

Breaks and Infant Feeding

Information for Employees

Meal and Rest Breaks

In September 2008 an amendment to the Employment Relations Act was passed to provide legislation around infant feeding breaks. In March 2015 the legislation was amended again.

The changes to the rest and meal break provisions in the Employment Relations Act (the Act) seek to balance the importance of rest and meal breaks with the need for breaks to be practical for each workplace. The changes replace the previous strict rules with a more general right for employees to have rest and meal breaks to give them a reasonable opportunity to rest, eat, drink and deal with personal matters. The new provisions encourage employers and employees to negotiate, in good faith, rest and meal breaks that meet the legislation, without compromising business continuity and flexibility.

What breaks am I entitled to?

Employers cannot contract out of the right to rest and meal breaks, however there are no specific rules for how long, or when, rest and meal breaks should be. You should bargain with your employer in good faith over timing and length of breaks.

Common practice is that rest breaks are 10-15 minutes long and meal breaks are at least 30 minutes long, although this varies across industries and occupations.

Can I decide when I take my breaks?

The decision about when to take breaks should be agreed between yourself and your employer.

What if I cannot agree with my employer about when to take my breaks?

If employers and employees cannot agree on the timing and durations of breaks, then the employer can set reasonable times and lengths for breaks.

What if I don't have time to take breaks due to heavy workload or cover unavailable?

Your employer does not have to provide rest and meal breaks if breaks cannot reasonably be given, considering the nature of the work. But the law requires your employer to compensate you if this happens. Compensation is seen as reasonable if it is of a similar value as the break. Examples include: your employer paying you an additional 10 minutes (per break) each day in compensation for the break; your employer allowing you to finish earlier each day in compensation for the break; or accumulating the time for breaks each week and finishing earlier at the end of the week.

I need a break, but my employer won't let me. What can I do?

Your employer must give you a reasonable chance to negotiate the timing and length of your rest and meal breaks, and to try to reach agreement in good faith. Where you are unable to reach agreement, your employer may set reasonable times and lengths for breaks so they can maintain service.

Infant Feeding

I have a young baby and am going back to work. I would like to continue to breastfeed my baby. What rights do I have during working hours?

Your employer is required to provide you with unpaid breaks to allow you to feed your child or express milk during working hours. There is no time period specified for these breaks, as the timing and frequency would vary due to the age of the child and the nature of breastfeeding.

Does my employer have to provide me a private room to allow me to breastfeed?

There is a requirement to provide you appropriate facilities, providing the provision of these facilities is reasonable and practicable.

The Code of Practice has recommended that breastfeeding employees need:

- A private, quiet, clean and warm room or space, preferably lockable.
- A suitable chair or couch
- A fridge
- A clean space to store equipment
- Hygienic hand washing facilities.

If it is not practicable for your employer to provide you with appropriate facilities, they can agree for you to have the breaks offsite.

Are these breaks in addition to my rest and meal breaks, or instead of?

These breaks are in addition, however they are all unpaid (unless your employer agrees to continue paying you during this time).

What can I do if my employer is not providing me with the infant feeding breaks I need?

The first step is to raise the issue with your employer, providing them with information on their legal obligations. More information can be found on the Ministry of Business, Innovation and Employment website at: www.dol.govt.nz.

If you do not get a satisfactory response from your employer you could approach the Employment Relations Authority for further assistance.

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Need more help?

Contact the NZMA:

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