

## EMPLOYMENT

### HEALTH AND SAFETY IN EMPLOYMENT

Employers have a duty under the Health and Safety in Employment Act to take all practicable steps to ensure the safety of their employees whilst at work. It may well be necessary for businesses to engage experts to assess whether the workplace is safe before employees return to work. Experts may need to assess, amongst other things, the structural integrity of the building(s) and any damage the earthquake may have caused to plumbing and/or power.

### EMPLOYMENT SUPPORT PACKAGE

There is an Earthquake Employment Support Package available for businesses and employees affected by the 22 February earthquake. Two options are available, firstly the Earthquake Support Subsidy; and secondly the Earthquake Job Loss Cover.

#### Earthquake Support Subsidy

The Earthquake Support Subsidy is an initial payment for employers to help them to pay their employees while they deal with the impact of the 22 February earthquake. The subsidy is also available to the self employed or business owners who draw a wage.

The payment will be made directly to the employer who will then pay the employee. The wage subsidy will be paid for up to 6 weeks from 22 February 2011, at a rate of \$500 gross per week per full-time employee (employees working at least 20 hours per week) or a rate of \$300 gross per week per employee for part-time employees (those employees working fewer than 20 hours per week). The subsidy is not subject to GST but is subject to PAYE.

The first payment will be a lump sum of a three week subsidy. Employers have an obligation to inform the Government Helpline if they get their business up and running and no longer need a subsidy. If no further information is given, a further three week subsidy will be paid automatically.

To qualify, businesses (or self employed people, sole traders, or contractors) must be New Zealand owned; based in the Christchurch City Council area; unable to access their workplace due to damage, a cordon, or a lack of an essential service; or be a small business who can open but are experiencing significant loss of trade.

Employers who have business interruption insurance should contact their insurance company in the first instance. If insurance payments will be delayed, employers can access the Earthquake Support Subsidy to cover the intervening period, but will be required to repay it when the insurance payment is received.

If an employee has already applied for the Earthquake Job Loss Cover when their employer applies for the Earthquake Support Subsidy, the employee will be transferred to the Support Subsidy.

#### Earthquake Job Loss Cover

The Earthquake Job Loss Cover is a weekly payment of \$400 net for full-time employees and \$240 net a week for part-time employees for a period of six weeks in circumstances where their employers are no longer able to operate. It is paid directly to individual employees and is backdated to 22 February 2011.

Employers are advised to get the Earthquake Support Subsidy to assist them in paying wages as the first option while they decide what the future of their business is. If employees can't contact employers and are not working or being paid, then they can apply for the Earthquake Job Loss Cover payment.

Employees qualify if they were employed on 22 February 2011; worked for an employer who was based in the Christchurch City Council area; and no longer have an employer (because they have decided not to operate) or cannot contact their employer.

Further information and application details of the Earthquake Employment Package are available at [www.workandincome.govt.nz](http://www.workandincome.govt.nz).

### WAGES

In most cases, an employer has a duty to pay an employee normal wages even though employees cannot attend work because of earthquake damage. Some employment agreements may contain provisions expressly dealing with situations following natural disasters and may provide an employer relief from the obligation to pay wages.

In the absence of such a provision, the employer has a duty to pay where the employee is ready and willing to work.

If an employer is unable to provide its employees with work but is in a position pay the employees' wages without putting its business at risk, then this option should be considered, at least in the short-term.

If an employer is not in a position to continue to pay wages (i.e. employer is uninsured or does not meet the criteria under the Government wage subsidy scheme), it may be in the parties' best interests to agree to a temporary discontinuance of work without pay. This will require the employees' express agreement.

If you can't reach such an agreement, employers should consider obtaining their employees' consent to take annual leave. If agreement cannot be reached, employers can require that annual leave be taken only after providing 14 days notice.

An employer may be able to change an employee's working hours with the employee's express consent.

It is crucial for employers to be open and honest with employees to assist in achieving a mutually beneficial outcome. Employers should ensure clear lines of communication are preserved so as to provide regular updates and developments where necessary.

## **Contact Details**

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