

# Update: 12 September 2011 Fixed term employment contracts



Fleming Muntz  
Solicitors



## Summary

Traditional employment arrangements are indefinite and end on resignation, redundancy, misconduct or death. 'Fixed term' employment contracts are becoming more common and end automatically after a given period. This creates advantages and disadvantages for both parties.

### What are the benefits?

The *Fair Work Act* has not changed the position that employees engaged for a specified period or undertaking cannot bring an unfair dismissal claim. This means that an employer can terminate an employee without liability for unfair dismissal provided it can wait out the contract's term.

A fixed term contract is also suited to specialists contributing to limited term projects – project management during start-up of a new venture is a common example.

Once the business is established, rolling fixed term contracts can provide operational flexibility for a business without creating a permanent employment relationship.

### What are the problems?

If an employer does want to terminate a fixed term contract early, it will usually face a significant payout – often the whole remuneration that the employee would have received for the balance of the term.

From the employee's point of view, a fixed term contract does not usually offer the certainty or entitlements of an indefinite contract of employment. If the employee has the bargaining power, he or she will usually demand a salary premium in compensation.

All of these risks can be managed in a carefully drafted contract. What is equally important with higher-level employees is that an unreasonably hard approach to negotiating does not sour the goodwill created during the recruitment process.

### How can Fleming Muntz help?

Fleming Muntz has lawyers experienced in drafting executive and professional employment contracts, fixed or indefinite. We understand the delicate balance of power in negotiations with key staff and how much a fair, clearly expressed employment contract can get the relationship off to a good start.

#### Important fine print

**This update is for general information only. It is not a complete guide to the area of law. Competent advice should be obtained before taking any action.**

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