



22 October 2019

Ref: OIA 1920-0454

Dean Wallis

Email: [fyi-request-11199-861da955@requests.fyi.org.nz](mailto:fyi-request-11199-861da955@requests.fyi.org.nz)

Dear Mr Wallis

Thank you for your email of 12 September 2019 to the Ministry of Business, Innovation and Employment requesting, under the Official Information Act 1982 (the Act), the following information:

- 1. Could you please advise if ERA/MBIE records if settlements awarded by the ERA are paid by the at-fault party.*
- 2. If there are statistics of paid/unpaid settlements, please supply for the period 2015 to current date.*
- 3. If there are no statistics of paid/unpaid settlements, please supply a copy of ERA/MBIE policy, framework, guidelines or any relevant documentation concerning any ERA/MBIE processes that follow the publishing of ERA Determinations.*
- 4. If there is no policy, framework, guidelines or any relevant documentation, please advise.*

The Ministry's detailed response to your questions is below:

- 1. Could you please advise if ERA/MBIE records if settlements awarded by the ERA are paid by the at-fault party.**
  - a. The term *settlements* does not usually apply to any awards made by the Employment Relations Authority (the Authority).
  - b. Non-payment of monies owing as the result of a determination is not recorded as the Authority is not generally involved in the payment process.
  - c. The only time the Authority is made aware of non-compliance is when the successful party approaches the Authority seeking enforcement.
  - d. The Authority does not have enforcement powers, however the successful party has two options for enforcement:
    - i. Lodge a further application seeking a compliance order which can be taken to the Employment Court for enforcement; or
    - ii. Request a certificate of determination from the Authority which can be taken to the District Court for enforcement as a civil debt.

2. **If there are statistics of paid/unpaid settlements, please supply for the period 2015 to current date.**
  - a. The Authority does not keep statistics on the number of certificates of determination which are issued.
3. **If there are no statistics of paid/unpaid settlements, please supply a copy of ERA/MBIE policy, framework, guidelines or any relevant documentation concerning any ERA/MBIE processes that follow the publishing of ERA Determinations.**
  - a. The Authority and MBIE do not have a policy, framework, guidelines or other relevant documentation covering any processes once the Authority's determination has been published.
4. **If there is no policy, framework, guidelines or any relevant documentation, please advise.**
  - a. Clause 26 of the ERA Regulations 2000 is applicable following the issuance of the Authority's determination (as follows):

*Certificate of determination*

**26 Power of officer to issue certificate of determination**

- (1) Where the Authority makes, in any proceedings properly brought before it, a determination or order requiring the payment of a sum of money, an officer of the Authority may issue a certificate of determination in relation to that determination or order.
- (2) Every certificate of determination issued must be sealed with the seal of the Authority.
- (3) The certificate of determination may be filed in any District Court, and the determination or order to which the certificate relates is then enforceable on the basis of that certificate in the same manner as an order made or judgment given by a District Court.

You have the right to seek an investigation and review of this decision by the Ombudsman. Information about how to make a complaint is available at [www.ombudsman.parliament.nz](http://www.ombudsman.parliament.nz) or Freephone 0800 802 602.

I trust that you find the information helpful.

Yours sincerely



**Nikki Sumner**  
Manager Business Advisory Services Employment  
Employment Services