

Flexible Working Hours Legislation

The Employment Relations (Flexible Working Arrangements) Amendment Act 2007 came into force on 1 July 2008. This article outlines the impact of the legislation.

The Act provides certain employees with the right to request a variation to their hours of work, days of work or place of work.

Eligibility to Request Flexible Working Arrangements

To be eligible for the “right to request” under Part 6AA of the Act, an employee must:

- Have care of another person. (The employee does not need to be related to the person they care for or live at the same address).
- Have been employed by their employer for 6 months or more.
- Not have made another request under Part 6AA to work flexibly during the past 12 months.

The employee must apply in writing outlining the changes they want to make to their working arrangements and explaining how the variation will help them to provide better care for the person concerned.

Employers have a legal obligation to consider an employee’s request carefully and should not refuse out of hand to consider it. They must consider and respond to a request within 3 months of receiving it, providing a reason if the request is declined.

In some instances, flexible working practices may benefit an organisation by improving work-life balance and the retention of skilled workers. However, the Act also allows that there may be genuine business reasons why the proposed arrangement will not work for the business.

Grounds for Declining a Request

- 1 The request must be declined if it conflicts with the provisions of the employee’s collective agreement.
- 2 The employer may also decline a request on the following Recognised Business Grounds:
 - Inability to reorganise work among existing staff.
 - Inability to recruit additional staff.
 - Detrimental impact on quality.
 - Detrimental impact on performance.
 - Insufficiency of work during the periods the employee proposes to work.
 - Planned structural changes.
 - Burden of additional costs.
 - Detrimental affect on ability to meet customer demand.

More information is available on this topic on the Department of Labour website.