

Individual employment agreement for casual employment (kindergarten teachers) – short term relief

Note: This individual employment agreement can only be used for a short term reliever who is not a member of the NZEI Te Riu Roa. NZEI Te Riu Roa members are automatically bound by the KTCA.

PARTIES:

Employer: the Kindergarten Association

[name of Kindergarten Association]
(Association)

Employee:

(you)

What work might you be offered and how will you be employed?

Under this agreement you may be offered, from time to time, casual employment on a temporary basis as a short-term reliever. Any engagement offered will be for a maximum of six weeks. Because the role is to provide cover in someone else's position for a fixed period, or to undertake a specific event or specific project, employment is neither permanent nor continuous. You will be employed on a casual basis for the period of each engagement worked.

What will you do be doing and where will it be?

The work you will do (if you accept an engagement) is set out in the attached position description, or as otherwise agreed between you and the Kindergarten Association for that engagement. The location of work will be

[place of work], unless otherwise agreed with the Kindergarten Association at the time the engagement is offered.

Does the Kindergarten Association have to offer you work?

No. The Kindergarten Association may contact you from time to time to offer you an engagement as a short term reliever, but they're under no obligation to do so, even if previous engagements have been offered or worked.

Do you have to accept an engagement that is offered to you?

No. You're under no obligation to accept any engagement offered to you. If you do accept an engagement though, that commitment is expected to be met. If you no longer want to be offered engagements for any reason, please let the Kindergarten Association know.

Can an engagement that you've accepted be cancelled by the Kindergarten Association, and if so, will you be paid for the engagement?

Once you have accepted an engagement changes can only be made in limited circumstances or with your consent. If your engagement finishes early because it is for an event or project (rather than ending on a set date), then if that event occurs earlier than expected or the project finishes early, then your engagement will finish early as well and you will not be entitled to be paid for the balance of the engagement. The other exception is in cases of serious misconduct. Otherwise, if the Kindergarten Association withdraws the engagement or wants it to finish early then it still has to pay you for the whole of the engagement.

If you accept an engagement, what will your terms and conditions be?

Once this agreement is signed by both you and the Kindergarten Association, it will apply from that date in respect of any engagement that is offered to you that you agree to work. It will also replace any previous arrangements and understandings (whether express or implied) between you and the Kindergarten Association. Your terms and conditions during any engagement are those set out in the KTCA, to the extent they are applicable to short-term relievers, together with any terms and conditions specific to the engagement provided when an engagement is offered. A copy of the KTCA is attached. Part 7 of the KTCA includes a plain language explanation for the services available for resolving employment relationship problems, but you should note that from 13 June 2023 you have 12 months to raise a personal grievance in respect of sexual harassment, rather than the 90 days referred to in the KTCA.

What will your days and hours be if you accept an engagement?

That depends on the role you're covering. This will be confirmed by the Kindergarten Associations at the time the engagement is offered, or will otherwise be as agreed between you and the Kindergarten Association.

How long will any engagement be?

If known, the length of the engagement will be confirmed by the Kindergarten Association at

the time it is offered, otherwise the engagement will end when the teacher whose role you're in returns, or after six weeks, whichever happens first. If the Kindergarten Association wants to extend your engagement beyond six weeks then you will be a long term reliever and you and the Kindergarten Association will need to sign a different individual employment agreement.

What will you be paid?

Your pay rate for an engagement will be determined in accordance with clause 3.8.5 of the KTCA. (In the very unlikely event that an engagement includes work on a public holiday, you would be paid in accordance with section 50 of the Holidays Act 2003.) If you sign this IEA on or before 30 June 2023 then you will be retrospectively entitled to the increased rates for any engagements, you worked between 1 December 2022 and the date you signed this IEA.

What about holiday pay?

You will be paid your holiday pay at the same time as your pay for an engagement instead of receiving an entitlement to take paid annual holidays at another time (see cl 3.8.5 of the KTCA). This is known as pay-as-you-go holiday pay.

What about sick leave and other entitlements under the Holidays Act?

