

The Coffee Club New Zealand Compliance Manual

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INTRODUCTION AND PURPOSE

In business, a number of laws and regulations affect us all.

As part of the franchise network, you are required to be familiar with and comply with all legislation and regulations pertaining to your business.

The information outlined in the following section is by no means exhaustive, and is purely a summary of how some relevant Acts and regulations may affect you and your staff.

A copy of the legislation mentioned in this section is available via www.govt.nz . We have included useful links that explain your compliance obligations in detail. We recommend that you subscribe to www.business.govt.nz to automatically receive information regarding legislative changes. (<https://www.business.govt.nz/join-us/subscribe-to-our-newsletter/>)

The Coffee Club Franchising (NZ) Limited is not intending to give legal or accounting advice. The information in this section is provided as an introduction only and is not a substitute for professional advice.

This section is to be read in conjunction with The Coffee Club Operations Manual.

THE FRANCHISE ASSOCIATION OF NEW ZEALAND – CODE OF PRACTICE

The Franchise Association of New Zealand operates a voluntary Code of Ethics and Code of Practice that set out specific procedures and recommendations for many aspects of franchising which must be followed by Members of the Association.

For further detail, please refer:

www.franchiseassociation.org.nz

TAXATION REQUIREMENTS

OVERVIEW

The New Zealand tax year is from 1 April to 31 March. Inland Revenue (IRD) is the government department that collects taxes.

INCOME TAX

Most individual people pay their taxes as they earn their income (PAYE). Employers deduct tax on salary and wages. Banks and other financial institutions deduct tax – Resident Withholding Tax on interest as it is derived (based on the top tax rate).

Individuals (and businesses) who do not pay tax on all of their income as it is earned are required to file tax returns at the end of the tax year (31 March) to work out their tax liability. The IRD calculates your Provisional Tax Liability for the next twelve months.

The following tax rates apply for 2018:

TAX RATE		
Income	Individuals, sole traders, partners in a partnership	Companies
\$0 - \$14,000	10.5%	28%
\$14,001 - \$48,000	17.5%	28%
\$48,001 - \$70,000	30.0%	28%
Over \$70,000	33.0%	28%

GOODS AND SERVICE TAX (GST)

GST is New Zealand's form of indirect value-added tax. It is a tax on the goods and services provided by a GST-registered person in their business. It is charged at the rate of 15% to the person (including other businesses) who buys the goods or services.

Anyone with a business turnover of \$60,000 or more (excluding GST) must register for and charge GST.

Registration is optional if the annual turnover is less than \$60,000. When registered, the business completes regular GST returns (every one, two or six months) and pays or receives the difference between the GST charged and GST paid on business expenses.

If a business is not registered for GST, it cannot charge or claim back GST.

Some goods and services, such as rent from domestic accommodation and income from financial services, are exempt from GST.

ACCIDENT COMPENSATION

The Accident Compensation Commission (ACC) has named their Employer Levies "ACC WorkPlace Cover". This scheme covers the levies for your employees that have PAYE deducted. It means that if they have an accident at work they will receive income compensation at a rate of 80% of their current earnings. Non-work accidents are paid for by employees through the PAYE scheme.

The WorkPlace Cover levies are based on the gross amount paid to your employees. ACC gathers this information from the monthly employers' PAYE schedules (IR348) filed with Inland Revenue Department.

From July each year, ACC will start to send out invoices to employers for their WorkPlace Cover levies. These will be based on the earnings information obtained from IRD for the previous year ended 31 March.

There may be several components to this invoice.

In the previous 12 months you may have received a provisional assessment for the previous financial year. This invoice will include an update on that assessment and will be based on the actual earnings for that financial year.

There will also be a provisional invoice for the current financial year. ACC will assume that you are going to pay the same amount in gross wages this year as you did in the previous year and will issue a provisional invoice accordingly. If your circumstances have changed you may be able to get ACC to reassess that provisional invoice - there will be information sent with the invoice that explains how to do this.

