



04 October 2024

Ref: DOIA-REQ-0002681

Adrian Cuison

Email: [fyi-request-28327-69e46772@requests.fyi.org.nz](mailto:fyi-request-28327-69e46772@requests.fyi.org.nz)

Tēnā koe Adrian

Thank you for your email of 10 September 2024 to the Ministry of Business, Innovation and Employment (MBIE) requesting, under the Official Information Act 1982 (the Act), the following information:

*I would like to request for the guidelines of labour inspectorates in their decision making to order / enforce breaches on holidays act to employers and government agencies such as health NZ for underpaying and denying staff (former and current) on their holiday pay entitlements.*

*I would also like to know the time frame where these breaches are permitted to continue as this has been highlighted in 2016 by CTU, then DHBs and the labor inspector and this must be sorted in a timely manner and just manner.*

Please find enclosed the Labour Inspectorate (the Inspectorate)'s guidelines for managing a payroll case including Holiday Act issues. Please note that some information within the document is withheld under section 18(a) of the Act, by virtue of section 6(c) of the Act, that making available of that information would be likely to prejudice the maintenance of the law, including the prevention, investigation and detection of offences, and the right to a fair trial.

I do not consider that the refusal or withholding of this information is outweighed by public interest considerations in making the information available.

Regarding the timeframe, where the Inspectorate is actively involved in ensuring that an Enforceable Undertaking or an Improvement Notice is complied with, then the timeframes are either as agreed to (in the case of an Undertaking) or as required (in the case of an Improvement Notice). If an employer does not comply within the time period, there are various next steps. In the case of a very complicated matter where there may be continuing unforeseen complications, timeframes are often extended by agreement. If an employer's requests for timeframe extensions are not reasonable, and compliance remains outstanding, the Inspectorate will look to take enforcement action by seeking a compliance order with the Employment Relations Authority.

Funding for a dedicated Holidays Act compliance team was disestablished from 1 July 2020. Due to resourcing, the Inspectorate has therefore closed its involvement in the ongoing monitoring of remediation and rectification processes that have met certain criteria. The criteria include the employer's progress to date, the timeframe for completion, the involvement of third-party providers to assist with the calculations and whether or not the employer is actively engaging with employees and their representatives.



If you wish to discuss any aspect of your request or this response, or if you require any further assistance, please contact [OIA@mbie.govt.nz](mailto:OIA@mbie.govt.nz).

You have the right to seek an investigation and review by the Ombudsman of this decision. Information about how to make a complaint is available at [www.ombudsman.parliament.nz](http://www.ombudsman.parliament.nz) or freephone 0800 802 602.

Nāku noa, nā

A handwritten signature in black ink, appearing to read 'Schuster', written in a cursive style.

Su'a Dehlia Schuster  
**Head of Enforcement and Compliance (Acting)**  
Employment Services