



The 2008 Rest & Meal Breaks Amendments to the Employment Relations Act 2000

A SNAPSHOT OF THE IMPACT IN THE FIRST YEAR – AUGUST 2010



Prepared for the Department of Labour

The authors would like to thank Karen Daly and Sylvia Kaa; and the research participants for their time and sincerity in sharing their experiences with us.

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SUMMARY

The research project

This research was carried out between October 2009 and May 2010 by Department of Labour researchers to identify to what extent the intended policy objectives of the breaks amendments to the Employment Relations Act 2000 are being achieved.

The research used both quantitative and qualitative methods. Data was collected through two employer surveys, interviews with employers and employees, and a literature review.¹

This is "moment in time" research designed to establish a broad picture of how the legislation has been received. It does not cover all sectors and all employee groups. It was designed to obtain an immediate snapshot. It is not, nor was it designed to be, full scale empirical research.

Findings

Information & awareness: most employers reported knowing about the law change

- A majority of employers stated they knew of the new law. Employers in large and medium sized firms were more likely to state this than those in small firms. Employers who reported knowing of the law found it clear.
- Approximately two thirds of employers received information about the law changes. Common sources of information were the Department of Labour website, mass media and employers' associations.
- The qualitative research showed employees tended not to seek information about rest and meal break entitlements but could name sources of information they would use if they wanted to.

Changed breaks as a result of the law: Few employers reported having to change breaks

- Eleven percent of employers said they changed breaks as a result of the amendment. A large majority of employers (89%) reported not changing breaks because existing breaks complied with the law, including offering better than minimum conditions.²
- The most common changes reported were providing rest breaks more often, and making them longer.

¹ This research was part of a wider project looking at three amendments to the Employment Relations Act 2000 which were introduced in March and April 2009: trial periods, rest and meal breaks and infant feeding breaks and facilities. This report is limited to the breaks amendments. Research addressing the infant feeding amendment and trial employment periods is published separately.

² Eleven percent of the 1,172 employers in the initial survey and 13% of the 443 employers in the follow-up survey changed breaks as a result of the amendment.

- Where breaks were changed, they tended to be changed for all occupations in a workplace, and were not difficult to change.
- Twenty-two (out of 443) employers reported incurring a cost in changing breaks. These 22 employers were divided over whether the costs incurred were reasonable relative to benefits.

Provision of rest and meal breaks: most employees take their breaks – flexibility was important to both parties

- Employers reported that most employees take their breaks but meal breaks are more commonly taken than rest breaks.
- Flexibility in the timing, duration and incidence of breaks was reported by both employees and employers. However flexibility was more limited for employees (and employers) in health care and education settings where there were regulated staff ratios, and larger workplaces with scheduled break plans such as fast food restaurants.
- The factors affecting uptake of breaks were: workflow, employee preferences and circumstances, workplace culture and behaviour of colleagues, having a designated space away from work, the impact of breaks on total time at work and the possibility of being paid for working through breaks. The employees most at risk of not getting breaks were those in sole charge, particularly in the retail sector.
- Breaks were considered by employers and employees to have generally positive effects, particularly on productivity and morale.

Conclusion

The research found that employers had a high degree of awareness of the amendment. Few employers had to make changes to employees' breaks as breaks that met or exceeded the minimum set out in the Act were reported to be widely in place prior to the amendment. In practice, employers and employees were managing breaks to suit either the business needs of employers, the personal preferences of employees or the desire of either party for flexibility. It appeared that many employers would not have had sufficiently detailed knowledge of the legislation to know whether or not flexible arrangements made complied with the law.

The management of breaks to suit an employer's and/or employee's desire for flexibility applied across a range of industry sectors and occupations. There was, though, less flexibility available to employees (and employers) in settings where there were regulated staff: client ratios, and larger workplaces with scheduled break plans. There may also be other occupations or industry sectors with particular issues whose views are not reflected in this research. The employees most at risk of not getting breaks were those in sole charge.

The costs to employers of the breaks amendment appears to have been very limited. The small number of employers who had incurred costs (direct and otherwise) through the amendment considered these costs - relative to benefits - to be marginally acceptable.

1. INTRODUCTION

The purpose of this research was to identify to what extent the intended policy objectives of the breaks amendments to the Employment Relations Act 2000 are being achieved.³

1.1 Background

On 1 April 2009 the Employment Relations (Breaks, Infant Feeding and Other Matters) Amendment Act 2008 came into effect.

The intended policy objectives of the breaks amendments are to:

- create minimum standards for a modern workforce in relation to rest and meal breaks, and
- balance the need to support the choices of employees particularly regarding their work-life balance and caring responsibilities with the operational requirements of New Zealand businesses

Part 6D of the Employment Relations Act requires employers to provide employees with rest and meal breaks as follows:

Work period	Breaks
1. 2-4 hours	One 10 minute paid rest break
2. 4-6 hours	One 10 minute paid rest break and one 30 minute meal break
3. 6-8 hours	Two 10 minute paid rest breaks and one 30 minute meal break
4. 8+ hours	Two 10 minute paid rest breaks and one 30 minute meal break followed by the breaks as specified in subsections 2 and 3 above as if the employee's work period had started at the end of the eighth hour

Rest and meal breaks are to be observed during an employee's work period at the times agreed between the employee and his or her employer; but in the absence of such agreement the Act specifies where in the work period, so far as it is reasonable and practicable, breaks should occur (for example it states a meal break should be provided in the middle of a work period).

Prior to Part 6D being introduced, there was no explicit legal requirement in New Zealand for employers to provide rest and meal breaks for employees. Although

³ This research was part of a wider project evaluating three amendments to the Employment Relations Act 2000 which were introduced in March and April 2009: trial periods, rest and meal breaks and breastfeeding breaks. This report is limited to the breaks amendment. Research addressing infant feeding and trial employment periods is published separately.

collective employment agreements may detail breaks (for the minority of employees in unions) there is no baseline information available in New Zealand about the rest and meal breaks employees take. There are, though, known to be problems with work organisation in some sectors as a result of which employees have inadequate access to rest and meal breaks.⁴ Research from Great Britain shows awareness of rest break entitlements is high (Dickens et al 2005) probably because 'in work' breaks were a widely accepted practice prior to regulation, but knowledge of the detail of entitlements is not high. Rest break regulations are generally being applied in workplaces, however, case study research in firms has shown that there are a number of reasons why breaks remain a problem for a small minority of workers: knowledge of regulations may be poor amongst some managers or employers, issues of interpretation remain, and in some cases operational requirements discourage or prevent workers taking breaks. The scope for research in the New Zealand context is wide, covering awareness, knowledge, uptake and workplace effects.

At the time of writing this report, the Government is pursuing amendments to the rest and meal breaks legislation in response to concerns that the original amendment is too prescriptive and compliance is not practicable in all situations. Labour Minister, the Hon Kate Wilkinson, introduced the Employment Relations (Rest Breaks and Meal Breaks) Amendment Bill in October 2009. The main change proposed by the Bill is the repeal of the prescriptive requirements for work breaks after set periods of working time and removing rules about the timing of breaks during a day.⁵

Overview from the literature

An overview of the literature on awareness and uptake of breaks was carried out to inform this research project, drawing strongly on the British research into working time regulation⁶ as no New Zealand research on the awareness, uptake, or enforcement of rest breaks could be located. (The review excluded the literature on the relationship between breaks on health and safety and on productivity).

In studies of knowledge and awareness, many of those claiming awareness could demonstrate only limited actual knowledge of the laws (BMRB 2004, Casebourne et al 2006). Blackburn's & Hart's 2003 survey of employers found a greater degree of awareness in larger firms, which may be a result of larger employers encountering the legislation sooner and more often than in smaller firms.

