



To **Minister for Employment and Workplace Relations**

Action Required **For Decision**

**Fixed term contracts – initial steps to progress Secure Jobs, Better Pay Act  
Review recommendations – regulations and consultation**

**Timing** Please action by **8 August 2025** to enable drafting of regulations and related processes to occur before the current regulations expire on 31 October 2025.

**Recommendations:**

1. That you **agree** to the treatment of the sector-specific exceptions to the limits on the use of fixed term contracts provided by the Fair Work Regulations 2009, as set out in **Attachment A**, as follows:
  - a. To end the higher education exception. **Agreed / Not Agreed / Please discuss**
  - b. To make the sports exception permanent. **Agreed / Not Agreed / Please discuss**
  - c. s22(1) **Agreed / Not Agreed / Please discuss**
2. s22(1) **Agreed / Not Agreed / Please discuss**
3. That you **sign** the letters to relevant Ministers at **Attachments B to E** noting the interaction of fixed term contract settings with their portfolios. **Signed / Not signed / Please discuss**

**Minister Rishworth**

**Date:** / /2025

**Comments:**

<u>Clearing Officer</u> s22(1)  Signature _____ s22(1) Deputy Secretary Workplace Relations Mob: s22(1)	23 / 07 / 2025	<u>Contact Officer</u>  s22(1) Assistant Secretary, Safety Net Policy   WR   Employment Conditions Ph: s22(1) Mob: s22(1)
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**Executive summary:**

1. Your decision is required on the approach to each of the sector-specific exceptions to the limits on the use of fixed term contracts provided for in the Fair Work Regulations 2009 (Regulations) which expire on 31 October 2025. This will allow the department to consult those sector-specific stakeholders and extend any required regulations before expiry.
2. s22(1)

**Key Points:**

3. The *Fair Work Legislation Amendment (Secure Jobs, Better Pay) Act 2022* implemented an election commitment to limit the use of fixed term contracts. The policy objective is to curb insecure work arrangements. Fixed term contracts terminate at the end of an identifiable period, and while employees receive paid leave, there is typically no entitlement to redundancy pay.
4. As a result of the change, a fixed term contract cannot extend beyond 2 years (including renewals) or 2 consecutive contracts, whichever is shorter, unless there is an exception provided in the legislation or regulations (see framework overview and data at Attachments F and G). These limits have been an ongoing source of stakeholder concern.
  - a. Employer representatives consider that limits on the use of fixed term contracts are too restrictive. They also consider that key aspects of the legislation are unclear, which impacts employers' ability to act with confidence.
  - b. Unions consider exceptions to the limits are already too broad and changes should further enhance job security.
5. These issues have driven ongoing stakeholder engagement with government, especially from employer representatives seeking further exceptions to the limits through regulations. In developing the proposed approach for the treatment of the Regulations, the department has considered the findings of the Secure Jobs, Better Pay Review Report (Review Report).

*Findings of the Review Report on fixed term contracts*

6. Given the extensive consultation that has occurred to date (during the development of the Bill, the making of several sets of regulations, and the Review process), the Review Report recommends:
  - a. stakeholders should seek variations to modern awards to tailor the use of fixed term contracts to their industry or occupation (Recommendation 17)
  - b. a short, final period of consultation to identify targeted improvements to the framework to address issues which cannot currently be resolved through modern awards and make the limitations more readily applicable in practice (Recommendation 18).

7. The Review Report therefore encourages stakeholders to work together to identify solutions to their issues by pursuing award variations to address industry-specific issues where possible. The Review Report also concludes that regulations to provide additional exceptions to the fixed term contract rules should be a last resort or confined to circumstances where modern awards are not a solution. An overview of the relevant findings is at [Attachment H](#).

*Proposed approach to sector-specific exceptions in Regulations and consultation*

8. There are temporary exceptions in the Regulations expiring on 31 October 2025 for higher education, organised and high-performance sport, charities and not-for-profits, medical or health research and public hospitals. In the department's view, it would be consistent with the Review Report that regulations should be used as a last resort or when there is no viable award pathway to:

- allow the higher education exception to lapse, as there is a clear award-based pathway
- make the exception for organised and high-performance sport permanent, reflecting the finding and consistent with the department's view, that there is no clear modern award pathway for this sector
- s47C(1)

9. Given the intersection of the fixed contract contracts framework for these sectors with policy and operational settings in other portfolios, letters to relevant Ministers are attached. These letters clarify responsibilities for future action, noting not all issues can be resolved through changes to workplace relations settings. Letters are to the:

- The Minister for Education ([Attachment B](#)) who is leading work to improve university governance s22(1)
- The Minister for Finance, copying in the Minister for Social Services, ([Attachment C](#)) as issues regarding government funding stem from broader grant and procurement policy settings (Finance), and Social Services has close operational relationships with relevant sectors.
- The Treasurer, copying in the Assistant Minister for Productivity, Competition, Charities and Treasury, ([Attachment D](#)) who has responsibility for the charities and not-for-profit sector.
- The Minister for Sports ([Attachment E](#)) who has responsibility for organised and high-performance sports.

