

## GETTING READY FOR YOUR 'NEW ENTRANTS'

As discussed previously in one of our 2007 newsletters, a 'new entrants' minimum wage was proposed with the aim of removing minimum wage rates defined by the age of workers. The Minimum Wage (New Entrants) Amendment Act was passed on 5 September 2007, and alters the way some employers will have to pay some of their staff from 1 April 2008.

### NEW MINIMUM WAGE RATES

From 1 April 2008, the standard (ex-'adult') minimum wage will increase to \$12.00 per hour. This will apply to all employees 16 years and older, unless they are considered to be a 'new entrant'.

The new entrant rate will be set at a minimum of 80% of the adult minimum wage, so will be \$9.60 per hour from 1 April 2008.

The requirements around the training minimum wage are not affected by this Act, and this is still to be calculated at 80% of the standard adult wage (therefore, will also be increasing to \$9.60 per hour from 1 April 2008).

### 'NEW ENTRANTS'?

New entrants are workers who are 16 or 17 years old. **However**, certain 16 and 17 year old workers may be entitled to the standard adult minimum wage if:

1. They have worked for 3 months, or 200 hours of employment (whichever occurs first); or
2. They are supervising or training other workers.

The only other exception to someone aged 16 or 17 being considered to be a 'new entrant' is where the employee actually falls under the category for the minimum training wage instead.



### WHAT COUNTS FOR THE 3 MONTH/200 HOURS REQUIREMENT?

- ◆ An employee can accumulate 3 months or 200 hours for work done for more than one employer.
  - ⇒ e.g. if they have worked 30 hours a week for 5 weeks for Employer 'A' (totaling 150 hours), and for the same 5 weeks have a second job doing 10 hours a week for Employer 'B' (totaling 50 hours), they would have met the 200 hours requirement.
- The 3 months or 200 hours does include work completed prior to 1 April 2008 as long as the employee has turned 16 years old, so a 'new entrant' starting half-way through March 2008 will not be disadvantaged.
- Following on from the last point, work performed by the employee before they turn 16 years old is not counted towards their 3 months/200 hours.

### THE PRACTICAL ISSUES FOR EMPLOYERS:

While on the surface the '3 months or 200 hours' requirement seems clear, there are a number of issues that employers may have to deal with when trying to comply with this cut-off from 'new entrant' wages to 'standard' wages:

- ⇒ Because the time or hours worked can be accumulated across more than one employer, employers are faced with the difficulty of trying to know exactly what time/hours their employee is doing at their other place(s) of work. Employers may need to discuss with their affected employees what evidence they need to ensure all hours worked are taken into account, so that the employee gets paid correctly. Making a reasonable effort to get this information from your affected employees would likely bode better than not bothering at all if you do happen to be pulled up for not paying them at the right rate in a multiple employer situation.
- ⇒ There may also be concerns that the work performed for another employer is not particularly transferable to the work that employee does for another employer. Therefore, while the employee may have completed 3 months work across both jobs, they may still be considered 'green' and not experienced enough to justify a 'standard' or adult wage rate in one or both roles. However, the time requirement effectively means they would have to be moved up the pay scale.
- ⇒ What equals '3 months' may also be arbitrary and inconsistent between different employees. One employee could do 3 hours a month (9 hours total), whereas another might do 40 (120 hours total). Both would then become entitled to the standard minimum wage rate, though depending on the training necessary for their roles, each could have quite different levels of 'experience'. Therefore, it will be in an employer's interests to ensure 'new entrants' get quality training in their first 3 months/200 hours, so they soon add enough additional value to cover the pay rise that follows.

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Give our team a call if you would like to discuss any of the above.

This newsletter is prepared by Progressive Consulting and Janet Copeland Law. It is produced to provide a brief summary of issues and developments which may affect our clients in these fields. While we take care to ensure that the information is correct, details may be omitted which may be directly relevant to a particular entity. The information should therefore not be taken to be sufficient for making decisions. If you have any questions in relation anything discussed here or just a general query, contact the team who will be happy to assist you.

## INTERVIEWS IN RECRUITMENT AND SELECTION

*98% of companies use interviews as part of their selection process.*

Despite being such a significant part of recruitment and selection, often employers don't consider whether their interview process is actually getting effective results. Poor selection decisions can heavily damage the bottom line, so getting it right is worth the extra time.