If you have accepted an engagement that is offered to you but cannot work some or all of it because you are sick, bereaved or affected by family violence then you may be entitled to be paid leave. The KTCA and Holidays Act 2003 set out your entitlements. You can find information about your entitlements under the Holidays Act at <https://www.employment.govt.nz/leave-and-holidays/>.

Can you seek advice about this agreement before you sign?

Yes. If you want to seek advice about the terms and conditions of employment prior to signing this agreement, you have a reasonable opportunity to do so.

Please let me know if you have any questions about this agreement. If you accept this agreement as set out above, please sign and return the copy of this document. The Kindergarten Association will then be in contact with any forms or other information it may need from you.

SIGNED by the Employee

on [date]

SIGNED for and on behalf of the employer

on [date]

[print name] and

[position]

The following material contains information for Kindergarten Associations and employees. It does not form part of the employees terms and conditions.

Prospective or New Employees

In offering the promulgated Individual Employment Agreement to new employees, Associations are required to meet their obligations under the Employment Relations Act 2000. Set out below is a guide to the obligations in relation to new employees, but Kindergarten Associations may also wish to seek independent advice.

Kindergarten Associations should inform the employee that they can obtain information about their entitlements under the Holidays Act 2003 from their union (if they are a member) and from the Ministry of Business, Innovation and Employment. Information about the Holidays Act and other minimum entitlements can also be found at www.employment.govt.nz

Where a collective agreement is in force

- New employees who are or become members of the NZEI Te Riu Roa (the union) and who perform the work covered by the Kindergarten Teachers, Head Teachers and Senior Teachers' Collective Agreement (the Collective Agreement) will be bound by that collective agreement.
- New employees who are not members of the union and who perform the work covered by

the Collective Agreement must be offered an individual employment agreement which contains the terms and conditions of employment of that collective agreement, and the steps below apply to these employees.

- Before agreeing to the individual employment agreement and before the employee commences their first engagement, the employee must be advised that:
 - they are entitled to seek independent advice about the proposed employment agreement
 - the Collective Agreement exists and covers the work to be done by the employee
 - the employee may join the union, and how they can contact the union
 - if the employee joins the union, they will be bound by the Collective Agreement, and
 - for the first 30 days, their terms and conditions will be the same as the terms and conditions in the Collective Agreement, plus any additional terms and conditions mutually agreed by employer and employee (*Note that any additional terms and conditions must be no less favourable than those in the Collective Agreement **and** that if the parties wish to vary the promulgated individual employment agreement the employer will require concurrence from the Ministry.*)

- The employer must give the employee:
 - a copy of the Collective Agreement
 - any information about the role and functions of the union that the employer is required to provide to prospective employees in accordance with a request by a union under section 30A of the Employment Relations Act
 - a reasonable opportunity to seek independent advice. The employer must also consider any issues that the employee raises and respond to them.
- MBIE form
 - Within 10 days after they commence their first engagement, the employee must be given a copy of MBIE's "Form for new employees to indicate if they intend to join a union", to complete and return. A copy of the form can be found [here](#) and further guidance can be found [here](#).
 - The employer is also required to provide certain information to the union depending on whether the employee completes and returns the MBIE form above, and what they say on that form (see the guidance [here](#), including for information about when this step must be completed by).
- At the end of the first 30 days, if the employee has not joined the union, the employer and employee may agree to vary the terms and conditions of employment. *(Note that if the parties wish to vary the promulgated individual employment agreement, whether on appointment or after the 30 day period, the employer will require prior concurrence from the Ministry).* The employee must be informed that they are entitled to seek independent advice about any variation to the promulgated agreement that is offered, and be given a reasonable opportunity to do so.
- If the employer and employee choose not to vary the terms and conditions of the promulgated individual employment
- agreement after the 30 day period it remains in force unchanged.

Where a collective agreement is not in force

- Before agreeing to the individual employment agreement and before the employee commences work, the employee must be advised that they are entitled to seek independent advice about the agreement offered.
- The employer must give the employee:
 - a copy of the individual employment agreement being offered, and
 - a reasonable opportunity to seek independent advice. The employer must also consider any issues that the employee raises and respond to them.
- If the parties wish to vary the promulgated individual employment agreement they will require concurrence from the Ministry.