

Employers Guide

Employment Related Policy and Regulations in
the Cook Islands

Guide to assist with the legal and policy frameworks
that govern employment relationships



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1. Background and Executive Summary

Background

The Cook Islands' labour market is a vital part of its economic and social development. Employers – whether operating large companies, small businesses, or informal enterprises – play a critical role in shaping fair and productive workplaces. To support this, it is essential that all employers understand the legal and policy frameworks that govern employment relationships.

This guide has been developed to provide employers with a clear and practical overview of their responsibilities and obligations under Cook Islands employment-related laws and regulations. It focuses on two key pieces of legislation:

- **The Employment Relations Act 2012**, which sets out the rights and duties of employers and employees in local employment.
- **The Immigration Act 2022**, which regulates the recruitment, employment, and sponsorship of foreign workers in the Cook Islands.

The guide draws on these and other relevant policies to help employers navigate every stage of the employment relationship – from recruitment and contracting to wages, taxation, termination, and dispute resolution.

Whether you're a business owner employing one worker or managing a larger team, this guide is intended to help you remain compliant and build fair, safe, and lawful workplaces.

Executive Summary

This guide is structured to reflect the full lifecycle of the employment relationship. Key topics covered include:

- **Local Recruitment:** Understanding fair hiring practices, anti-discrimination obligations, and employment records.
- **Employment Contracts:** What must be included in a contract under the Employment Relations Act 2012.
- **Wages & Salaries:** Employer obligations regarding minimum wages, payment intervals, deductions, and payslips.
- **Taxation & Superannuation:** PAYE and superannuation contributions, including employer responsibilities to the Cook Islands Revenue Management Division and the National Superannuation Fund.
- **Workers Compensation:** Legal duties in relation to workplace injuries and compensation mechanisms.

- **Leave Entitlements:** Annual, sick, maternity/paternity, and bereavement leave provisions.
- **Dispute Resolution & Termination:** Fair processes for managing conflicts and ending employment relationships lawfully.
- **Foreign Worker Employment:** Rules on recruitment, sponsorship, accommodation, and repatriation under the Immigration Act 2022.

In addition, the guide outlines the roles of key government bodies including the **Department of Internal Affairs**, the **National Labour Advisory Board**, and **meINTAFFtion services** available to resolve disputes without formal legal action.

Employers are encouraged to use this guide as a practical reference and to seek further clarification or support from relevant government departments when needed. By promoting legal compliance and fair treatment of workers, employers can contribute to a more sustainable and equitable labour market across the Cook Islands.

2. Acknowledgments

This guide has been developed through the combined efforts of individuals and institutions committed to improving employment practices and promoting compliance with Cook Islands labour laws.

We wish to acknowledge the following stakeholders and their information which has contributed to this guide.

- **Ministry of Internal Affairs - Labour Division**
- **Ministry of Foreign Affairs and Immigration**
- **Cook Islands Revenue Management Division**
- **Cook Islands National Superannuation Fund**
- **The National Labour Advisory Board**
For its continuing role in reviewing labour policies and fostering INTAFFlogue between government, employers, and employees.
- **Employers, Business Owners, and Industry Representatives**
Whose practical feedback has helped ensure this guide reflects the real-world challenges and needs of employers across sectors – from formal enterprises to small family-run operations and informal businesses.
- **Community and Worker Representatives**
- **The International Labour Organisation**

Who have funded this project, the objective of which was to: Assist the Cook Islands Chamber of Commerce to produce and disseminate information and knowledge projects to members on recent policy developments and legislative changes.

We also extend appreciation to those who have reviewed and edited this document to ensure the accuracy, clarity, and usefulness of this document.

3 Local Recruitment

Recruiting workers locally is an essential process for businesses in the Cook Islands. Employers are expected to follow fair, transparent, and lawful practices that ensure equal opportunity and respect for workers' rights under the **Employment Relations Act 2012**.

Fair Recruitment Practices

Employers **should** aim to conduct recruitment in a way that is:

- **Non-discriminatory:** Hiring decisions must not be based on race, gender, religion, disability, age, political belief, sexual orientation, or marital status.
- **Transparent:** Job roles, required qualifications, and employment terms should be clearly communicated during recruitment.
- **Merit-based:** Selection should be based on the candidate's skills, experience, and suitability for the position.

The **Employment Relations Act 2012** encourages inclusive employment and equal access to job opportunities. Employers are urged to support workplace diversity and remove barriers to employment, especially for vulnerable groups such as young people, persons with disabilities, and returning residents.

Advertising Vacancies

Although there is no legal requirement to advertise all positions publicly*, employers are encouraged to:

- Advertise through public channels such as newspapers, online platforms, or notice boards.
- Provide enough detail in job advertisements to allow potential applicants to understand the role, responsibilities, and application process.

*Please note, that if you are hiring an international worker, there is a requirement as per the Immigration Act, that you publicly advertise a position locally and evidence is required that this has been done with no suitable local applicants available.

Pre-Employment Processes

When recruiting, employers should ensure:

- **Clear job descriptions** are prepared, outlining duties, reporting lines, and expectations.
- **Interview records** are kept (especially for competitive positions), including the criteria used to assess applicants.
- **References** are checked where necessary, and any pre-employment screening (such as police checks or medical clearance) is done lawfully and with consent.

Employers should avoid practices that may be seen as exploitative, such as:

- Requiring excessive unpaid trial work.
- Charging jobseekers fees to apply or be considered for a position.
- Offering unclear or misleading job terms.

Record-Keeping Obligations

Once a worker is recruited, employers must keep the following basic records, as required by the **Employment Relations Act 2012**:

- Full name and contact details of the employee.
- Start date of employment.
- Copy of the employment contract (written or, if verbal, documented terms).
- Position, wage/salary rate, and agreed hours of work.
- Tax and superannuation details (once registered).

