

Rest and Meal Breaks and Infant Feeding Advice to PPTA Branches

Introduction

The Employment Relations Act 2000 (ERA) has been amended via the Employment Relations (Breaks, Infant Feeding, and Other Matters) Amendment Act 2008 to include provisions relating to rest and meal breaks and infant feeding.

These provisions (new Parts 6C and 6D of the ERA) come into effect on 1 April 2009.

The purpose of the amendments is to require facilities and breaks to be provided by employers, in so far as is reasonable and practicable in the circumstances, for employees who wish to breastfeed in the workplace or during work periods and to require employers to provide employees with rest breaks and meal breaks.

The Department of Labour recognises that “tired workers are dangerous workers. They can exercise poor judgement and make mistakes that could be fatal”.

Part 6 D – Rest breaks and meal breaks

- The intention is to ensure that each worker has the opportunity for rest and refreshment and to attend to personal needs during the work period (the time between the start and finish of work).
- “Rest break” is not defined.
- As the breaks are for the purposes of rest and meal(s), teachers must be free from work/duties during the breaks.
- The sequence of breaks is specified in the Act.
- In normal work circumstances, the work period for teachers is between 6-8 hours. Accordingly, teachers are entitled to
 - ⇒ one 10-minute rest break; and
 - ⇒ one 30-minute meal break; and
 - ⇒ one 10-minute rest break.
- Employers may provide workers with additional or longer breaks, by agreement with the employee.

- There needs to be consultation between the Principal/Board and the Branch/staff about the time of the breaks. If no agreement is reached, the pattern specified in the Act must be followed, in so far as is reasonable and practicable. The Mediation Service can provide assistance if the employer and employee cannot agree on the timing of the breaks.
- As these are individual entitlements, the Branch or staff cannot collectively decide not to exercise the entitlement to the breaks.
- Employers and employees cannot opt out of legislation.
- Even in workplaces such as hospitals, prisons and businesses operating 24 hours a day, the employer must provide the breaks, which may require changes to rostering.
- Principals/Boards need to consult with the Branch/staff to make sure that the timetable allows for the provision of breaks as per the Act from 1 April.
- PPTA can provide advice and assistance to Branches in working through the issues.

Part 6 C – Breastfeeding facilities and breaks

Principals/Boards must ensure, in so far as is reasonable and practicable in the circumstances, that appropriate facilities are provided in the workplace for staff who are breastfeeding (which includes expressing breast milk) and appropriate breaks to breastfeed during the work period.

- ⇒ “Circumstances” includes the employer’s operational environment and resources.
- ⇒ “Appropriate facilities” is not defined in the Act. According to the Department of Labour, they should include a separate space with sufficient privacy away from the view of others without disrupting normal business operations. A refrigerator or chilly bin will be needed to store expressed breast milk in.
 - The length and frequency of breaks is a matter for negotiation between employer and employee.
 - Breastfeeding breaks are in addition to rest and meal breaks.
- ⇒ The employer and employee may agree that the same break may be used for rest/meals and breastfeeding.

Non-Compliance and Penalties

- The matter should first be taken up with the employer.
- If this does not resolve the issue, help could be sought from the union or the Mediation Service.
- Employers who do not provide the required rest, meal and/or breastfeeding breaks to an employee are liable to a penalty of up to \$10,000 imposed by the Employment Relations Authority.