

A smiling woman with dark hair and bangs is shown in profile, looking towards the left. She is wearing a light blue shirt and holding a wooden tray with a sandwich and a coffee cup. The background is a blurred cafe setting with a chalkboard and other people.

# Employers Recruitment guide

How to hire and manage your  
team while reducing stress  
and staff hassles

**SmartPayroll+HR**

It pays to get it right.

[www.smartpayroll.co.nz](http://www.smartpayroll.co.nz)  
Free phone 0800 10 10 38

# Recruiting? Get it right from the start

Employing people is often a necessary step in growing your business but it's important you have a thorough understanding of New Zealand employment legislation. Understanding a few basics will ensure you get it right first time and save a lot of potential problems later.

This HR booklet, along with SmartPayroll's Employment booklet will ensure you are doing things correctly.

SmartHR is an add-on service to SmartPayroll in partnership with Employers Assistance NZ.

As well as guidance through every possible HR procedure, SmartHR includes templates that you can easily download and use for any situation including employment agreements, performance managing, discipline and dismissal processes plus a health and safety manual and a whole lot more – policies, checklists, forms and advice.

To find out more see **[www.smartpayroll.co.nz](http://www.smartpayroll.co.nz)** and click on SmartHR.  
Or call **0800 10 10 38**

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# Hiring an employee

**Hiring someone to help you in your business is a big step and can be fun with the right processes in place and a good knowledge of employment law. The right employees will help your business grow faster and take some of the stress away from you.**

Information on how to employ staff can be found on the Ministry of Business, Innovation and Employment government website – [www.employment.govt.nz](http://www.employment.govt.nz).

For help and advice about how to hire and the hiring process see Business NZ [www.business.govt.nz](http://www.business.govt.nz).

So, how to find that right person?

- Step 1** First read up on employment law so you know what you're doing. Check out the two websites to the left.
- Step 2** Write a job description.
- Step 3** Advertise the position.
- Step 4** Interview applicants and select someone for the role.



EMPLOYMENT  
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## Employment Relations

Employment law changes toolkit

Minimum employment rights

Starting and hiring

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Pay

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Changes to Employment law

## Employment New Zealand

### Employment law changes

The Employment Standards Legislation Bill was passed and came into force 1 April 2016.

The changes mean:

- More parental leave and more flexibility
- More certainty and fairness in employment, and
- Stronger enforcement of minimum employment rights



## Tools

Frequently asked questions

Holidays and leave tool

Employment agreement builder

Paid parental leave calculator

Employment law database

Record of Settlement

## Resources

Employment relationships – from beginning to end [PDF 22 pages, 563KB]

Holidays and Leave [PDF 20

# Writing a Job description

**When writing a job description it's important to clearly outline the role and what you expect from the employee. The goal is to avoid any confusion later.**

A job description is normally added to the back of an employment agreement as an appendix, (say Appendix 1). Then throughout the employment agreement you can refer to Appendix 1 where necessary.

A good job description should include:

- The job title (eg, Sales Assistant) and a brief description of the position.
- Who the employee will report to (by position, not individual) and anyone who reports to them.
- The hours of work and whether the role is full time, part time, casual or temporary.
- An outline of the role. List the responsibilities and clear descriptions of the key tasks.
- Qualifications – state any education, experience, training and technical skills needed for the role.
- If necessary, list what needs to be performed on a daily basis, weekly basis, etc. It's more important to list what needs to be done rather than how to do it.
- A set of specific and measurable goals for the job that both the employer and the prospective employee can understand and agree to.

You can also include things like:

- How their performance (in the form of goals) will be measured and how they will be used in terms of measuring job performance.
- Key people or networks they'll need to work with.
- Language or cultural knowledge.
- Fitness or physical requirements (if required).
- Anything else they'd need to do the job, like a driver licence.

A sample job description can be found in SmartHR - an added SmartPayroll feature for all your human resources requirements.

You can also search for examples on the Internet.

# Advertising a position

**It's essential when you're advertising a job that the advert is accurate and doesn't discriminate in any way.**

You can't use words that could be interpreted as seeking someone of a particular age, gender or race. It's illegal to do so in New Zealand.

