

WE KNOW

HUMAN RESOURCES

SAMPLE

CASUAL INDIVIDUAL EMPLOYMENT AGREEMENT

This sample Individual Employment Agreement complies with the requirements of the Employment Relations Act 2000 and amendments. It contains a number of provisions, and in some cases, alternatives to provisions, which individual organisations may or may not wish or need to include. In other instances it may require elaboration or additional provisions. Remember, it is a sample. It should not simply be used as a template but should be adapted to meet the unique needs and culture of your organisation.

This sample agreement is suitable only for casual employment the essential characteristic being that there is no obligation to offer or accept work. If you are uncertain about whether or not the employment relationship is truly casual you should seek advice.

It is important that –

- the proposed employment agreement is provided to the prospective employee at the same time as an offer of employment is made and it is made clear that the offer of employment is conditional upon the employee signing an employment agreement.
- the prospective employee is advised of their right to seek independent advice about the intended agreement and given a reasonable opportunity to obtain it *before* signing the agreement (this is a statutory requirement). What constitutes a 'reasonable opportunity' will vary according to specific circumstances.
- you ensure that the agreement is finalised and signed (and every page initialled) before employment commences – not afterwards!
- You retain a copy of every employment agreement or intended agreement (this is a statutory requirement).

If you need further assistance with the preparation of your employment agreements please contact the Employment Relations Advisers on 03 366 5096 or email info@cecc.org.nz

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[insert organisation name/ logo here]

Casual Individual Employment Agreement

NB. NOT SUITABLE FOR FIXED TERM or EMPLOYMENT OF INDEFINITE DURATION

This is an **Individual Employment Agreement**. Once both of us have signed the agreement it will be binding (enforceable) between us and the terms within it cannot be changed unless we both agree.

It is written in 'plain English'; however, because it must also meet the requirements of New Zealand employment law, it does include some terms which have specific meaning according to relevant legislation. 'Relevant legislation' includes (but is not restricted to) – Employment Relations Act 2000; Holidays Act 2003; Health and Safety at Work Act 2015. Unless the agreement states otherwise, where terms are used that have particular meaning under the relevant legislation, that meaning shall apply.

Your employment agreement must be read in conjunction with our **Code of Conduct**, our **Health and Safety Policy (including our Drug and Alcohol Policy)** and **other workplace policies**.

By signing this Employment Agreement you acknowledge that you have been provided with copies of the above documents and agree to comply with their requirements.

1. Parties to this Agreement

[insert legal name of employer] (referred to as 'We' or 'Us' or 'Our')

And

_____ (referred to as 'You' or 'Your')

Collectively, both parties are referred to as 'Both of us' or 'we both'

2. Nature and duration of Employment

- a) This Employment Agreement is for casual employment. It is expressly agreed and understood that we have no obligation to offer work and you have no obligation to accept any work that we may offer from time to time.
- b) Each occasion on which we offer and you accept work is deemed to be a separate engagement; however this agreement (and any agreed variation) shall be applicable to every such

engagement. You agree that there is no employment relationship between the ending of one period of work and the commencement (if any) of another.

- c) There is no express or implied expectation of permanent employment.

3. Position Description, Work Location

- a) Your position title and the requirements of your position are set out in **Schedule 1**. In addition to the duties set out in Schedule 1, you agree that you may be required to undertake such other duties from time to time as we may reasonably require.
- b) You will be required to work from our premises situated at or from the work location(s) set out in **Schedule 2**

4. Our obligations to You

- a) We will act in good faith; and
- b) We will take all reasonably practicable steps to provide you with a safe and healthy work place; and
- c) We will provide you with work to the extent set out in this agreement; and
- d) We will pay you the agreed remuneration at the stipulated time and if that is not possible because of reasons beyond our reasonable control, as soon as practicable after that time; and
- e) We will respond to any grievance promptly and by following a fair process; and
- f) Otherwise comply with the terms of this agreement.

5. Your obligations to Us

- a) You will act in good faith; and
- b) You will work at all times in accordance with safe practices and not act in any manner which exposes either yourself or any other person to risk of harm; and
- c) You will at all times work diligently, conscientiously and in our best interests; and
- d) You will be ready to start work at the appointed times if you accept work; and
- e) You will comply with our reasonable instructions (and those of our representatives) and act in accordance with our workplace policies and rules as implemented and varied by us from time to time as we reasonably deem necessary; and
- f) You will ensure that you hold any licences/permits/visas required in order to lawfully carry out your work with us and notify us immediately if these lapse or are suspended or withdrawn for any reason (or are in danger of being suspended/withdrawn/not renewed for any reason); and
- g) You will not act in a manner which could actually or potentially adversely affect our reputation regardless of whether such act or acts occur within or outside work hours.
- h) Otherwise comply with the terms of this agreement.

