

Member Presentation 'Fixed Term Contracts'

Acknowledgement

We acknowledge the Traditional Owners of the land on which we meet today and pay respect to Elders past, present and emerging.

We also extend that respect to Aboriginal and/or Torres Strait Islander people who are with us today.

Fixed Term Contracts

New legislation and you

Effective 6 December 2023, new rules applied when engaging employees on fixed term contracts

- ⦿ A fixed term contract terminates at the end of a set period (for example, the contract ends after a set date or period of time or a season). This includes contracts where the employee is employed for a specific period.
- ⦿ The new rules include a requirement for employers to give any employees they're engaging on a new fixed term contract a Fixed Term Contract Information Statement (FTCIS)
- ⦿ There are limitations on how fixed term contracts can be used.
- ⦿ There are some exceptions to who these limitations apply to.

View [Fixed Term Contract](#) for more information.

What has changed?

Effective 6 December 2023 the Fair Work Ombudsman has handed down revised legislation around Fixed Term Contracts (FTC). Link [here](#).

In a nutshell, the changes are:

- ⦿ Anyone engaged on a fixed term contract must be provided a Fixed Term Contract Information Statement. Link [here](#).
- ⦿ A fixed term contract cannot be longer than 2 years, including extensions and renewals. For example: If someone is engaged on an FTC for 1 year they may have an extension for 1 more year. Please see the FTC Limitations Snapshot [here](#).

Limitations

- ⦿ **Time limitations** – a fixed term contract can't be longer than 2 years. This includes any extensions or renewals.
- ⦿ **Renewal limitations** – a fixed term contract can't have an option to:
 - *extend or renew the contract so that the employment period (including the extension or renewal period) is longer than 2 years or:*
 - *extend or renew the contract more than once.*
- ⦿ **Consecutive contract limitations** – An employer can't employ someone on a new fixed term contract if:
 - *If the contract is mainly for the same type of work as the previous contract*
 - *there is substantial continuity between the previous and new contract.*

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Snapshot: Limitations on using fixed term contracts

From 6 December 2023, there are rules (called limitations) about using fixed term contracts. There are 3 rules and all of them need to be followed:

- Time limitations**
A fixed term contract can't be for longer than 2 years. This includes any extensions or renewals.
- Renewal limitations**
A fixed term contract can't have an option to:
 - ✓ extend or renew the contract so that employment period (including the extension or renewal period) is longer than 2 years, or
 - ✓ extend or renew the contract more than once.
- Consecutive contract limitations**
An employer can't employ someone on a new fixed term contract if:
 - ✓ the contract is for mainly the same work as a previous fixed term contract, and
 - ✓ there is substantial continuity in the employment relationship between the previous and new contracts, and
 - ✓ any of the following apply:
 - the total period of employment for the previous contract and the new fixed term contract is more than 2 years, or
 - the new fixed term contract can be renewed or extended, or
 - the previous fixed term contract was extended, or
 - there was an initial fixed term contract in place (before the previous contract) that:
 - was for mainly the same work, and
 - there was substantial continuity of the employment relationship between the initial and previous contracts.

There are exceptions to these limitations in some circumstances, which means they don't apply to all fixed term contracts. For more information visit fairwork.gov.au/fixed-term-employees

For more information and details about these changes, including transitional arrangements, visit fairwork.gov.au/fixed-term-employees. The information contained in this resource is general in nature. If you are unsure about how it applies to your situation, you can call our infoline on 13 13 94 or speak with a union, industry association or a workplace relations professional.
Last updated 4 December 2023

What does this mean for our sector?

Given that many roles within our sector are ‘**funded**’, unless we have timely knowledge of ongoing funding well ahead, often we won’t know if we can maintain a role until the current term ends (often after the term ends). This creates challenges which impact on morale, retention and attraction, not to mention service provision to our communities.

There are exceptions [here](#) however none seem fit-for-purpose for our sector. One exception which may work (only if you can get guaranteed funding for a role/project for a period of 2 years or more).

Positions subject to government funding

Where the employee’s position is funded by government funding (completely or in part), the funding is for more than 2 years and is unlikely to be renewed afterwards. This isn’t the same as working for a government agency or department on a fixed term contract

Example

Lu is engaged on a 3-year fixed term contract to work on creating a community garden for a community organisation. The project is fully funded over 3 years by the Local Government and the funding ends at the end of this period.

What does this mean for our sector?

It is suggested that your organisation reaches out to your local member of parliament to garner support to lobby the Fair Work Ombudsman and/or reach out to Fair Work to discuss your unique circumstances via **13 13 94** or lodge an inquiry via their online tool [here](#).

The emphasis here is open and honest communication and ongoing engagement with your employees.

You may need to also consider ‘biting-the-bullet’ and placing anyone who is presently over or approaching 2 years’ service, in a permanent role, particularly those which may have been rolling over year-to-year for quite a while, i.e. your core roles.

QAIHC will keep you informed of any further updates and/or successful lobbying outcomes.

Resources Links

- ① [New rules for fixed term contracts – Fair Work Ombudsman](#)
- ① [Subscribe to email updates – Fair Work Ombudsman](#)
- ① [Fixed Term Contract Information Statement – Fair Work Ombudsman](#)



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