

## A-Z Guide

# APPLICATION FOR EMPLOYMENT



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# Overview

1. An application form is completed pre-interview and provides an opportunity for the employer to ask questions that measure a person's suitability for the job.
2. Pre-employment screening must be conducted within the bounds of the Privacy Act 2020 and the Human Rights Act 1993.
3. It is encouraged to review your organisation's application forms regularly, to ensure that these forms are current and consistent.
4. A covering letter from your organisation to the applicant is highly recommended as this keeps the employee informed about the reasons why the information is sought and for what purposes it will be used. This will assist in keeping consistent with Privacy Act principles.
5. An application for employment acts as a safety check to obtain consent from potential candidates to run validation checks on qualifications and references. If you obtain the candidate's consent before the interview this can save a lot of time for the employer if deciding to progress with validation checks.

# Introduction

An application form that is completed pre-interview (usually at the time the person comes to attend the interview) is a valuable tool for corroborating the information a person supplies in their CV. It provides information that may form the basis of some discussion in the interview and is an opportunity for the employer to ask questions that measure a person's suitability for the job.

Pre-employment screening must be conducted within the bounds of the Privacy Act 2020 and the Human Rights Act 1993. Section 23 of the Human Rights Act 1993 provides that it is unlawful for any person to use or circulate any form of application for employment that indicates, or could reasonably be understood as indicating, an intention to unlawfully discriminate against a person in employment.

Having a "blanket" or "one size fits all" application for employment form for your organisation may be problematic if it seeks information from applicants that is relevant to one position, but irrelevant to another. You should review your organisation's application forms regularly, to ensure that these forms are current and relevant.

An application form should accompany a covering letter from your organisation to the applicant explaining why the information is sought (to assist the company in considering the applicant's suitability for the position for which they are applying) and what will happen to the information they provide in the event they are successful and in the event they are unsuccessful. The letter should also state that the applicant is entitled to access the information through your organisation's Privacy Officer and should provide the contact details for that officer.



## Human Rights Act 1993

Application forms should be prepared so that no intention to discriminate against a person on any of the 13 prohibited grounds of discrimination under this Act can be detected from the questions it asks. Section 23 of the Act stipulates that such questions are unlawful and that the employer's intention is presumed. Questions should be directed at the ability to perform the role, rather than at revealing potentially discriminating information.

### *23 Particulars of applicants for employment*

It shall be unlawful for any person to use or circulate any form of application for employment or to make any inquiry of or about any applicant for employment which indicates or could reasonably be understood as indicating, an intention to commit a breach of section 22 of this Act.

An application form may ask about health issues but only as they relate to the job to be performed that a person applies for. It is appropriate to link the question to the job description where tasks have been listed.

Application forms (and any associated documentation) should be kept for up to 12 months after they are completed; claims of discrimination under the Human Rights Act may be brought up to a year after the discrimination is alleged to have occurred.

Refer to the **A-Z Guides** on **Discrimination in Employment and Disability** for more detailed information.

When an application form asks for the contact details of referees or former employers of a person it is advisable to include (on a separate page) a request that the applicant consents (and their signature affirms their consent) to the nominated referee(s) or former employer(s) disclosing personal information about the applicant to the prospective employer. In this situation it is not the employer asking the questions that breaches the privacy principles but the referee or former employer who answers the questions without the applicant's consent.

## Health and Safety at Work Act 2015

The legislation requires that workers and other persons are given the highest level of protection against harm to their health, safety, and welfare from hazards and risks arising from work as is reasonably practicable.

One practicable step is to ask applicants in an application form whether they have any health issues that may impact their ability to do the job being applied for. Such a question, if posed narrowly, does not contravene the Human Rights Act 1993 and allows you to identify hazards about that person; depending on the response (and this can be indicated on the application form) you may request that the applicant undergoes a medical examination to establish their fitness for work and/or to gather baseline information for ongoing monitoring as part of a conditional offer of employment.

Another practicable step is to ask applicants, where it is relevant to the job being applied for, whether they will consent to ongoing biological monitoring you are required to undertake because the work involves a process or substance that is inherently hazardous.



## The Criminal Records (Clean Slate) Act 2004

The Criminal Records (Clean Slate) act 2004 came into force on 29 November 2004. Under the Act, people with convictions that meet the eligibility criteria set out in the Act have the right to have their criminal history concealed. If an individual satisfies the criteria, then he or she is deemed to have no criminal record for the purposes of any question asked of him or her about their criminal record; and they have the right to have the criminal record concealed by government departments and law enforcement agencies that hold or have access to that record.

In order to be eligible for a clean slate, the individual must have:

- Not been convicted within the last seven years;
- Never received a custodial sentence. This includes a sentence of corrective training, or a sentence served by way of home detention;
- Not have been convicted for a specified offence, which includes, among other things, sexual offending against children and young people or the mentally impaired;
- Has paid any fine, reparation or costs ordered by the court in full;
- Has never been indefinitely disqualified from driving under s65 of the Land Transport Act 1998 or s30 of the Transport Act 1962.

The Act only applies to New Zealand, so individuals must disclose convictions if required to do so by another country's law, such as applications for visas or other immigration matters.

