



## The Importance of Employment Agreements

We have recently identified an area of risk for some of our business clients in that many do not have Employment Agreements in place. The Employment Relations Act requires written employment agreements (individual or collective) to be provided by an employer prior to an employee commencing work.

Failure to have agreements in place could incur a penalty of up to \$10,000.00, although we are not seeing penalties this severe awarded. More importantly, the absence of an employment agreement can translate into a 'silent stance' in a number of common situations. One example is an employer whose business was affected by the economic downturn - he wished to restructure his business, but did not have employment agreements in place with his staff members. One staff member challenged the restructure which went on to the Authority.

Because the employer was silent on redundancy compensation and could not agree an amount with the affected employee, the Authority imposed a remedy of paid redundancy compensation based on a formula of 4 weeks salary for the first year of service and 2 weeks salary for every year of service thereafter whereas a well worded agreement could have negated the need to pay anything. An expensive learning curve!

Not only does a written employment agreement put you on the right side of the law, it also protects the employer's interests and removes confusion between the parties. Often business owners try to save a few dollars by going online to develop their own or copy another organisation's agreement from templates. We would strongly recommend against this as these agreements tend not to allow for significant managerial prerogative and often contain inappropriate clauses which may create unnecessary costs to an employer.

A few hundred dollars spent on an employment agreement is far less costly than the stress and headache further down the line.

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