⁴ The Department of Labour has identified some problems in specific sectors where the nature of the job and/or the characteristics of the employees mean that provision of rest and meal breaks may be inadequate. The service and manufacturing sectors appear to be the most prone to provide less than optimal rest and meal breaks. Anecdotal evidence from the New Zealand Council of Trade Unions (NZCTU) and Labour Inspectors supports this view.

⁵ See http://www.parliament.nz/en-NZ/PB/Legislation/Bills/1/5/f/00DBHOH_BILL9642_1-Employment-Relations-Rest-Breaks-and-Meal-Breaks.htm

⁶ This research addresses the Working Time Regulations, which came into effect in 1998.

No research was found on the extent to which employees opt to work through rest breaks to which they are entitled. Fifteen percent of the general employed group in the 2001 BMRB survey for the UK Department of Trade & Industry (2004) did not get the full rest breaks due to those working more than six hours a day. Twelve per cent of these claimed to have experienced employer pressure to work without their full rest break entitlement. Most often this pressure came under the heading of: 'it's understood as a condition of working here.' More than three-fifths (62 per cent) of workers without full rest breaks did not want more rest breaks, although 14 per cent of the total group said they were happy to have breaks even if this meant earning less money. Gartner's (2004) study of conflicts between employee preferences and ergonomic recommendations in shift scheduling found that the pursuit of higher income often played the major role in the decision-making process of employees when they worked hours in conflict with health and safety principles.

In general the UK research (Neathey & Arrowsmith 2001, Neathey 2003, BMRB 2004, Casebourne 2006) shows that the regulations relating to breaks were being applied in workplaces, however there were some indications of local practice in contravention of the regulations. Overtime working and shift patterns raised issues for a number of firms in respect of the daily (and weekly) rest requirements. Some employers felt that the regulations lacked clarity around issues such as the location of the in-work break. Practice, rather than formal workplace policy, was most likely to be in contravention of the Regulations.

1.2 The research

Objectives

The overall objectives of the project were to identify:

- the extent of knowledge of the amendments among employers and employees
- the changes experienced by employers and employees as a result of implementing the amendments
- perceptions of the level of costs relative to benefits for employers.

Research methods

The research used both quantitative and qualitative methods.

The quantitative research

The quantitative research comprised two employer surveys:

An initial phone survey of employers was carried out to identify knowledge of and prevalence of rest and meal breaks in workplaces. The initial phone survey was completed by 1,391 employers (39% of those contacted).

Consenting employers from the initial phone survey provided the sampling frame for a more detailed follow-up survey of 10-12 minutes administered through the internet (or on paper if the employer preferred). The follow-up survey of 771 employers aimed to get a fuller picture of the knowledge of the amendments

among employers, any changes employers had made as a result of the amendments, and perceptions of compliance costs relative to benefits. The sampling frame and response rate for both of these surveys are detailed in Appendix 1.

The qualitative research

The qualitative research, intended to provide depth to the survey results, was carried out using face to face semi-structured interviews.

Employees were also included in the qualitative research. To mitigate the known difficulties of recruiting employees for the research, a range of options were used, including advertising in the recruitment sections of papers and websites and contacting:

- the employers in the quantitative phase
- trade associations
- Student Job Search
- Unions, including the Council of Trade Unions
- Work and Income work brokers.

The respondents

Twenty-seven employees and 19 employers/managers participated in the qualitative research.

The rest and meal breaks research had a focus on the effects of the amendments on young and low paid workers, therefore the qualitative research included a number of employees and employers in the accommodation and food industry and the health care and social assistance industry.

The industry and firm size associated with these interviewees is shown in the tables below.

Table 1: Firm size of interviewees

Firm size	Number of interviewees		
	Employees	Employers	Total
1 to 19	12	13	25
21-50	2	3	5
51-100	6	2	8
101+	7	1	8
Total	27	19	46

Table 2: Industry of interviewees

Industry	Number of interviewees		
	Employees	Employers	Total
A Agriculture, Forestry & Fishing	1	1	2
C Manufacturing	1	2	3
E Construction	2	1	3
G Retail Trade	2	2	4
H Accommodation & Food	7	3	10
I Transport, Postal & Warehousing	1	-	1
K Financial and Insurance	1	1	2
M Professional, Scientific & Technical	1	1	2
O Public Administration & Safety	3	-	3
P Education & Training	1	1	2
Q Health Care & Social Assistance	4	4	8
R Arts & Recreation	1	1	2
S Other Services	2	2	4
Total	27	19	46

Data analysis*Quantitative*

The initial and follow-up surveys were analysed using SPSS. T-tests were used to analyse differences in results between firms of different size. Differences between industries could not be meaningfully analysed using statistical methods due to the small base numbers for some industry groups.

Qualitative

Extensive notes or audio recordings were made at interviews. The notes and transcripts from the interviews were coded thematically against the research questions using NVivo qualitative analysis software. The coded data was analysed with reference to the participants' circumstances; findings for any one person or group were compared against those of the entire data set.

Structure of the report

This report first presents the findings, followed by a discussion of these in relation to the research questions, with the conclusions reached.

Limitations of the research

The findings of this research should be read as a snapshot in time based on the current law. The survey should not be relied upon as conclusive evidence of rest and meal break practices that are compliant with the current law. While the survey explored employers' understanding of their own compliance, it did not objectively test whether employers do in fact, comply. The flexibility of the practices shown in the findings was not tested against the legislation.

2. FINDINGS

This section of the report provides the findings from the surveys and the qualitative research. Small businesses (1-19 employees) formed 69% of the follow-up survey sample, thus the overall results reflect findings from small businesses more than medium and large businesses. However, the results are presented by firm size only where there are significant differences. The data source for all tables is the follow-up survey unless otherwise specified.

2.1 Knowledge of the amendment

As shown in Table 3 below, a majority of employers knew of the new law. The proportion of employers who knew increased with business size, with a greater proportion of medium and large businesses being aware of the law change than small businesses. The differences between employers' knowledge in small and medium and small and large firms were significant, in both the initial and follow-up surveys.

Table 3: Knowledge of law change by firm size

Survey responses	Firm size of employers			
	Small (n=472)	Medium (n=112)	Large (n=123)	Total (n=707)
Yes, a new law came into effect earlier this year	56%	71%	84%	63%
Yes, there has been talk but as far as I know the law has not yet been changed	15%	12%	5%	12%
No, I am not aware of any change in the law	30%	18%	11%	25%

The qualitative research showed that both employers' and employees' responses fell into three groups: people who had specifically looked for information (for example, in their employment agreement, or from the Department of Labour website) and knew what the law was; a much larger group of people who knew roughly what the entitlement was to varying degrees, and a small group who did not know what the legal entitlement was – and did not feel a pressing need to find out.

I know that we're entitled to one break every five hours. I'm not too sure about the ten-minute ones. I know after five hours of work you have to have a break because it's the same as driving trucks as well. I think it's after five or seven hours or something you have to have a half-hour.

Employee

Well, I think I'm right in saying this, every two hours you're allowed a ... I think it's a ten-minute break and every four hours a half-hour break, I think, for a meal break I think it is.

Employer

However knowing what the entitlements were in law did not necessarily mean that is what people did. In practice both employers and employees came to arrangements that were flexible and – in general – mutually satisfactory. The factors influencing these arrangements are discussed in detail on page 25.

Sources of information about the law

In the follow-up survey, the 445 employers who knew a new law had come into effect earlier in the year were asked where they had received assistance to comply with the new law.

