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Fixed Term Contracts

changes and requirements

Date

December 6 2023

Fixed Term Contract Information Statement NEW

- You have heard of the Fair Work Information Statement, and even the Casual Fair Work Information Statement. Fair Work have now introduced the **Fixed Term Contract Information Statement**.
- From December 6, there is a requirement for employers to give this new document any employee they're engaging on a new fixed term contract
- In addition to the FTCIS, employers need to provide all new employees with the Fair Work Information Statement.

Time Limitations

- A fixed term contract can't be for longer than 2 years. This includes any extensions or renewals.

Renewal Limitations

- Fixed term contracts cannot extend or renew so the period of employment lasts for longer than 2 years
- Fixed term contracts cannot extend or renew more than once.

Consecutive Contract Limitations

An employee can't be offered a new fixed term contract if the first three points apply, and one or more of the fourth point scenarios.

1. Their previous contract was also for a fixed term.
2. Their previous contract and the new contract are for mainly the same work.
3. There is substantial continuity in the employment relationship between the previous and new contracts, and
4. Either:
 - the previous contract contained an option to extend that was used
 - the total period of employment for both the previous and new fixed term contract is more than 2 years
 - the new fixed term contract contains an option to renew or extend, or
 - there was an initial contract in place (before the previous contract):
 - that was for a fixed term,
 - that was for the same or similar work, and
 - where there was substantial continuity in the employment relationship.

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info@explorepotential.com.au



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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.

Fixed Term Contracts Before December 6

- The limitations don't apply to fixed term contracts entered into before 6 December 2023. However, fixed term contracts entered into before 6 December must be considered when applying the consecutive contracts limitation for a new fixed term contract that is entered into on or after 6 December 2023.

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.

- Specialised skills for specific task
- Training Agreements
- Essential Work
- Emergency or temporary circumstances
- High income employees
- Positions subject to government funding
- Governance positions
- Award provisions

Not Meeting the Limitations

If a fixed term contract doesn't meet the limitations, the contract's end date will no longer apply. This means the contract won't automatically come to an end at the end of that time.

Other terms and conditions of employment under the contract will still apply, including entitlements from any relevant legislation, award, agreement or employment contract.

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