For example:

## What you can include

- Any qualifications, experience or other requirements such as a full driver licence.
- Whether it's a full-time, part-time, permanent, fixed-term or a casual position.
- Any benefits your company might offer, such as flexible hours, health insurance, or bonus schemes.
- Information about the company and why your company is a good place to work.
- If training will be provided.
- How to apply for the job.
- A basic outline of the job.

## What you can't include

Anything related to a person's:

- physical appearance, e.g. hair colour or skin colour
- gender
- race
- religion
- age

To find samples of job advertisements, check out newspapers, Seek or Trademe.

## Where to advertise

You have several options:

- Advertising on websites like Seek or Trademe is easy and not too expensive. You'll likely receive numerous applications that you can then sift through to get a shortlist of possible candidates.
- Using a recruitment agency. This option can be expensive so be sure to check out the price first plus any guarantees from the agency if the person doesn't work out. However using an agency can save you time and effort because they'll advertise and weed out any applicants that are not suitable.
- Other ideas are WINZ, Industry Training organisations or a training establishment that deals with workers in your industry.
- Promoting someone from inside your company.

# Interviewing and choosing someone

**Once you've looked through all the applications received and decided who you would like to interview then it's time to think how you'd like to conduct the interview, ie questions you'll ask and what else you want to include in the interview, for example:**

- a one-on-one discussion
- an interview panel
- any written tests necessary
- any skills testing necessary

**NOTE:** Disclosing information about a job applicant to anyone, even by accident, is a breach of the Privacy Act.

## First interview

Prepare a list of questions. Open ended questions are best so the interviewee is encouraged to give a detailed answer instead of just saying 'yes' or 'no'.

Legally you can't ask questions in an interview that aren't relevant to the role, as that could lead to discrimination, for example you can't ask:

- whether someone has children, or is planning to have children,
- how old the applicant is,
- whether they are religious.

Be prepared for the interviewee to ask you questions as well, such as:

- what's involved in the role?
- what training will I receive?
- what benefits can the company offer me?
- the likely range of employment conditions, including salary.

It's important to give a potential employee a clear picture of the role and not try to make it sound better than it is. Remember the interviewee is relying on you to help them decide if the role is right for them.

## Second interviews

After the first interviews you may have a few candidates that you are seriously considering for the role. However, it's rare to appoint someone after only one interview. A second interview is a chance to have another look at each candidate and ask more in depth questions that will help you make your decision.

The second job interview may also be the point at which you negotiate the terms of an employment offer, which gives you the chance to move forward with your final selection.

# Interviewing and choosing someone

Continued

## Contacting referees

After the interviews you will hopefully have a few candidates to consider for the role.

Referees can often give you a lot of information that you might not learn during an interview that will help you make your decision. It's good to have a list of questions ready to ask the referee such as:

- Why did they leave your employment?
- Was their attendance good?
- Did they represent the company well?
- Did you have any concerns at all about their performance?
- Did they work well with other staff?
- Would you employ them again if you had the chance?

**NOTE:** Under the Privacy Act, you can only contact people applicants have specifically authorised you to speak to as referees. If they haven't named someone you want to talk to, like a past employer, you can't contact them unless you get permission first.

## Requesting a criminal record check

Employers can request a copy of a new employee's criminal record from the Ministry of Justice, as long as you have the person's consent.

A form and details of where to send the completed form can be found on the Ministry of Justice website – see <http://www.justice.govt.nz/services/criminal-records/how-to-get-a-copy-of-someone-elses-criminal-conviction-history>.

You'll need to complete the application form, sign it and get your employee to sign it as well, attach a copy of their driver's licence or passport and send all that to the Ministry of Justice. The address is on the form. You can complete the form online if you want but you will still need to print it out to sign it.

Once you've sent it to the Ministry of Justice, it takes 20 working days to get a copy of the employee's criminal record posted back to you.

You can apply to use the Police vetting service if your business cares for:

- children or older people.
- people with special needs, or other vulnerable members of society.

This makes it easier to check an employee's criminal record but to use this service you would need to register with the Police.

## Appointing someone

At this point, you'll either have a good idea of who the right candidate for the job is or you'll have narrowed it down to a couple of people.

