

TRADIE LAW FACT SHEET #10

DEALING WITH EMPLOYEES

TRADIE LAW
POWERED BY Ford Sumner
LAWYERS

Employing an Apprentice

OVERVIEW

Apprentices are employees who are trained on the job and learn the necessary skills whilst working towards a recognised qualification. Hiring apprentices can bring a wide range of benefits to an employer. However, employers often make incorrect legal assumptions when hiring an apprentice and incorrectly disregard their employment obligations.

What is the difference between an Apprentice and a Regular Employee?

- Apprentices are entitled to the same protections, entitlements and minimum rights as all other employees. The only real difference is that an apprentice is training for a qualification during their employment.
- There are three parties to a New Zealand Apprenticeship:
 - The apprentice;
 - The employer; and
 - The Primary Industry Training Organisation.
- An apprentice must have a current Training Agreement signed by all three parties. All three parties must comply with the Code of Good practice for Apprenticeships as issued by the Tertiary Education Commission.

Employer's Obligations

- Before hiring an apprentice, ensure you are correctly informed as to what employing an apprentice involves.
- Have a written Individual Employment Agreement, signed by both yourself and the employee before their start date.
- Comply with all applicable employment, health and safety, privacy and human rights law.
- Enable access and support to off-site training.

Considerations when hiring an Apprentice

- Always pay your apprentice at least minimum wage. Just because an apprentice is unqualified and training towards their qualification does not mean employers are entitled to take advantage of them.
- Ensure your apprentice is enrolled in a New Zealand Qualification Authority (NZQA) approved programme.
- Be aware that you are unable to terminate an employment agreement with an apprentice once they are qualified. Doing so would create legal grounds for the apprentice to raise a personal grievance for unjustified dismissal.
- Depending on the size of your business, consider including a trial period clause in the employment agreement. This will enable you to assess whether an employee is fit for their role in the first 3 months of their employment.

Apprentice Training Plan

An employer must have a training plan for their apprentice that sets out:

- The qualification they are training towards;
- All requested standards and competencies required to achieve the qualification;
- Key skills required;
- The training process, delivery modes and assessment arrangements;
- Key milestones and achievement targets; and
- Regular reviews.

Apprenticeship Support Programme

- New Zealand employers are fortunate to have access to the Apprenticeship Support Programme ("APS").
- The APS is a government initiative which was created to help employers and businesses retain and bring on new apprentices.
- This programme is currently available until 31 December 2021.
- Employers are able to apply for an 'Apprentice Boost' whether an employee has just started or they are nearing the end of their first 2 years of their apprenticeship.
- How much you are entitled to as an employer depends on whether your apprentice is in their first or second year of training but monthly payments range from \$500-\$1,000 per apprentice.

If you need help to understand your obligations around hiring an apprentice, get in touch so we can help.

Contact:

E helpdesk@tradielaw.nz
W <https://tradielaw.co.nz/tradie-law/contact/>

One of our team will be in touch to assist you within 24 hours.