

FACTSHEET

Individual Employment Agreements

September 2023

A good employment relationship starts with a robust recruitment process (see B+LNZ Factsheet 315: Why is recruitment important?), followed by a good faith negotiation between the parties to set the expectations and terms of the relationship. This is important so the employee and employer relationship is founded on a clear understanding of the role expectations, conditions, and remuneration/benefits.

The New Zealand Employment Relations Act 2000 requires that, every employee must have a written individual employment agreement that sets out the basic terms and conditions of employment. The following points apply for all types of individual employment agreements:

- The employer is responsible for arranging the employment agreement and may face a fine of up to \$1000 per employee if they fail to provide a written individual employment agreement.
- A well written individual employment agreement helps the employee to know what is expected from them, what they're entitled to and what they have agreed to. This means misunderstandings are less likely to happen and if a problem does occur the employee and employer can reference the individual employment agreement for clarification.
- The individual employment agreement should be signed by the employer and employee before the employment relationship begins, however, an agreement can still be valid even if it is not signed. It is recommended that a copy is kept by the employer, and a copy is given to the employee for their record.
- There are some things that are mandatory, recommended, and optional in an employment agreement. They are listed here - Things an employment agreement must contain » Employment New Zealand <https://www.employment.govt.nz/starting-employment/employment-agreements/things-an-agreement-must-contain>
- Minimum rights (such as the minimum wage and annual holidays) are legal requirements and apply even if they're not outlined in the individual employment agreement. An employer cannot opt of these obligations by reducing them or trading them off for other things in the individual employment agreement.
- When negotiating and considering individual employment agreements (IEAs), employees must be provided with a reasonable amount of time to seek independent advice (for example from unions, advocates, lawyers, friends or family). It is recommended that any issues raised are considered and a response is provided to the prospective employee.



Types of Individual Employment Agreements

There are several different ways employers and employees can enter into an employment relationship; whether you it is permanent, fixed-term or casual employment, an employee must be given a written individual employment agreement.

Permanent (full or part-time hours)

Permanent are the most common type of employment arrangements. These employees have the full set of employment rights and responsibilities. If an employee is in a permanent position, it means that the work is ongoing and there is no anticipated end to it.

There may be small differences in entitlements between full-time or part-time employees because of their work patterns.

Fixed-Term

A fixed-term (temporary) employee's employment arrangement will end on a specified date or when a particular event occurs. A fixed-term employee might be someone who is brought in to replace another employee on parental leave, to cover a seasonal peak or to complete a project.

There must be a genuine reason based on reasonable grounds for the fixed-term agreement and the employee must be told about this reason. The employment agreement should clearly state the reason for the fixed-term, when the fixed term employment will end and why. The employee and employer should agree to this in writing before work begins and the employee should not expect the job to continue after the end date, however it can be extended by mutual agreement.

Casual

A 'casual employee' isn't defined in The New Zealand Employment Relations Act 2000 legislation, but the term is usually used to refer to a situation where the employee has no guaranteed hours of work, no regular pattern of work, and no ongoing expectation of employment.

The employer doesn't have to offer work to the employee, and the employee doesn't have to accept work if it's offered. The employee works as and when it suits both them and the employer. This can sometimes happen because it's hard for the employer to predict when the work needs to be done, or when the work needs to be done quickly. Each time the employee accepts an offer of work it is treated as a new period of employment.

If employed to do casual work, the arrangement must be document and the arrangement clearly recorded in the employment agreement.

Seasonal

Seasonal employment is generally a type of fixed-term employment where the employment agreement says that the work will finish at the end of the season. It's commonly used in the fruit, vegetable, fishing and meat industries.

The Employment New Zealand website has more information on types of employee Types of employee » Employment New Zealand <https://www.employment.govt.nz/starting-employment/who-is-an-employee/types-of-employee/>





Where to get an Individual Employment Agreement

If an employee does not have an Individual Employment Agreement, they can ask their employer for one. The employer must provide a copy to the employee by law and Individual Employment Agreement templates are available/can be accessed from the following sources:

- Some businesses write their own employment agreements using the business.govt.nz employment agreement builder - Employment Agreement Builder (business.govt.nz) <https://eab.business.govt.nz/employmentagreementbuilder/startscreen/>
- Federated Farmers have developed a variety of Employment Agreements to suit different situations, they also provide the option of an online contract builder - [Buy Contracts \(fedfarm.org.nz\)](https://www.fedfarm.org.nz/buy-contracts/)
- Rural Professionals - Lawyers, Accountants, Recruitment and Human Resources Consultants may have templates available.

Trial Periods

An employer with 19 or fewer employees can use a trial period for up to 90 days into the employment relationship if this is agreed in the written employment agreement before the employee starts work.

For the trial period to be valid:

- The employee must have signed the employment agreement before they started work (even 5 minutes after starting work has been tested and upheld by the courts to be too late).
- They must be a new employee (this means they must never have worked for that employer, even on a casual basis, before).

If you have more than 19 employees, a **Probationary Period** can be used to find out if an employee can perform in a new job or for employees who are changing jobs with the same employer. Probationary periods must be in the employment agreement.

The Employment New Zealand website has more information about Trial and probationary periods - Trial and probationary periods » Employment New Zealand www.employment.govt.nz/starting-employment/trial-and-probationary-periods/


Due to evolving legislation, it is advised to confirm all Employment Agreement information through one of the following resources:

- Employment New Zealand - <https://www.employment.govt.nz/starting-employment/employment-agreements/>
- Employment New Zealand advice line on 0800 20 90 20
- Business.govt.nz - <https://www.business.govt.nz/hiring-and-managing/hiring-people/creating-an-employment-agreement/>
- Federated Farmers - Home (www.fedfarm.org.nz)
- Legal/Employment Advisor, Solicitor or Human Resource specialist.

More information

Checkout the Beef + Lamb New Zealand Employment Hub for information, resources and more: <https://beeflambnz.com/employment-hub>

B+LNZ's "Employing and managing farm staff" Online Learning Module - an interactive online workshop: <https://beeflambnz.com/knowledge-hub/module/employing-and-managing-farm-staff>



Employing and managing farm staff

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Speaker icon

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