If you're deciding between applicants, think about:

- Relevant experience – will the applicant be able to pick the job up immediately, or will they need training?
- Personality – how will they fit in?
- Attitude – do they seem passionate about the job?
- Are they entitled to work in New Zealand?

# Employment agreements

**Good employment relationships begin with a good recruitment process that ensures everyone has clear expectations about their role, working conditions and employment rights.**

A clearly written employment agreement can help reduce the risk of any misunderstandings.

## Legal requirements

In the employment agreement you must be clear about the arrangements you have made for hours of work.

Most minimum conditions of employment are consistent across all forms of employment, although there are some other factors to consider:

There are additional requirements when entering into a fixed-term agreement. Fixed-term agreements can only be offered where there is a genuine reason for the fixed-term.

Workers are often referred to as casual employees when they are actually fixed-term or part-time workers. Genuinely casual employees are those who work only intermittently or on an irregular basis.

Payment of holiday pay is different for some fixed-term employees and for employees undertaking genuinely casual work so it's important to get that right.

There are additional requirements if your employee is being employed on a trial or a probation period (see Trial Period further on in this booklet).

## To build an employment agreement

1. Visit the website - [www.employment.govt.nz](http://www.employment.govt.nz).
2. Click on Employment Agreement builder on the right hand side of the screen.
3. Follow the prompts to build your own agreement ensuring you include all mandatory clauses.

## Or alternatively

If you're using SmartPayroll, you can sign up to SmartHR and use the Employment Agreement Builder. Mandatory clauses will be indicated and you can add any other clauses you wish.

The advantage about using the SmartHR employment agreement is that you can save a draft of the agreement in your SmartHR to use for future employees.

## Form and content of individual employment agreements

Every employee must have a written employment agreement, which must be signed by both the employee and the employer. This can be either an individual agreement or a collective agreement. Collective employment agreements are negotiated in good faith between an employer and a registered union on behalf of their members. Employers must not unduly influence employees to join or not join a union.

An individual employment agreement for an employee must be in writing; and may contain terms and conditions as the employee and employer think fit. However some things must be included and some things can't be included:

# Employment agreements

Continued

## It must include

1. the names of the employee and employer
2. a description of the work to be performed by the employee
3. an indication of where the employee is to perform the work
4. any agreed hours of work or, if no hours of work are agreed, an indication of the arrangements relating to the times the employee is to work
5. the wages or salary payable to the employee
6. a plain language explanation of the services available for the resolution of employment relationship problems, including a reference to the period of 90 days within which a personal grievance must be raised.

## It must not contain anything

1. contrary to law (ie, anything that goes against an employee's employment rights); or
2. anything inconsistent with the Employment Relations Act.

**NOTE:** An employer who fails to comply with this section is liable, if an action brought by an MBIE Labour Inspector or the employee concerned, to a penalty.

Employers are required to retain a signed copy of the employment agreement or the current signed terms and conditions of employment.

The employer must retain the "intended agreement" even if the employee has not signed it. Employees are entitled to a copy on request.

# Examples of serious misconduct

**The following are examples only of what may constitute serious misconduct. This list is not intended to be exhaustive, and the employer can decide if offences are serious misconduct on an individual basis.**

- Falsification of company records, including time keeping records.
- Consumption of alcohol or non-prescription drugs on company premises; reporting to work in a state of intoxication; bringing non-prescription drugs or alcohol onto company premises.
- Gambling on the premises without management's consent.
- Unauthorised possession, or destruction, or defacement of company property; possession, destruction or defacement of the property of other employees, suppliers or clients without their consent.
- Unauthorised absence from work, including misleading the employer as to the nature of/ reason for an approved absence.
- Activities resulting in the injury of another person, or damage to company or personal property.
- Physical or verbal violence, including threatening behaviour, against any person on company premises, during work hours or while on company business, or towards a client, colleague or supplier at any time.
- Accessing inappropriate Internet sites or unauthorised personal use of the Internet during work hours.
- Unauthorised or irresponsible use of fire protection or safety equipment.