## Sample Application Form

This application form is as **sample**. It provides commentary (in *italics*) in relation to the questions it asks as they relate to the Human Rights Act 1993 and the Privacy Act 2020. The commentary should guide you in the development of your own application form, but should be removed from any form presented to an applicant.

Refer to the A-Z Guides listed below for further important information on understanding your obligations as an employer throughout the recruitment and selection processes:

- Disability
- Discrimination in Employment
- Equal Employment Opportunities
- Health and Safety in Employment
- Human Rights
- Medical Examinations
- Pre-Employment Checks
- Privacy
- Recruitment and Selection



<b>CONFIDENTIAL</b>	<b>To be completed personally by Applicant</b>	
<b>Date of Application:</b> .....		
<b>APPLICATION FOR EMPLOYMENT</b>		
<b>Note:</b>	The completion of this form does not indicate that there is any obligation on the Company to engage the applicant.	
<b>Purpose:</b>	This information is collected for the purpose of assessing your suitability for employment at ..... ..... which may include subsequent changes in employment with the Company.	
<b>PLEASE PRINT</b>		
<b>POSITION APPLIED FOR</b> .....		
<b>YOUR NAME</b> In block letters	How do you like to be addressed: .....	
	Family Name: .....	
	Given Names (underline name used): .....	
	Are you known by any other name(s)? .....	
	Give details: .....	
<b>YOUR CONTACT ADDRESS AND TELEPHONE NUMBERS</b>	Contact Address: .....	
	Home Phone No: ..... Other No. (If Any): .....	
<b>AGE</b>	Have you reached the current school leaving age (16 years)?	Yes/No
<b>LEGAL WORK STATUS</b>	Are you legally entitled to work in New Zealand?	Yes/No
<i>The applicant's ability to work in New Zealand is relevant, not their nationality. This question should be asked of all applicants.</i>	As:	
	A New Zealand Citizen	Yes/No
	A permanent resident	Yes/No
	A holder of a current work visa	Yes/No
<b>EDUCATION</b> Including university, further education, etc where applicable	Name of secondary school(s) attended .....	
	.....	
	.....	
<i>This does not contravene the Human Rights Act.</i>	Qualifications (school certificate, university entrance) - (subjects)	
	.....	
	Other Qualifications	Yes/No (Subjects)
	.....	





<b>LANGUAGES</b>	Can you hold an every day conversation in any language other than English?
<i>This does not contravene the Human Rights Act.</i>	.....

<b>APPRENTICESHIP</b> For trades positions only	Do you have your apprenticeship papers? <span style="float: right;">Yes/No</span>
<i>This does not contravene the Human Rights Act.</i>	In what trade were you apprenticed? .....
	What was the name and address of the employer?
	.....
	Name <span style="margin-left: 150px;">Address</span>
	What trade qualifications do you hold? (i.e. Trade Cert, Advanced Trade Cert., etc)?
	.....

<b>QUALIFICATIONS</b>	Do you have any other qualifications/certificates/licences/or attended any courses? (Give details).
<i>This does not contravene the Human Rights Act.</i>	.....
	Please describe the skills you hold which are relevant to the position applied for (e.g. for a typist - typing speed, word processing capability, shorthand capability, etc).
	.....
	.....
	.....

<b>EMPLOYMENT HISTORY</b>	<b>Present or Most Recent Employer</b>
<i>This does not contravene the Human Rights Act.</i>	Company: .....
	Address: .....
	Job Held: .....
	Main Duties: .....
	No of hours worked per week: ..... <sup>1</sup> Length of service: .....
	Reason for Leaving: .....
	For the purposes of compliance with the Privacy Act 2020 do you consent to the Company contacting your present employer for the purposes of reference checking? <sup>2</sup> <span style="float: right;">Yes/No</span>
	<b>Next Most Recent Employer</b>
	Company: .....

<sup>1</sup> Any questions relating to the continuity of an employee's employment should be dealt with at interview.

<sup>2</sup> Applicants cannot be expected to consent to the contacting of their present employer where it is likely to jeopardise their current employment.



	Address: ..... Job Held: ..... Main Duties: ..... No of hours worked per week: ..... <sup>1</sup> Length of service: ..... Reason for Leaving: ..... <b>Next Most Recent Employer</b> Company: ..... Address: ..... Job Held: ..... Main Duties: ..... No of hours worked per week: ..... <sup>1</sup> Length of service: ..... Reason for Leaving: ..... Give details of any other job which may be relevant: ..... .....																
<i>This does not contravene the Human Rights Act.</i>  <i>This question may highlight the need to monitor fatigue, confidentiality and competition.</i>	Have you ever worked for this Company or an associated company before?      Yes/No If yes, where and when: .....  Do you have secondary employment?      Yes/No If yes, please detail: ..... .....																
<b>REFEREES</b>  <i>This does not contravene the Human Rights Act, and you could ask the applicant why they nominate the referees they do.</i>	Give name, address and telephone numbers of at least two referees. <table style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th style="width: 25%;">Name</th> <th style="width: 25%;">Position</th> <th style="width: 25%;">Address</th> <th style="width: 25%;">Phone No.</th> </tr> </thead> <tbody> <tr> <td>.....</td> <td>.....</td> <td>.....</td> <td>.....</td> </tr> <tr> <td>.....</td> <td>.....</td> <td>.....</td> <td>.....</td> </tr> <tr> <td>.....</td> <td>.....</td> <td>.....</td> <td>.....</td> </tr> </tbody> </table> If your application is successful when could you commence employment: .....	Name	Position	Address	Phone No.	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....
Name	Position	Address	Phone No.														
.....	.....	.....	.....														
.....	.....	.....	.....														
.....	.....	.....	.....														
<i>This is necessary for compliance with the Privacy Act <sup>3</sup></i>	I ..... consent to the Company seeking verbal or written information on a confidential basis about me from representatives of my previous employers and/or referees and authorise the information sought to be released by them to the Company for the purposes of ascertaining my suitability for the position for which I am applying. I understand that the information received by the Company is supplied in confidence as evaluative material and will not be disclosed to me.																