No one will refute the place of face-to-face interviewing in the process of employee selection. The interview has established itself as a favoured method for 'sussing out' a candidate, and deciding whether or not they are 'the one'. However, interviews can allow for more than a little personal bias to interfere with the overall judgement of an individual, especially when they end up being more of a chat than an interview!

**Unstructured interviews** face a number of problems, which contribute to a very low overall predictive validity in relation to actual job performance. Predictive validity is how well a particular measure predicts (in this case) later job performance. With unstructured interviews, biases can creep in from:

- First impressions and/or 'Just like me' similarity,
- Halo effects (e.g. one attribute of the person is focused on and affects or skews the overall impression of them)
- Open-ended, unplanned questions,
- Practiced interviewees or very good, confident speakers.



**Structured interviews** minimize these problems by limiting the interview to a specific framework, which is based upon desired *job and person competencies* identified through a *job analysis*. A strength of structured interviews is the **standardization** of questioning that ensures all candidates are evaluated upon the same basic, job-relevant questions, with the same pre-determined level of importance being put on each area.

### What Is Important?

There are a number of steps to creating an effective interview process that compliments the findings of your other selection tools to gain an overall picture of how well the candidate is likely to perform in the job:

- ◆ **Job Analysis** - identify key competencies, skills, experience, knowledge, and personal qualities important to high performance in the job.
- ◆ **Selection Criteria** - establish a level to which each specific criterion is required for high performance.
- ◆ **Weightings** - categorize criteria by their importance for the role.
- ◆ **Structured Questions** - prepare a list of relevant questions and structure them into an interview guide for interviewers to follow.
- ◆ **Interviewer Training** - train interviewers to be aware of the problems and biases associated with interviewing.
- ◆ **Interview Preparation** - Ensure interviewers are aware of their questions, the standards/criterion required, and that they have a good knowledge of the position itself.
- ◆ **Evaluator Comparisons** - Compare interviewers' evaluations (where possible) for a consistent picture of the candidate. Compare with other evidence (e.g. psychometric testing).

Putting all the important points for effective interviewing together will help your company to establish a strong, effective interviewing process to provide a solid foundation upon which you can make final recruitment and selection decisions in combination with your other selection activities.

*Please give one of our team a call if you would like to strengthen your current interviewing processes, or any other aspect of your recruitment.*

### OUR TWO CENTS...

The Department of Labour recently updated their website regarding the observance of Otago and Southland Anniversary Days, stating:

*"As there is no easily determined single day of local observance for Otago or Southland then the parties should rely on either their employment agreement or their own custom and practice. Where there is no clear custom and practice then the parties should seek to find an agreement on how they will observe Anniversary Day.*

In light of recent case law we would recommend that employers observe Southland and Otago Anniversary Days on certain dates that are historically recognised and confirmed by local practice, to reduce the risk of being caught out by using any old day because it suits. If you have any further questions about the Anniversary Day in your province and/or employment agreements, please contact one of our team to discuss your options. Janet Copeland Law have also prepared their legal opinion on this - if you would a copy contact Lucia on (03) 211-0153.

**EMPLOYMENT LAW WORKSHOPS**

Don't forget to register for our upcoming employment law workshops!

