



Pay Equity Tools and Resources Template | Pay Equity Settlement Agreement

Te Kāwanatanga o Aotearoa
New Zealand Government

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Contents

| | |
|--|----------|
| Purpose | 3 |
| Supporting notes for the Pay Equity Settlement Agreement template | 3 |
| Template content | 3 |
| Describing the coverage of the claim | 3 |
| Overview for all parties | 3 |
| Employer overview | 3 |
| Interpretation | 4 |
| Notes for Settlement Agreement background | 4 |
| Pay Equity Settlement Agreement template | 5 |
| Introduction | 5 |
| Background | 5 |
| Agreed terms of settlement | 6 |
| 1. Purpose and application of this Settlement Agreement | 6 |
| 2. Settlement Agreement detail | 6 |
| 3. Implementation | 7 |
| 4. Review | 7 |
| 5. Union mandate | 7 |
| 6. Good Faith | 7 |
| 7. Costs | 7 |
| 8. Counterparts and entire agreement | 8 |
| 9. Legal advice | 8 |
| Signatories | 8 |

These tools and resources do not constitute legal advice. Parties must seek their own legal advice in respect of this template and how it applies to the pay equity claim being raised.

Purpose

This template is for parties to use when they have concluded pay equity bargaining. Its purpose is to record the Settlement Agreement reached.

The template can be adapted to reflect the circumstances of the pay equity claim being settled. It sets out elements that fulfil the requirements of the [Equal Pay Act 1972](#) (the Act), and provides for the inclusion of clauses that reflect the detail of the settlement, including how it will be implemented and maintained.

Supporting notes for the Pay Equity Settlement Agreement template

The [\[sections in purple\]](#) can be typed over to enter the details of the particular claim.

The Settlement Agreement should be signed by the relevant parties' authorised representatives in accordance with their authorisations. The Settlement Agreement should also clearly provide for the effective date.

Template content

This Settlement Agreement template provides minimum content to usefully record the processes followed and agreements reached by the parties. The parties may agree to include further detail as they see fit.

Describing the coverage of the claim

There are different requirements for describing the coverage of a claim within a settlement agreement depending on whether the claim was raised by union/s or raised by an individual employee.

A settlement agreement for a claim raised by an individual employee must state their occupation and position, while a settlement agreement for a claim raised by a union must include a brief description of the work.

For this reason, when describing the claim coverage this template provides the options [\[occupation /position /description of work\]](#). Please select the option/s that best suit/s your Pay Equity Claim.

Overview for all parties

This template is a guide for parties when they have concluded pay equity bargaining and records the Settlement Agreement between the parties.

This template is not legal advice and should be adapted to reflect the circumstances of the particular pay equity claim being settled.

Employer overview

All agencies using this template must seek legal advice to ensure the drafting of this Settlement Agreement accords with the circumstances of the pay equity claim being settled before it is presented to the union/representative and before it is signed.

As soon as practicable after settlement is reached, you should submit the signed Settlement Agreement to the Chief Executive of the Ministry of Business, Innovation and Employment in accordance with section 13ZK of the Act. The Settlement Agreement will not be used other than for statistical or analytical purposes.

Interpretation

In this Settlement Agreement, unless the context otherwise requires:

- (a) pay equity claim (in lower case) means a claim that an employer or group of employers is in breach of section 2AAC(b) of the Act.
- (b) Pay Equity Claim (in upper case) means the Pay Equity Claim for [occupation/position/description of work] lodged by [individual claimant/union] with the Chief Executive/s of the [employer] on [date].
- (c) Remuneration has the meaning given to it under section 2(1) of the Act.
- (d) All amounts are expressed as gross amounts and are subject to the Income Tax Act 2007.
- (e) The singular includes the plural and vice versa.

Notes for Settlement Agreement background

Clause B

Here you insert any form of agreement reached between the parties, commonly referred to as a Bargaining Process Agreement (or a Terms of Reference). This is mandatory for employers in the State sector and is considered a best practice step for other parties.

A pay equity process agreement is mandatory for multi-employer pay equity claims (the Act, section 13K(2)).

Clause E

Parties must fulfil the processes set out under the Act:

comparators must be appropriate and fit for purpose - defined in section 13ZE of the Act

parties must ensure that an appropriate, full assessment is undertaken - this must satisfy section 13ZD of the Act (matters to be assessed).

