

WE KNOW
**HUMAN
 RESOURCES**

BREAKS & INFANT FEEDING

QUICK GUIDE

This Quick Guide provides summarised information on employers' obligations to provide meal and rest breaks (from 6 May 2019) and make arrangements for infant feeding in the workplace.

INTRODUCTION

The Employment Relations Amendment Act 2018 provisions relating to meal and rest breaks take effect from 6 May 2019. In doing so the law was largely returned to the position it was at pre-March 2015 and can be said to have removed much of the flexibility the former law introduced. Existing provisions relating to breaks for those who wish to breastfeed (or express milk) at work remain unchanged.

REST AND MEAL BREAKS

Employers must provide all employees with meal and rest breaks which conform with the requirements of the Act in each **work period**.

A "work period" runs from the time when the employee commences work and ends when the employee ceases work in accordance with the employee's terms and conditions of employment. All authorised breaks (whether paid or not) are included within the definition of work period.

Rest periods provided in accordance with the Act must be paid whilst meal breaks are not required to be paid.

Timing and Duration of breaks -

The times at which breaks are taken may be determined by agreement between an employer and each employee (or union in the case of collective agreements), however, in the absence of agreement, rest breaks must be taken in the middle of the periods between commencement and ceasing work and each meal break. Meal breaks must be of a minimum 30-minute duration and rest breaks are to be for a minimum of 10 minutes each.

With the exception of organisations providing essential services or relating to the defence of New Zealand, the number of breaks must conform with the following minimum requirements –

Work period	Rest break	Meal break
Less than 2 hours	-	-
2 hours but not more than 4 hours	1	-
More than 4 but no more than 6 hours	1	1
More than 6 but not more than 8 hours	2	1
More than 8 but not more than 10 hours	2	1
More than 10 but not more than 12 hours	3	1
More than 12 but not more than 14 hours	3	2
More than 14 but not more than 16 hours	4	2

Where the employer and employee have agreed on the times at which breaks will be taken they will be taken at those times. In the absence of agreement, so far as is reasonable and practicable, breaks shall be taken in the following manner –

Work period between 2 and 4 hours -

Rest break In the middle of the work period

Work period between 4 and 6 hours –

Rest break one-third of the way through the work period

Meal break two-thirds of the way through the work period

Work period between 6 and 8 hours –

Rest break halfway between the start of work and the meal break

Meal break in the middle of the work period

Rest break half way between the meal break and the finish of work

Work period over 8 hours – ‘Subsequent work period’

Repeat the above pattern as if ‘work period’ refers to ‘subsequent work period’.

It is no longer possible for an employer and employee to agree that breaks will be provided in a different manner in return for compensatory measures although organisations providing essential services critical to the public interest or relating to the protection of New Zealand’s national security may still do so. For further advice about this please contact our Employment Relations Advisers.

Existing arrangements –

From 6 May 2019 employers must ensure that their arrangements for rest and meal breaks comply with the new law. This may entail reviewing arrangements where compensatory measures have been previously agreed.

INFANT FEEDING

Employers are required to provide facilities and breaks for employees (as long as it is reasonable and practicable to do so) who wish to breastfeed in the workplace or during work periods. Unless otherwise agreed, breaks for breastfeeding that occur beyond the entitled rest breaks do not need to be paid.

A Code of Practice was published by the former Dept. of Labour (now Ministry of Business, Innovation and Employment) in March 2010. The Code gives employers guidance on the factors to consider when negotiating a breastfeeding arrangement with an employee. It gives practical advice on facilities, length and timing of breaks, health and safety, and resources and space for employees who wish to breastfeed. The code was developed by the (then) Department of Labour in consultation with Business New Zealand, the New Zealand Council of Trade Unions, women’s community and health groups and the Ministry of Health.

The Code can be found at - <https://www.employment.govt.nz/assets/Uploads/tools-and-resources/publications/code-of-employment-practice-on-infant-feeding.pdf>

Supporting information and resources are available at <https://www.employment.govt.nz/hours-and-wages/breaks/breastfeeding-at-work/>

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For further information regarding Breaks & Infant Feeding or other aspects of Employment Relations, please contact the Canterbury Employers' Chamber of Commerce, email info@cecc.org.nz or phone 03 366 5096.