<sup>3</sup> This should be on a separate page preferably a piece of letterhead to facilitate its copying and forwarding to the person / employer being asked to disclose personal information about the applicant.





Signature: .....		Date: .....	
<b>GENERAL</b>  <i>These questions must be relevant to the job on offer.</i>	Are you prepared to work shifts if required to do so?	Yes/No	
	Have you worked shifts before?	Yes/No	
	Are you prepared to work overtime if required?	Yes/No	
	Do you have any criminal convictions, not including any concealed under the Clean Slate Act?,	Yes/No	
	Are you prepared to handle all products, materials, or equipment used in the industry?	Yes/No	
	Do you have a current drivers licence?	Yes/No	
	If yes, what class? .....		
	Drivers Licence No.: .....		
	Do you have any demerit points or endorsements?	Yes/No	
	Do you have any legal proceedings against you pending?	Yes/No	
	<i>This does not contravene the Human Rights Act.</i>	If yes, please detail: .....	
	Do you have a spouse, partner, or relative or working here or elsewhere in the same industry? <sup>4</sup>	Yes/No	
	If yes, who? .....		
	Where? .....		
<i>This does not contravene the Human Rights Act.</i>	What transport arrangements do you have to attend your place of employment? .....		
	What are your interests/hobbies/sports/clubs or community activities? .....		
<b>MEDICAL</b> <sup>5</sup>	If you are offered employment, the offer may be made subject to your obtaining a full medical clearance (by completion of medical examination) to assess your fitness for the job for which you are applying.		

4 The Human Rights Act permits discrimination on the basis of family status where there is a there would be a reporting relationship or a risk of collusion to the detriment of the employer(s).

5 The Human Rights Commission has suggested that "job applicants be questioned only about their ability to perform the tasks relating to the job they are applying for" [i.e. that they have the necessary skills etc.]. If medical fitness is a concern then any questions asked should relate to the applicant's ability to fulfil the role being applied for. Rarely should medical examinations be considered before employment has been offered; however offers of employment can be made subject to a medical examination. Refer to the **a-z guides on Medical Examinations and Discrimination in Employment**, for more information.



	<p>Do you consent to undergo a medical examination if you are offered employment? Yes/No</p> <p>Do you consent to any biological monitoring in accordance with the Health and Safety at Work Act 2015, if applicable? Yes/No</p> <p>Do you have any health related issues that may impact on your ability to perform the tasks listed in the Job Description and/or Task Analysis for job that you are applying for?<sup>6</sup> Yes/No</p> <p>If yes, please detail: .....</p>
<b>PRIVACY ACT CONSENT</b>	<p>Do you consent to the Company retaining the information contained in this application form for the purposes of considering your suitability for any other position which may arise with this Company in the future? Yes/No</p>
<b>DECLARATION</b>	<p>I,..... (full name) declare that to the best of my knowledge the information provided in this application and in any resume enclosed is accurate and I understand that if any false or misleading information is given, or any material fact suppressed, I will not be employed, or if I am employed, my employment may be terminated. [I further understand that any offer of employment if made is conditional on my obtaining a full medical clearance]</p> <p>Signed: ..... Date: .....</p>

<b>REFERENCE CONSENT</b>	
<b>Name of organisation:</b> .....	
<p>I..... consent to the above organisation seeking verbal or written reference on a confidential basis from.....(person) of.....(organisation) about me, and authorise the information sought to be released for the purposes of ascertaining my suitability for the position for which I am applying. I understand that the information received by the Company is supplied in confidence as evaluative material and will not be disclosed to me.</p>	
<b>Signature of candidate:</b> ..... <b>Date:</b> .....	

6 The tasks, particularly those that may involve an identified hazard, should be stated in the Job Description.



## Remember

- Always call AdviceLine on 0800 300 362 to check you have the latest guide.
- Never hesitate to ask AdviceLine for help in interpreting and applying this guide to your situation.
- Use our AdviceLine employment advisors as a sounding board to test your views.
- Get one of our consultants to draft an agreement template that's tailor-made for your business. =

This guide is not comprehensive and should not be used as a substitute for professional advice.

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Published: **March 2024**

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