As shown in Table 4, a third of employers did not receive assistance in order to comply with the new law. Of those who did seek help, the Department of Labour website or factsheets were most commonly used, followed by professional bodies or trade associations: the most commonly mentioned of these were the Employers' & Manufacturers' Association, Early Childhood Council, Canterbury Employers Chamber of Commerce, and the Retail Merchants' Association. The 'other' sources used were Department of Labour related.

Large businesses (27%) were significantly more likely to use a company HR advisor than medium (14%) or small firms (5%).

Table 4: Employers' sources of information or advice

Sources	Percentage of employers* (n=445)
I did not get assistance	34%
Department of Labour website/factsheets	25%
A professional body or trade association	22%
Mass media including TV news, newspaper and magazines, radio, internet	20%
Accountant/lawyer/external HR advisor	15%
My company HR advisor	12%
External HR advisor	7%
Lawyer	5%
Department of Labour advertisement	4%
Accountant	4%
Department of Labour call centre	4%
Friends	2%
Employees	2%
Union(s)	1%
Department of Labour email	1%
Other government organisation	1%
Other	1%

*Multiple responses allowed, so total adds to more than 100%

The qualitative research also found that the Department of Labour website, the mass media and employers' associations (including head offices and franchisers) were employers' predominant sources of information. While some employers regularly went to the Department of Labour website to check for any changes, others went there after being alerted to change through news items (in the mass media), or, in a large company, through an update from a legal firm. Other employers had noted the change after seeing the breaks specified in standard employment agreements downloaded from trade associations, or through payroll companies. One employer in a small firm had heard of the law change through an employee.

I think a couple of the guys mentioned it or something like that... One of the guy's wives is quite a sad sort of a person who's always pointing out laws and stuff and bits and pieces like that so, yeah, probably from her.

Employer

A number of employees in the qualitative research (from a range of occupations) had not sought any information on breaks, but considered they would be able to get the information if they wanted it, from the Department of Labour or in their employment agreements. Other employees had sought or received information from a variety of sources. Some knew of entitlements (although not necessarily under the current law but possibly through collective agreements) from previous jobs, and some had specific knowledge through their current employment agreement. Others had called the Department of Labour contact centre for advice on a range of terms and conditions, which included breaks. Some employees encountered the amendment through their work in payroll or through attending a course on the Employment Relations Act. Knowing the regulated breaks was particularly pertinent to one person studying for a truck driver's licence.

Clarity of legal requirements

As shown in Table 5 below, employers who knew of the law change were positive about the clarity of legal requirements relating to rest and meal breaks (although, as noted, employers' actual compliance was not tested in this research). There were no significant differences in response by firm size or industry.

Table 5: Clarity of legal requirements

Clarity of legal requirements	Percentage of employers (n=445)
1 extremely clear	29%
2	35%
3	25%
4	6%
5	4%
6 not at all clear	0%

The qualitative research also found few areas of confusion with the new law. One employer said he was unsure of the length of the shift necessary to get a second meal break. In answering some of the research questions, however, it was apparent that some employers were not sure whether they were obliged to enforce the taking of breaks. For example:

If it is a legal requirement for me to enforce it then I'll enforce but, I mean, sometimes they want to go out and buy some shoes and grab something to eat at ten o'clock in the morning and I just let them go and do that.

Employer

As with employers, employees who knew what the law was felt there were few areas of confusion. One person mentioned that the specifics around breaks were 'a grey area' but as several other employees also mentioned, they could 'look it up if they wanted to know.' In general, both employees and employers felt their current arrangements were satisfactory, and felt little compulsion to check whether they followed the letter of the law.

2.2 Changing breaks arrangements as a result of the new law

A small proportion of employers had changed their breaks arrangements as a result of the new law: 11% of the 1,172 employers in the initial survey and 13% of the 443 employers in the follow-up survey. There were no significant differences in response by firm size or industry.

In the follow-up survey, the main reason given for employers not changing breaks was that their existing breaks arrangements already complied with the new law (86% of employers). A further reason given for not changing was that breaks were informal, so there was no need to formally change them. Small employers were much more likely to state that breaks were informal (25%) compared to large employers (14%). Other reasons given were:

- Six employers (all small firms) said they did not have enough staff to cover breaks.
- Two employers, again both from small firms, said they could not afford the additional cost of the changes.
- One employer stated they had only found out about the new law through this research project.

Details of changes

The 58 employers who had made changes to rest and meal breaks were asked for details about these changes. Rest breaks were changed more often than meal breaks, as shown in Table 6 and

Table 7 below. The most common changes were providing rest breaks more often and making them longer.

Table 6: Changes to break length

Type of break	Longer break	Shorter break	No change
Rest (n=53)	30%	6%	64%
Meal (n=53)	11%	2%	87%

Table 7: Changes to break frequency

Type of break	More often	Less often	No change
Rest (n=52)	42%	4%	54%
Meal (n=49)	12%	2%	86%

Of the 58 employers who had made changes, approximately three-quarters (74%) reported that they had formalised their breaks policies in writing. Ten employers had provided additional entitlements or made other changes. These included the following:

- three employers tried to ensure their staff took their breaks or that they took the breaks away from their work.
- one employer paid staff extra minutes depending on how long they worked.

- one employer had changed their employment agreements to reflect the law, although their practice remained more favourable than the law stipulated.
- one employer had consolidated their breaks to provide one 30 minute rest break and one 30 minute meal break.
- one employer had made unspecified changes applicable when staff worked in high temperatures.

Over three quarters (79%) of the 58 employers making changes had done so because they knew the law had changed while 9% had done so because their employees had asked for it. One employer had done so in response to a union request.

Similarly in the qualitative research, few respondents had experienced changes to breaks in response to the new law: One employee interviewed attributed changes to breaks to the legislation (after another employee pointed out the change to the law).

[In a] seven-hour shift ... they'd only give you one half and one quarter. [Now you get] one half, one quarter and, if you're lucky, your second quarter - if it's not too busy and if it's the right manager.
Employee

However, the impact of changes on both employees and employers varied widely. In a health care facility, consequent to the amendment, management had decided that instead of paying staff during meal breaks in which time they were on the premises and on call, staff would no longer be on call during meal breaks and these breaks would now be unpaid.⁷ Thus staff now had to be at work a further half hour to receive the same pay.

[Staff] used to have a paid lunch break, but we then looked at the legislation and realised, because you can't insist that they stay here [as the employer did previously], that it has to be an unpaid lunch break, so that meant they lost money, that's about two and a half hours paid per five days,... they used to finish at 3.00, now they finish at half-past because they have that extra half-hour, so that otherwise they would've lost money. So in effect they have to work an extra half-hour a day.

Employer, health care facility

Reviewing current practice against the new legislation and circulating information about the legislation to staff could result in some employees taking breaks that they had 'not bothered' to take previously.

⁷ Note that Part 6D of the Act does not contain provisions specifically addressing such situations, and as is discussed elsewhere in this report, some other employers have continued to pay staff during meal breaks in particular circumstances.

Nothing has changed with the amendment but we had to review the legislation against our practices and communicate with staff, briefing the senior managers about what they were required to do... What has changed is that people do take their breaks now. Some people are enforcing their rights too – we have had to create a weekly roster to cover that where there is over the counter customer contact.

Employer, large firm

Or changes had been made in writing (to workplace policies and employment agreements) but in practice the change had made no difference.

In some cases, change was related to a new occupation rather than the legislation. Two employees who had recently begun new jobs found that breaks were different compared to their previous employment.

The amendment [itself] has had no impact in the hospitality industry. In production service, it's pretty work to rule – very different from customer service situations.

