

# Fixed Term Contracts

From 6 December 2023, employers can no longer employ an employee on a fixed term contract that:

- is for 2 or more years (including extensions)
- may be extended more than once, or
- is a new contract:
  - that is for the same or a substantially similar role as previous contracts.
  - with substantial continuity of the employment relationship between the end of the previous contract and the new contract, and either:
    - the total period of the contracts is 2 or more years,
    - the new contract can be renewed or extended, or a previous contract was extended.

From 6 December 2023, employers will have to give employees they're engaging on new fixed term contracts a **Fixed Term Contract Information Statement**.

## What does this mean?

1. An initial fixed term contract can be for a maximum of 2 years.
2. Fixed term contracts can only be extended once, totalling two years in length.

## Why are these changes being made?

Changes to the use of fixed term contracts mean that employers retain the flexibility to manage their workplace needs, while providing protections to employees who may be exploited by these contracts when inappropriately used.

## Does this only apply to new employees coming onto fixed term contracts?

While the changes to fixed term contracts only apply to new contracts from 6 December 2023, any contract in place prior to this will count towards the limits.

**Example 1:** Employee on fixed term contract that commenced in 2021. It expires on January 1<sup>st</sup>, 2024. The time period is over 2 years. The employer cannot engage this employee on another fixed term contract, they need to be offered permanent role.

**Example 2:** An employee commences a 6-month contract November 1<sup>st</sup>, 2023, the employer wishes to extend their contract the following year for a further 12-month period. The employer can do this as it less than two years but will not be able to extend it a second time again.

**Example 3:** An employee is on 18-month fixed term contract finishing on or after December 6, 2023, the employer wishes to renew their contract for a further 18 months. This is well beyond 2 years as the previous 18 months will count toward the 2-year cap.

**Can I engage a new employee in the same or substantially similar role if the existing employee has met their limits?**

No, if the position is still required, you cannot engage a new employee on a fixed term contract in place of the employee undertaking the initial fixed term contract if they have met the two years or extension limit.

**Can I terminate someone then rehire them in the same role?**

No, unless there is as significant break in employment, you cannot terminate and rehire someone in the same role.

**What happens if an employee is offered a fixed term contract when they already meet the limit (2 years or more than one extension?)**

Where a fixed term contract is made in breach of the new provisions, the employee will be considered a permanent employee.

If the Fixed Term Contract offered to the employee does not align with the new provisions, the employee will instead be considered a permanent employee that is not on a Fixed Term Contract.

All other terms & conditions of the contract will remain valid.

The employee will retain the terms and conditions of their contract while gaining access to relevant safety net provisions including:

- entitlements to notice of termination and redundancy payments, either through the National Employment Standards or their relevant industrial instrument, calculated from the start of the employment relationship, and
- access to unfair dismissal proceedings.

**Are there any exceptions?**

There are some exceptions when genuine and necessary, for example:

- apprentices and trainees,
- performing a discrete task for a fixed period,
- temporarily replacing another employee on long leave (such as workers compensation leave)

Please consult People Services for support determining whether a fixed term contract would be considered exempt.

For more information:

Contact People Services via the #TeamPossible Support Hub, or by calling 07 3900 5460.