Records must be kept for at least **seven years** and should be available for inspection by authorised officers if requested.

Recruitment in Informal or Small Enterprises

For small or informal employers (such as households or single-person businesses), recruitment may be less formal but must still respect the basic principles of fairness, consent, and transparency. Even where no formal contract is used, the employer is still bound by the legal obligations in the **Employment Relations Act 2012**.

Employers who need support with hiring practices or understanding their responsibilities can contact the **Labour and Employment Relations Division** within the **Department of Internal Affairs** for advice or templates.

3.1 Employment Contracts

A clear and lawful employment contract is the foundation of a productive working relationship. Under the **Employment Relations Act 2012**, all employers in the Cook Islands are required to enter into a contract of service with their employees. This contract may be

written or verbal, but written agreements are strongly recommended to prevent misunderstandings or disputes.

What Must Be Included in an Employment Contract

The Employment Relations Act sets out specific requirements for what must be included in every contract of service. At a minimum, the contract must specify:

- **The names and contact details** of the employer and employee
- **The nature of the work or job title**
- **The place or places of work**
- **The start date** of employment
- **The ordinary hours of work**
- **The wage or salary rate**, payment frequency, and method of payment
- **Overtime arrangements** (if applicable)
- **Leave entitlements**, including annual leave, sick leave, and public holidays
- **Termination provisions**, including notice periods and grounds for dismissal
- Any **probation period** and its duration
- Reference to any **collective agreement** that applies

Employment Types of Contracts

Employers may use different types of employment contracts based on their staffing needs:

1. Permanent (Indefinite) Contracts

- The most common type of employment.
- The contract continues until lawfully terminated by either party.

2. Fixed-Term Contracts

- These contracts end on a specific date or upon completion of a particular project.
- Employers must specify the reason for the fixed term and ensure it is genuine (e.g. seasonal work, maternity cover).
- Repeated use of fixed-term contracts to avoid permanent employment obligations is not allowed under the Act.

3. Casual Employment

- Used for work that is irregular, on-call, or without a predictable pattern.
- Employees may not have guaranteed hours but are still entitled to certain minimum protections under the law.

4. Probationary Periods

- Employers may include a **probation period** (usually up to 3 months) to assess suitability for the role.
- During probation, the employee still retains basic legal protections and must be treated fairly.
- The terms of probation must be clearly set out in the contract.

Amending or Updating Contracts

If the terms of employment change (e.g. hours, duties, or pay), these changes must be:

- Discussed and agreed upon by both parties,
- Put in writing and signed where possible,
- Notified to relevant authorities where required (e.g. immigration or tax office for foreign workers).

Collective Agreements

Where employees are represented by a union or staff association, a **collective agreement** may apply. These agreements are negotiated between the union and the employer and must comply with the Employment Relations Act. If an employee is covered by such an agreement, this must be referenced in their individual employment contract.

Templates and Guidance

The **Labour Division** of the **Department of Internal Affairs** can provide sample employment contract templates for different sectors and employment types. Employers are encouraged to use these resources or other resources from qualified Human Resource Professionals, and seek assistance to ensure their contracts are legally compliant.

3.2 Wages & Salaries

Paying employees fairly and lawfully is a fundamental employer responsibility. In the Cook Islands, the **Employment Relations Act 2012** sets out clear rules for how wages and salaries must be calculated, paid, and documented.

Minimum Wage Requirements

The Cook Islands government sets a **national minimum wage**, which is reviewed annually. Employers must ensure that all employees are paid at or above this rate for each hour

worked. Any change to the national minimum wage annually takes effect on the 1st of July each year. As of the time of publication, the applicable minimum wage can be confirmed through the **Labour Division** of the **Ministry of Internal Affairs**.

Failure to pay the minimum wage is a breach of the Employment Relations Act and may lead to penalties, back pay orders, and other enforcement actions.

Wage Classification

Employees may be paid on the basis of:

- **Hourly wages**
- **Daily or weekly wages**
- **Monthly salaries**
- **Piecework or output-based systems** (must still meet minimum wage protections)

Employers must ensure that the method of payment and calculation of hours or output is transparent, recorded, and agreed upon in the employment contract or employment agreement.

Frequency and Method of Payment

Wages or salaries must be paid:

- At **regular intervals**, agreed upon in the employment contract (e.g. weekly, fortnightly, or monthly)
- In **cash**, by **cheque**, or by **bank transfer**, depending on what has been agreed
- With no undue delays or withholding beyond the agreed pay date

If a regular pay day falls on a public holiday or weekend, payment should be made **on the last working day prior**, unless otherwise agreed.

Pay Slips and Record-Keeping

Employers are required to issue **pay slips** at each pay period, showing:

- Employee's name
- Gross wages
- Deductions (e.g. PAYE tax, superannuation, authorised deductions)
- Net pay
- Hours worked (if paid hourly)
- Overtime payments (if applicable)

Pay records including pay slips and PAYE deduction payments must be retained for **at least 7 years** and should be made available for inspection by authorised labour officers.

Wage Rates

Ordinary rate of pay, means the rate of pay an employee is entitled to, under the employee's agreement, for the employee's normal hours of work.

Overtime rate of pay at the rate of one and a half times the employee's ordinary rate of pay must be paid for each hour worked in the week in excess of 40 hours.