Employee

Reaching agreement about changes

A majority of employers had found it very simple to reach agreement with their employees and/or a union about the changes, as shown in figure 1 below. The mean score for this question was 1.96 on a scale of 1 to 6 where 1 was 'extremely simple' and 6 was 'extremely difficult.'

Similarly, a majority of employers had found it simple to put the new law into practice, as also shown in the figure 1 below. The mean score for this question was 2.6 on a scale of 1 to 6 where 1 was 'extremely simple' and 6 was 'extremely difficult.'

Figure 1: Reaching agreement & putting the new law into practice

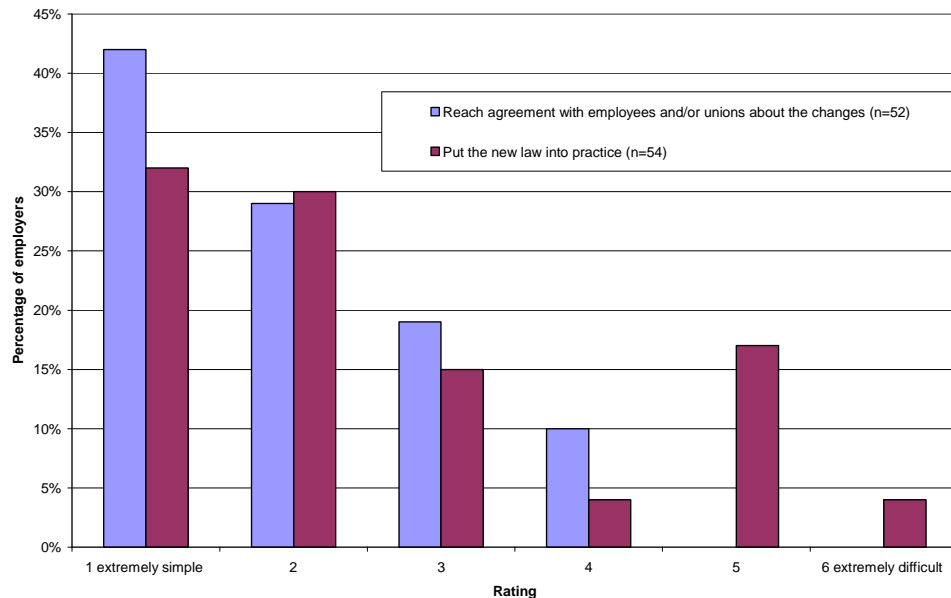


Table 8 below shows the occupations for which employers changed breaks. Nearly three-quarters of the employers (72%) who had changed their breaks had done so for all their employees. Half the employers had not found it difficult to change the breaks for any occupations.

Table 8: Occupations for which breaks were changed (as reported by employers)

Occupation	Changed breaks for these occupations	Difficult to change breaks for these occupations
	(n=58, multiple response allowed)	
None of them	NA	50%
All occupations	72%	12%
Managers	5%	3%
Professionals	5%	5%
Technicians and Trades Workers	5%	2%
Community and Personal Service Workers	3%	5%
Clerical and Administrative Workers	16%	5%
Sales Workers	5%	2%
Machinery Operators and Drivers	5%	3%
Labourers	3%	3%
Other occupations	2%	5%

Most of the 58 employers who had changed breaks changed them for all employees irrespective of their employment status as part time, full time, shift or casual workers. Two out of five employers did not find it difficult to change breaks for any staff, and one out of five employers had found it difficult to change breaks for all employees.

Table 9: Employees for which breaks were changed (as reported by employers)

Employees	Changed breaks for these employees	Difficult to change breaks for these employees
	(n=58, multiple responses allowed)	
None of them	NA	41%
All employees	84%	19%
Part time	16%	10%
Full time	10%	5%
Shift workers	0%	0%
Casual workers	3%	3%
Other	2%	0%

The qualitative research also found that effecting any changes had been straightforward. However, changes were not necessarily negotiated with employees: this is explained below in relation to an organisation moving from paid meal breaks because staff were on the premises and on call, to unpaid meal breaks during which staff would not be on call.

The CEO came up with the options [of losing 30 minutes pay or working another half hour], and it was really driven by her as to what we could do. And [for] some people it wasn't ... an option, it was ... you will lose two and a half hours' pay. But some people argued and got [the option of working another half hour], so it wasn't quite 'would you like this or this?' It was a wee bit more directed by [management] depending on what actually [the employee's] job was.

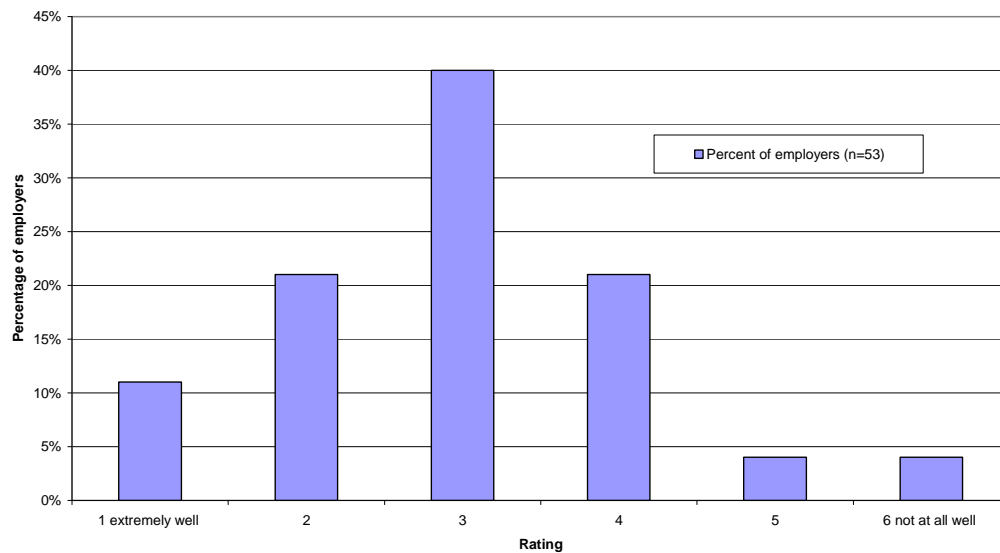
Manager

Satisfaction with changed breaks

Employers who stated that they had changed their breaks in response to the new law were generally positive about how well the changed breaks were working for their business. In the initial survey, 67% of the 123 employers who had changed their breaks found they were working 'quite well', or 'very well', and 19% 'not well enough' or 'not at all well'.

As shown in Figure 2 below, in the follow-up survey, 72% of employers gave the changed breaks a positive score and 29% percent of employers scored the changed breaks negatively. The mean score was 2.96.