There will also be a charge for ACC Residual Claims and Health and Safety in Employment levies. These are charged for in arrears and therefore relate to the gross wages you paid out in the previous year ended 31 March. They will not be included on your provisional invoice.

When you receive this invoice it is important you check that the liable earnings you have been assessed on are close to the amount of gross wages paid in the previous year ended 31 March. You also need to check the Classification Unit - this will determine at what rate your ACC Levies are calculated.

PRACTICAL EFFECT

Your business is required to:

- Have an IRD number (IR596)
- Register for GST (IR360)
- Register as an employer (IR334)
- Complete and send various tax return forms to Inland Revenue each year
 - Annual Income Tax Return (IR4 with a copy of annual accounts or an IR10)
 - GST returns (GST101)
 - Employee monthly schedules (IR348)
 - Employer deductions forms (IR345)
 - Fringe Benefit Tax returns (if applicable)
- Keep accurate records including:
 - Payroll records
 - Cheque books
 - Deposit books
 - Bank statements
 - Cash register tapes
 - Cashbook
 - Petty cash
 - Asset register
 - Annual Statement of Financial Performance (Profit and Loss)
 - Annual Statement of Financial Position (Balance Sheet)
 - Annual return to the Companies Office

IRD requires that all records are kept for a minimum of seven years.

For further detail, please refer:

www.ird.govt.nz

www.acc.co.nz

www.dol.govt.nz (department of labour)

www.business.govt.nz

www.companies.govt.nz

HEALTH AND SAFETY IN EMPLOYMENT ACT 1992

It is the right of every employee to have a safe working environment and every employer is required to take all practicable steps to provide the same.

The Health and Safety in Employment Act 1992, has the objective to promote excellence in health and safety management in the workplace.

The Act prescribes a number of obligations of both employer and employee for health and safety management.

PRACTICAL EFFECT

Under the Act, we are all obliged to:

- Take all practicable steps to ensure that nothing we do at work harms ourselves or any other person
- Consider health and safety issues in planning work activities
- Maintain an accident register of all accidents or incidents that harmed or might have harmed
- When an incident involving serious harm occurs at work the employer must
 - Advise the local OSH branch office as soon as possible by phone or fax
 - Mail or fax written notice to the nearest OSH office within 7 days

Under law you are not required to maintain a Hazards register, however, we strongly recommend that you do maintain a Hazards register identifying workplace hazards so that you and your staff are aware of them and understand how to minimise their risk.

For more detail refer to

www.dol.govt.nz

www.acc.co.nz

www.business.govt.nz

THE COMMERCE ACT 1986

The aim of the Act is to promote competition by restricting anti-competitive practices.

Anti-competitive practices fall into two categories:

COLLECTIVE BEHAVIOUR

“Agreements,” that:

- Reduce competition
- Exclude competitors
- Fix prices

Agreements are defined as any contracts, understandings and arrangements made between two or more parties and may be as informal as being given a “nod or a wink.”

UNILATERAL BEHAVIOUR

Unilateral behaviour occurs when a single person or business:

- Takes advantage of market power, or
- Acts to maintain resale prices

PRACTICAL EFFECT

In terms of our business we must not enter into any “agreements,” however informal with our competitors to restrict competition, or agree minimum prices in the market.

For more detail, please refer:

www.comcom.govt.nz or www.business.govt.nz

FAIR TRADING ACT 1986

The Fair Trading Act prohibits misleading and deceptive conduct, false representations, and unfair practices when supplying goods and services. It focuses on consumer protection. The Act generally applies to pre-sale activities such as advertising, promotions, pricing, and representations made either verbally or in writing.

In most cases, it is not relevant whether the business owner intended to deceive or mislead, but rather the issue is whether their actions did or could deceive or mislead. Both companies and individuals can be prosecuted for breaching the Act. Where a company acts unlawfully, its directors, managers and employees may be held personally liable.