# Trial periods

- Sexual, racial or other harassment.
- Deliberate actions affecting quality, safety or hygiene.
- Actions bringing the company or staff into disrepute.
- Smoking in restricted areas.
- Refusal to carry out a lawful instruction of the manager or supervisor.
- Using abusive or offensive language to the manager or supervisor, or a customer.
- Copying, removal or unauthorised disclosure of confidential or classified company information.
- Failure to account for cash; failure to follow the correct company sales procedures or procedures for the handling of cash.
- Misrepresenting or with-holding criminal or employment history, or qualifications pertinent to the employer's decision to hire or promote the employee.
- Being convicted of a criminal offence, which directly affects the employment relationship. (E.g. a dishonesty offence for an employee entrusted with funds or cash, or where the employer's clients require the employer to have confidence in our employees' honesty and integrity – for access to their work site, etc).

**All employers can now employ new staff on 90-day trials, and can dismiss them – without any reason – if the employer doesn't want to continue employing them.**

In reality, 90-day trials have a number of serious shortcomings and traps for employers.

1. An employee on a 90-day trial can still sue for unjustified disadvantage or hurt feelings if an employer dismisses them in a way that causes hurt and humiliation, ie.
  - a) By leaving it until the 89th day to tell the employee they didn't survive the 90-day trial.
  - b) By allowing the employee to believe they were performing OK.
  - c) The way the employer advises the employee. Telling them they are useless in front of other employees.
2. The 90-day trial clause does not excuse the employer from treating the employee in good faith.

Before the employment commences:

- Give the employee plenty of time to seek advice on the clause before signing it. We would recommend at least two days.
- Genuinely consider the employee's comments about the trial period.
- Not down-play the significance of the 90 day trial.

# Trial periods

Continued

After employment has started:

- Advise the employee if the trial period is not going well.
- Upon termination, discuss the reasons why the employee is being dismissed.

3. An employee could also sue for unjustified disadvantage for reasons of discrimination. The grounds of discrimination are:  
Sex, marital status, religious belief, ethical belief, colour, race, ethnic or national origins, disability, age, political opinion, employment status, family status and sexual orientation.
4. The 90 day trial only applies to new employees, so if the employee has been an employee of the company at some earlier time, or if the employee started work before signing the agreement containing the 90 day clause, the trial period will be ineffective.
5. The employee must sign the employment agreement before starting work and containing the 90 day clause, otherwise the clause is ineffective.
6. State in the 90-day clause that the trial period starts on the first day the employee actually starts work otherwise the trial period might (perhaps unintentionally) be found to have begun before the employee actually starts work.
7. The 90 days must be stated and calculated exactly. For example "3 months" is not 90 days.

8. The employer must give notice of termination within the 90 days, although the notice period itself may extend beyond the 90 days.

**Note:** An employer should not just stick clauses into an employment agreement without getting specific legal advice, so the following sample clause is provided as general advice only.

**Note:** Employees on trial periods are entitled to all other minimum employment rights, for example in relation to health and safety, employment agreements, minimum pay, annual holidays, public holidays, leave and equal pay.

This information was supplied by Employers Assistance [www.employers.co.nz](http://www.employers.co.nz), experts in employment legislation.

# Keeping correct wages and time records

**Employment law in New Zealand is complicated and there's no doubt using a good payroll system is essential if you want to be sure you're recording everything correctly.**

If you choose a dedicated payroll system like SmartPayroll you will know you're meeting all your legal obligations and can sleep easy. Even better, you don't need to be a genius to use it.

Every employer must keep a detailed record of each employee plus all time worked by that employee and the payment they received for that work. Your records must include:

- the name of the employee and their postal address,
- their age, if they are under 20 years of age,
- the kind of work they are employed to do,
- whether the employee is employed under an individual employment agreement or a collective agreement and the expiry date of that agreement,
- the number of hours worked each day and the pay they received for those hours,
- the wages paid to the employee each pay period and how that pay was calculated, and
- details of any education leave taken.

1. The wages and time record must be kept
  - a) in written form; or
  - b) in a manner that allows the information to be easily accessed and converted into written form.

