



Access to Justice and Government Action under Covid-19

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Access to justice has been the centre of the law profession's attention during the Covid-19 lockdown. I have been particularly proud of The Law Society's response to ensure access to justice and support for lawyers. I had the privilege of attending a Q&A session with several of the Heads of Bench and was amazed at how our Justices were able to maintain the work of the Court as an essential service to uphold the Rule of Law.

The government offered a wage subsidy to support employers affected by Covid-19, and an Essential Workers Leave Support, including assistance through food banks for New Zealand's most vulnerable. Employers include Registered Charities, non-government organisations (NGOs), the self-employed and sole traders, contractors, incorporated societies, and post-settlement governance entities, local government organisations, kindergartens and early childhood centres. The main eligibility requirement



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for these businesses was a minimum of 30 percent decline in revenue over the period of a month, related to Covid-19, when compared with the same month last year. Employers had to take active steps to mitigate the impact of Covid-19 and retain their employees for the period

of the subsidy. State sector organisations such as government agencies, Crown entities, schools and tertiary education institutions were excluded from the wage subsidy entitlement.

The Wage Subsidy was paid at a flat rate of \$585 for people working 20 hours or more per week (full-time rate), and \$350 for people working less than 20 hours per week (part-time rate). The subsidy was paid as a lump sum and covered 12 weeks per employee. Employers who met the criteria had to pay the employee at least 80 percent of their usual wages and if that wasn't possible, pay at least the subsidy rate (i.e. full-time or part-time). If an employee's usual wages were less than the subsidy, the employer had to pay usual wages, and any difference was used for the wages of other affected staff.

The Charities Services announced they will not be taking action on late returns from Registered Charities during lockdown but encourage those at risk of filing late to contact them.

WAGE SUBSIDY OBLIGATIONS

Businesses and employers will be expected to repay some or all of the wage subsidy if they no longer meet the criteria for the subsidy, or are not meeting their obligation to use the subsidy to retain and pay their employees. Similarly, if they have received insurance for any costs covered by the subsidy, or provided false or misleading information, wage subsidies will need to be repaid. These obligations can be found on the workandincome.govt.nz website.

With a national lockdown to mitigate the worst effects of Covid-19 on health, the virus has also taken a toll on New Zealand's economy and our ability to enjoy freedoms we usually take for granted.

MOVING OUT OF LEVEL 4

Alert Level 3 will see many significant restrictions on New Zealanders' movements, but limited aspects of the economy will be allowed to re-open in a safe way that will slowly see the economy recover.

• Minor extensions to bubbles

Sticking to existing bubbles is recommended but some expansion is allowed if, for example, you have a caregiver that you need, children in shared care, a defacto partner who is caring for others, or you're a single person who wants the company of a sibling for example.

• Some people can return to work and businesses re-open if safe

People must work from home if they can. Where that is not possible, businesses may re-open but must comply with health and safety requirements around physical

distancing and contactless engagement with customers.

Businesses only accessed by the staff and without a customer facing function, such as building and construction or forestry, can open under strict health and safety and physical distancing rules.

Businesses that are accessed by the public or customers can open but only for online or phone purchases and contactless delivery or click and collect.

• Partial re-opening of education facilities

Early childhood centres and primary schools will be available up to Year 10 but attendance is purely voluntary. Distance learning is still the best option. Tertiary education will mostly be through distance learning.

• Travel restrictions remain but move from local to regional

This recognises that more people will travel to work or to take children to school. To avoid taking potential Covid-19 cases to other parts of the country, movement will be restricted to what is necessary.

• Funerals and weddings

Funeral and wedding services will resume but will be limited to 10 people. No meals, food or receptions can take place.

The main message remains clear that staying home remains the most effective way to save lives. There are slightly more opportunities available at Level 3, but the goal is to keep two metres away from other people. As a Church we need to remain vigilant and compliant to save lives.

Professional Liability Insurance Programme

The Methodist Church of New Zealand recently renewed the Professional Liability cover for the Church to include a wide range of potential liability exposures to protect the wider church and its members against a number of liability situations and potential costs.

The liability cover is offered to the wider church, including CVs and uniting parishes, at no additional cost.

To avoid a claim being declined it is important our insurer is notified early of a potential liability claim, and that legal advice is sought from the approved panel of employment legal advisors before proceeding with any disciplinary action. Early notification allows our insurer to provide advice or recommend the appropriate legal advisor.

Our professional liability cover, for the 2020 insurance year includes:

• Professional Indemnity

Designed to:

1. Protect the insured from claims made against them for any loss arising from any claim for civil liability in respect of the conduct of the professional services.

2. Protect the insured from claims made against them for any defence costs resulting from a claim for civil liability in respect of the conduct of the professional services.

• Public and Products Liability

Provides cover for all sums which the insured shall be legally liable to pay as compensation on account of:

- a. personal injury or
- b. property damage

as a result of an occurrence happening in connection with the business of the insured.

• Statutory Liability

Indemnifies the insured for costs incurred with the insurer's consent, following unexpected and unintentional breaches of NZ statutes. Costs insured are those of being represented in any investigation or inquiry from which a prosecution may result and the costs of fines and penalties that may be awarded other than under H&S statutes.

• Employers Liability

Protects the insured from loss resulting from claims by employees and non-employees (eg ministers, presbyters, deacons, lay persons, volunteers and students) suffering personal injury in the workplace, not covered by ACC.

• Employment Practices Liability

Protects the insured from loss resulting from claims by any current, former or prospective employee and non-employee (see above) alleging any breach of any Employment Contract or the laws and regulations of MCNZ, the Privacy Act 1993 and/or the Human Rights Act 1993.

The excess on Employment Disputes Insurance is \$10,000 and professional advice is mandatory.

• Directors and Officers Liability

Protects directors, senior executives and employees from loss arising from claims made against them in the discharge of their duties on behalf of the organisation.

• Directors and Officers Costs and Expenses

Covers:

- a. the Insured for all loss, except where such loss has been paid; or
- b. the organisation for all loss, for which indemnification has been granted to the Insured as permitted or required by law.

• Commercial Crime Liability

Pays for loss if the insured has suffered a loss because of:

- a. an internal crime

- b. an external crime

- c. a theft or

- d. physical loss or damage.

• Medical Malpractice Liability

Covers payment on behalf of the insured for any loss arising from any claim alleging a medical incident by the insured in the conduct of professional healthcare services.

• Cyber Liability

Protects the Church against liabilities arising from data protection laws, management of personal data and the consequences of losing information. This includes credit card numbers, medical records, birth dates, passport numbers and other private personal information which can be stolen and used inappropriately. Equally the loss of corporate information such as intellectual property and proprietary information could severely disadvantage the Church.

An essential element of good governance is appropriate reporting and the acceptance of responsibility at the proper place in the structure. All claims must be within the period of insurance.

For additional information or to discuss a potential liability claim please contact Insurance and Property Manager wendya@methodist.org.nz