<b>Workshop One: When Key Employees Leave</b>	<b>Workshop Two: Managing Restructuring &amp; Redundancies</b>	<b>Workshop Three: Workplace Bullying &amp; Harassment</b>
<p><b>Restraints of Trade</b></p> <ul style="list-style-type: none"> <li>◆ What these are and when to use them</li> <li>◆ Successful examples from case law</li> </ul> <p><b>Completion and Retention Payments</b></p> <ul style="list-style-type: none"> <li>◆ What situations require such incentives?</li> <li>◆ KiwiSaver Update</li> </ul> <p><b>Garden Leave</b></p> <ul style="list-style-type: none"> <li>◆ What it is and when to use it</li> <li>◆ Examples from case law</li> </ul> <p><b>Intellectual Property &amp; Confidential Information</b></p> <ul style="list-style-type: none"> <li>◆ How do I protect my confidential information?</li> <li>◆ Investigating unauthorized use of information</li> </ul> <p><b>Dismissal at Will</b></p> <ul style="list-style-type: none"> <li>◆ When can I lawfully dismiss at will?</li> </ul> <p><b>Investigations involving Senior Employees</b></p> <ul style="list-style-type: none"> <li>◆ Using criminal law and external consultants</li> </ul> <p><b>Exit Packages</b></p> <ul style="list-style-type: none"> <li>◆ When should I use them?</li> <li>◆ How do I negotiate the terms of an exit package?</li> </ul> <p><b>Anton Pillar Orders</b></p> <ul style="list-style-type: none"> <li>◆ What these are and when to use them</li> </ul> <p><b>Case studies and Case Law Summaries</b></p> <ul style="list-style-type: none"> <li>◆ Managing Restructuring &amp; Redundancies</li> <li>◆ Workplace Bullying &amp; Harassment</li> </ul>	<p><i>The Restructuring Situation in a NZ Context and the Critical Issues Restructuring Raises:</i></p> <p><b>Redundancy</b></p> <ul style="list-style-type: none"> <li>◆ What is a redundancy situation?</li> <li>◆ How do I avoid making technical redundancies?</li> <li>◆ What rights do employees have during a restructuring?</li> <li>◆ Redundancy entitlements explored</li> <li>◆ Effect of the employment agreement</li> </ul> <p><b>Obligations During a Restructure</b></p> <ul style="list-style-type: none"> <li>◆ Employment Relations Act 2000</li> <li>◆ Must I always consider alternatives?</li> <li>◆ What about procedural fairness?</li> </ul> <p><b>The Process</b></p> <ul style="list-style-type: none"> <li>◆ Consultation and selection</li> </ul> <p><b>The Documents</b></p> <ul style="list-style-type: none"> <li>◆ The restructuring proposal, timeline and selection criteria</li> </ul> <p><b>Implementation</b></p> <ul style="list-style-type: none"> <li>◆ Receiving feedback</li> <li>◆ Incorporating employees' suggestions</li> <li>◆ Making the decision &amp; terminating employment</li> </ul>	<p><b>Key Questions</b></p> <ul style="list-style-type: none"> <li>◆ What is workplace bullying &amp; harassment?</li> <li>◆ How do I recognise workplace bullying &amp; the effects and costs of bullying on my business?</li> <li>◆ What legislation relates to bullying &amp; harassment and what liabilities might I have?</li> <li>◆ Performance Management vs. Workplace Bullying</li> </ul> <p><b>Employer's Obligations</b></p> <ul style="list-style-type: none"> <li>◆ How can I handle bullying &amp; harassment when it surfaces?</li> <li>◆ Workplace practices, policy and procedure</li> <li>◆ Making support readily available</li> </ul> <p><b>Educating and Protecting Managers</b></p> <ul style="list-style-type: none"> <li>◆ Need I understand policies and endorse them?</li> <li>◆ How do I manage unfounded allegations?</li> <li>◆ Comprehensive training</li> </ul> <p><b>Organisational Culture</b></p> <ul style="list-style-type: none"> <li>◆ How do I recruit the very best managers?</li> <li>◆ The Proactive vs. Reactive approaches in creating a culture of accountability</li> </ul> <p><b>Case Studies and Case Law Summaries</b></p>

**THERE'S STILL TIME TO REGISTER!**

Please indicate by ticking the appropriate boxes below as to which workshops you wish to attend and either fax, email, or post your registration to Kelly Gough at:

*Employment Law Seminars  
Private Bag 90106  
INVERCARGILL  
Fax: 03 218 3623  
progressive@wearehr.co.nz*

**Cost:** \$150 per workshop *or* attend all 3 for \$350 (includes full booklet and refreshments).

**Venue:** WHK Cook Adam Ward Wilson Boardroom, 62 Deveron Street, Invercargill **AND** WHK Taylors, 44 York Place, Dunedin.

