

Employment contracts

Understanding your rights and responsibilities



An employment contract is an agreement between an employer and employee that sets out the terms and conditions of employment. All employees are covered by the National Employment Standards (NES), regardless of whether they've signed a contract. A contract can't make employees worse off than the minimum (NES) legal entitlements.

Contract terminology

- **Full-time:** Full-time employees usually work 36 – 40 hours per week, and receive benefits such as sick leave, carers leave and annual leave, as well as superannuation contributions.
- **Part-time:** Part-time employees work fewer hours than full-time employees. Their hours or shifts are usually regular each week. They receive the same benefits as full-time employees at a pro-rata rate.
- **Casual:** Casual employees are employed on an hourly or daily basis with no commitment for ongoing work. Their hours can vary from week to week and are not guaranteed. Casual employees aren't entitled to paid sick, carers or annual leave, but are paid a casual loading on top of the base rate of pay to compensate.
- **Ongoing contracts:** A permanent position with no termination date.
- **Fixed-term contracts:** A temporary position with a pre-determined end date.
- **Probation:** A trial period at the start of employment (often three or six months) during which an employer evaluates an employee's performance, suitability, and conduct before confirming their permanent position.
- **Award:** Outlines the minimum conditions of employment including pay rates for an industry or a type of job.
- **Certified/Enterprise Agreements:** Collective agreements resulting from negotiation between employers and employees regarding pay and conditions. New employees are covered automatically under agreements.

Contract inclusions

The following are common inclusions in an employment contract:

- Employment type (e.g. part-time, fixed-term)
- Position title and duties
- Annual salary or hourly wages
- Superannuation employer contribution rate
- Hours of work and overtime arrangements
- Leave entitlements (e.g. annual, sick, carers, parental)
- Termination arrangements
- Probation periods (if applicable)
- Performance / pay reviews
- Flexible work arrangements (if applicable)

Some employers may include additional clauses such as confidentiality, intellectual property ownership, restrictive covenants (e.g. post-employment non-compete agreements), drug and alcohol testing policies, visa eligibility and use of company assets (e.g. vehicles, technology).

Employee or independent contractor?

Independent contractors have different obligations and rights to employees because they are running their own business. The following information from the Fair Work Ombudsman website will help to explain the difference:

Employees:

- Work is controlled by their employer
- Work set or standard hours
- Usually have an ongoing expectation of work
- Are covered by their employer's insurance
- Are provided with equipment or an allowance
- Have income tax deducted by their employer
- Are paid wages or salary weekly or fortnightly
- Are entitled to paid leave if employed part-time or full-time.

Independent Contractors:

- Have control over how and when their work is done
- Complete tasks based on a quote or hourly rate
- Carry the risk of making a profit or a loss
- Usually accept responsibility and liability for poor work or injury and usually have their own insurance
- Use their own equipment or tools
- Have an ABN (Australian Business Number) and pay their own tax and GST (Goods and Services Tax)
- Don't receive paid leave.

Further information

Visit the [Fair Work Ombudsman](https://www.fairwork.gov.au/) website for further information about pay and wages, leave entitlements, employment conditions, starting or ceasing employment, and resolving workplace problems. The [Australian Taxation Office](https://www.ato.gov.au/) provides information about taxation requirements for employees and independent contractors.