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## The Christchurch crisis ...

As the enormity and tragic consequences of the Christchurch earthquake unfold it is clear that there are going to be a great number of challenges to overcome in the months and years ahead. From coming to terms with the loss of loved ones, to re-establishing basic needs of food, warmth and shelter and rebuilding lives.

For employers and employees there will be questions around what the future holds and what that might look like.

For employers it is a delicate balancing act between the human priority of supporting traumatized staff, while trying to keep the business going and the need to maintain a safe work environment. Staff will want to know whether they are going to be paid wages and employers will want to know how long they will have to pay workers who are not working.

- Where the business is not destroyed, but trading is unlikely to begin soon or as before, the employer may look at making employees redundant. In all cases the starting point must be looking at the employment agreement to see if it covers this type of situation. Most employment agreements won't.
- Where the business is able to trade and the worker is prepared to work, but the employer has not opened its business, then the employer is obliged to pay wages.
- Where the business is operating but the worker is not willing to work for some reason, for example anxiety, distress or stress, the employer will usually not have to pay wages once the worker's sick leave entitlement has been exhausted. That is, of course, subject to the workplace being safe. If the workplace is unsafe then the worker doesn't have to work.
- The Government may offer assistance to employers, as it did last time, in the form of wage subsidies for a limited period of time. Employers covered by insurance will fare better.

### Things to think about..

Peter Cullen of Cullen – Employment Law Firm offers the following advice:

- If the business is likely to begin trading again in the not too distant future, employers and their workers are likely to reach a pragmatic solution. Workers who are suffering psychologically should be able to use their sick leave entitlements. Those who are unable to work because they are not allowed into the workplace, for safety reasons, may have to be carried by the employer, unless the parties reach agreement that the worker takes annual leave.
- An employer cannot force a worker to take annual leave without agreement unless 14 days notice is given.
- Where a business is destroyed, employers may be able to rely on the doctrine of frustration of contract to say that the employment agreement cannot be carried out due to an "Act of God".

Source: Dominion Post, 24 February 2011

### Websites with useful information:

- [Canterbury Earthquake](#)
- [Civil Defence](#)
- [Red Cross - Grants & Disaster response & recovery](#)
- [Skylight Trust](#) - emotional support resources
- [Ministry of Health – Coping with stress](#)
- [Trademe – Christchurch support](#)
- [Human Resources Institute of New Zealand](#) – employer/employee advice
- [Department of Labour](#) - employer/employee advice

## DEPARTMENT OF LABOUR

### ● Over arching advice – Employment Relations Matters

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The Department of Labour has outlined the following things for employers to think about in responding to the crisis:

- **The key is communication.** This is an unusual situation, and much of it is probably not covered by employment agreements. It is very important that employers and employees are talking to each other.
- **Be flexible.** This is a time for employers and employees to be understanding and to take a commonsense approach to getting business up and running again.
  - If employees are concerned about their safety in going back to work, they should raise their concerns with their employers
  - If employers are asking employees to do work they don't normally do (for example, clean-up work), both sides need to ensure they're comfortable with this, and safety must be top priority
  - People may want to focus on family rather than work
  - Working with staff health and safety representatives and union representatives will be of assistance in some work places
- **Work together** to find practical solutions
- **Recognise** that this has been a significant event
  - People will react differently in the aftermath- some may need extra support
  - Many will want to focus on caring for their family/whānau
  - Others will be best supported by assisting to get things up and running
- **An individual employee has the right to refuse to do work they consider unsafe.** Discuss the work and the concerns before it gets to this point. If you have decided it is safe share your knowledge and reasoning with staff alongside the decision

Source: <http://dol.govt.nz/quake/>

## Christchurch earthquake

### ● What organisations are doing for affected employees

The Human Resources Institute of New Zealand has established an [on-line resource](#) to provide details of how organisations are responding in respect of employees immediately affected by the earthquake and those who are part of the wider disaster rescue/recovery effort.

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