

EMPLOYMENT CONTRACTS

An employment contract is an agreement between an employer and employee that sets out terms and conditions of employment. A contract can be in writing or verbal.

All employees are covered by the National Employment Standards, regardless of whether they've signed a contract. A contract can't make employees worse off than their minimum legal entitlements.

Source: <https://www.fairwork.gov.au/awards-and-agreements/employment-contracts>

Contract Terminology and Inclusions

- Ongoing contracts have no termination date.
- Fixed-term contracts have a termination date.
- Certified/Enterprise Agreements are collective agreements resulting from negotiation between employers and employees and new employees are covered automatically under such agreements.

Employment definitions

As an employee, there are different ways that your work can be defined by a contract.

- Full time: Hours around 36 - 40 per week, and benefits such as sick and annual leave, etc., usually apply.
- Part-time: works fewer hours than full-time employees. Generally the same benefits will apply at a pro rata rate.
- Casual: employed on an hourly or daily basis and aren't entitled to benefits, but are paid a Casual Loading on top of the base rate of pay to compensate.

Source: <https://www.fairwork.gov.au/employee-entitlements/types-of-employees/casual-part-time-and-full-time>

What will be covered?

As a general guide, the following conditions should be covered in your employment contract:

- Names of the parties to the contract
- Position title and duties
- Annual salary/wages
- Superannuation
- Hours of work and overtime arrangements
- Leave entitlements (annual, sick, parental, etc.)
- Termination arrangements
- Probationary periods (if applicable)
- Performance/pay reviews

Employee or Independent Contractor?

Independent contractors have different obligations and rights to employees because they are running their own business. This means it's important to understand the difference between the two. The following information from the Fair Work Ombudsman website will help to explain the difference:

Employees:

- have their work directed and controlled by their employer
- work set or standard hours (casual employees hours can vary from week to week)
- usually have an ongoing expectation of work
- bear no financial risk – it's covered by their employer's insurance
- are provided with tools or an allowance
- have income tax deducted by their employer
- are paid wages or a salary regularly
- are entitled to paid leave.

Independent Contractors:

- have a high level of control over how the work is done, including the choice to hire others to assist
- agree to the hours required to complete the job
- usually engaged for a specific task or time
- bear the risk of making a profit or a loss and usually bears responsibility and liability for poor work or injury and usually have their own insurance
- use their own tools and equipment
- pay their own tax and GST
- have an ABN and submits invoices
- don't receive paid leave.

Need help? - <https://www.business.gov.au/info/plan-and-start/start-your-business/independent-contractors/independent-contractors-decision-tool>

For more information:

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