

Business Interruptions

The advice here is designed to help our members make good, safe, sensible and practical decisions in the event of an emergency such as widespread road closures, water supply issues, earthquakes or fire.

If life or property is threatened always dial 111 for Police, Fire or Ambulance.

EMPLOYMENT RELATIONS

You may need to close your business if you are in an affected area, or you may have employees who are unable to get to work. It may be difficult for employees to get in contact with you as phone and internet may be affected.

Transportation may also be an issue, as some roads may be temporarily closed, and public transport could be affected. Please bear these things in mind when dealing with your staff.

OVERARCHING EMPLOYMENT ADVICE FOR BUSINESSES AFFECTED BY AN EMERGENCY SITUATION

The key is communication. Like all emergency situations, you are faced with an unusual situation, and some 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 common-sense approach to getting the business up and running.
- If employees are concerned about their safety in getting to, or going back to work, they should raise their concerns with their employer.
- 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 a top priority.
- Working with staff health and safety representatives and union representatives will be of assistance in some workplaces.
- Work together to find practical solutions.
- Recognise that this is a significant event
 - People react differently in these types of situations - some may need extra support
 - Some will want to focus on caring for their family

- Others will be best supported by assisting to keep things running
- An individual employee has the right to raise concerns and refuse to do work they consider unsafe. Discuss the work and the concerns before it gets to this point.

ADDITIONAL EMPLOYMENT INFORMATION

Who decides if workers have to go to work if the business is open?

Employers and employees should talk to each other about what is happening with the workplace. Discuss and reach an appropriate agreement.

Whose responsibility is it to ensure the workplace is safe?

This is the responsibility of the PCBU/employer under the Health and Safety at Work Act. You should follow the advice of the local council.

My business is in the area that has been officially closed and/or my business is one of the those affected by civil emergency processes. What if it is a usual day of work for my employees and the business is closed. Do I pay employees? Should I pay them?

The answer to these (and similar) questions will depend on the employment agreement in place. If the employment agreement is clear about what to do, you should be guided by your agreement.

The Restaurant Association's Permanent Employment Agreement has a business interruption clause which can be enforceable where business operations are interrupted by unforeseen events beyond your control.

Where a business is closed due to circumstances beyond the control of the Employer (even for a couple of days) it is a business interruption. The clause in the agreements states that an employer will consult with an employee about any decision regarding payment for the day(s) the business is closed. Therefore, we advise business owners to speak with their employees before making a decision on whether they will be paid or not.

This conversation may include discussions about whether there is alternative work available elsewhere for the employee, and if not, whether it was appropriate that the employee be paid, take leave without pay, or take annual leave etc. If the decision was made not to pay the employee, it is open for the employee to challenge it, however, if the above process is followed you will be unlikely to have any problems.

NOTE: Under current employment legislation your employment agreements should have a cancellation clause in your employment agreement and this clause may also be used in these types of circumstances. You'll need to be sure that any shift cancellation does not affect any agreed hours of work with an employee.

INSURANCE

Please be aware that members can call our insurance partners the Crombie Lockwood team on 0800 252 461. They will have access to the best advice available.

Key Crombie Lockwood broker contacts:

- The Crombie Lockwood claims number is 0800 252 461.

MENTAL HEALTH

Issues like these can affect us, our teams and communities in different ways. Please be aware that we can help with these matters through our partnership with [EAP](#). We also have a number of wellness and mental health resources made in collaboration with the Mental Health Foundation on our [website](#).

REMEMBER...

Further information is available on the Restaurant Association website, www.restaurantnz.co.nz.