

EMPLOYMENT CATEGORIES & SECURE EMPLOYMENT

Contents

Authority and Application	1
Overview	1
Relevant provisions of the Agreement	2
Supplementary Guidance Information	2
1. Secure employment.....	2
2. Ongoing employment.....	2
3. Fixed term employment	2
4. Casual Employment.....	3
5. Movement between employment types	3
Making decisions under this policy	3
Dispute resolution	3
Further Information.....	3
Related policies or documents	4

Authority and Application

Clauses 17, 18, 19 and 20 of the *Victorian Public Service Enterprise Agreement 2024* (the Agreement), applies to Victorian Public Service (VPS) Departments and Agencies (Employers) and their Employees covered by the Agreement.

Overview

Clause 20 of the Agreement sets out the categories of employment in which an Employer can engage an Employee. The clause also imposes a range of obligations on Employers to be carried out at the commencement of the Employee's employment and/or during the probationary period.

Clauses 18 and 19 are interrelated with clause 17 of the Agreement, which acknowledges the positive impact of secure employment on Employees and the obligation on Employers to preference ongoing forms of employment over casual and fixed term arrangements wherever possible. Clause 18 and 19 of the Agreement provide conversion to ongoing forms of employment in certain circumstances.

Relevant provisions of the Agreement

Clause 17 – Secure Employment

Clause 18 - Use of Fixed Term Employment

Clause 19 - Use of Casual Employment

Clause 20 – Employment Categories and Entitlements

Supplementary Guidance Information

1. Secure employment

- 1.1. Preference should be given to ongoing forms of employment where possible. Before entering into fixed term or casual engagements, Employers should consider whether it would be more appropriate in the circumstances to engage the Employee on an ongoing basis.
- 1.2. In making this assessment, Employers must have regard to clauses 18 and 19 of the Agreement which place restrictions on the engagement of fixed term Employees and Casual Employees - see The Use of Fixed Term Employment Policy and Use of Casual Employment Policy further guidance.

2. Ongoing employment

- 2.1. The Employer should consider using ongoing employment where:
 - 2.1.1. the work has no foreseeable end date,
 - 2.1.2. there is a requirement to fill a vacancy and the criteria for fixed term or casual employment does not apply,
 - 2.1.3. there is funding available to enable the creation of a new ongoing role, or
 - 2.1.4. there is a need to fill an existing ongoing vacancy.
- 2.2. In considering whether an individual position should be filled in an ongoing capacity, the factors above will need to be weighed against the permissible use of fixed term employment (as outlined in clause 18 of the Agreement) or casual employment (as outlined in clause 19 of the Agreement) to determine the appropriate mode of employment in the circumstances.

3. Fixed term employment

- 3.1. The Employer will not use fixed term contracts for the purpose of undermining the job security or conditions of full-time ongoing Employees. The use of Fixed Term Employment is limited to the permissible reasons outlined in clause 18.3 of the Agreement.
- 3.2. Employment of an Employee on a fixed term basis must be in accordance with clause 18 of the Agreement.
- 3.3. A fixed term Employee must be provided in writing or electronically the reason for their fixed term employment.

4. Casual Employment

- 4.1. Employment of casuals must be in accordance with clause 19 of the Agreement, which outlines that the use of casual Employees is limited to short-term or seasonal work demands or specialist skill requirements which are not required on a continuing basis and would not be anticipated to be met by existing Employee levels.
- 4.2. Employers must ensure that Casual Employees receive the applicable entitlements in the Agreement and must not use the casual loading to offset entitlements unless they are expressly listed in clause 35 of the Agreement or otherwise expressly excluded from applying to a casual Employee.

5. Movement between employment types

- 5.1. The Agreement does not provide an automatic right to move between employment types (for example from casual or fixed term employment to ongoing employment).
- 5.2. Movement from fixed term to ongoing employment or from casual employment to any other type of employment may occur in accordance with the arrangements applying to fixed term Employees outlined in clause 18 or 19 of the Agreement, or the Employer's recruitment and selection policy and processes.

Making decisions under this policy

Under s.20(1) of the *Public Administration Act 2004*, the public service body head has all the rights, powers, authorities and duties of an Employer, which will usually be delegated to staff within their Department or Agency. Employers should ensure that any actions under this policy are only taken by an Employee with the delegation to do so. Each Department and Agency should give effect to this policy in accordance with its own delegations.

Dispute resolution

An Employee who is directly affected by a decision made or action taken pursuant to clauses 17, 18, 19 or 20 of the Agreement may apply for a Review of Actions under the Employer's Review of Actions policy.

However, clause 17.3 of the Agreement prescribes an obligation upon an Employee or Union (union being defined in clause 2 of the Agreement as the CPSU), where it is considered that a fixed term or casual Employee has been engaged inconsistent with the criteria in clauses 18 or 19 of the Agreement to first refer the matter to the Employer for resolution.

Parties should note that clause 17.3 of the Agreement prescribes a jurisdictional obligation upon parties to first attempt to resolve a matter pertaining to the engagement of a Fixed Term or Casual Employee before the Resolution of Disputes procedure may be utilised. Parties should in the first instance follow this procedural requirement prior to commencing a Resolution of Disputes process in accordance with clause 13 of the Agreement.

Further Information

Employees should refer to their Department or Agency's intranet for information on procedural requirements, systems and approval delegations.

For further information and advice please contact your local Human Resources or People and Culture Unit (or equivalent).

Related policies or documents

Common Policies

- Probation
- Review of Actions
- Secondments and Temporary Assignments
- Use of Fixed Term Employment
- Use of Casual Employment

All policies can be found at <https://www.vic.gov.au/common-policies-victorian-public-service-enterprise-agreement>.

Authorised by Industrial Relations Victoria:

Key Details	
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If you print and store this document, you may be looking at an obsolete version. Always check the latest version of this document at <https://www.vic.gov.au/common-policies-victorian-public-service-enterprise-agreement>.