

WELCOME TO JULIA BAGRIE IN OUR QUEENSTOWN OFFICE

SENIOR SOLICITOR JOINS THE TEAM

We are pleased to welcome Senior Employment Lawyer Julia Bagrie to the team. She joined Sheena Naughton in our Queenstown office in June 2009.

Prior to joining Janet Copeland Law, Julia was a litigator at Hunter Ralfe Lawyers in Nelson. She commenced her career as a community lawyer and legal educator for Nelson Bays Community Law Service. Julia has also worked as a legal editor and was a freelance writer for the legal news magazine NZLawyer.



MOTORS & MOBILE PHONES

The Traffic minister has officially prohibited Mobiles and Motors mixing. But what does it actually mean for the workplace and how does it affect employment relationships?

What Rule?

The Land Transport (Road User) Amendment Rule 2009 amends the 2004 version as of 1 November 2009. In short, it bans using your cell in your car. Specifically, drivers cannot create, send or read text messages, receive or terminate a telephone call or use their mobile phone in any way, while driving their vehicle.

Exceptions to the rule include:

- enforcement officers using their mobile phone while executing their duties;
- the driver using their mobile phone in an emergency and it is unsafe or impracticable to stop and park to make the call;
- the mobile phone does not require the driver to hold or manipulate it to make, receive or terminate the call;
- the mobile phone is secured in a mounting fixed to the vehicle and the driver manipulates it infrequently and briefly; or
- the driver has stopped for any reason apart from the normal starting and stopping of vehicles in a flow of traffic.

Offenders may be issued with an infringement notice and be required to pay a fine and/or be given demerit points.

Why Bother?

The rule attempts to address concerns around the danger of driving whilst distracted by a text or call on your cell. This meets the broad objective of traffic law to promote the safe and efficient operation of roads and provide a legal framework that supports consistent and predictable responses by road users. Mobile distractions are perceived threats to safety and consistency on the roads.

How does the Rule affect employment relationships?

It may not affect employers where motor vehicles and mobile phones are not used in the workplace. It probably affects most employers who both use mobile phones and motor vehicles in the course of their business. One needs to only recall recent headlines citing the mobile phone and road accident link to know that it forms a potential and actual hazard in these workplaces. Therefore employers will need to take all practicable steps to isolate, minimise or eliminate the problem.

Going forward, an employer should at least inform employees that you expect everyone to comply with the rule (and make sure you do!). Ideally employers will already have a mobile phone and motor vehicle policy that can be updated following consultation. Additionally, workplaces may invest in hands free mobile phone technology. The corollary of a new or updated policy in the workplace is how to address breaches of the policy. Pointing out a breach of policy and/or the Rule by an employee in a disciplinary context provides grounds for disciplinary action. However, keep in mind that the s 103A test from the Employment Rela-

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Act 2000 still applies to require employers to act fairly and reasonably in all the circumstances.

We recommend that employers take steps to implement or update employment agreements and any workplace policies to align them with the new Rule. Discuss mobile phone and motor vehicle use with your employees and promote safe and legal behaviour.

Please contact us if you have any questions.

PAYROLL AND HOLIDAYS ACT WORKSHOP

Janet Copeland together with WHK payroll expert Warick Heads are running a workshop for employers on payroll and the Holidays Act. This will be a practical session where examples and scenarios will be used to help develop understanding of the day to day application of this tricky legislation.

The workshop will cover such topics as:

- the calculation of relevant daily pay;
- retention of employee records;
- when holiday pay may be paid with wages;
- 'cashing up' annual holidays;
- when may employers ask for medical certificates; and
- much more.

Bring your calculator and examples from your workplace that have you stumped! These sessions will be popular so make sure you register early by emailing Bridget.Carter@WeAreHr.co.nz or call 03 211-0153.

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| ▪ Invercargill | Thursday 15 October |
| ▪ Gore | Friday 16 October |
| ▪ Queenstown | Thursday 22 October |
| ▪ Te Anau | Friday 23 October |
| ▪ Wanaka | Friday 5 November |

All sessions are all from 9.30 am – 12.30pm and are \$100.00 + gst per person.

WORKPLACE FIRST AID GUIDE LAUNCHED

The Department of Labour has just launched a guide to help manage first aid in the workplace. This guide will be useful to employers and people who hire contractors, as well as first aiders in your business.

The guide – *First Aid for Workplaces – a Good Practice Guide* was developed following consultation with a range of experts from different industries. It helps to identify what first aid is needed in individual workplaces and has some suggestions to help employers organize their first aid kits, facilities and first aiders, as well as having information for employees.

Under the Health and Safety in Employment Regulations 1995 employers are required to take all practicable steps to ensure:

- first aid facilities are provided at their workplaces
- that these facilities are suitable for the purpose in which they are used
- that they are provided in sufficient numbers (i.e. one first aid kit for every 50 people and one on each floor).
- they are maintained in good order and condition
- all employees have access to these facilities in a way that is convenient to them.

The first aid provided should also take account of the individual circumstances of the employer's workplace; to help employers identify the needs of their business there is a Workplace First Aid Needs Assessment Checklist included in the guide.

Employers should note that where employees work in, or travel to, scattered locations away from the main place of work, each work vehicle should be provided with a suitable first aid kit.

You can download the guide from the Department of Labour website www.dol.govt.nz