



Fair Work Amendment (Fixed Term Contracts—Exceptions Measures) Regulations 2024

I, the Honourable Sam Mostyn AC, Governor-General of the Commonwealth of Australia, acting with the advice of the Federal Executive Council, make the following regulations.

Dated 24 October 2024

Sam Mostyn AC
Governor-General

By Her Excellency's Command

Murray Watt
Minister for Employment and Workplace Relations

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1 Name

This instrument is the *Fair Work Amendment (Fixed Term Contracts—Exceptions Measures) Regulations 2024*.

2 Commencement

- (1) Each provision of this instrument specified in column 1 of the table commences, or is taken to have commenced, in accordance with column 2 of the table. Any other statement in column 2 has effect according to its terms.

Commencement information		
Column 1	Column 2	Column 3
Provisions	Commencement	Date/Details
1. The whole of this instrument	The day after the end of the period of 7 days beginning on the day this instrument is registered.	1 November 2024

Note: This table relates only to the provisions of this instrument as originally made. It will not be amended to deal with any later amendments of this instrument.

- (2) Any information in column 3 of the table is not part of this instrument. Information may be inserted in this column, or information in it may be edited, in any published version of this instrument.

3 Authority

This instrument is made under the *Fair Work Act 2009*.

4 Schedules

Each instrument that is specified in a Schedule to this instrument is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this instrument has effect according to its terms.

Schedule 1—Amendments

Fair Work Regulations 2009

1 Regulation 1.03

Insert:

philanthropic entity means an entity registered under the *Australian Charities and Not-for-profits Commission Act 2012* as the type of entity mentioned in column 1 of item 1 of the table in subsection 25-5(5) of that Act.

2 Subregulation 2.15(5)

Repeal the subregulation.

3 Subparagraph 2.15(6)(b)(ii)

Repeal the subparagraph, substitute:

(ii) before 1 November 2025.

4 Subregulation 2.15(7)

Repeal the subregulation, substitute:

Charity and not-for-profit sector employees

- (7) For the purposes of paragraph 333F(1)(i) of the Act, a contract entered into by a person and an employee is prescribed if:
- (a) the person is, or enters into the contract on behalf of, a philanthropic entity (the *relevant entity*); and
 - (b) the contract relates to a position for the performance of work that is funded in whole or in part by:
 - (i) government funding provided by way of a grant or procurement, other than funding excluded by subregulation (8); or
 - (ii) funding provided by a philanthropic entity (other than the relevant entity or an associated entity of the relevant entity); or
 - (iii) funding provided as a testamentary gift or testamentary contribution to the relevant entity for a charitable purpose (within the meaning of the *Charities Act 2013*) of the relevant entity; and
 - (c) the work is to be performed for the purposes of a specific program or project to which the funding relates; and
 - (d) the period for which the program or project is to be conducted is, taking into account so much of that period (if any) as has already occurred, a period of not more than 5 years; and
 - (e) the identifiable period (see paragraph 333E(1)(b) of the Act) at the end of which the contract will terminate is substantially the same as the period, or the remainder of the period, for which the program or project is to be conducted; and
 - (f) if the employee is already, or has previously been, employed by the person—the employment of the employee for the identifiable period would not result in continuity or substantial continuity of an employment

relationship between the person and the employee for a period of more than 7 years; and

- (g) at the time the contract is entered into, the employee is not covered by either of the modern awards mentioned in paragraph (6)(a) of this regulation; and
- (h) any arrangements for the provision of funding covered by paragraph (b) of this subregulation take effect on or after the day this subregulation commences; and
- (i) the contract is entered into:
 - (i) on or after the day this subregulation commences; and
 - (ii) before 1 November 2025.

- (8) For the purposes of subparagraph (7)(b)(i), the following are excluded:
 - (a) any payments made to, or for the benefit of, an individual, if the entitlement to the payments is provided for under legislation of the Commonwealth, a State or a Territory;
 - (b) any payments made for the purposes of the program known as the Commonwealth Home Support Programme.

