

Young persons in the workplace

Are you considering employing young workers in your workplace?

A recent health and safety prosecution reminded us that New Zealand has several laws and restrictions regarding how and when young workers can work.

Health and safety restrictions

WorkSafe NZ v Ironhide Roofing Limited

A recent health and safety sentencing of *WorkSafe NZ v Ironhide Roofing Limited*¹ involved a 14-year-old worker injured on a construction site. The Ironhide team were in the process of replacing an old roof at the time of the incident. As the victim walked across the roof, he stepped on an old skylight and fell 8 metres.

Among other things, Ironhide was fined, for a breach of the Health and Safety at Work (General Risk and Workplace Management) Regulations 2016 for employing a worker under the age of 15 to complete construction work. The mother of the victim expressly stated she was not aware of the restrictions on workers under 15 in the construction area or she would never have let him work.

The company was fined \$25,000 (reduced from \$300,000 due to its financial capacity to pay) and the young worker received \$40,000 reparation.

What restrictions are in the Health and Safety at Work (General Risk and Workplace Management) Regulations 2016?

The regulations specifically restrict younger workers' involvement in high risk workplaces. For example:

- A worker under 15 cannot be employed to do construction work, logging or tree-felling or the

manufacture, use or generation of hazardous substances.

- A worker under 15 cannot be required to lift any weight or perform any task if doing so would likely be harmful to the worker's health.
- A worker under 15 cannot drive a tractor or ride in a tractor that is drawing an implement².
- A worker under 16 cannot work between 10.00 pm and 6.00 am.

Wider health and safety considerations

Employing young workers may require some reconsideration and review of the health and safety systems in the workplace. This will likely include reviewing risk assessments, the training framework, supervision requirements and how competency is assessed.

Work is not to impact a young worker's education

The Education and Training Act 2020 limits the ability to employ a young person where it might impact their education. If you employ a person under 16, the hours of work must not be within school hours, or at times that interfere with the student doing school work.

The young worker can obtain a certificate of exemption to work during what would have been school hours. Failure to obtain the exemption can lead to a fine for both a parent and the employer.

Paying young workers

Employees between 16 and 19 can be paid less than the adult minimum wage if the starting out wage criteria apply. The starting out rate can be paid at 80% of the adult minimum wage and as of April 2022, this is currently \$16.96. If you are using this rate, ensure this is detailed in the individual employment agreement.

¹ *WorkSafe New Zealand v Ironhide Roofing Limited* [2022] NZDC 17423

² Note: an exception for agricultural work does apply.

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Providing worker accommodation

There may be occasions where an employee is supplied with accommodation as part of their employment. This is called a service tenancy and the Residential Tenancies Act 1986 will apply.

A tenancy agreement entered with a person under 18, must state that the person is under 18 years of age. Because of their age, the tenancy agreement is not automatically enforceable. If an issue arises, the employer/landlord can apply to the Tenancy Tribunal for a review of the matter.

What this means for businesses and employers

While a reduced minimum wage may be appealing, it is important to understand the full limitations on young workers.

If you are considering hiring a young person and have any questions about what restrictions may apply to your workplace, contact our specialist Employment Team.

Want to know more?

If you have any questions about this articles, please contact our specialist [Employment Team](#).