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Employment Agreements – What are they and what do they do?

NUPE – Employment Agreements

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- Collective agreements are negotiated between a registered union and an employer. A collective agreement will only be binding on employees who are members of the union and whose positions are covered by the coverage clause of the collective agreement.
- An employment agreement sets out the terms and conditions of your job. Under the law, your employer must provide you with a written employment agreement, no matter what kind of job you do.
- Your employer must keep a copy of your agreement,
- If a labour inspector finds an employer who doesn't have copies of their employees' agreements, they will give the employer 7 days' notice to rectify the issue. If it hasn't been rectified after this period the employer can be fined:
 - up to \$10,000 if the employer is an individual
 - up to \$20,000 if the employer is a corporation

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- Under the Employment Relations Act 2000, there are two types of employment agreements. These are individual employment agreements and collective agreements.
 1. Individual employment agreements are negotiated between an individual and their employer, and bind only those parties.
 2. A collective employment agreement (CEA) is an agreement negotiated "collectively" between management (on behalf of the company) and unions (on behalf of employees who are in the Union). A CEA is usually the result of a process of collective bargaining between an employer (or a number of employers) and a trade union representing workers. The objective of collective bargaining is to establish or renew a collective employment agreement.

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- The collective agreement regulates the terms and conditions of employees in their workplace, their duties and the duties of the employer.
- A Collective Agreement must comply with a number of legal requirements. It must:
 1. Identify who is covered by the agreement — this is the “coverage clause”
 2. Include a plain language explanation of the services available to sort out any future employment relations problems
 3. Include a clause stating how the agreement can be changed
 4. Include the expiry date (or the event that will trigger expiry)
 5. Include a provision that complies with the Holidays Act 2003 requirement for employees to be paid at least time and a half for work on public holidays.
- In most cases, it must also include a provision setting out how the employer will protect his employees if the business is sold or contracted out.
- When a new Employee starts they go onto an Individual Employment Agreement based on the Collective Employment Agreement.(CEA)

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What if there is more than one Collective Employment Agreement on Site?

- In many of the worksites that NUPE is present there is more than one union. The staff at these worksites have choice in their union representation.
- If a staff member is with another Union and they want to change representation then they can do this at any time. The staff member should resign from their current union by writing to the Union and advising them they are leaving. If the Union fee deductions are arranged through payroll then they should advise their payroll that they are leaving that union and tell payroll to cease the union membership fees to that union. The staff member can complete the NUPE membership form and send this to the NUPE office. These actions are straight forward and can occur at the same time.
- The staff member changing to NUPE will be fully represented by NUPE from the time NUPE receives their membership form. If this staff member has left the other union when there is a current Collective agreement in place for that Union then they will be represented by NUPE but they will remain on the other Collective terms and conditions until that agreement expires.

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- Employers must consult and get your agreement if they want to alter the terms and conditions of your Employment Agreement.
- Contrary to the belief of some employers they cannot alter an employment agreement without consultation or the agreement of the employee.
- Employment Agreements contain a variation clause which allows the agreement to be varied only after consultation has occurred and an agreement has been reached.
- In an Collective Agreement the Union needs to agree to change conditions and terms on behalf of its members. However, it must follow its procedures before agreeing to any change.