Medical or health research sector employees

- (9) For the purposes of paragraph 333F(1)(i) of the Act, a contract entered into by a person and an employee is prescribed if:
 - (a) the person is, or enters into the contract on behalf of, one of the following (the **relevant entity**):
 - (i) a philanthropic entity;
 - (ii) an entity controlled by a philanthropic entity;
 - (iii) a body established for a public purpose by or under a law of the Commonwealth, a State or a Territory;
 - (iv) an entity controlled by such a body; and
 - (b) the contract relates to a position for the performance of work that is funded in whole or part by:
 - (i) government funding; or
 - (ii) funding provided by a philanthropic entity other than the relevant entity; or
 - (iii) if the relevant entity is a philanthropic entity—funding provided to the relevant entity for a charitable purpose (within the meaning of the *Charities Act 2013*) of the relevant entity (including funding provided as a testamentary gift or testamentary contribution for such a purpose); and
 - (c) the work primarily involves carrying out medical or health research of any of the following kinds:
 - (i) basic research;
 - (ii) pre-clinical research;
 - (iii) clinical research;
 - (iv) translational research; and
 - (d) the work is to be performed for the purposes of a specific program or project to which the funding relates; and

- (e) the period for which the program or project is to be conducted is, taking into account so much of that period (if any) as has already occurred, a period of not more than 5 years; and
- (f) the identifiable period (see paragraph 333E(1)(b) of the Act) at the end of which the contract will terminate is substantially the same as the period, or the remainder of the period, for which the program or project is to be conducted; and
- (g) if the employee is already, or has previously been, employed by the person—the employment of the employee for the identifiable period would not result in continuity or substantial continuity of an employment relationship between the person and the employee for a period of more than 7 years; and
- (h) at the time the contract is entered into, the employee is not covered by either of the modern awards mentioned in paragraph (6)(a) of this regulation; and
- (i) any arrangements for the provision of funding covered by paragraph (b) of this subregulation take effect on or after the day this subregulation commences; and
- (j) the contract is entered into:
 - (i) on or after the day this subregulation commences; and
 - (ii) before 1 November 2025.

Public hospital employees

- (10) For the purposes of paragraph 333F(1)(i) of the Act, a contract entered into by a person and an employee is prescribed if:
 - (a) the person enters into the contract for a public hospital (within the meaning of the *National Health Act 1953*); and
 - (b) the contract relates to a position for the performance of work the majority of funding for which is of either of the following kinds (including any combination of them):
 - (i) funding provided by a philanthropic entity;
 - (ii) funding provided for a charitable purpose within the meaning of the *Charities Act 2013* (including funding provided as a testamentary gift or testamentary contribution for such a purpose); and
 - (c) the work is to be performed for the purposes of a specific program or project, to which the funding relates, in connection with the hospital; and
 - (d) the period for which the program or project is to be conducted is, taking into account so much of that period (if any) as has already occurred, a period of not more than 5 years; and
 - (e) the identifiable period (see paragraph 333E(1)(b) of the Act) at the end of which the contract will terminate is substantially the same as the period, or the remainder of the period, for which the program or project is to be conducted; and
 - (f) if the employee is already, or has previously been, employed by the person—the employment of the employee for the identifiable period would not result in continuity or substantial continuity of an employment relationship between the person and the employee for a period of more than 7 years; and

- (g) any arrangements for the provision of funding covered by paragraph (b) of this subregulation take effect on or after the day this subregulation commences; and
- (h) the contract is entered into:
 - (i) on or after the day this subregulation commences; and
 - (ii) before 1 November 2025.

Note: This regulation prescribes matters relating to circumstances where the limitations on fixed term contracts in section 333E of the Act do not apply. Regardless, if a substantial reason for employing an employee for a specified period is to avoid the application of Division 11 of Part 2-2 of the Act (which deals with notice of termination and redundancy pay), that Division may still apply: see subsection 123(2) of the Act.