6. Your Hours of Work; Meal and Rest breaks

- a) This is casual employment on an "as and when required" basis and as such there are no fixed hours of work. We do not guarantee a minimum number of hours on any day when work is

offered and accepted. If we do agree a fixed number of hours on any day, we shall record them on a time sheet, including the day and start and finish times for each day.

- b) Reasonable meal and rest breaks shall be agreed and provided in accordance with the Employment Relations Act 2000 having regard for the duration of work each day and the need to maintain normal services.

7. Your Pay

- a) Your pay for work performed under this agreement shall be as provided in **Schedule 2**.
- b) You shall additionally be entitled to holiday pay in accordance with the requirements of the Holidays Act 2003 calculated at the rate of 8% of your gross earnings which will be paid [with your wage/at the end of the immediate period of employment]
- c) Provided that you have signed and supplied us with all necessary time sheets by the time stipulated by us you will receive payment [weekly/fortnightly], in arrears, by direct credit into a nominated bank account held in your name. (Whilst we try to ensure that payment is made on the same day each pay period, we will not be responsible for delays in payment being credited to your account for reasons beyond our reasonable control).
- d) You agree that we may make deductions from your wages (including holiday pay) and in subsequent pay period(s) (if any), in the following circumstances and after consulting with you where it is practicable to do so –
 - i. Where an overpayment has been made; or
 - ii. Where you have failed to give us the required notice to terminate your employment or
 - iii. If you are indebted to us for any reason; or
 - iv. if you fail to return our equipment or clothing or other property held by you.
- e) Upon termination of employment all remuneration including any holiday pay due, less any lawful deductions, shall be payable on the next regular pay day following the date of termination.

8. Your Health & Safety

- a) We take your health and safety and that of all employees very seriously. For this reason it is vitally important that you adhere at all times to the rules and procedures set out in our Health & Safety Policy, this agreement and those specific to any work site. A failure to do so could result in the immediate termination of your employment.
- b) You must at all times carry out work in accordance with safe practices and refrain from acting in any manner likely to cause injury or harm either to yourself or any other person.
- c) All accidents, whether or not resulting in actual injury must be reported to your supervisor and recorded in the accident/incident register provided by us. Failure to do so will be regarded by us as misconduct and may jeopardise any entitlement to first week compensation you have under the Accident Compensation Act 2001.
- d) Safety is everybody's business. We expect you to help us and your workmates by remaining alert, and by identifying and promptly reporting any potential hazards which you believe have not or are not being effectively managed.
- e) You agree that we may introduce such policies and procedures as we reasonably deem necessary for us to meet our statutory obligations and to enhance health and safety in general.
- f) (**Optional**): We provide you with appropriate personal protective equipment ('p.p.e.') to enable you to carry out your work safely. This equipment is listed in **Schedule 3** and remains the

property of the company. You agree to use the p.p.e. provided. P.p.e. issued by us shall be replaced as required on a fair wear and tear basis. It is your responsibility to look after the equipment issued to you – you agree to pay the costs (after allowing for fair wear and tear) of replacing lost items.

9. Your Holidays and Leave

Information about entitlements under the Holidays Act 2003 can be obtained at <http://employment.govt.nz/er/holidaysandleave/index.asp>.

- a) Except in limited circumstances (please refer to the information above), due to the casual and non-continuous nature of your employment no entitlement to annual holidays, sick or bereavement leave shall arise. Your entitlement to holiday pay is set out in clause 7.
- b) Where we require you to work on a public holiday and you agree to work, you will be paid the proportion of your relevant daily pay that relates to the time actually worked, plus half that amount again.

10. What We will do if We are proposing to sell or contract-out (“restructure”) part of the business in which You are employed. *(The insertion of this clause is a requirement of the Employment Relations Act 2000 and does not imply that your employment is not of a casual nature).*

- a) If we enter into a contract or arrangement with another party whereby our business or part of it is to be undertaken by that party (the “new employer”) and as a consequence of that your work is to be performed by another party we shall attempt to establish, in negotiations with that party, the extent to which your position may be affected and whether there is an opportunity for you to transfer to that party and if so upon what terms and conditions.
- b) If we have been able to arrange for you to transfer to the new employer you will be given the option of whether or not to transfer upon such terms as may be offered.
- c) If we have not been able to arrange for you to transfer to the new employer, or you decide that you do not wish to transfer, your casual position shall cease upon us giving you such notice as provided in clause 11.

11. Ending Employment

- a) Either of us may terminate our employment relationship by giving one days’ notice provided that where we have no further work this agreement shall end without the need for notice.
- b) We are entitled to terminate your employment without notice (and without payment in lieu of notice) where you have committed serious misconduct.
- c) **You must return any company property.** On the termination of employment for any reason you agree to immediately deliver to us all tools, clothing, keys, vehicles, phones, computers, documents, records or plans in whatever form in your possession (including any copies or extracts) which belong to us.