2. If an employee works agreed hours (ie their usual hours), those hours should be stated in
  - a) their employment agreement; or
  - b) a wages and time record; or
  - c) a roster or any other such document or record used.
3. The usual hours of an employee who is paid a salary can include any additional hours worked by the employee as per the employee's employment agreement.
4. The employer must record any additional hours worked that need to be recorded

## Important:

1. You must be able to prove that an employee is receiving at least the minimum wage. If you pay a salary to work whatever hours are needed to get the job done, ensure they are still receiving the minimum wage for the hours they actually work.
2. You, as an employer must keep records for six years.
3. If your employee requests access to or a copy of any part of their wages and time records relating to their employment at any time in the preceding 6 years, you must be able to provide that information.

**NOTE:** If you are using SmartPayroll you can easily print a report showing any records plus any leave taken and how payment for leave was calculated.

# Performance reviews

**You don't legally have to do performance reviews, but they are an opportunity to get feedback from your employees plus a chance to revisit their job description and ensure you're both on the same page when it comes to what's expected.**

Plus they're an important part of identifying and managing poor performance and giving an employee constructive feedback.

But more than that, your employees often have the best knowledge of what your customers want. If they feel supported and valued by their employer, they may be more inclined to pass on that knowledge to you.

Check out SmartHR if you want a good performance review process and don't know where to start.

How often should you carry out performance reviews?

Usually they are carried out once or twice a year, although for new employees it's a good idea to have one after three months to get their feedback and give them feedback in return on what they are doing right and where they could improve.

## Setting up the meeting

- Give your employee time to prepare by scheduling a meeting at least two weeks in advance.
- Book a private meeting place where you won't be interrupted.
- Ask your employee to prepare answers to questions like:
  - » Any ideas they have that might help the business do better.

- » What they think is working well and what could be improved.
- » Which parts of their job they're doing well and where they think they could improve.
- » Whether they need any equipment or training that would help in their role.

- Do your own preparation:
  - » Check your employee's job description.
  - » Check notes from previous appraisals.
  - » Check performance indicators such as sales or production figures.
  - » Note any feedback from satisfied customers.
- Get feedback from senior employees or area managers.
- Prepare your employee for tough questions if necessary. If they are not performing well, let them know that you'll need to discuss why certain goals or targets weren't met and invite them to come to the meeting with possible solutions.

## At the meeting

Ask how they're finding the role. Encourage a two-way conversation with ideas and input from your employee.

For instance you could discuss:

- Whether they've achieved the goals set in their job description or at their last appraisal.
- If not, what needs to change so that they can start achieving them?

# Health and Safety

- How satisfied they are with the job. Do they feel ready for more responsibility?
- Any issues that are affecting their performance, or positive influences that are helping.
- Whether or not you'll be increasing their pay and/or giving them a bonus — discuss why, or why not.

## Document the meeting

Take good notes and share a written summary with your employee afterwards to make sure you agree on what was discussed.

## **Health and safety of your workers is an important responsibility you can't sweep under the carpet and ignore.**

As an employer/business owner, you have the primary duty of care to ensure; so far as is reasonably practicable, the health and safety of your workers while they are at work. This includes your workplace plus any other sites, such as building, farming or forestry sites, where they do work for you.

Doing what is 'reasonable' means taking into account how seriously someone could be harmed, how likely it is, how you could prevent it and what safeguards are available. You should also understand industry specific hazards that may affect your workplace.

## So what must you do?

- Provide a safe working environment and facilities, such as first aid kits and protective equipment.
- Ensure any plant or equipment used is safe for the employee to use and is properly maintained.
- Develop emergency procedures.
- Develop a system to identify new and existing hazards then eliminate, isolate, or minimise significant hazards.
- Record the details of any incidents or accidents and investigate to determine what needs to be done to prevent it happening again.
- Report any serious harm incidents to WorkSafe NZ.
- Involve your employees in developing ways to improve health and safety.

# Health and Safety

Continued

- Ensure that employees are aware of hazards that may affect them in the work they do and the controls that are in place to prevent harm.
- Make sure that all employees are adequately trained in safe operating procedures and supervised as they learn.
- Keep a first aid kit in each place where people are working. Kits should be sufficient to cope with the number of people that might need to use it.

For more information visit the WorkSafe New Zealand website [www.worksafe.govt.nz](http://www.worksafe.govt.nz)

## Where to get a Health and Safety manual

**You can build your own.** WorkSafe NZ provides guideline on what a Health and Safety manual should contain if you want to build your own.