<b>Workshop One:</b>	<b>Workshop Two:</b>	<b>Workshop Three:</b>
<p><u>Invercargill:</u> Thursday 13 March 2008</p> <p><input type="checkbox"/> 9-12pm OR <input type="checkbox"/> 2-5pm</p> <p><u>Dunedin:</u> Friday 14 March 2008</p> <p><input type="checkbox"/> 9-12pm OR <input type="checkbox"/> 2-5pm</p>	<p><u>Invercargill:</u> Thursday 20 March 2008</p> <p><input type="checkbox"/> 9-12pm OR <input type="checkbox"/> 2-5pm</p> <p><u>Dunedin:</u> Wednesday 26 March 2008</p> <p><input type="checkbox"/> 9-12pm OR <input type="checkbox"/> 2-5pm</p>	<p><u>Invercargill:</u> Thursday 27 March 2008</p> <p><input type="checkbox"/> 9-12pm OR <input type="checkbox"/> 2-5pm</p> <p><u>Dunedin:</u> Friday 28 March 2008</p> <p><input type="checkbox"/> 9-12pm OR <input type="checkbox"/> 2-5pm</p>

**Name:** \_\_\_\_\_ **Telephone:** \_\_\_\_\_

**Company:** \_\_\_\_\_ **No of people attending:** \_\_\_\_\_

*Thank you to all those who have registered already.*

**PLEASE NOTE:** Unfortunately some of our earlier fliers had accidentally been sent out with incorrect dates - please check the above (correct) dates to ensure you are able to attend as planned. We apologise for any inconvenience, and also hope that some people now find they are able to attend after all!

## KIWISAVER... ARE YOU READY FOR 1 APRIL?

As you may be aware, new legislation relating to KiwiSaver was passed in December 2007. Below we have outlined some important points that employers need to understand and put into action prior to 1 April 2008:

### 1. COMPULSORY EMPLOYER CONTRIBUTIONS

Employers must make Compulsory Employer Contributions to their employee's KiwiSaver schemes or complying funds from 1 April 2008.

There are two ways that Employers can contribute:

- ◆ From 1 April 2008 employers must contribute a minimum of 1% of their employee's salary or wages. The amount employers must contribute will increase by 1% every year until it reaches 4% in 2011, as shown in the table below.

	2008	2009	2010	2011
Employer	1%	2%	3%	4%
Employee	4% or 8%	4% or 8%	4% or 8%	4% or 8%

- ◆ If the employer and employee agree, the employee's minimum contribution can be split 50/50, up until 31 March 2012. In this case, initially the employer and employee would both put in 2% a year (making a total of 4%). However, the amount the employer must contribute will increase in 2010 to 3% and reach a minimum of 4% in 2011. The employer's Compulsory Employer Contribution is included in these amounts.

	2008	2009	2010	2011	2012
Employer	2%	2%	3%	4%	4%
Employee	2%	2%	3%	4%	4%

### 2. EMPLOYER TAX CREDIT

- ◆ There will be an Employer Tax Credit of up to \$20 per week for each employee. This is to help off-set the Compulsory Employer Contribution. Employers need to deduct this from the weekly, fortnightly or monthly PAYE they pay to IRD.

### 3. OTHER CHANGES:

- ◆ For KiwiSaver purposes there is a new definition of **casual employment**. Casual employees engaged on an irregular and intermittent basis and who receive holiday pay with their wages are now not subject to automatic enrolment.
- ◆ The definition of salary and wages now **excludes redundancy payments, accommodation benefits or allowances** and overseas living costs. Therefore this means that no employee deduction or Compulsory Employer Contribution is required for these salary components.
- ◆ Compulsory Employer Contributions are also not required when an employee is getting **ACC or paid parental leave payments**, although employers may still choose to make them if they wish.
- ◆ If certain criteria are met, contributions made to an existing registered superannuation scheme may count towards the Compulsory Employer Contribution, and may be eligible for the Employer Tax Credit.
- ◆ Compulsory Employer Contributions **must be paid on top of each employee's gross salary or wages**. This rule will apply despite any previous contractual agreements employers may have already made with their employees before 13 December 2007. From this date employers can offset future employer contributions against pay movements as long as they have been negotiated with employees in good faith.
- ◆ Employer and employee contributions to a complying superannuation fund can continue to be based on the employee's gross *base* salary or wages rather than gross salary or wages.

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For more advice or information about KiwiSaver contact one of the Progressive Consulting team.

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