

## New rules for fixed-term contracts

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Starting from 6 December 2023, there are new regulations surrounding fixed term contracts that every employer in Australia should be aware of. Fixed term contracts are employment agreements that have a predetermined end date, such as contracts based on specific time periods or seasons.

One key change is that employers must now provide employees entering into new fixed term contracts with a Fixed Term Contract Information Statement (FTCIS). This statement offers essential details about fixed term employment, clarifying the circumstances under which fixed term contracts are permitted. It's crucial for both employers and employees to ensure compliance with this requirement.

Additionally, there are restrictions on the use of fixed term contracts, although some exceptions apply. These limitations do not extend to casual employees. These changes aim to enhance transparency and fairness in employment agreements, benefiting both employers and employees.

### Limitations on Fixed Term Contracts

There are specific rules governing the use of fixed term contracts, commonly referred to as limitations. These regulations come into effect for fixed term contracts established on or after 6 December 2023, unless certain exceptions apply.

**Time Limitations:** One key limitation is that a fixed term contract cannot extend beyond a duration of 2 years, encompassing any extensions or renewals of the contract.

**Renewal Limitations:** Furthermore, a fixed term contract must not include an option to either extend or renew the contract in a way that would result in the total period of

employment exceeding 2 years. Additionally, the contract cannot be extended or renewed more than once.

**Consecutive Contract Limitations:** An important restriction to note is that an employer cannot offer a new fixed term contract to an employee under the following conditions:

1. The current fixed term contract has not exceeded 2 years in duration.
2. The employee has been subject to consecutive fixed term contracts.
3. The employee's employment has remained continuous throughout these consecutive contracts.
4. There are specific circumstances present in which the fourth point applies, as outlined in the legislation.

## Protections for employees

Employers can't take certain actions to purposely avoid these rules.

These are called the anti-avoidance protections. These protections include:

- ending employment or not re-employing the employee for a period of time
- not re-engaging the employee and employing someone else to do the same or substantially similar work instead, or
- changing the type of work or tasks that an employee does or changing the employment relationship.

If an employer does any of these things, it may also be adverse action.

Find out more about adverse action at [Protections at work](#).

## Exceptions to the limitations

There are some exceptions to these rules that mean the limitations don't apply to all fixed term contracts. They also don't apply to casual employees.

The given examples illustrate various exceptions to standard employment arrangements, where fixed-term contracts are appropriate due to specific circumstances:

1. **Specialised Skills for a Specific Task:** Employees like Vivian, with specialised skills, are engaged for a distinct project requiring those skills. Vivian's contract is 6 months long with potential extensions.
2. **Training Arrangements:** This involves formal training arrangements under state or territory law, combining work and study. For instance, Javier's 4-year fixed-term contract for his plumbing apprenticeship.
3. **Essential Work During Peak Demand:** Employees like Kevin, with essential skills, are hired for peak periods. Kevin's contract at a ski resort is for 2 months with possible extensions.
4. **Emergency or Temporary Circumstances:** This covers situations like Gerry's, where he replaces an employee (Christina) on extended leave, with contract renewals aligning with the leave duration.
5. **High-Income Employees:** Employees earning above the high-income threshold, like Esther with her \$240,000 annual salary, can have fixed-term contracts. Esther's is for 3 years.
6. **Positions Subject to Government Funding:** This applies when a position is government-funded for a specific duration. Lu's 3-year contract for a community garden project is an example, with the project's funding concluding after this period.
7. **Governance Positions:** These are limited-duration contracts for governance roles, as seen with Sunita's 5-year contract on a land management council's executive board.
8. **Award Provisions:** When an employment award allows it, employees can have multiple contract renewals. Ravi's situation under an award that permits contract-to-contract work exemplifies this.

## Additional Exceptions

The limitations on fixed-term contracts, specifically for contracts made between 6 December 2023 and 1 July 2024, have certain exceptions. These exceptions are applicable in specific sectors such as organised and high-performance sport, live performance, higher education, and positions funded by philanthropic entities or testamentary gifts or contributions.

For additional information about these additional exceptions, visit [Additional fixed term contract exceptions](#).

### **Fixed-Term Contracts Not Meeting Limitations**

In cases where fixed-term contracts do not adhere to the specified limitations, the predefined end date of the contract becomes invalid. This means that the contract will not automatically terminate at the initially intended end date. However, all other terms and conditions of employment stipulated in the contract remain enforceable. This includes adherence to entitlements as outlined in relevant legislation, awards, agreements, or the employment contract itself.