Public holidays An employee, other than a casual employee is entitled to a holiday with pay at the employee's ordinary rate of pay, if a public holiday falls on a day which would normally be a working day for the employee. If the employee is required to work on a public holiday, then, the employee is entitled to:

- Be paid an hourly rate for work on the public holiday, as agreed between the employer and the employee but not less than:
 - For casual employees, double the hourly rate the employee was paid in the working day (other than a public holiday) preceding the public holiday; or
 - For full or part time employees, double the employee's ordinary rate of pay;

Or

- Have an extra day added to the employee's leave entitlement, or
- Receive time off in lieu for the time worked on the public holiday, or
- Another reasonable arrangement that is not less than favourable to the employee, and as agreed between the employer and the employee

Deductions from Wages

Only **lawful deductions** may be made from an employee's pay. These include:

- PAYE tax and superannuation contributions
- Court-ordered payments
- Other deductions authorised in writing by the employee (e.g. loan repayments, accommodation, meals)

Employers **must not**:

- Deduct for work tools, uniforms, or training unless this is agreed to in writing and does not reduce wages below the minimum wage
- Impose fines or penalties through wage deductions
- Make unauthorised deductions to recover losses (e.g. damaged equipment, cash shortages) unless supported by lawful procedures

Equal Pay for Equal Work

Employers must provide equal remuneration for male and female employees who perform work of equal value. Discrimination in pay based on gender or other characteristics is prohibited under Cook Islands labour law and human rights principles.

Non-Cash Payments and Allowances

In certain industries, non-cash benefits such as **meals, transport, or housing** may be provided in addition to (but not in place of) wages. These must be clearly defined and documented, and **cannot be used to replace cash wages**.

3.3 Taxation

Employers in the Cook Islands have legal obligations to deduct and pay employment-related taxes on behalf of their employees. These obligations fall under the administration of the **Revenue Management Division** of the Ministry of Finance and Economic Management (**MFEM**).

Pay-As-You-Earn (PAYE) System

The Cook Islands uses a **Pay-As-You-Earn (PAYE)** system for personal income tax. Under this system:

- **Employers are responsible** for deducting the correct amount of tax from an employee's salary or wages **at the time of payment**.
- The deducted tax must be **remitted monthly** to the Revenue Management Division, along with an accompanying return.

This system ensures that employees meet their income tax obligations throughout the year and that the government receives steady tax revenue.

Employer Responsibilities

All employers must:

1. **Register** as an employer with the Revenue Management Division.
2. **Withhold PAYE tax** from employee wages and salaries based on published tax brackets and rates.
3. **Submit monthly PAYE returns**, even if no tax is due for a given month by completing the form RM205.
4. **Remit PAYE tax** by the due date – generally the **20th of the following month**.
5. **Issue annual earnings summaries** to employees (at the end of the tax year) showing total income earned and tax withheld. This is done by completing the form RM101.

Employers should maintain accurate records of employee earnings, deductions, and PAYE submissions for a minimum of **seven years**.

Tax Codes and Employee Declarations

Employees must complete a **Tax Code Declaration Form** upon starting work. This helps the employer determine the correct amount of tax to deduct, based on factors such as:

- Number of jobs held (whether this is a primary or secondary role)
- Anticipated annual wage

It is the employer's responsibility to ensure each employee has a valid tax code on file.

Fringe Benefits and Allowances

Certain non-cash benefits provided to employees – such as housing, may be subject to **fringe benefit tax (FBT)**. Employers are advised to consult with the Revenue Management Division to determine whether specific benefits are taxable and how they should be reported.

Employment Types

An **employee** means a person engaged to work under an agreement or contract of service.

This includes

- A person paid by the number of units the person produces and a person intending to work, but

Does not include

- An independent contractor engaged under a contract for service

A **casual employee** means an employee with irregular working hours; or, who works intermittently; or who is employed for short term work only.

A **full-time employee** means an employee, other than a casual employee, who:

- Is employed by an employer for at least 35 hours a week; and
- Has regular hours of work each week; and
- Has a reasonable expectation that he or she will continue to be employed by the employer for at least 35 hours per week

A **part-time employee** means an employee, other than a casual employee, who:

- Is employed by an employer for less than 35 hours per week; and
- Has regular hours of work each week; and
- Has a reasonable expectation that he or she will continue to be employed by the employer for those hours each week

Employers must be careful to **correctly classify workers** as either employees (subject to PAYE) or independent contractors (responsible for their own tax obligations). Misclassification can lead to penalties and unpaid tax assessments.

Where there is uncertainty, employers should seek clarification from the Revenue Management Division.

Support and Resources

The Revenue Management Division provides:

- Tax tables and withholding calculators
- Employer registration and reporting forms
- Guidance on fringe benefits and contractor obligations
- In-person assistance and outreach services

Employers are encouraged to remain up to date with tax policy changes and to file and pay taxes on time to avoid penalties or legal enforcement.

3.4 Superannuation

The **Cook Islands National Superannuation Fund (CINSF)** provides retirement pension for employees working in the Cook Islands. Under the law, employers are required to make compulsory contributions to the fund for eligible employees. This ensures workers are supported in retirement and aligns with national goals for long-term financial security.

Who Must Contribute

All employers in the Cook Islands must register and contribute to the CINSF for:

- **Citizens and permanent residents**, and
- **Foreign workers**
- Contributions must begin from the **start of employment**

Please note: employees who have reached the age of 55 may opt out of the compulsory scheme.

Contribution Rates

The contribution rates are set by law and reviewed periodically. The current mandatory deductions are:

- **Employer contribution:** 5% of the employee's gross salary or wage
- **Employee contribution:** 5% of their gross salary or wage (deducted at source)

Employers are responsible for:

- **Withholding the employee's share** of the contribution from wages
- **Adding the employer's share**, and
- Completing a declaration and making payment of the 10% contributions to CINSF by the 20th of each month.