The Act also contains a number of provisions relating to specific types of conduct in relation to the provision of goods and services, which are prohibited.

For more detail refer:

www.comcom.govt.nz or www.business.govt.nz

CONSUMER GUARANTEES ACT 1993

The objective of this Act is to provide minimum standards and terms to consumers upon the supply of goods and services, and to establish the rights of redress against suppliers and manufacturers in respect of any failure of the goods or service.

It does not matter who actually buys the goods or services or what that person intends to do with them, it is the purpose for which people would normally buy that type of product or service that determines whether the Act will apply or not.

The client has the right to a repair, replacement or a refund if you sell goods or services that are not of acceptable quality or are faulty. The Act specifies which choices are available to the business owner and the client in different situations.

The Act generally applies to all sales of consumer goods and services to clients and covers most such transactions.

Under The Consumer Guarantees Act you are bound by the following guarantees:

- The goods or service will be of an acceptable quality
- The goods or service will be fit for a particular purpose named by the client
- The goods or service must be the same as any description given to the client
- The goods or service will not cost the client more than a reasonable price
- The goods or service can be legally sold

For more information search for consumer protection at:

www.med.govt.nz or www.business.govt.nz

EMPLOYMENT RELATIONS ACT 2000

The aim of the Employment Relations legislation is to provide for balance in the conduct of employment relationships. It does this by:

- Aiming to improve mutual trust and confidence between employers and employees
- Providing procedures for collective bargaining where employees choose to join a union
- Making provision for individuals to negotiate their wages and conditions of employment where they choose not to join a union

In seeking to establish a balance in employment, the legislation aims to find a middle point between a number of competing rights to enable employees and employer to best contribute to workplace growth and a successful business. These include balancing:

- The rights of employers to run their businesses as they see fit, with the rights of employees to enjoy a safe workplace and to be treated fairly
- The rights of individual employees with the rights of groups of collectively organised employees
- The ability of some parties to exercise their bargaining power with the ability of others to negotiate their terms and conditions of employment

For more detail refer:

www.dol.govt.nz or www.business.govt.nz

THE EMPLOYMENT RELATIONS LAW REFORM ACT 2003

In December 2003, the Government introduced the Employment Relations Law Reform Act. The Act came into effect on 4 October 2004.

The intention of the Act is to strengthen the Employment Relations Act's objectives of promoting:

- Good faith bargaining
- Collective bargaining
- Effective resolution of employment relationship problems

The amendments are also intended to protect employees in change of employer situations caused by the sale, transfer or contracting out of a business, and to update Equal Pay legislation.

The amendments are about fair employment law, about resolving disputes without lawyers if possible, about giving employees a genuine choice between individual and collective employment agreements, and about creating more certainty about what happens to employees when a business is sold or their work is contracted out.

For more detail refer:

www.dol.govt.nz or www.business.govt.nz

KIWISAVER ACT 2006

KiwiSaver is a government initiative involving employers, scheme providers and several government agencies. It's a work-based savings initiative to help New Zealanders save for their future. KiwiSaver has unique benefits to make long-term saving easier. It's also flexible, to suit people at different times in their life. It's open to all New Zealand citizens and people entitled to be in New Zealand indefinitely, aged up to 65.

All employers now have compulsory minimum responsibilities to fulfil in the KiwiSaver programme. These responsibilities include, but are not limited to, enrolling staff automatically in the KiwiSaver programme, providing staff with KiwiSaver information and deducting KiwiSaver contributions from staffs pay.

For more information refer:

www.kiwisaver.govt.nz

HUMAN RIGHTS ACT 1993

The aim of this Act is to ensure protection for people against discrimination. Its intention is to help ensure people are treated fairly in a number of areas of public life, and to ensure human rights in New Zealand are in general accordance with United Nations covenants on human rights.

