



# OPENING UP SHOP

SBM LEGAL is a member of L&E Global, the alliance of employment counsel worldwide

New Zealand is an easy place to do business, with an open economy. English is an official language and it is spoken by almost the entire population. The population of New Zealand is ethnically diverse and New Zealanders consider themselves to be global citizens.

New Zealand has a robust legal system based on the British common law system, and it is consistently ranked as one of the least corrupt countries in the world.

New Zealand supports free trade, and in 2008 it was the first developed country in the world to enter into a Free Trade Agreement with China. It has free trade agreements with Australia, a number of Asian countries and Chile.

**SBM Legal** is independently recognised as one of New Zealand's most outstanding employment law firms. It is a specialist employment law firm located near the centre

of Auckland, New Zealand's largest city, which is also its economic and transport hub. SBM Legal represents multinational corporations, as well as some of New Zealand's largest companies. Our lawyers provide advisory services, as well as acting in some of New Zealand's more significant employment law cases.

## I. LABOUR AND EMPLOYMENT REQUIREMENTS

### A) EMPLOYER POLICY REQUIREMENTS

New Zealand has a suite of legislation setting minimum standards in employment, covering matters such as annual holidays, public holidays, sick leave, parental leave, superannuation (which is called KiwiSaver), wages protection and the minimum wage. Compliance with these minimum standards is important and it is strictly enforced.

There are no policies that employers are required to have by law, but policies covering the following areas will help to minimise legal risk:

- Racial harassment, sexual harassment and discrimination;
- Code of conduct and disciplinary procedures;
- Social media, internet and email;
- Leave, including holidays and parental leave;
- Health and safety;
- Protected disclosures (whistleblowing);
- Drug and alcohol testing (if desired);

### B) EMPLOYEE TRAINING REQUIREMENTS

Employers should ensure employees receive sufficient

training to ensure they can complete their work in a healthy and safe manner.

The Health and Safety at Work Act 2015 covers health and safety requirements, and has created a stricter approach to workplace health and safety. Employers are required to ensure, so far as is reasonably practicable, that employees receive training, instruction, or supervision that is necessary to protect all persons from risks to their health and safety arising from work carried out as part of the conduct of the business.



### C) EMPLOYMENT AGREEMENTS

All employees must have a written employment agreement. Agreements between individual employees and an employer are called individual employment agreements. They must contain:

- The name of the employer and employee;
- Hours of work;
- Remuneration;
- Duties;
- An explanation of the procedures for resolving employment disputes;
- A clause providing a procedure to attempt to protect employment if the business is sold or transferred;
- Reference to an employee's right to receive time and a half for working on a public holiday.

Other than that, the contents of an individual employment agreement are as agreed between the employer and the employee. Employees should be given a copy of the individual employment agreement before they start work. They should be told they can seek advice about it and be given a reasonable opportunity to seek advice. The employer must consider and respond to any issues the employee raises about the proposed individual employment agreement.

New Zealand's employment legislation promotes collective bargaining, but only about 10% of New Zealand's private sector employees are unionised. Collective bargaining must be conducted in good faith and there are particular process requirements.

An agreement between an employer and a union is called a collective agreement. Collective agreements must contain a coverage clause setting out the work the agreement covers. If an employee covered by the coverage clause joins the union, he or she becomes employed under the terms of the collective agreement. New employees whose work falls within the coverage clause must be told about the collective agreement and how to contact the union.



This guide is intended as general information only. For legal advice and assistance with your business needs, please contact our New Zealand firm, SBM Legal.



## II. CORPORATE LAW REQUIREMENTS

### A) COMPLIANCE FOR INCORPORATION

A company must have a name, one or more shares, one or more shareholders and one or more directors. A director must either live in New Zealand, or live in an enforcement country and be a director of a body corporate in that enforcement country incorporated under that country's company law. An application for registration of a New Zealand company is sent to the Registrar of Companies in the prescribed form. The form must be accompanied by documents signed by each director and shareholder stating their consent to be a director or shareholder, and must say what the company's

registered office and address for service is. Certain other information must be provided.

Once an application for registration is accepted, a certificate of incorporation is issued.

A company may have a constitution, but it doesn't have to.

### B) POST INCORPORATION REGISTRATIONS

An overseas company that wishes to carry on business in New Zealand must apply to the Registrar of Companies to do so. The name of the overseas company must be reserved before the overseas company starts to

carry on business. The application for registration is made in a prescribed form. It must include the full address of the place in New Zealand the overseas company carries on business, as well as the full names and residential addresses of the directors of the overseas company at the date of the application, among other information.



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### III. PAYROLL AND BENEFITS PROVIDERS

An employer is required to keep wage and time records and holidays and leave records. These must be kept for 6 years. If an employee requests a copy of or access to wage and time records or holidays and leave records, the employer must provide those records.

The records are required to contain certain information, including the hours the employee works and the wages paid to the employee, as well as details of any holidays taken or owing.

An employer may outsource payroll to a third party provider, but will still remain liable to employees for any errors in payroll or any failure to keep accurate wage and time records and holidays and leave records. Outsourcing to payroll providers is common in New Zealand.

We are pleased to offer our services for any employment law work identified above, and we have a network of legal services providers who can assist with any corporate law requirements. We would be delighted to assist your organisation to open in New Zealand. Any portion of the work can be conducted on the basis of a rate of NZD\$495 - \$530 + GST per hour for partners, or NZD \$395 + GST per hour for senior associates in addition to any required disbursements and tax. These rates are current as at January 2018, but are reviewed in April of each year.

If you have any questions, please contact either one of our partners:

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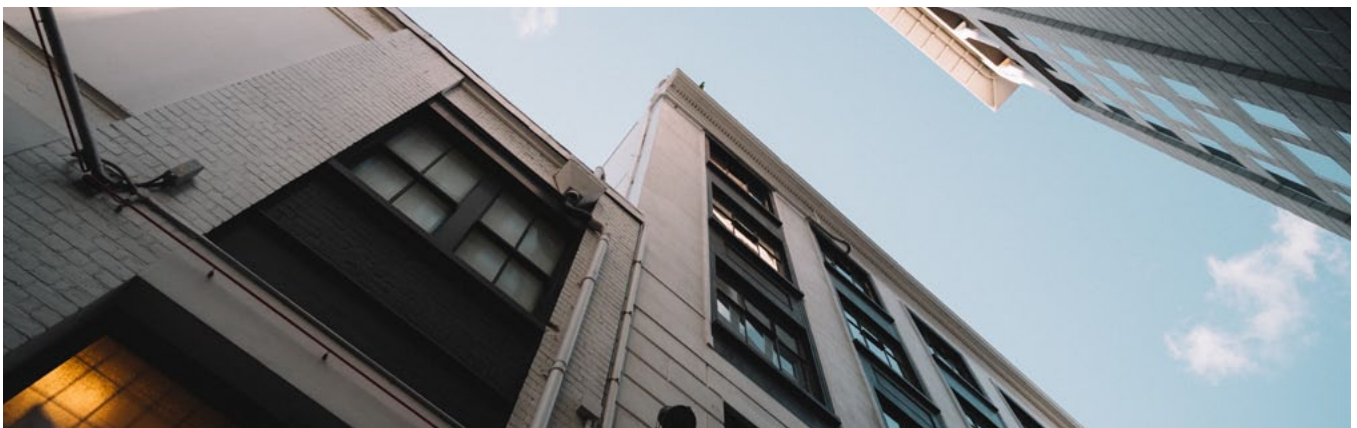
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**We look forward to working with you.**

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