Registration and Record-Keeping

Employers must:

1. **Register themselves and each employee** with the CINSF
2. Keep records of employee contributions, gross wages, and remittances
3. Provide payslips showing the amount deducted for superannuation

New employees should be asked to complete the **CINSF Member Registration Form** and provide identification and contact details. If an employee is already registered, employers should update the CINSF with the new employer details.

Voluntary Contributions

In addition to compulsory contributions, both employees and employers may choose to make **additional voluntary contributions**. These can enhance retirement benefits and are encouraged as part of long-term savings planning.

Non-Compliance and Penalties

Failure to comply with superannuation obligations – including non-registration, late payments, or underpayments – can result in:

- **Fines and penalties**
- **Interest charges on late contributions**
- **Legal enforcement or recovery action** by the CINSF

Employers are urged to maintain accurate payroll systems and submit payments on time. CINSF offers support to help small businesses and informal employers meet their responsibilities.

Features and Benefits

Employees generally access their superannuation when they:

- Reach **retirement age** (usually 60),
- Become **permanently incapacitated**, or
- Leave the Cook Islands permanently (for foreign workers, this may be after work visa expiry and confirmed departure).

Employees may also apply for early access in limited cases, such as hardship or serious illness, under CINSF rules.

The main purpose of the Fund is to provide members with a **pension** during their retirement. The normal retirement age is the 60th birthday. This is the age at which members become entitled to a retirement pension. On retirement any Voluntary Account balance is paid as a lump sum. If your Compulsory Account balance is less than \$45,000, it will be paid to you as a lump sum.

Should members continue to work past their 60th birthday and continue to make contributions; the value of the pension will be determined by age and the balance of their Compulsory Account at retirement date. Members cannot re-join the Fund as a member after becoming a pension member.

The rates of pensions payable (“pension rates”) are the latest pension rates recommended by the Fund’s actuary and accepted by the Trustee and the Board. Pension rates are subject to change by the Trustee from time to time based on advice from the actuary and in consultation with the Board. The pension rates payable are not guaranteed, but will not be varied for a member from the time of their first pension payment.

3.5 Workers Compensation

Employers in the Cook Islands are legally obligated to provide compensation for employees who suffer injury or death arising out of, or in the course of, their employment. This is governed by the **Workers Compensation Act 1964**, which ensures employees receive fair support for work-related injuries, illnesses, or disabilities.

What Is Workers Compensation?

Workers compensation provides protection to workers and their employers in the event a worker suffers a work related injury or disease. Any worker who is injured from an accident arising out of and/ or in the course of employment may be eligible to receive compensation in accordance with the Ordinance.

The Workers Compensation Scheme Fund is managed by the Ministry of Finance & Economic Management. All applications for compensation are handled by The Ministry of Internal Affairs. Currently, the function of administration sits with the Labour & Employment Relations Office at the Ministry of Internal Affairs. Every application for compensation must be made to the Ministry of Internal Affairs who may conduct an investigation and request further information.

Who Qualifies for Compensation?

Any worker who is injured as a result of a work related accident may qualify for compensation if the worker is: a) Incapacitated for four days or more from earning full wages and b) not responsible for the injury

How is Compensation Calculated?

The amount of compensation a worker receives may depend on a number of factors, such as:

- the type of work related injury;
- the amount of income lost as a result of the work related injury
- the degree of incapacity to the worker as a result of the work related injury
- the Workers Compensation Schedule

Occupational Disease

If after a period of 12 months in employment a worker contracts an occupational disease, the worker may be eligible for compensation. Compensation for occupational disease shall be treated as if the occupational disease was a personal injury by accident arising out of and in the course of employment.

Applying for Compensation

An application must be completed, and filed that together with a medical certificate outlining the injury sustained and period of absence from work required while recovering from this injury. The Ministry will make contact if further information is required

Employer Obligations

Under the law, employers must:

- **Report workplace injuries** that require hospitalisation for 48 hours or more, to the Labour Division of the Department of Internal Affairs
- **Take reasonable steps** to prevent injuries, including providing a safe work environment and necessary protective equipment
- **Keep records** of all workplace accidents

Employers Liability Insurance

Employers are required to pay Employers' Liability Insurance each year. The funds collected are used to fund the Workers Compensation Scheme.

Please note: At the time of writing this guide, the payment of Employers' Liability Insurance has been paused. This is because new legislation covering Workers Compensation and incorporating premiums from Employers is underway.

Employers are advised to **cooperate fully** with injured employees and the Labour Division throughout the claims process.

Safety First

Employers can significantly reduce workers compensation risks by:

- Conducting regular health and safety assessments
- Training staff in safe work procedures
- Ensuring all machinery and equipment are maintained
- Encouraging early reporting of hazards and injuries

3.6 Leave Entitlements

Annual Leave

A **full-time employee** is entitled to 10 working days annual leave, paid at the employee's ordinary rate of pay, for each 12 month period which the employee is working or on paid leave. It is acceptable for an employer to require a minimum period of service for new workers before they are entitled to take leave, but that minimum period should not exceed six months. Employers and employees should discuss and agree when the leave can be taken.

A **part-time employee** is entitled to a number of annual leave day's proportional to 10 working days for the number of hours worked for each 12 month period during which the employee is working or on paid leave. As an example: if the annual leave entitlement in their employment contract is 10 days for a full-time workers based on their 40 hours per week, then a part-time employee who has worked an average of 20 hours per week in the previous 12 months, then the part-time employee entitlement would be 5 working days per annum. Remembering, that these are the minimum entitlements.