The Act potentially affects all aspects of the employment relationship. The Act protects both those seeking employment and those in existing employment. It also covers voluntary workers.

The Human Rights Act applies to job advertisements, application forms, interviews and job offers.

In most cases, jobs must be open to anyone, whatever their colour, race, ethnic or national origins, disability, sex (including pregnancy or childbirth status), marital or family status, age, religious or ethical belief, political opinion, employment status, union membership status or sexual orientation.

Generally, none of these reasons should be the basis for offering different terms and conditions or fringe benefits to different applicants.

Employers are now restricted in those matters which they may legitimately have regard to when employing or dismissing an employee. In addition, any difference in treatment of current employees that is not based solely on performance or experience could be said to be discriminatory. Further, employers are under a positive obligation to ensure that the physical conditions of the workplace are not discriminatory in the sense that one employee or a group of employees are treated less favourably than others on the grounds of discrimination.

For more detail refer

www.hrc.co.nz

HOLIDAYS ACT 2003

The Holidays Act 2003 changes annual holiday entitlements and payment calculations.

ANNUAL HOLIDAYS

All full time employees are entitled to a minimum of four weeks annual holidays after their first year of employment.

PUBLIC HOLIDAYS

The Holidays Act 2003 has simplified the rules around public holidays. There are now two types of public holiday – Christmas and New Year, and all other public holidays.

CHRISTMAS AND NEW YEAR

The public holidays over the Christmas and New Year period continue to have special arrangements, but the Holidays Act 2003 changes the previous arrangement that deemed these holidays to be celebrated on Monday and Tuesday if they fell at a weekend.

OTHER PUBLIC HOLIDAYS

- Waitangi Day (6 February)
- Good Friday and Easter Monday (dates variable)
- ANZAC Day (25 April)
- Queen's Birthday (first Monday in June)
- Labour Day (fourth Monday in October)
- Provincial Anniversary Day (date determined locally)

For more information, please refer:

www.dol.govt.nz or www.business.govt.nz

THE PRIVACY ACT 1993

APPLICATION OF THE ACT

The Privacy Act 1993 applies to information about individuals. The Act does not apply to information about organisations or companies. Any organisation or individual (defined as an “agency”) which holds personal information about other individuals must comply with the Act.

PURPOSE OF THE ACT

The Act controls how agencies collect, use, disclose, store and provide access to personal information. The Act contains a number of Information Privacy Principles which form the backbone of the Act and deal with the purpose and source of collecting personal information, the way it is collected and stored, how the information can be retrieved, the time for which information can be kept and limit the use and disclosure of personal information. Franchisees are “agencies” under the Act, and thus need to consider their actions in the light of the Act.

The aim of the Act is to promote and protect individual privacy.

The Privacy Act 1993 sets out 12 information privacy principles that regulate the manner in which an agency may collect and deal with personal information.

PRACTICAL EFFECT

The main area of the Act that relate to your business is:

STAFF / EMPLOYEE INFORMATION

As an employer, you will collect and hold personal information regarding your current, past and potential employees. The Act influences the use and retention of this information in a number of ways. Listed below are some broad guidelines that should be complied with by all Franchisees when collecting, dealing with, and keeping information about employees.

You must advise the employee at the time of collection of the reasons for requiring that information and the way in which it will, or might be used.

Remember

- Ensure all information held about an employee is accurate
- Staff files are confidential and must be secure at all times
- The employee has the right to access their personal staff file
- The employee has the right to correct any information that is not correct in their staff file
- Staff files for ex-employees should be retained securely. They should be retained for a minimum of one year, in case a personal grievance claim or unfair dismissal case is begun. Pay and taxation records will need to be retained for the statutory seven years
- Any inquiries made about an employee or ex-employee must be done so in writing and must be consented to by the staff member concerned (for example a reference check)
- Any unique identifiers e.g. employee numbers, must be kept secure and not available to other employees or members of the general public

For more information:

www.privacy.org.nz