Figure 2: Satisfaction with changed breaks

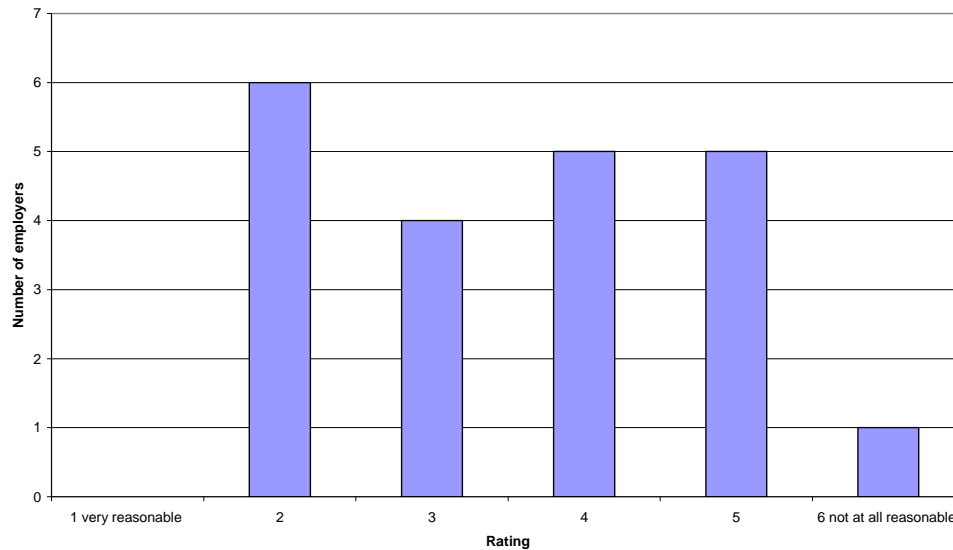


The survey did not explore reasons for satisfaction or lack of with changed breaks. Only one employer in the qualitative research had changed breaks because of the law change, and they were satisfied with the minor change made.

Cost incurred in changing breaks

Twenty-two out of 55 employers reported incurring a cost (unspecified) in changing their breaks. Employers' responses were evenly divided about whether the cost incurred was reasonable, with a mean score of 3.57.

Figure 3: Reasonableness of the cost



In the qualitative research, the cost incurred by changes to breaks was a very minor concern to employers, however the few comments made were focused on the same point: that staff brought on to cover the costs of breaks also got breaks:

At dinner when they're busy, they roster on extra staff to cover the breaks, but even the extra staff get breaks. More staff and more breaks. This has increased costs, but not enough to make a difference.

Manager, hospitality industry

In addition, one employer said that although breaks had not theoretically changed, the attention given to breaks by the amendment meant more people took the breaks and this had increased costs:

There are costs associated with removing people from their standard job to cover for someone else in a different area to cover breaks, some disruption to work flows. This has actually changed since the amendment because of the attention given to it.

Employer, finance industry

2.3 Provision of rest and meal breaks

In the follow-up survey employers were asked about the rest and meal breaks they now provided to employees.

How long after starting work do employees get rest breaks?

As shown in Table 10 below, three quarters of employers (76%) stated that they provided employees with a rest break within three hours after starting work, and the vast majority (88%) stated that they did so within four hours. There were no significant differences in these results by firm size. The very small proportion of cases where employers did not provide a rest break, represents three employers

from three different industries and may be associated with employees being in sole charge or working part time hours.

Table 10: When employees get rest breaks (as reported by employers)

Rest break after so many hours	Percentage of employers (n=593)
1 hour but less than 2 hours	15%
2 hours but less than 3 hours	61%
3 hours but less than 4 hours	12%
4 hours but less than 5 hours	3%
5 hours	1%
7 hours	0%
Never	1%
Flexible/varies	7%
Don't know	1%
Total	100%

How long after starting work do employees get meal breaks?

As shown in Table 11, approximately three quarters of employers reported that they provided a meal break within five hours after starting work, the majority of these between four and five hours. There were no significant differences by firm size or industry in relation to providing meal breaks after four but less than five hours after starting work.

Table 11: When employees get meal breaks (as reported by employers)

Meal break after so many hours	Percentage of employers (n=589)
1 hour but less than 2 hours	1%
2 hours but less than 3 hours	4%
3 hours but less than 4 hours	11%
4 hours but less than 5 hours	56%
5 hours but less than 6 hours	17%
6 to 7 hours	3%
Never	0%
Flexible/ varies	6%
Don't know	1%
Total	100%

Length of rest breaks

As shown in Table 12, 82% of employers reported that they provided between 10-15 minutes for rest breaks. There were no significant differences in these results by firm size.

Table 12: Length of rest break in minutes (as reported by employers)

Minutes	Percentage of employers (n=682)
0	1%
5	1%
10-13	39%
15	43%
20 or 25	6%
30	5%
40, 45 or 60	0%
Flexible/varies	4%
Don't know	1%
Total	100

Length of meal breaks

As shown in Table 13 below, over half of employers reported that they provided 30 minutes to employees for their meal break while approximately a quarter provided 60 minutes. A small proportion of employers said employees in their workplaces got 30 or 60 minutes depending on the employee's position and the number of hours worked on the day. There were no significant differences in these results by firm size.

Table 13: Length of meal breaks in minutes (as reported by employers)

Minutes	Percentage of employers (n=700)
0	0%
10-25	2%
30	60%
35-50	4%
60	28%
90	0%
Flexible/varies	3%
30 or 60	3%
Don't know	0%
Total	100%

Number of rest breaks

As shown in Table 14 below, just over three-quarters of employers reported that they provided two rest breaks per working day. There were no significant differences for these results by firm size.

Table 14: Number of rest breaks per working day (as reported by employers)

Number of rest breaks per working day	Percentage of employers (n=669)
0	1%
1	8%
2	77%
3	4%
4, 5 or 6	1%
1-2	1%
2-3	1%
3 or more	1%
Flexible/varies	7%
Don't know	0%
Total	100%

Number of meal breaks

As shown in Table 15 below, the vast majority of employers reported that they provided one meal break per day. There were no significant differences in these results by firm size.

Table 15: Number of meal breaks per working day (as reported by employers)

Number of meal breaks per working day	Percentage of employers (n=690)
0	1%
1	90%
2	3%
3	1%
1-2	1%
2-3	0%
Flexible/varies day by day	4%
Total	100%

Notably, for the most common findings above, there were no significant differences between employers who knew of the law change and employers who did not in terms of providing breaks that reportedly complied with the law.⁸

⁸ That is providing a rest break after two but less than three hours, a rest break that was 10-15 minutes long, a meal break between 4 and 5 hours after starting work, a meal break that was 30 minutes long, paid rest breaks and unpaid meal breaks

The qualitative research showed that while two rest breaks and one meal break was the general pattern in a full-time working day, there were many variations to this, either regularly or on an ad hoc basis. The uptake of breaks is discussed more extensively on page 24.

2.4 Are breaks paid?

Rest breaks

The majority of employers (89%) reported that they provided paid rest breaks to employees. Six percent of employers said some breaks were paid, while 4% said they were unpaid. One percent of employers did not know if rest breaks were paid or not for their employees.

Meal breaks

Two thirds of employers (69%) stated that they did not pay their employees for meal breaks, while 21% did pay them, and 9% of employers paid employees for some meal breaks. It was not clear from the survey responses whether these latter employers were paying staff who took a meal break or who worked through one, nor what hours the staff worked or whether they were obliged to stay at work during the break.

The qualitative research found that employers and employees had a high level of knowledge that in theory shorter morning and afternoon tea breaks were paid and the longer meal break was not; however, this was not necessarily what happened. In one workplace where staff could not leave the premises, all breaks were paid, and in another, as discussed, staff were now able to leave the premises and meal breaks were no longer paid.

Salaried employees did not have any variation in their pay regardless of what breaks they did or did not take, and nor did some waged employees.

We work nine to five, so it's an eight hour day and I pay them for the whole day so I pay them for eight hours and I give them half an hour lunch and 15 minute breaks whenever they want and they choose to take them or actually not to take them, it's entirely up to them.

Employer, Retail Trade

Some employees, though, were able to choose whether to work through meal breaks and be paid for the time. In addition, one employer would pay staff extra if they had worked through a paid break due to work flows – but not if the employee had simply forgone a break of their own volition.

On a Friday night sometimes we're too busy, they don't get a break, they get paid for it. So we don't short-change them [they get paid more] only ... if they didn't have a choice, I mean, ... It's about choice. If they want to come back and work and can't be bothered taking a break [they don't get paid extra].