Sick Leave

A **full-time employee** is entitled to a minimum of 5 days of paid sick leave for every 12 months of continuous service. A **part-time employee** is entitled to sick leave proportional to 5 working days for the number of hours worked for each 12 month period. As an example, a part-time employee who has worked an average of 20 hours per week in the previous 12 months, then the part-time employee sick leave entitlement would be 2.5 working days per annum. An employer may require an employee to work for a minimum period, not exceeding six months before the employee takes sick leave for the first time after commencing their employment. The employer may require a written certificate, certifying the employee's inability to work and stating why the employee is unable to work. This must be signed by a qualified medical practitioner, or, where a qualified medical practitioner is unavailable, is an island in the Cook Islands other than Rarotonga, a qualified nurse.

Maternity Leave

All eligible working women, including international workers, in the Cook Islands who give birth are entitled to maternity leave of 6 weeks. A casual employee is not eligible for maternity leave. The employee must not commence the leave earlier than 2 weeks before the expected delivery date, and must commence the leave no later than the date of the birth. If the employee returns to work at the expiry of the maternity leave or within 6 weeks of the birth, the employee is entitled to return to the position usually held by her prior to taking maternity leave, or, to an equivalent position and on conditions equivalent to those which would have applied to her had she not taken maternity leave. The employer can request a written medical certificate from a qualified medical practitioner confirming the pregnancy and the expected date of delivery.

Payment of maternity leave

An eligible employee on maternity leave is entitled to be paid by the Crown, at the minimum rate of pay, based on a 40 hour working week. **If** the employee's employment agreement provides for the payment of maternity leave by the employer then the employer must make the payment in accordance with that agreement; and, the payment by the employer is **additional** to any payment by the Crown to which the employee is entitled.

Note: In the case of **Crown payments** for maternity leave, an international worker is **not** an eligible employee. In the case of international workers, **the employer must pay for the maternity leave at not less than the minimum wage**. An employee employed within the Public Service have their own entitlements specified in the Public Service Act 2009.

Paternity Leave

An employee who is the spouse of a person who gives birth is entitled to 2 working days paid leave, paid at the employee's ordinary rate of pay, and 3 working days unpaid leave, in the 6 weeks following birth. This does not apply to casual workers.

Leave Record-Keeping

Employers are required to maintain accurate records of:

- Leave balances for each employee (annual, sick, public holidays, etc.)
- Dates and duration of leave taken
- Any supporting documentation (e.g. medical certificates, leave requests)

Accurate record-keeping is essential for ensuring compliance and avoiding disputes over leave entitlements.

3.7 Dispute Resolution

Disputes between employers and employees are an inevitable part of any work environment. The **Employment Relations Act 2012** provides a framework for resolving these disputes fairly and efficiently. It aims to foster open communication and provide a structured process for addressing conflicts in the workplace.

In the Employment Relations Act (2012), Part 6 deals with the requirements of employment disputes. This requirement does not apply in relation to the public service or disputes to which the Disability act 2008 applies. An employment dispute means a dispute between an employer and employee, a former employee and former employer, and is about the interpretation, application or operation of an employment agreement, or, an alleged breach of an employment agreement, or, a failure by the employer to provide at least the minimum terms and conditions, or, a personal grievance.

Personal Grievances

A personal grievance may be the result of:

- Unjustifiable termination
- Employment, or a condition of employment is adversely affected by an unjustifiable action of the employer
- There has been discrimination in employment, or, sexual or racial harassment
- The employee has been subjected to duress

For the purposes of the Act, the question of whether an employee's employment has been unjustifiably terminated, or an action was justifiable, must be objectively determined. This is done by considering whether the employer's actions were what a fair and reasonable employer could have done in all the circumstances at the time the termination or action occurred.

Dispute Resolution Process

The Act allows for an employer and an employee to be represented by an appointed representative in the dispute resolution process. There is a requirement under the Act to try to resolve disputes between the parties. If the employment agreement between the parties contains a dispute resolution procedure, then the parties must use that procedure. If the dispute relates to the interpretation, application or operation of a collective agreement, the person bringing the claim must tell all parties to the agreement about the claim. If the dispute relates to a personal grievance, the employee has an obligation to inform the employer within 60 days of the action giving rise to the personal grievance.

MeINTAFFtion of employment disputes

If the parties cannot resolve the dispute then either party may, by written notice to the other party, refer the dispute for meINTAFFtion. This meINTAFFtion must be undertaken by a meINTAFFtor agreed to by the parties, or if that cannot be agreed, by the Secretary of the Department of Internal Affairs. During meINTAFFtion, each party may be represented by a representative at the meINTAFFtion and have the assistance of a support person at the meINTAFFtion. The meINTAFFtor must decide how the costs of the meINTAFFtion are to be borne by the parties.

MeINTAFFtion Procedure

If an employment dispute has been referred for meINTAFFtion under Section 64 of the Act, the meINTAFFtor must determine the nature of the dispute and attempt to settle it between the parties as quickly and fairly as possible.

The actions of the meINTAFFtor may include:

- Notifying the parties in writing of the date, time, and place of the meINTAFFtion
- Gathering information to assist in their consideration of the dispute
- May make recommendations to the parties

- If requested by the parties, make findings in relation to the interpretation, application or operation of the employment agreement

If the dispute is settled, either in part or in full, the terms of the settlement must be recorded in a written settlement agreement. This agreement is binding and may be enforced by way of proceedings in the High Court.

If the dispute is not settled, either party may refer the dispute for arbitration by an arbitral tribunal under the Arbitration act 2009

Remedies

This applies if an employment dispute has been resolved either by mediation or by arbitration. The final settlement, decision, or award in relation to the dispute may include reimbursement by the employer for any sum or part of wages lost as a result of the dispute to a maximum of 3 months at the employee's ordinary rate of pay; reinstatement of the employee to their formal position or one that is not less advantageous than the former position; or payment of compensation by the employer to the employee.

If an arbitral tribunal determines that an unjustifiable termination has occurred, the tribunal must decide the nature and amount of any remedy, with consideration given to the extent to which the employee's own actions contributed to the termination.

