

18. FIXED TERM CONTRACT EMPLOYMENT

18.1 Subject to this clause and in accordance with clause 8 – Contract of Service of the Applicable Award, Employees may be employed on contracts having fixed terms.

If an Employee's fixed term contract ceases and they commence a new fixed term contract with the same Employer on the following work day, service is considered continuous and there should be no payout of annual leave and leave loading. Annual leave and leave loading should only be paid out if there is a break in service.

18.2 Before employing a person as a fixed term contract Employee or providing a new or extended fixed term contract to an Employee, the Employer must first consider whether any permanent Surplus employees can undertake the role or duties required. If a permanent Surplus employee can undertake the role or duties, they will be offered the employment.

18.3 Notwithstanding clause 18.2, the Employer will have discretion to renew an existing fixed term contract if the Employee has been in the same or similar role for more than two years and the arrangements are being reviewed for possible conversion under a process referred to at clause 18.8.

The decision of an Employer to renew an existing fixed term contract for the purposes of completing a review for conversion to permanency is discretionary and should be made on a case by case basis. Individual circumstances, the current reason for the fixed term contract, availability of funding, and any industrial risks should be taken into account in making this decision.

18.4 Where more than one appropriate permanent Surplus employee exists, the following hierarchy shall apply for access to the role or duties:

- (a) internal Surplus employees are considered first;
- (b) if no internal Surplus employees are suitable, Registered employees from other employing authorities are considered; and
- (c) if no Registered employees are suitable, Registrable employees from other employing authorities are considered.

18.5 In exercising their employing authority, Employers may only employ a person as a fixed term contract Employee in the following circumstances:

- (a) covering one-off periods of relief;
- (b) work on a project with a finite life;
 - (i) where a project is substantially externally funded including multiple external funding sources, the Employer must present a business case supporting the use of fixed term contract Employees in such positions to the JCC;

- (ii) where external funding has been consistent on an historical basis and it can be reasonably expected to continue, the Employer shall assess the percentage of positions for which permanent appointment can be made;
 - (c) work that is seasonal in nature;
 - (d) where an Employee with specific skills is not readily available in the Public Sector is required for a finite period; or
 - (e) in any other situation as agree between the parties to this Agreement.
- 18.6 Employees appointed for a fixed term shall be advised in writing of the terms of the appointment, including the circumstances of the appointment as provided under clause 18.5 and the dates of commencement and termination of employment.
- 18.7 The Employer will provide the Union the names and work locations of all Employees on fixed term contracts within 28 days of a request being made in writing.
- 18.8 The parties acknowledge that Commissioner’s Instruction No. 23 – Conversion and appointment of fixed term contract and casual employees to permanency (CI 23) was a corrective measure to enable the conversion of some fixed term contract and casual Employees to permanent employment in agreed circumstances. CI 23 will continue to apply to fixed term and casual Employees employed or engaged on 10 August 2018. CI 23 is subject to review according to its terms.
- 18.9 The Government commits to identifying, within 12 months of the registration of this Agreement, and in consultation with the Union and other Public Sector unions, an ongoing mechanism to facilitate the review of fixed term contract and casual Employees for conversion to permanent employment. Findings of the CI 23 review will inform this broader review.
- [Commissioner's Instruction No 23 - Conversion and appointment of fixed term contract and casual employees to permanency](#) (CI 23) provides the framework for the conversion and permanent appointment of current fixed term and casual employees, subject to certain criteria being met.
- 18.10 The Government commits to a review of employment practices in the Public Sector as governed by Commissioner’s Instruction No. 2 – Filling a Public Sector Vacancy (CI 2). The CI 2 review will examine, among other things, the question of long term acting in vacant roles within the Public Sector, secondments, appointment pools, suitability lists and other recruitment practices. The review will be carried out in consultation with stakeholders, including the Union and other Public Sector unions.