Employer, Accommodation & Food industry

2.5 Universality of rest and meal breaks

In the follow-up survey, 68% of the 708 employers stated that they had a written policy on rest and meal breaks, 31% did not, and 1% did not know if they had a written policy. Of the 708 employers, 5% reported that they had developed a

written policy in response to the new law. There were no significant differences by firm size in relation to having a written policy.

Most employers (95% of 714 employers) said all their employees got rest and meal breaks, while 5% (that is, 35 employers) did not. There were no significant differences in this result by firm size.

Of the 35 businesses where not all employees got rest and meal breaks:

- Seventeen said the other employees were not eligible for breaks.
- Another 12 employers said their breaks were different.
- Eleven of the 35 employers believed their employees did not work enough hours to get some of the breaks, although the employers' comments in the survey suggest some of the employees would be eligible for breaks under the new law: *'Part time employees may only work 4-5 hours per shift.'*
- Four employers said their staff worked through breaks and thus got paid; and some of the employers specified it was the employee's choice to do so. One employer noted that being in sole charge was an issue in relation to taking meal breaks.

As will be discussed further, the qualitative research found that although some people sometimes missed breaks due to workflow or chose not to take breaks, no one interviewed stated that they were denied a break if they asked for one, irrespective of whether they worked part-time or full-time.

We don't always take breaks, but I just ... like if we complained and needed a break [the employer would] definitely give us a break... if it's busy you may be asked not to take one or to take one later or take a shorter one, but [the employer] always says you have the right to refuse, like to take it if you need, if you're tired.

Employee, hospitality industry

Young people and people in low paid work did not appear to be affected differently by the amendment compared to other groups. Rather it was factors such as occupation, industry and workplace environment that exerted the most influence on whether and when people took breaks.

2.6 Uptake of rest and meal breaks

As shown in Table 16 below, half of the employers surveyed said all of their employees entitled to rest breaks would actually take them, whereas two thirds of employers said all employees entitled to take meal breaks would take them. Employers stated only a very small proportion of employees entitled to rest and meal breaks would not actually take them. There were no significant differences in these results by firm size.

Table 16: Proportion of employees entitled to breaks who would actually take them (as reported by employers)

Type of break	None	Some	Most	All	Don't know
Rest break (n=699)	3%	14%	32%	50%	1%
Meal break (n=675)	2%	7%	23%	68%	0%

Factors affecting whether people took breaks

The qualitative research shows there were numerous factors affecting whether people took breaks and for how long.

Overall, there was a significant degree of flexibility shown by employers and employees in relation to how many and how long the breaks were. Both employers and employees commonly reported that employees could ask for some variation to their breaks 'if they needed to do something.'

Sometimes they don't take their half an hour and sometimes they do and one day they may take an hour and a half and three days later they don't take anything, they just eat at work, so I'm pretty laid back with that. But if it is a wee bit of a problem like we'd give them a set time then I'd sort of enforce that.

Employer

I can negotiate for longer breaks if I need to be elsewhere, for example, today I took a break before starting because I had to bring my car in.

Employee

There was no change here when legislation changed because of the nature of the work. People are free to break whenever they can.

Employer

However, the nature of people's work had a considerable effect on what people did. Employees who worked relatively independently of others (that is, colleagues and clients) could eat and drink or make personal calls at any time, and this affected their uptake of discrete breaks. People in this category felt they were self managing and that 'managers never noticed' what they did.

In contrast, taking breaks when in sole charge was an acknowledged difficulty. One employer who sometimes worked in her shop alone said:

You can't take a break when you're alone, can't shut the business, not a good look, can't even go to the toilet when alone. Occasionally I ask regular customers to mind the place while I go to the loo. Sometimes just before I [leave the shop], my part timer goes to the toilet. I don't know what he does about going to the toilet when I'm not there.

Employer

When sole charge in the office there is trouble leaving [for a break], I just stay at the desk. If I were to take the legislated breaks I would have to lock the door and let the phone go to answer phone.

Employee

Both employers and employees said that breaks depended on workflow. If a particular job, for example, in construction could not be interrupted, breaks were taken before or after that job.

If they're out on-site and they may get back a little bit later then they'll have a break later, but usually they tend to have a break.

Employer

However, employees might effectively miss breaks due to workflow as they did not have the opportunity to take the break until much later.

If [you] missed out on having [an] earlier break, [you have] to wait until quite late in the day to have one because we couldn't go between the lunch hours, the lunch rush.

Employee

Some employers could manage difficulties caused by workflow through formally planning breaks. In one such workplace in the Accommodation & Food industry, the employer had a written schedule for breaks and 'all staff always take all their breaks by the clock.' In this workplace there was still room for flexibility to suit both employees and the employer, with the employer trying to accommodate staff requests to be away, or the shift manager 'sending someone early for a break if they're quiet.'

In workplaces where there were regulated staff ratios, scheduling breaks was important, but flexibility was limited.

Most of the staff that work with the children have their set timeframes [for breaks], obviously, because they've got to keep within that programme time, and ... if your break's at quarter to 10 and you don't get to get out until 10 to 10, well that's slackness on your part because you know we've got to run by a time .., and so you still finish [your break] at [10 o'clock] because you're expected back to be with the kids at 10 o'clock.

Employee

Further, employees working in health care could not simply abandon a patient with needs to take a scheduled break.

Sometimes you just can't take a break because ... you've got people that need you, especially with our residents, they'll need things now and [the staff] can't ... say, "Well, actually can you wait ten minutes because I'm due for a cup of tea."

Employer

Whether employees left the workplace or whether there was a designated room for a break, had an effect on some people's ability to take a break for the designated length of time. Several of the employees working in the food industry took their breaks on the premises, for example, sitting in the café rather than a staff room.

It was expected that you'd only go [for a break] when it was quiet. If it was busy, you didn't go for a break and if you were on a break and it got busy, you were expected to come off your break and help and then maybe finish it later. And because you were sitting in the café you did have to.

Employee

In the food industry, taking breaks on the premises was influenced by the free or discounted food and drinks available to the employees – all of the employees interviewed working in the food industry received a discount on food and drink, ranging from 20% to 100% off the retail price.

However, some employees in this industry chose not to take all the breaks they could have taken. In one case, this was because the employee 'was not fussed' about rest breaks and he did not take meal breaks because they were unpaid, and he would 'rather be paid for working' – which was an option for several of the

employees interviewed, including those in industries other than Food and Accommodation.

The nature of the business also affected employees' views about taking regular breaks:

Last year I worked in a small business and you basically didn't get breaks. If I had [time] off the work was left to the owner/manager. You feel more obliged to an owner/manager in a small business. It's more personal and puts the onus on you if you're the conscientious type.

Employee in the Food & Accommodation industry

Changes in personal circumstances might change people's behaviour with breaks – one employee now took a lunch break because she would go and see her baby at lunchtime.

Now that I have the baby I take lunch breaks because I see him then, I would normally have eaten at my desk.

Employee

Others took a break because they had decided they wanted to get some daily exercise.

There were also employees (working in offices) who had negotiated flexibility in their working hours related to child care responsibilities, who consequently felt they should not take breaks from work – although their employer had never suggested to them they should not.

I always eat lunch at work – take 10-15 minutes because I start late- 9.15 rather than 9 ..., so I feel like I shouldn't take lunch.

Employee

I have a vague feeling I should take breaks. At the moment I turn down all invitations to coffee, I have a drink at my desk and eat lunch while working - it's not frantic hard core work, I might watch a [work related] lecture [via the internet] while I eat but it is intense and stressful.