Confidentiality & Privilege

Except as required by law or agreed to by the parties all matters discussed, raised, agreed, admitted, or determined during mediation must not be disclosed by the parties or any other person attending the mediation, and, are not admissible in court, tribunal or other forum or person acting judicially, except for the purpose of enforcing a settlement agreement.

Tauranga Aka' Au - Cook Islands Mediation Centre Mediation Services

The Tauranga Aka' Au - Cook Islands Mediation Centre organization is a voluntary-based council formed in 2019 to provide a co-ordination point for mediation services covering family, land, and employment.

Their aims and objectives are:

- To promote alternative dispute resolution (ADR) as a means of resolving disputes in the Cook Islands
- To raise awareness of ADR as an efficient and effective mechanism for resolving disputes
- To provide training and development opportunities for prospective and current practitioners of ADR To collate and maintain a list of qualified practitioners and their contact details

- To co-ordinate the arrangements for ADR by identifying available practitioners of ADR, organizing dates, times, and venues, for ADR to be undertaken in a professional manner.
- To develop and maintain professional standards for practitioners of ADR organisations.

For assistance in employment dispute resolutions, they can be contacted by emailing them at

- tauranga.akaau.meINTAFFtion@gmail.com or via their Facebook page
- <https://www.facebook.com/cookislandsmeINTAFFtioncentre>

3.9 Termination & Redundancy

An employee who wishes to terminate their employment, must give the employer at least one week's notice of the termination.

An employer who wishes to terminate the employment of an employee may only do so for one or more of the reasons listed below:

- Due to the employee's capacity to carry out the duties required by the employment agreement;
- The employee's conduct
- A restructure of the employee's business, for genuine reasons, that creates a redundancy of an employee position.

If any of the above three reasons are triggered, then the employer must either give the employee not less than 7 days notice before the termination, or, pay the employee not less than one week's pay (at the employee's ordinary rate of pay) in lieu of notice.

This does not apply to a casual employee. In the case of termination due to serious misconduct, then an employer may terminate the employment without notice.

In the case of termination due to redundancy, the employer must either give the employee 2 weeks notice of the termination (not included any period during which the employee is on annual leave), or, pay the employee not less than 2 week's pay (at the employee's ordinary rate of pay) in lieu of notice.

An employer must give the employee a reason for the termination of their employment and before issuing a notice of termination (due to capacity or conduct) the employer must tell the employee, in writing, of the reasons for the termination; and give the employee a reasonable opportunity to respond and make submissions to the employer about why the employee's employment should not be terminated.

Upon termination of employment, the employer must, as soon as practicable, pay the employee for any accrued annual leave not taken at the time of the termination and any outstanding pay or other entitlements owing to the employee at the date of the termination.

None of the above applies to casual employees.

3.9 Foreign Worker Recruitment

The recruitment of foreign workers is an essential part of the Cook Islands' economy, particularly in industries such as tourism, agriculture, construction, and hospitality. However, hiring foreign workers requires adherence to specific legal requirements outlined in the Immigration Act 2022 and associated regulations. Employers must ensure they comply with these regulations to avoid legal penalties and ensure fair treatment of workers.

Immigration Act 2022 and Foreign Worker Recruitment

Under the Immigration Act 2022, foreign nationals wishing to work in the Cook Islands must hold a valid work permit or employment visa. Employers wishing to hire foreign workers must follow the procedures set out by the Immigration Division within the Ministry of Internal Affairs.

Key considerations include:

- Ensuring the foreign worker meets the requirements for a work permit,
- Submitting a formal application for approval from the Ministry of Internal Affairs,
- Providing the necessary documentation and justifications for hiring a foreign worker over a local worker, where applicable.

Work Permits and Employment Visas

To employ a foreign national, an employer must be registered as a sponsor with the Ministry of Foreign Affairs & Immigration.

Sponsorship of Foreign Workers

Employers must act as sponsors when hiring foreign workers. This means the employer is responsible for ensuring the worker complies with all legal and regulatory requirements while employed in the Cook Islands. The employer must also ensure that:

- The worker is engaged in the type of work specified in the work permit,
- The worker's salary and working conditions are in line with the requirements of the Immigration Act 2022 and any applicable employment laws,
- The worker is provided with appropriate accommodation, benefits, and protections as outlined in their employment contract.
- The worker is repatriated at the conclusion of their employment contract

Work Permits and Employment Visas

The employer must apply for a work permit on behalf of the foreign employee. This work permit must be obtained before the employee can begin work in the Cook Islands. There are different categories of work permits, depending on the type of employment:

For the purposes of this Guide, we outline below information that relates to International Worker Permits. The criteria is outlined below:

An applicant:

- (a) Must meet general requirements related to translations, evidence of identity, character, and health.
- (b) Must meet the general requirements of evidence of sufficient funds for themselves, and if applicable, their spouse and dependent children, or **must have a sponsor**.
- (c) Must have the required evidence of an onwards travel plan or pay a bond for themselves, and if applicable, for their spouse and any dependent children.
- (d) Must have evidence of English language proficiency.
- (e) Must:
 - (i) Have a written offer of employment in the Cook Islands that meets the minimum terms and conditions required by the Employment Relations Act 2012 and these regulations; and
 - (ii) Have evidence that their **prospective employer** has:
 - (A) Publicly advertised the availability of their vacant position;
 - (B) Failed to fill the position with a suitable Cook Islander or permanent resident under the same terms and conditions as those offered to the international worker; and
 - (C) Agreed to enrol them in, and allow them time off to attend, a values or language programme (unless they have already completed a programme).
- (f) If the applicant has previously held an International Worker Permit, must have evidence of:
 - (i) Holding a revenue division management number and having paid any required taxes and superannuation.
 - (ii) Completing a values or language programme.
- (g) Unless the applicant comes within a special skills category approved by the Minister or is entitled to more favourable treatment under an international agreement (e.g., Pacer Plus), must not have held more than two International Worker Permits

immediately before the application is made without having left the Cook Islands for a period longer than one year (meaning that, unless the applicant has special skills or is entitled to more favourable treatment under an international agreement (e.g., Pacer Plus), a stay as an international worker cannot extend for more than six years without a one-year break).