**Download one from SmartHR.** If you have signed up to SmartHR (an add on service to SmartPayroll) you can download your own health and safety manual.

**Note:** A manual is useless unless it is followed, practiced and used. It provides a framework which requires customising for your workplace, ie emergency procedures, training, risk and hazard registers.

# Discipline and dismissal

**Having to discipline or dismiss an employee isn't fun for anyone but sometimes it's the only option. However, it's essential the right process is followed to avoid a costly personal grievance case.**

Whatever the situation, ensure you always stay calm and professional when dealing with the employee concerned. If disciplinary action is required, the goal should be to help the employee understand where they are going wrong and what you expect from them.

Preferably seek legal advice on how to manage the process. An organisation like Employers Assistance can help you follow the proper, fair process. This is not the time to try and save money by doing it yourself unless you are confident you know the process to follow.

## Reasons for dismissal

There are many reasons you may need to dismiss an employee that constitute misconduct. If you've followed the right process for managing misconduct, and given your employee a fair opportunity to improve their behaviour, on-going misconduct can lead to dismissal.

### Misconduct can include things like:

- On-going poor performance (despite repeated attempts by you to help them improve).
- Minor breaches of employment agreement clauses, e.g. inappropriate clothing or language.
- Unsafe behaviour.
- On-going disrespect to management.
- Confidentiality breaches.

## Serious misconduct can include:

- Behaviour that endangers the health and safety of the employee or others.
- Violence in the workplace.
- Bullying and harassment.
- Theft or fraud.
- Serious breaches of employment agreement clauses.

Whatever the behaviour, you need to follow a full, investigative process before you dismiss someone. If your investigation finds that your employee's actions amount to serious misconduct and that you no longer have the trust or confidence they can do the job then you can terminate their employment.

## Suspension

In very serious cases, you may be able to suspend someone while you investigate the misconduct, e.g. to protect your accounts from possible interference after an alleged theft, or to protect the victim in the case of an alleged sexual assault.

**Warning:** The discipline and dismissal process can be difficult to navigate and it's a good idea to get legal advice unless you have a thorough knowledge of the legal process.

## If you want to know more check out the following websites which go into more detail:

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### SmartPayroll

[www.smartpayroll.co.nz](http://www.smartpayroll.co.nz)

0800 10 10 38

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### Employers Assistance

An organisation established in 1995 to provide practical and effective HR, employment relations and labour law solutions to the problems facing NZ employers in business today

[www.employers.co.nz](http://www.employers.co.nz)

0800 080 161

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### Government business website

[www.business.govt.nz](http://www.business.govt.nz)

## Useful forms



**Application for leave**

**Overtime**

**Timesheet**

**Expenses claim form**

# Application for leave

<b>Name</b>	<input type="text"/>
<b>Type of leave</b>	<input type="checkbox"/> Annual <input type="checkbox"/> Sick <input type="checkbox"/> Lieu
<b>Number of days</b>	<input type="text"/>
<b>From</b>	<input type="text"/>
<b>To</b>	<input type="text"/>
<b>Signature</b>	<input type="text"/>
<b>Approval</b>	<input type="text"/>
<b>Date</b>	<input type="text"/>



# Overtime timesheet

<b>Employee's name</b>	
<b>Timesheet for week ending</b>	
<b>Prefer time in lieu</b>	<input type="checkbox"/>
<b>Prefer overtime pay</b>	<input type="checkbox"/>

	Overtime hours worked		Total overtime hours worked	Reason	Manager's initials
	From	To			
Monday					
Tuesday					
Wednesday					
Thursday					
Friday					
Saturday					
Sunday					



# Timesheet

**Employee's name**

**Timesheet for week ending**

	Time on duty		Hours worked	Overtime	Manager's initials	Remarks
	From	To				
Monday	<input type="text"/>					
Tuesday	<input type="text"/>					
Wednesday	<input type="text"/>					
Thursday	<input type="text"/>					
Friday	<input type="text"/>					
Saturday	<input type="text"/>					
Sunday	<input type="text"/>					
<b>Total Hrs</b>			<input type="text"/>	<input type="text"/>		









