

## Employers - Working arrangements

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### Types of employees

There are three types of employees, permanent, fixed-term and casual. All employees have minimum employment rights and protections. Both part-time and full-time workers are legally considered to be employees. You are responsible for providing all employees with at least their minimum employment standards, providing employment agreements, and keeping accurate records of their wages, time worked, holidays and leave.

#### Permanent employees

Permanent employees are the most common type of employee. Although not all permanent employees are the same, what they have in common is that they're in ongoing employment. Their role has no foreseeable end.

#### Fixed-term employees

A fixed-term employee has an employment end date based on an actual date or event. Genuine reasons for their role having an end include:

- Parental leave – they are covering another employee who is on parental leave.
- Seasonal work – they are performing a seasonal role.
- Project-based work – they are working on a project with an end date.

Note: You cannot use fixed-term agreements to test a person's suitability for a job or organisation (sometimes referred to as trial periods), or to avoid providing paid annual and public holidays. Fixed-term agreements must be in writing, specifying the reasons for being fixed-term, and explaining how the employment will end.

#### Casual employees

Although not defined in employment law, casual employees' working arrangements generally have:

- no guaranteed hours of work
- no regular pattern of work
- 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.

Note: This type of working arrangement happens when it's hard to predict when the work needs to be done. However, if a regular pattern of work begins, the employee's working arrangement is more likely to be considered permanent.

### Contractor versus employee

Self-employed people are sometimes referred to as contractors. A contractor is engaged to perform services under a contract for services. Employers are not responsible for providing contractors with any minimum employment standards, meeting employment-related obligations or keeping any employment records. Health and safety laws do apply to both employees and contractors.

However, if you deliberately hire a worker as a contractor when they are actually an employee, you may be liable for the following:

- unpaid leave and holiday entitlements owed to the employee
- outstanding tax owed to Inland Revenue
- outstanding levies owed to ACC.

Note: To help you determine whether your worker is a contractor or an employee, there are legal tests that you can apply to your situation. To learn about these tests, see the 'Contractor versus employee' section at [employment.govt.nz](http://employment.govt.nz).

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### Volunteers

For somebody to be a volunteer, they must not expect or receive payment for their work. By law, a volunteer is not an employee, so employment law does not apply to them (with the exception of Health and Safety laws).

### How to set up a trial period

You can hire a new employee (someone who hasn't worked for you before) on a trial period for up to the first 90 calendar days of their employment. Trial periods must:

- be in the employment agreement.
- be signed before they start work.
- not exceed 90 days

Employees on trial periods have all the minimum employment standards and rights, except that if you dismiss them within the trial period, they cannot bring a personal grievance for unjustified dismissal against you.

The above is only a summary of key points. For more complete information, please refer to the Trial periods section of [employment.govt.nz](http://employment.govt.nz).

### Determining the right to work in New Zealand

Before recruiting a worker, either as an employee or contractor (self-employed), it is your legal responsibility to make sure they have the right to work in New Zealand. As evidence, you must keep a copy of at least one of the following documents:

- New Zealand Passport
- New Zealand Birth Certificate
- New Zealand Citizenship Certificate
- Australian Passport, Citizenship or Permanent Resident Certificate
- Other passport with a suitable work visa or student visa label
- Residence class visa (ie a Resident Visa or a Permanent Resident Visa)
- Electronic eVisa allowing work (eg working holiday).

There are penalties for hiring a person who is not entitled to work for you. It is important to check and to keep records to show that you completed the check.

Note: For information on fines and obligations, please refer to the 'Right to work in New Zealand' section at [employment.govt.nz](http://employment.govt.nz)

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### VisaView

You must ensure that any of your workers (both employees and contractors) who have visas actually follow the terms and conditions of their visa. Immigration New Zealand has a tool called VisaView to make it quick and easy for you to get information about your workers' visas.

VisaView lets you easily check:

- whether your worker is entitled to work in New Zealand
- the expiry date of their visa
- any specific work conditions. (Some visas allow only certain types of work, or working for a specified employer.)

For access to VisaView go to [immigration.govt.nz/visaview](http://immigration.govt.nz/visaview)

### More information

The Employment New Zealand site provides detailed information on employment rights and obligations: Go to [www.employment.govt.nz](http://www.employment.govt.nz) – the leading source of information on employment in New Zealand.

If you still need information call the Employment New Zealand phone line on 0800 20 90 20 toll free. A translation service is available. You can make contact anonymously or via a third party.

These services are available to you free of charge.

### About the MBIE Employment Learning Modules fact sheets

This fact sheet is designed to support a series of Learning Modules (including interactive quizzes) about Minimum Employment Rights provided free of charge by MBIE. We encourage you to have a look at these modules to learn even more about your employment obligations.

### Legal disclaimer:

The modules are designed to provide a brief overview of key points only, to encourage further learning, and refer to more detailed information at [employment.govt.nz](http://employment.govt.nz).

- The modules do not purport to be a qualification and do not infer that any legal competence has been attained.
- It remains the responsibility of any person who has completed any module to comply with all legal requirements applicable to them under New Zealand law.
- MBIE encourages all users to familiarise themselves with relevant New Zealand law. Where this is not practical or the user is unsure of any legal aspect they are advised to obtain suitable professional advice."