

## Factsheet Two

### Different ways of working

It is important to know whether you are a permanent or casual employee. The answer to this question will have a significant effect on your conditions of employment, including your pay.

#### Permanent Worker

A permanent full-time worker usually works 38 hours a week on a continual and regular basis.

A permanent part-time worker has continuous and regular work, and usually works less than 38 hours per week.

Permanent employees have continuity of employment, an expectation of ongoing work and are entitled to paid leave, such as (but not necessarily limited to) annual leave, personal leave (including sick leave and carer's leave), and parental leave (after 12 months service). Part time employees will accrue these benefits on a pro rata basis.

Permanent employees are also entitled to receive a minimum period of notice if they are terminated. This is based on the employee's length of service and must be given in writing.

#### Casual Worker

A casual worker has no firm advance commitment that their work will continue indefinitely with an agreed pattern of work.

Casual Workers are paid a casual loading or a specific pay rate for casual employees as per their Award or Employment Agreement.

Casual employees covered by affected modern awards now have the right to request their casual position be converted to part-time or full-time permanent employment in specified circumstances. To be eligible, the casual must: have worked with the employer for 12 months; and have worked over the 12 months a pattern of hours on an ongoing basis, without significant difference, which could continue to be performed in accord with the full-time or part-time employment provisions of the relevant award. Employers can

only refuse the request on reasonable grounds and must do so in writing, within 21 days. A refusal may be disputed by the employee making Application to the Fair Work Commission.

For more information see -

<https://www.fairwork.gov.au/sites/default/files/migration/724/casual-employment-information-statement.pdf>

### **Fixed Term Contract Worker**

A fixed term contract contains a specified beginning and end date. At the agreed end date, the contract will automatically expire without the need for either party to terminate the contract.

Fixed term contracts may be used for filling a position while a worker is on leave, for example, filling in for somebody who is on 12 months maternity leave or for completing a specific project like the introduction of a new computer program or to write a report.

From 6 December 2023, there are limitations about the use of fixed term contracts.

1. A fixed term contract can be no longer than 2 years;
2. A fixed term contract cannot be extended so that the period lasts for more than 2 years nor can it be extended or renewed more than once;
3. A fixed term contract cannot be offered in some circumstances in which there have been subsequent fixed term contracts.

For more information see - <https://www.fairwork.gov.au/sites/default/files/2023-12/is-fixed-term-contract-information-statement.pdf>

### **Independent Contractor**

There is a legal difference between being an employee and being a contractor, or self-employed. Sometimes this can be quite unclear. It is important to get advice on this, as the legal definition is complex and affects your pay and entitlements.

From 26 August 2024, due to changes to the Fair Work Act, to determine if an employee is an independent contractor the following must be considered.

- The real substance, practical reality and true nature of the working relationship.
- All parts of the working relationship between the parties including the terms of the contract and how the contract is performed in practice.

If contractors believe that their service contract contains unfair contractual terms they can now apply for dispute resolution with the Fair Work Commission.

### **Trainees and Apprentices**

Apprentices and trainees are employed under a contract of training with a probation period of up to six months. Apprenticeships and traineeships are legally binding training arrangements between an employer and an apprentice or trainee that combines structured training, which may be delivered on site or off-the-job, with paid full-time or part-time employment. Apprenticeships and traineeships can also be school-based. Generally, an apprenticeship can take 3 to 4 years to complete, whereas a traineeship is usually only one year, but can vary up to 2 years for higher level qualifications.

The employer must allow apprentices/trainees to attend training as per the requirements of the training contract. Apprentices/trainees cannot be employed on a casual basis and unless stated otherwise by a Modern Award, are paid for time spent at training.

After training is completed, a nationally recognised qualification and a certificate of completion are awarded. An apprentice or trainee can be signed off and receive a certificate of completion once they are deemed competent by their employer and registered training organisation.

### Where can I get more help?

NT Working Women's Centre Ph: 1800 817 055 <a href="http://www.ntwwc.com.au">www.ntwwc.com.au</a>	Your Union Unions NT Ph: 8941 0001 <a href="http://www.unionsnt.com.au">www.unionsnt.com.au</a>	NT Anti-Discrimination Commission Ph: 1800 813 846 <a href="http://adc.nt.gov.au">adc.nt.gov.au</a>
Australian Human Rights Commission Ph: 1300 656 419 <a href="http://www.humanrights.gov.au">www.humanrights.gov.au</a>	Fair Work Ombudsman Ph: 13 13 94 <a href="http://www.fairwork.gov.au">www.fairwork.gov.au</a>	Fair Work Commission Ph: 1300 799 675 <a href="http://fwc.gov.au">fwc.gov.au</a>
NT Police Ph: (emergency) 000 If calling from a mobile: 112 For non-emergency crime incidents and general enquiries: 131 444	Office of the Commissioner of Public Employment (OCPE) Promotion Appeal and Grievance Reviews Unit Ph: 8999 4129 <a href="http://www.ocpe.nt.gov.au">www.ocpe.nt.gov.au</a>	NT WorkSafe Ph: 1800 019 115 <a href="http://www.worksafe.nt.gov.au">www.worksafe.nt.gov.au</a>
Your HR Department Check grievance procedures in the workplace. This will tell you who to complain to and how to do it.	Aboriginal Interpreter Service Ph: 1800 334 944 <a href="http://www.ais.nt.gov.au">www.ais.nt.gov.au</a>	To access an interpreter Interpreting and Translating Service NT Ph: 1800 676 254 <a href="http://www.itsnt.nt.gov.au/">www.itsnt.nt.gov.au/</a>

The NT Working Women's Centre (NTWWC) provides free and confidential information, advice and assistance to women about work. The information, opinions and advice contained have been prepared with due care and are believed to be correct at the time of publication. NTWWC expressly disclaim any liability whatsoever to any person who suffers any loss arising from the contents of, errors in, or omissions from this publication. This Factsheet is not intended as a substitute for legal advice. Please seek advice for further information about your situation. August 2024.