- (h) Must have left the Cook Islands for a period of 1 month or more during the term of each previous International Worker Permit held (meaning that at least 1 month out of every 36-month permit must have been spent offshore).
- (i) Must provide a curriculum vitae or similar document setting out the applicant's qualifications, skills, and experience for the position that they are to fill.
- (j) Must pay the prescribed fee.

Employers are encouraged to make reasonable efforts to recruit locally before hiring foreign workers. If local workers are available and capable of filling the position, an employer may not be granted permission to hire a foreign worker.

The work permit issued by the Ministry is typically tied to the employer and the specific position. If the foreign worker changes employers, the new employer must submit a new application for a work permit. A foreign worker must not work for any other employer or business outside of their visa unless they have obtained permission from their primary employer and the Ministry of Foreign Affairs & Immigration have approved as a 'material change in circumstances'.

Role of the National Labour Advisory Board (NLAB)

The National Labour Advisory Board (NLAB) is a tripartite body in the Cook Islands, composed of representatives from the government, employers (through the Chamber of Commerce), and employees (through the Cook Islands Workers Association).

It serves as the primary forum for tripartite social dialogue and regularly consults on labour-related issues, providing recommendations to the government on policies such as immigration, workers' compensation, and minimum wages to ensure "decent work" principles are advanced in the country.

Key Functions

- **Policy Advice:**

The NLAB provides advice and recommendations to the government on proposed labour policies and legislation, including those related to immigration, workers' compensation, and minimum wage.

- **Tripartite Dialogue:**

It facilitates regular consultations between government, employer, and employee representatives to foster collaboration and consensus on labour matters.

- **Decent Work Program:**

The NLAB is instrumental in developing and implementing the [Cook Islands Decent Work Country Programme](#) (DWCP), a plan to advance fair and decent work in the country.

Composition

The NLAB includes representation from:

- **Government:** Ministries such as Internal Affairs and Foreign Affairs and Immigration.
- **Employers:** The [Cook Islands Chamber of Commerce](#), which represents the private sector and employers' interests.
- **Employees:** The [Cook Islands Workers Association](#), representing employees' collective interests.

Examples of Issues Addressed

- **Immigration Policy:**

The NLAB has reviewed and provided input on proposed changes to immigration policies affecting businesses and workers.

- **Workers' Compensation:**

The Board has worked in the development of a replacement for the 1965 Workers Compensation Ordinance. The replacement legislation is currently in draft at the time of writing this guide.

- **Workplace Health & Safety**

The Board has provided heavy input into the development of the standalone legislation for Workplace Health and Safety. This is still in draft at the time of the writing of this guide.

- **Minimum Wage:**

The Minimum Wage must be reviewed annual in compliance with the Employment Relations Act (2012) and a tripartite subcommittee is appointed annually to conduct this review.

- **Migrant Workers:**

The NLAB has discussed issues related to the engagement and welfare of migrant workers, particularly during events like the COVID-19 pandemic.

3.10 Department of Internal Affairs

The Department of Internal Affairs (INTAFF) plays a central role in managing and regulating employment, immigration, and labour-related policies in the Cook Islands. As the primary government body responsible for the implementation of the Immigration Act 2022 and the

Employment Relations Act 2012, INTAFF serves as a key resource for employers seeking guidance on compliance with labour laws, worker recruitment, and foreign worker sponsorship.

Role and Responsibilities of the Department of Internal Affairs

INTAFF is tasked with overseeing a variety of functions related to employment and immigration, including:

- Administering employment-related policies under the Employment Relations Act 2012,
- Enforcing labour standards and ensuring fair treatment of employees,
- Supporting employers in understanding and applying employment laws in their business operations.
- Workplace Health and Safety
- Administering of Workers Compensation

The department's responsibilities are crucial for ensuring a balanced and fair labour market in the Cook Islands, facilitating smooth employer-employee relationships while protecting the rights of workers.

Key Functions of INTAFF

1. Liaising with the Ministry of Foreign Affairs & Immigration (MFI) to vet employment contracts for migrant workers.

2. Enforcement of Employment Regulations

INTAFF is responsible for the enforcement of the Employment Relations Act 2012 and other employment-related legislation. This includes:

- Monitoring employment contracts to ensure they comply with legal standards regarding wages, working hours, leave entitlements, and conditions of employment,
- Investigating complaints from employees regarding violations of employment law, such as unfair dismissal or unpaid wages,
- Advising employers on best practices for complying with labour laws and maintaining proper workplace standards.
- Conducting Workplace Inductions
- Raising awareness and providing guidance for Workplace Health & Safety

Through its labour division, INTAFF may conduct inspections or investigations if there are allegations of non-compliance with the Employment Relations Act.

3. Employment Standards and Guidance

INTAFF provides support to both employers and employees by offering guidance on employment standards. This includes:

- Advisory services for employers regarding hiring practices, employee rights, and obligations under the Employment Relations Act,
- Resources and training on topics such as workplace safety, wage determination, and dispute resolution,
- Clarification of employee rights such as leave entitlements, termination procedures, and grievance mechanisms.

Employers can consult the INTAFF to ensure they are adhering to the latest standards and updates in labour laws.