Pay Equity Settlement Agreement Template

Introduction

This Pay Equity Settlement Agreement (Settlement Agreement) is a pay equity claim settlement for the purposes of the Equal Pay Act 1972 (the Act) and records the agreement reached between the Chief Executive of [employer] and the [individual claimant, union] (together, “the parties”) to settle the [occupation/position/description of work] Pay Equity Claim (the Claim).

As a consequence of being covered by this Settlement Agreement, the Collective or Individual Employment Agreement of every employee who is covered by the Pay Equity Claim Settlement¹ is automatically varied in accordance with section 13ZM of the Act.

This Settlement Agreement will apply to successor entities.

The date on which this Settlement Agreement is signed by both parties will be the Settlement Date.

Background

- A. On [date], the [individual claimant/union/s] raised a Pay Equity Claim for [occupation/ position/ description of work] with the Chief Executive/s of the [employer/s] (the Pay Equity Claim).
- B. On [date], an agreement was reached between the parties, to assess the Pay Equity Claim. On [date] the parties signed a Pay Equity Bargaining Process Agreement to govern the resolution of the Pay Equity Claim.
- C. On [date], the [names of parties] working group (Working Group) was established and [pay equity bargaining process was agreed and recorded] to systematically assess and resolve the Pay Equity Claim.
- D. A brief summary of the work assessment process for the claimant and for the comparators is detailed below.

[Briefly summarise the assessment process used to assess the work of the claimants and comparators, including the work assessment methodology used.]

- E. The comparator occupations² listed below were used to assess and resolve the Pay Equity Claim.

| Comparator Groups |
|---------------------|
| [Comparator 1 name] |
| [Comparator 2 name] |
| [Comparator 3 name] |
| [Comparator 4 name] |

¹ Covered by the Pay Equity Claim Settlement, in relation to an employee, means the employee –
(a) was covered by the Pay Equity Claim at the time that the claim was settled; or
(b) has accepted an offer of the benefit of the Pay Equity Claim Settlement made under section 13ZL(2), (4), or (5) of the Act.

² Section 13ZH(3)(b)(viii) states that parties must set out a review process in the Settlement Agreement. Parties can agree any process to undertake a review. Parties can agree to reassess comparators as part of a review process, but this is optional. If they agree to do so the use of a particular comparator occupation in this claim process does not mean parties must use the same comparators in subsequent review processes.

- F. The parties have agreed the Pay Equity Claim is settled and that the remuneration provided for in this Settlement Agreement does not differentiate on the basis of sex in the manner set out in section 2AAC(b) of the Act.
- G. On [date], following negotiation, the parties agreed in principle to settle the Pay Equity Claim and offer this agreement to proposed settlement employees for consideration and ratification.

Agreed terms of settlement

1. Purpose and application of this Settlement Agreement

- 1.1 The purpose of this Settlement Agreement is to:
 - (a) settle the Pay Equity Claim and record the agreed outcome of settlement negotiations in writing to fulfil the requirements of sections 2AAC(b) and 13ZH (3) of the Act; and
 - (b) record the process for reviewing and maintaining pay equity for the employees covered by this Settlement Agreement; and
 - (c) detail the frequency of those reviews, which must be aligned with any applicable collective bargaining rounds or if no collective bargaining round applies, at least every 3 years; and
 - (d) include a summary of the method used to assess the Pay Equity Claim and a description of the comparators that were considered by the parties; and
 - (e) provide certainty for the parties that this Settlement Agreement is a full and final settlement of all matters relating to the Pay Equity Claim from the date this Settlement Agreement comes into force (Section 13ZH of the Act).
- 1.2 If the parties to this Settlement Agreement are an employer and a union, the Settlement Agreement will apply to employees who are covered by the union-raised claim and who did not opt out of the claim under section 13Y(2) of the Act, Ad
- 1.3 This Settlement Agreement applies to employees who are covered by the Pay Equity Claim³. Additionally, all employees employed by [employer] who were not covered by the Pay Equity Claim but who perform the same, or substantially similar work as the work to which the settlement relates and who are not barred from raising their own claim under the Act, will be offered the full benefit of this Settlement Agreement, in accordance with clause 13ZL of the Act.

2. Settlement Agreement detail

Include the following clauses (to reflect what parties have agreed)

- 2.1 Remuneration

The parties have reached agreement on remuneration for [occupation/position/description of work]. The parties agree that the rates of remuneration for [occupation/position/description of work] do not differentiate between male and female employees in the manner set out in section 2AAC(b) of the Act and resolve historical undervaluation.
- 2.2 Translation to new remuneration

³ Covered by the Pay Equity Claim, in relation to an employee, means the employee –
(a) is covered by the Pay Equity Claim in accordance with section 13W of the Act; and
(b) has not opted out under section 13Y of the Act.

