

EXPRESS TERMS

For most employees, their employment contract primarily comprises the IEA (Individual Employment Agreement) or CA (Collective Agreement) negotiated to cover their employment. The terms and conditions within the IEA or CA are matters the parties discuss, agree on and then confirm in writing. Such terms are known as the **express terms**.

Note: The express terms agreed in any IEA or CA must not be in conflict with the minimum legal requirements contained in relevant legislation.

INCORPORATED TERMS

Incorporated terms are terms which are superimposed on the employment contract due to legislation (eg. ACC, Holidays Act, Parental Leave Act) plus provisions which the parties acknowledge (in a letter for example) as forming part of their contract, such as company rules or policy entitlements.

Note: The minimum entitlements derived from legislation which are incorporated into any employment contract (such as the minimum wage or annual holiday provisions) can not be reduced or waived by the express terms of any IEA or CA.

IMPLIED TERMS

The third component of the employment contract is what are known as **implied terms**. These are terms which are deemed to implicitly form part of the contract due to long-standing custom and practice, or the precedents and principles established by past Court decisions. For example, in 1991 the Employment Court ruled that the entitlement of ships officers to enjoy separate dining facilities was an implied term of their employment contract due to long-established custom and practice (despite the fact there was nothing in writing guaranteeing them such a right).