Employee

Workplace culture was a strong influence on whether people took breaks. In some workplaces it was possible for some or all employees to take a break at the same time, and in these circumstances all of the employees tended to take the breaks.

Particular events at work might precipitate a break:

If there was a crisis [with a patient], you can't say hang on I need a break – afterwards, you can forget to take it. And if you're running late with a client, you think you must get to the next person. ... after I've been with a client I give myself time when I leave them. If something happened here – a crisis – you can go off and debrief and have a break. You can have breaks not just because you're entitled to.

Employee – health care

Some employers - and longer term employees in workplaces - specifically encouraged employees to take breaks, reminding them and checking whether they had taken breaks. There were occupations in which employers considered it

particularly important for staff to get right away from work: childcare, health care, and using noisy machinery (the impact of breaks is described on page 28).

2.7 Effect of the recession

In the qualitative research, employees were asked if the recession had any effect on whether they would take breaks, ask to take them or ask for flexibility. None of the employees interviewed considered that the recession had had any bearing on this. Although many of the employees did not take the breaks they were entitled to, there were, as described above, numerous factors involved in this, and no one worked in a situation where they considered they would not get breaks if they asked for them. In addition, the strongest influence on whether an employee would ask for flexibility with breaks was their perception of whether it would inconvenience employers, colleagues or customers.

2.8 What happens at rest and meal breaks?

In the qualitative research, employers and employees were asked what happened during breaks.

As discussed, employees had varying degrees of choice – some were able to work through breaks either to get paid for the time, or to leave work earlier; some managed their own workflow and could eat and drink at their desk, or make personal phone calls (or go for a walk) at any time and consequently they tended not to take breaks on such a regular basis.

For those who took them, breaks were a chance to eat, drink, smoke, make telephone calls, read the paper, use a computer, talk to colleagues, or go for a walk. In staff rooms, employees read the paper, used the computer, and played cards. Some employees lived sufficiently close to work to go home for lunch and 'put a load of washing through.'

For some, breaks were a rest from direct contact with patients or customers but the employee may still have been engaged in work related tasks such as paperwork or a staff debriefing after an incident.

There were also employees for whom breaks were literally a chance to sit down, and for some, (for example, a person working in security) the break was an opportunity to go to the toilet. If in sole charge, taking five minutes at an unscheduled time to go to the toilet could pose more problems than taking a scheduled rest or meal break.

In one case where some staff worked offsite, employers encouraged them to come back to the main work premises during meal breaks as they worked alone with clients during the rest of the working day; one person with long breaks between split shifts used half the break time to do work-related paperwork.

2.9 Impact of providing rest and meal breaks

As shown in Table 17 below, when asked to select from a list of possible impacts, more than half of employers reported that providing rest and meal breaks had a positive impact on productivity and morale. Fewer employers thought that providing breaks had an impact on the satisfaction of customers, workplace

accidents, and absenteeism. Overall, though, employers were more positive than negative about all of the potential impacts listed in the survey. There were no significant differences in these results by firm size.

Very few employers identified impacts other than those listed:

- Two employers said staff working five hours now had a 30 minute unpaid break and had consequently lost wages.
- One employer had had to employ extra staff to cover breaks.
- Another employer mentioned that sole charge staff were unable to take regular breaks.

Table 17: Impact of providing rest and meal breaks

Impact	Very positive	Positive	No impact	Negative	Very negative	Don't know
	(n=691)					
Employee productivity	10%	41%	40%	3%	0%	6%
Employee morale	12%	45%	37%	0%	0%	5%
Staff retention	10%	32%	49%	0%	0%	7%
Satisfaction of clients/ customers	6%	21%	55%	6%	1%	10%
Workplace accidents/ injuries	9%	28%	53%	0%	0%	9%
Employee absenteeism	5%	21%	63%	0%	0%	10%

The qualitative research supported the survey findings, with all interviewees considering breaks had positive effects. As with the survey findings, both employers and employees focused on the benefits to productivity and morale.

As discussed previously, having a break meant time 'doing something else' but was for some their only opportunity to eat or have a cigarette. Without such breaks, employees felt they lost concentration, particularly towards the end of the day.

If I have proper breaks I work better at the end of the day. If I don't eat, the last hour of the day is pretty unproductive, I get so hungry I don't think about anything else. It is much better for you and the employer to have the break.

Employee

Employees who could eat or drink whenever they chose at work were more focused on 'doing something different' such as not using a computer, or going for a walk.

Employers agreed with employees that breaks were important in terms of people working effectively: 'they had more energy' and 'were more productive.' One employer commented that staff worked harder with more frequent breaks. Without breaks employees would lose focus.

I think if there wasn't breaks it'd probably just lead to more floating, like 'I don't feel like I've had one so I'll go and do something now' and then half an hour later they go and do it again because they haven't actually just stopped.

Employer

Some employers noted the health and safety implications of taking breaks. Employers in education and health, in particular commented on the demands of the work and the need for employees to have breaks in order to do the job well. Conversely an employer in the retail industry considered that breaks did not really make any major difference as it 'was not a stressful environment.'

Although employees recognised the positive benefits of taking breaks on their work and themselves, they did not necessarily take them if there was an option of reducing total time at work or being paid for working through breaks: 'you should take breaks, but I want to leave as early as possible.'

Both employers and employees in workplaces where staff were salaried commented on the importance of individual control in managing workloads, considering that regimented breaks were not as satisfactory for employees as those that staff directed themselves.

It's important people have breaks and that they have control over when they take them. If you're concentrating on something it's disruptive to take a break – so it's determined by individual work patterns and responsibility.

Employer

It can be disruptive to take a break at an enforced time, it can disrupt the flow of my work and I'd prefer not to – if it's too regimented.

Employee

3. DISCUSSION & CONCLUSION

This study was carried out to identify to what extent the intended policy objectives of the breaks amendments to the Employment Relations Act 2000 are being achieved.

Awareness & knowledge

The research found that a majority of employers knew of the new law, and considered it clear, although the qualitative research suggests that many employers would not have had sufficiently detailed knowledge of the legislation to know whether or not their actual practice complied with the law. The proportion of employers who knew of the new law increased with business size; this is a finding common to studies of employer knowledge of employment legislation (Blackburn and Hart 2002 & 2003, Dickens et al 2005).

Employees in the qualitative research showed high awareness but a lack of detailed knowledge of the amendment. Again this finding is similar to that of other employment rights research (for example, Casebourne et al 2006). Employees' disinclination to seek out the detail (although they could name sources of information), and their satisfaction with having flexible arrangements, has also been found with other Departmental research into employment rights (Department of Labour 2009a & 2009b).

Changing breaks due to the amendment

Few employers had to make changes to employees' breaks as breaks that met or exceeded the minimum set out in the Act were reported to be widely in place prior to the amendment. Changes that did occur were more commonly made to rest breaks than meal breaks, and largely related to employees receiving more frequent and longer rest breaks than previously.

A small number of employers in the survey had incurred costs (unspecified) in changing breaks, and their opinions were evenly divided as to the reasonableness of these costs relative to benefits. The qualitative research showed that costs of the amendment were associated with more people taking their breaks, and hiring additional staff to cover breaks.

Flexibility to accommodate varying needs

The research found that in general employees took some if not all of the breaks they were entitled to, and that both employers and employees were flexible with when breaks were taken. A lot of factors influenced whether and how regularly people took breaks:

- personal preferences and circumstances,
- the type of work and work flow,
- behaviour of colleagues and other workplace culture factors,
- having a designated staff space for breaks,
- availability of food and drink at other times,
- effects on total work time, and

- the possibility of being paid for working through a meal break.