4. Labour Market and Statistics

INTAFF also monitors the Cook Islands' labour market, and through the Ministry of Finance & Economic Management Statistics Office, provides statistics and labour market reports to inform policy decisions. This includes:

- Tracking employment trends and labour shortages, particularly in sectors that rely heavily on foreign workers,
- Collecting and analyzing data on employment rates, wage levels, and industry-specific demands, which can help employers make informed decisions about hiring and workforce management.

Employer Interaction with the INTAFF

Employers in the Cook Islands interact with the INTAFF on several key issues:

- Seeking guidance on employment-related issues, such as changes in employment law, employee entitlements, or dispute resolution procedures.

Employers are encouraged to establish a proactive relationship with the INTAFF by:

- Consulting with INTAFF officials on employment practices and labour law compliance,
- Keeping accurate records of employee details, work permits, contracts, and payments to ensure smooth interactions during inspections or audits.

Penalties for Non-Compliance

Failure to comply with INTAFF regulations may result in:

- Legal actions or disputes that may arise from non-compliance with employment regulations.

3.11 The Cook Islands Chamber of Commerce and Its Role in Representing Employers

The **Cook Islands Chamber of Commerce (CICC)** is a prominent and influential organization that plays a critical role in representing the interests of employers across the Cook Islands. As the main business advocacy group in the country, the Chamber provides support, guidance, and resources to employers, helping them navigate the business landscape and labour laws while advocating for favourable conditions for businesses.

Role and Purpose of the Cook Islands Chamber of Commerce

The CICC serves as the **voice of the business community** in the Cook Islands. Its primary purpose is to promote the interests of employers in a range of sectors, including small, medium, and large enterprises. The Chamber works to foster a **pro-business environment** while ensuring that the needs of employers are represented in discussions about policy, economic development, and labour relations.

Key roles and responsibilities of the CICC include:

- **Advocating on behalf of employers:** The Chamber represents the interests of employers in discussions with the government, unions, and other stakeholders regarding labour laws, taxation, and economic policy.
- **Providing resources and support:** The CICC offers practical advice, training, and resources to employers to help them comply with employment regulations, improve business practices, and grow their businesses.
- **Facilitating networking opportunities:** By organizing events, workshops, and seminars, the Chamber helps employers connect with peers, government representatives, and other business stakeholders to share insights and foster collaboration.
- **Promoting business development and growth:** The Chamber supports initiatives that enhance the growth of businesses in the Cook Islands, such as encouraging foreign investment, improving infrastructure, and advocating for policies that support business expansion.

Key Services Provided by the Chamber

The Cook Islands Chamber of Commerce offers a variety of services to its members, including:

- **Legal and Employment Information:** The Chamber provides employers with up-to-date information on employment laws, best practices in human resources, and labour relations. It serves as an educational resource to ensure businesses understand their obligations under the **Employment Relations Act 2012** and other relevant legislation.

- **Advocacy and Representation:** The CICC plays an active role in representing employers' interests in policy discussions, particularly those that affect the business climate and employment regulations in the Cook Islands. The Chamber engages with the government to advocate for policies that foster a fair, efficient, and competitive labour market.
- **Training and Development:** The Chamber offers **workshops, seminars,** and training programs on topics such as workplace management, leadership, employment compliance, and productivity. These resources help employers build stronger, more effective teams and improve workplace practices.
- **Public Relations and Networking:** The CICC facilitates **networking events,** business mixers, and forums where employers can engage with other business leaders, government officials, and industry experts. This helps foster a sense of community and provides valuable opportunities for collaboration and sharing of ideas.
- **Access to Industry Insights:** Members of the Chamber gain access to industry reports, labour market analyses, and policy updates that affect their business operations, ensuring that they are always informed and prepared for changes in the labour market or regulatory environment.

Advocacy and Influence in Policy and Legislation

The Cook Islands Chamber of Commerce plays a **key advocacy role** in shaping employment policy, tax law, and business regulations. By working closely with the government, the Chamber ensures that employers' perspectives are considered when new laws or policies are being developed. Specific areas of influence include:

- **Labour Laws:** The Chamber works to ensure that employment regulations are fair, balanced, and supportive of both employers and employees. It plays an instrumental role in shaping policy related to wages, working conditions, leave entitlements, dispute resolution, and the recruitment of foreign workers.
- **Business Regulations:** The CICC advocates for policies that reduce regulatory burdens on businesses, support entrepreneurship, and create a favourable environment for investment and growth. This includes reducing bureaucracy, and promoting efficient and cost-effective government services.
- **Economic Development:** The Chamber is a strong advocate for economic policies that drive sustainable growth and job creation, particularly in sectors like tourism, agriculture, and infrastructure. By working with the government and other stakeholders, the CICC helps to develop strategies that improve the business environment for employers.

Membership Benefits

Employers who join the Cook Islands Chamber of Commerce gain access to numerous benefits:

- **Networking opportunities:** Access to exclusive business events and opportunities to network with other employers, industry experts, and government officials.
- **Up-to-date information:** Members receive regular updates on changes to labour laws, taxation policies, and economic trends that may impact their businesses.
- **Discounted services:** The Chamber offers members discounts on training programs, workshops, and other business services.
- **Collective representation:** Through the Chamber, employers can have a collective voice in policy discussions, ensuring that their interests are represented in legislative and regulatory processes.

Conclusion

The **Cook Islands Chamber of Commerce** plays a vital role in supporting employers, promoting business growth, and advocating for policies that create a favourable environment for businesses to thrive. By offering resources, representation, and networking opportunities, the Chamber helps employers navigate the complexities of labour laws and other regulations, ensuring they can operate successfully in the Cook Islands. Employers are encouraged to become members of the Chamber to benefit from its extensive services and to have a voice in shaping the future of the Cook Islands' labour market and business environment.