12. You must keep confidential information confidential!

- a) During your employment with us you may acquire knowledge and information relating to our business which is confidential. *Confidential information* includes but is not limited to, information concerning our business affairs, contracts, property, employees and clients – whether or not it is recorded or memorised and which is or may be of use to any competitor.
- b) You agree that you will not at any time during your employment or afterwards, directly or indirectly disclose confidential information to any other party without our express and prior approval.
- c) The restriction imposed under sub clause b) shall cease to apply to information which becomes publically known (other than as a result of your breaching this undertaking).
- d) We will view any breach of this clause as serious misconduct and may result in your employment being terminated without notice.

13. What we both will do if we have a disagreement arising from or about the terms of our employment relationship

- a) Notwithstanding both of us having the best intentions, we acknowledge that sometimes genuine disputes or disagreements can arise during the course of an employment relationship. These are generally referred to as an **employment relationship problem**.
- b) We both undertake to work to resolve any such disputes promptly and constructively.
- c) It is important that any grievance or dispute either of us may have be raised and discussed with the other as soon as possible.
- d) Often, prompt, informal discussion will dispose of any problem but we recognise that there may be occasions when that may be inappropriate or may not fully resolve matters. In such circumstances we may both agree that the services of a Mediator (for example, a Mediator from the Mediation Service of the Ministry of Business, Innovation and Employment) may be helpful in resolving our problem.
- e) You are welcome to have your own support person or representative present at any discussions. We may do the same. You should also consider obtaining advice from others including your union (if applicable), the Employment Relations Service (0800 209020) or a lawyer.
- f) You need to be aware that, unless we otherwise agree, if you wish to raise a **personal grievance***, you must do so **within 90 days** of the event giving rise to the alleged grievance occurring or coming to your notice (whichever is the later). Not raising a personal grievance within this period means that we are not obliged to acknowledge your grievance and unless we agree, you will be obliged to obtain the leave of the Employment Relations Authority to proceed and pursue any remedies. To raise a personal grievance you must adequately specify the nature of the alleged grievance and provide us with sufficient details in order that we can meaningfully address the matter.
- g) If it is not possible to resolve an **employment relationship problem** between us, either of us may seek to have the matter determined by the Employment Relations Authority by lodging a Statement of Problem with the Authority. The Authority will carry out an investigation in accordance with the requirements of the Employment Relations Act and make a determination settling the matters in dispute. If either of us is unhappy with the Authority's determination we may appeal against all or part of the Authority's determination – or seek a new hearing – in the Employment Court.
- h) An employment relationship problem does not include any dispute about fixing new terms and conditions of employment.

* <http://employment.govt.nz/er/solvingproblems/resolving/pg.asp>

Further information about resolving employment relationship problems can be obtained from your union (if applicable), a lawyer or the Ministry of Business Innovation and Employment - <http://employment.govt.nz/er/solvingproblems/resolving/>

14. Making changes to our Agreement

- a) Both of us may agree to vary the terms of this agreement at any time.
- b) No variation shall be effective unless it has been recorded in writing, has been signed by both of us and records the operative date upon which the variation shall become effective.

15. Acknowledgements and disclosures

- a) You agree that this agreement replaces any previous agreement, whether verbal or written, between both of us.
- b) You acknowledge that before signing this agreement we provided you with a reasonable opportunity in which to obtain independent advice about its terms and that any questions that you may have had have been answered to your satisfaction.
- c) You confirm that you have told us about any matter which might reasonably have affected our decision to employ you and in particular you have fully disclosed to us details of any convictions (or pending charges) for crimes associated with dishonesty, assault or the supply or taking of illicit substances (except any convictions that you are not required to disclose under the Criminal Records (Clean Slate) Act 2004).
- d) You confirm that you have not misrepresented your level of skills, knowledge or experience that we have reasonably relied upon in employing you for this casual position.
- e) You acknowledge that if, in contravention of c) and or d) above, you have failed to disclose information or have misrepresented yourself this will be regarded as serious misconduct and your employment may be summarily terminated.

SIGNED:

(For [insert name of organisation])

[Print employee's name here]

DATED:

**in addition to signing above, both parties must initial every page.*

[insert organisation logo]

SCHEDULE 1

[insert employee's name here]

POSITION DESCRIPTION:

TITLE:

REPORTS TO:

KEY TASKS/RESPONSIBILITIES/OUTPUTS:

- 1.
- 2.
- 3.
- 4.
- 5.
- 6.

[Add as required]

SCHEDULE 2

YOUR REMUNERATION:

\$ _____ PER HOUR

Unless otherwise provided you will be entitled to be paid only for the hours actually worked. Except where we require you to work on a public holiday, all hours worked will be paid at this rate.

The following additional payments and benefits will be provided: *(specify as required)*

1) _____

2) _____

3) _____

WORK LOCATION:

Your normal place of work shall be _____ . We may require you to work at or from other locations within _____ .

SCHEDULE 3