Hiring fixed-term and casual employees

Fixed-term and casual employees can be a great way to get the help you need while staying flexible.

Negotiating these types of contracts can be tricky, especially if you haven’t done it before. Here’s what you need to know - and then test yourself with our quiz.

Everyone you employ needs a written employment agreement.

You must do it by law, and it’s a great foundation for an employment relationship. Our new Employment Agreement Builder (external link) will help guide you through the steps to create a proper agreement.

Fixed-term employees

Employees on fixed-term contracts are not contractors — they’re employed by you and entitled to all the same benefits as a permanent employee. They’re hired to do work that only exists for a set time frame, eg a short-term project or cover for parental leave.

What you need to know

When you’re hiring a fixed-term employee, the written employment agreement must:

- explain why the role is only for a fixed term — there must be a genuine reason for employing someone on a fixed-term
- specify when the term will end — eg after six months, when the project is completed, or when the season finishes - and give a detailed reason why it will end then.

Use our new Employment Agreement Builder (external link) to create a proper fixed-term agreement, including with space to type in a detailed reason for ending the fixed term. Here are two examples:

1. Carter is hired to pick apples in an orchard. His employment agreement states:

   The reason for it being a fixed term, and finishing at the end of the term, is the employee is being employed to pick apples at the employer’s orchard for the 2020 season, and there will be no further work available for the employee once all apples are picked.

2. Debbie, an accountant, is working at a medical centre as cover for someone on sabbatical. Debbie’s employment agreement states:

   The reason for it being a fixed term, and finishing at the end of the term, is the employee is being employed to provide accounting cover while the employer’s accountant is on sabbatical until 23 October 2020. There will be no further work available for the employee once the accountant returns from on sabbatical.

If you don’t meet these criteria, the fixed term may not be valid and you’ll be expected to treat them as a permanent employee.

You also need to know that:

- You can’t hire someone on a fixed-term contract to try them out before you hire them permanently. If you have 19 or fewer employees, to try someone out, you need to hire them as a permanent employee, and include a trial period in their employment agreement before they start work — otherwise the trial won’t be legal.
- If you decide to offer the fixed-term employee a permanent position after the fixed-term contract ends, eg the person they were covering for parental leave does not return to work, they can’t be subject to a trial period —
those are for new employees only. No matter how many employees you have, you could use a probationary period if necessary.

- If you want to dismiss a fixed-term employee, you’ll need to follow the same disciplinary and dismissal processes as for other employees.
- You should always finish the agreement at the agreed time. If you need to extend it, do so in writing — or create a new fixed-term agreement — before the original agreement expires.
- If you’re thinking about rolling over a fixed-term contract more than once, think carefully — you might actually need a permanent employee.
- If you’re hiring someone for a fixed term of less than a year, you can agree together that they’ll be paid 8% extra (before tax) instead of earning annual leave.


Case study

Fixed-term done right

David owns a busy painting business that’s won a bid to paint two office buildings, a three-person job that will take about two months.

David doesn’t have enough employees for this job, so he hires three new workers on two-month contracts. He explains the reason for the fixed term to his new hires, and puts it in their employment agreements. They know David can’t guarantee a permanent contract, or additional work past the two-month mark.

This is the correct approach.

- The fixed-term contract is for a particular project.
- He’s made it clear in writing and verbally that the position is fixed term. When the work is finished, David can offer them permanent roles if there’s enough work to justify it. But he has no legal obligation to keep them on.

Case study

Fixed-term done wrong

Wendy owns a shop in a busy mall. Wendy has two assistants and needs one more. Some of her previous assistants have been unreliable, so she’s wary of taking on a permanent employee. She decides to offer a three-month contract just in case things don’t work out.

But using a fixed-term contract to decide if someone is suitable for a role is illegal. Instead, as a business with 19 or fewer employees, Wendy could offer a permanent contract and include a trial period. If she does this, Wendy must remember:

- Trial periods are voluntary and must be agreed in writing with her employee. If not, the trial won’t be legal.
- Trials can last for no more than 90 days, and are for new employees only.
- If it’s not working out, she should first discuss any issues with her employee to see if these can be resolved.

Quiz

Test yourself on employee types

When you’re done, follow the links in the answers for more details.
Casual employees

A casual employee works for you intermittently or irregularly, eg someone called in at short notice to cover for sickness. They don’t have to accept every offer of work you make.

People who work for you casually are employees, and need an employment agreement just like any other staff member.

Use our new Employment Agreement Builder (external link) (https://eab.business.govt.nz/) to create a proper casual agreement. It’s recommended you include an hours of work clause which sets out:

- the amount of work they’ll get will fluctuate
- how you’ll let them know when you would like them to work
- they’re not obliged to make themselves available for work.

Also include an indication of days and time periods they might be asked to work.

[Hours of work clause (external link) (https://eab.business.govt.nz/employmentagreementbuilder/terms/hoursOfWork)]

Employers often mistake part-timers for casual workers.

If the work is in a regular pattern that is ongoing, they should be on a permanent part-time agreement.

Leave entitlements for casual employees

Casual employees, like all other employees, are entitled to holidays. Because they don’t have set hours, you can agree with them that instead of earning annual leave, you’ll pay them an extra 8% of their salary or wage each pay.

They’re also entitled to sick leave and bereavement leave after six months of starting work with you if during that time they have worked:

- an average of at least 10 hours a week and
- at least one hour a week or 40 hours a month.


[Introduction to holidays and leave (/hiring-and-managing/handling-holidays-and-leave/introduction-to-holidays-and-leave/)]


Casual agricultural work

Casual workers doing agricultural work like shearing, milking or fruit-picking are charged tax at a flat rate. Read Inland Revenue’s information about Payroll for casual agricultural workers (external link) (http://www.ird.govt.nz/payroll-employers/make-deductions/special-workers/emp-deductions-special-workers.html)

Guide to staff types

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Quiz: Employment 101

Test yourself on hiring and managing employees. Then follow links from the answers to find out more.

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