

Upward trend in the supply of accommodation for workers

The pandemic has prompted its share of workplace challenges, motivating employers to come up with new ways to attract and retain talent; hybrid working, sign-on bonuses, and fully virtual roles. We are now seeing an upward trend in the supply of accommodation for workers both to entice new employees but also out of necessity due to the lack of available accommodation in some regions, such as Queenstown

We are currently experiencing an increase in queries from employers who are looking to buy or rent residential property to house workers, and who are unsure what obligations will apply and how best to manage the arrangement.

Types of arrangements

Providing accommodation will usually mean the employer is taking on a dual role as a landlord, as well as an employer. Accommodation for workers will generally fall into two categories:

- The most common arrangement is known as a 'service tenancy'; that is a worker is granted the use of accommodation as a term of the employment agreement, between the landlord as the employer and the tenant as the employee. The Residential Tenancies Act 1986 (RTA) will apply to these arrangements.
- A lesser-known category is called a 'service occupancy'. This is where accommodation is provided to a worker, and they are required to stay

in this accommodation in order to adequately perform their duties. For example, a matron at a school boarding house, or a lighthouse keeper. This situation is exempt from the RTA and instead arises directly from an employment relationship and forms part of an employment agreement.

Additional requirements may also apply in the event the accommodation meets the definition of a 'boarding house' which is accommodation that has shared facilities and is occupied by 6 or more tenants. On the flip side, the RTA also expressly excludes several very specific types of accommodation.

Documentation

Regardless of the type of arrangement and whether the RTA applies or not, our recommendation is to have a robust agreement detailing the arrangements relating to the provision of the accommodation. Contemplate how the arrangement can be terminated, how rent is to be paid, what occurs if the employee is not currently working or receiving remuneration but remains in the property, what right to access the property will the employer have.

Similarly, it is important to have mirroring obligations in the employment agreement. Among other things this might contemplate the type of arrangement, whether the RTA applies, consent to make deductions from wages or salary for the rent, and a termination/notice provision. This is particularly important for migrant workers on Accredited Employer Work Visas. Immigration New Zealand (INZ) allows lawful deductions for accommodation but asks that these be included in the employment agreement. The details of the deduction should be presented to INZ to be considered as part of the Job Check and AEWV applications.

Want to know more?

If you have any questions about worker accommodation, please contact our specialist [Employment Team](#).