Flexibility was more limited for employees (and employers) in health care and education settings where there were regulated staff ratios, and larger workplaces with scheduled break plans such as fast food restaurants. The employees most at risk of not getting breaks were those in sole charge, particularly in the retail sector. There may also be other occupations or industry sectors with particular issues whose views are not reflected in this research. The qualitative research found the recession had not deterred employees from asking for flexibility with breaks if required.

In practice, employers and employees were managing breaks to suit either the business needs of employers, the personal preferences of employees or the desire of either party for flexibility. This finding shows, as other studies have (for example, Gartner 2004) that employer or employee preferences may override entitlements. Again, although most employers were aware of the legislation, and considered it clear, the qualitative research showed that many employers would not have sufficiently detailed knowledge of the legislation to know whether or not flexible arrangements made complied with the law on breaks. Also, as noted, the nature of the survey sample and the coverage of the qualitative research mean it is possible that issues for some occupations or industry sectors may not have emerged in this research.

A number of young workers and people in low paid occupations were specifically included in the qualitative research to examine the relationship between being in these categories and accessing breaks. The research found there was not a clear relationship; rather, the employees most at risk of not getting breaks and with limited flexibility were those in sole charge, particularly in the retail sector. A lack of confidence in asking was not obviously an issue for young or low paid employees, and there was a high level of awareness from employers and employees that workers should take breaks (even if they were not taken at precisely regular times). Nor had these groups of employees experienced changes in breaks with the introduction of the amendment.

This research has provided a snapshot of the impact of the breaks amendment in the first year of operation. This snapshot shows high employer and employee awareness but less detailed knowledge of the new law, and a limited impact on workplaces which are largely using arrangements that existed prior to the amendments and which are considered to be compliant with the law. These arrangements include mutually satisfactory flexibility for many but not all employers and employees; however the flexibility of actual practices has not been objectively tested against the current legislation.

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APPENDIX 1: QUANTITATIVE METHOD

The project used a mixed-methods approach combining quantitative and qualitative research methods:

Phase 1 – Initial survey

The initial survey was a 3-5 minute telephone survey of employers carried out in October – November 2009. This survey was intended to identify the prevalence of trial periods, rest and meal breaks and breastfeeding breaks and facilities among employers, and employer knowledge of these amendments to the Employment Relations Act 2000. Employers were also asked if they were willing to take part in a follow-up survey. Consenting employers were then sent an internet link to the follow-up survey, or were posted a questionnaire, depending on their preference.

Sampling frame

The sampling frame was an employer database, which, when cleaned of incomplete and duplicate entries gave a sampling frame of 33,576 employers. From this a random sample of 3,600 employers was drawn. This random sample was an approximate match of the actual industry distribution in New Zealand.

Response rate

The sample size for the employer survey was intended to be 1,200.

Of the 3,532 employers contacted:

- 1,391 (39%) completed the initial initial survey, of whom 771 went on to do the follow-up survey (10% by post, 90% online)
- 324 (9%) declined to take part
- 685 (19%) were unattainable because of invalid contact details
- 1,132 (32%) were unavailable when contacted

Firm size distribution

Table 18: Firm size distribution of the initial survey compared to the population

Firm size	Number in initial survey	Percent in initial survey	Percent in population⁹
1-19 employees (small)	989	71%	91%
20-49 employees (medium)	206	15%	6%
50+ employees (large)	196	14%	3%
Total	1391	100%	100%

⁹ February 2009

Industry distribution

The industry distribution of the sample is shown in Table 19. Note that this table shows the number of firms not the number of employees in each industry.

Table 19: Industry distribution of the initial survey compared to the population

Industry	Number in initial survey	Percent in initial survey	Percent in population¹⁰
A Agriculture, Forestry and Fishing	59	4%	14%
B Mining	4	0%	0%
C Manufacturing	207	15%	8%
D Electricity, Gas, Water and Waste	1	0%	0%
E Construction	109	8%	13%
F Wholesale Trade	105	8%	6%
G Retail Trade	233	17%	9%
H Accommodation and Food Services	88	6%	7%
I Transport, Postal and Warehousing	71	5%	3%
J Information Media and Telecommunications	5	0%	1%
K Financial and Insurance Services	27	2%	2%
L Rental, Hiring and Real Estate	210	15%	4%
M Professional, Scientific and Technical	31	2%	10%
N Administrative and Support Services	42	3%	3%
O Public Administration and Safety	97	7%	0%
P Education and Training	28	2%	4%
Q Health Care and Social Assistance	42	3%	5%
R Arts and Recreation Services	10	1%	2%
S Other Services	2	0%	8%
Unknown	20	1%	-
Total	1,391	100%	100

Phase 2 – Follow-up survey

The follow-up survey was 8-14 minutes in duration, and administered by postal questionnaire or over the internet, depending on the employer's preference. The aim of the survey was to obtain a more comprehensive understanding of employers' knowledge of the amendments, any changes employers had made, and their perceptions of compliance costs relative to benefits. To maintain respondent confidentiality, responses from the initial and follow-up surveys could not be linked, thus some questions from the initial survey were repeated in the follow-up survey.

Consenting employers from the initial survey made up the sampling frame for the follow-up survey. The sample size was intended to be between 400 and 500 employers.

¹⁰ Business Demography Statistics, Statistics NZ, February 2009

The follow-up survey was completed online or on paper by 771 employers with a completion rate of approximately 88%. These respondents are a subset of the respondents from the initial survey. Respondents self-reported firm size, industry and location.

Table 20: Firm size distribution in the follow-up survey compared to the population

Firm size	Number of employers	Percent in follow-up survey	Percent in population¹¹
1-19 employees (small)	527	69%	91%
20-49 employees (medium)	117	15%	6%
50+ employees (large)	127	17%	3%
Total	771	100%	100%

Respondents in the follow-up survey self-reported their industry. However, nearly 19% selected 'Other Services' and described their business. These were allocated appropriate industry codes based on the description.

¹¹ Statistics NZ, Business Operations Survey, February 2009

Table 21: Industry distribution of the follow-up survey compared to the population

Industry	Number in follow-up survey	Percent in follow-up survey	Percent in population¹²
A Agriculture, Forestry and Fishing	40	5%	14%
B Mining	2	0%	0%
C Manufacturing	101	13%	8%
D Electricity, Gas, Water & Waste Services	17	2%	0%
E Construction	64	8%	13%
F Wholesale Trade	43	6%	6%
G Retail Trade	125	16%	9%
H Accommodation and Food Services	43	6%	7%
I Transport, Postal and Warehousing	40	5%	3%
J Information Media and Telecommunications	12	2%	1%
K Financial and Insurance Services	37	5%	2%
L Rental, Hiring & Real Estate Services	9	1%	4%
M Professional, Scientific and Technical Services	70	9%	10%
N Administrative and Support Services	20	3%	3%
O Public Administration and Safety	5	1%	0%
P Education and Training	45	6%	4%
Q Health care and Social Assistance	60	8%	5%
R Arts and Recreation Services	10	1%	2%
S Other Services	28	4%	8%
Total	771	100%	100%

¹² Statistics NZ, Business Operations Survey, February 2009

Table 22: Employer location

Location	Number	Percent
Auckland	230	31%
Auckland and North Island	5	1%
Auckland and South Island	1	0%
Hamilton	29	4%
Wellington	68	9%
Christchurch	55	7%
Canterbury	4	1%
Dunedin	17	2%
Main centres	13	2%
Nationwide	23	3%
North Island	226	30%
South Island	84	11%
Total	755	100%



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