[Insert detail about any translation process to the remuneration]. This will need to be clear about how any remuneration system, or range will operate if one is introduced as part of the settlement.

2.3 Allowances

The parties have agreed on the introduction/increase of the following allowances [name and detail of allowance]

2.4 Changes to pattern or nature of work

The parties have agreed to the following changes to the pattern/nature of work [detail any agreed change]

2.5 Professional development/career pathways

The parties have agreed to the following changes to the professional development/career pathway of [detail workforce and any changes needed] .

2.6 Any other agreement

[Detail any other agreements here] (Example further work to be undertaken that may have been identified as part of the pay equity process but is not a matter of sex-based undervaluation).

3. Implementation

3.1 Effective date of settlement

This Settlement Agreement will come into effect on the Settlement Date .

4. Review⁴

4.1 As required by section 13ZH(3)(viii) of the Act, the parties have agreed a process for reviewing remuneration to ensure pay equity is maintained. Ensuring pay equity is maintained involves reviewing remuneration to determine whether there is differentiation on the basis of sex as set out in s2AAC(b) of the Act present in the workforce and, if there is, taking steps to remove the differentiation.

4.2 Reviews will apply to all employees in roles covered by this pay equity claim settlement. The union agrees that the interests of all employees covered by this pay equity claim settlement will be advanced in the review process.

4.3 The process for reviewing the remuneration to ensure pay equity is maintained will be:

- a) Reviews will align with the bargaining round of each relevant collective agreement.
- b) However, if two or more relevant collective agreements are due to expire no more than 6 months apart, one review will be undertaken aligned with the collective bargaining round of the first expiring relevant collective agreement.
- c) The parties will meet six months prior to the expiry of each collective agreement (or if (b) applies, six months prior to the expiry date of the first expiring collective agreement) to commence the review.
- d) The parties will review and analyse any changes in the comparator remuneration that have occurred since the pay equity claim settlement and/or since the last review, as well as any other matters they consider relevant, such as changes to the Labour Cost Index and Consumer Price Index, and Treasury forecast of labour movement.

⁴ Section 13ZH(1)(b) and (3)(b)(viii) and (ix) of the Act.

- e) The parties will jointly determine if there is differentiation on the basis of sex present in the workforce, and if there is, what is required to remove the differentiation and ensure that pay equity is maintained. This includes, but it is not limited to, the remuneration adjustment (if any) to ensure pay equity is maintained.
 - f) The parties will formally record in writing what is required to ensure that pay equity is maintained. This completes the review.
 - g) The parties will fully cooperate and will address all issues in a timely manner.
- 4.4 If the parties disagree on what is required to maintain pay equity and/or as to whether an adjustment is required, or agree that an adjustment is required but do not agree as to the value of the adjustment, then the following process will occur:
- a) The parties will provide each other with proposed pay equity rate(s), along with an explanation as to what is proposed and why.
 - b) The parties will meet promptly to attempt to reach agreement.
 - c) In the event of no agreement, the parties agree to attend mediation in good faith using their best endeavours to resolve the outstanding matters between them. Should mediation not result in an agreement the parties may have recourse to any applicable processes provided by law to resolve their dispute.
- 4.5 The parties will cooperate to ensure that all employees covered by this Settlement Agreement have the opportunity to be involved in the review process. This may include, to the extent permissible by law: facilitating communications, or sharing information with the union.
- 4.6 This review process may be assessed and adjusted by agreement in writing between the parties from time to time.

5. Union mandate

[union] confirms that it has the mandate to sign this Settlement Agreement on behalf of employees under coverage of the claim pursuant to section 13ZF(5) of the Act.

6. Good Faith

6.1 The parties will deal with each other in good faith on all matters under, or associated with, this Settlement Agreement in accordance with section 13C of the Act.

7. Costs

7.1 The parties agree to bear their own costs of negotiating and entering into this Settlement Agreement.

8. Counterparts and entire agreement

8.1 This Settlement Agreement may be executed in counterparts, each of which shall be deemed to be an original, but all of which, taken together, shall constitute one and the same agreement.

8.2 This Settlement Agreement is made up of all of its parts including appendices, and supersedes and extinguishes all previous drafts, agreements, arrangements, and understandings between the parties.

9. Legal advice

9.1 The parties agree they have had the opportunity to seek independent legal advice on the meaning and effect of this Settlement Agreement.

Signatories

Name

Role

For [employer]

Date: _____

Name

Role

For [claimant or union]

Date: _____