfth of the employment relations education leave for each complete month that the failure continues.*

76 Allocation of employment relations education leave calculated in respect of another employer

(1) *This section applies to a union that is a party to a collective agreement with 2 or more employers.*

(2) *A union may allocate employment relations education leave calculated in respect of an employer to 1 or more eligible employees of another employer only if, and to the extent that, the employers concerned agree, and subject to any terms and conditions agreed with the employers.*

77 Allocation of employment relations education leave to eligible employee

(1) *A union allocates employment relations education leave to an eligible employee by giving a notice to the employee, and a copy of the notice to the employee's employer, that informs the employee*

(a) *that the union has allocated employment relations education leave to the employee; and*

(b) *of the number of days of employment relations education leave allocated to the employee; and*

(c) *that the employee must take the employment relations education leave by the end of the year in which it is allocated; and*

(d) *of the terms or effect of sections 78 and 79.*

(2) *The allocation of employment relations education leave does not, of itself, entitle the employee to take the leave.*

Employers

Employees who are eligible for employment relations education leave must be paid their relevant daily pay for that leave unless they are receiving weekly compensation under the ACC legislation.

79 Eligible employee taking employment relations education leave entitled to ordinary pay

(1) *An employer must pay to an eligible employee the employee's relevant daily pay as defined in section 9 of the Holidays Act 2003 or average daily pay calculated in accordance with section 9A (as the case may be) for every day or part of a day taken by the employee as employment relations education leave.*

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(2) However, an employer is not required to comply with subsection (1) in respect of any day for which the eligible employee is paid weekly compensation under the Accident Compensation Act 2001.

Employees

An employee wishing to take allocated employment relations education leave must give their employer at least 14 days detailed notice of that wish, before taking the leave.

78 Eligible employee proposing to take employment relations education leave

(1) An eligible employee proposing to take employment relations education leave must tell his or her employer

(a) that the employee proposes to take that leave; and

(b) the dates on which the employee proposes to take that leave; and

(c) the employment relations education that the employee proposes to undertake during that leave.

(2) An eligible employee must not take employment relations education leave unless the employee complies with subsection (1) as soon as possible, but in any event no later than 14 days before the first day of such leave.

(3) An employer may refuse to allow an eligible employee to take employment relations education leave if the employer is satisfied, on reasonable grounds, that the employee taking employment relations education leave on the dates notified would unreasonably disrupt the employer's business.

(3A) To avoid doubt, a representative of an eligible employee may comply with subsection (1) on behalf of the eligible employee.

(4) In subsection (2), "day" means a day of the week other than a day in the period beginning with 25 December in any year and ending with 5 January in the following year.

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