10. In the department's view, higher education and sports stakeholders will largely be expecting the proposed approach. s47C(1)

Further detail on stakeholder views and the impacts of the proposed approach to the expiring Regulations is at [Annexure A2](#).

*Consultation processes and next steps*

11. Following your decision, the department, in consultation with your office, will test the proposed approach to the Regulations with relevant stakeholders. In late August 2025, you will receive draft regulations for your approval reflecting any issues, concerns or alternatives from stakeholder feedback as required. Following your approval of the draft Regulations, further consultation will occur through the *Committee on Industrial Legislation* process.
12. s22(1)

13. s22(1)

**Public Sensitivities:**

14. Stakeholders have maintained entrenched and opposing positions on the appropriate use of fixed term contracts. Consultation on the future of the sector-specific regulations and on targeted improvements to the legislative framework will reopen debate on these issues.
15. There is added complexity due to cross-cutting issues with other portfolios including:
  - a. Education, which is undergoing significant scrutiny on higher education governance issues, and
  - b. Finance and Social Services portfolios, which make and administer rules for government grants and procurement, impacting recruitment practices of funding-reliant organisations.
16. The ability to use fixed term contracts is an important issue for charities and not-for-profit organisations, which rely on uncertain, often time-limited, funding. The sporting sector is also invested in securing a continuing exception, particularly as some major professional sports enter finals season and to ensure certainty in the lead-up to the Brisbane Olympics.

**Consultation:** Yes

17. Workplace Relations Legal was consulted, including on timing requirements for regulations.

**Legal advice / Legislative impacts:**

18. In relation to the Regulations, we will provide advice on Executive Council processes and timing in a subsequent submission, s42(1)

19. s22(1)

**Financial impacts:** Nil.

**Stakeholder Implications:**

20. Stakeholders' well-settled positions on the appropriate use of fixed term contracts will shape their views on consultation on the legislative framework. Employer stakeholders are likely to welcome further consultation but will be disappointed at its proposed 'targeted' scope.
21. Unions will seek to use consultation to limit existing exceptions and will oppose any expansion of the exceptions including in the Regulations. Messaging on any extensions would note that, except for sports, the extensions are time-limited and are pending award variation processes that should be pursued by stakeholders in the relevant sector.
22. Stakeholders in sectors currently covered by temporary exceptions will be keen to engage early about the government's proposed approach to each of these exceptions. Careful messaging will be required to make clear how the government's proposed approach to the exceptions fits with broader action to implement the Review Report findings.

**Attachments:**

- A:** Placemat – Fixed term contracts – Treatment of exceptions in Regulations and consultation
  - Annexure A1: Fixed term contract exceptions
  - Annexure A2: Background on sector-specific exceptions and impact of proposed approach
- B:** Letter to Minister Clare
- C:** Letter to Minister Gallagher cc Minister Plibersek
- D:** Letter to Treasurer Chalmers cc Assistant Minister Leigh
- E:** Letter to Minister Wells
- F:** Overview of the fixed term contract framework
- G:** Key Australian Bureau of Statistics data on fixed term contracts
- H:** Secure Jobs, Better Pay Review Report – Key findings

# Fixed term contracts – initial steps following Secure Jobs, Better Pay Act Review – regulations and consultation

## Context

- Secure Jobs, Better Pay Act 2022 limited the use of fixed term contracts to 2 years or 2 consecutive contracts, whichever is shorter.
- The Act has 9 general exceptions (see Annexure A1) but concerns have been raised about the clarity and useability of these, particularly for contracts funded by government and philanthropy which must be >2 years with no reasonable prospects of renewal
- The Regulations provide temporary, sector-specific exceptions expiring on 31 October 2025, for sport, higher education, charities and not-for-profits, medical or health research and public hospitals (see background at [Annexure A2](#)).
- 4.2% of employees work on fixed term contracts (ABS).
- The Secure Jobs, Better Pay (SJPB) Review noted ongoing stakeholder concerns with further consultation recommended.

## What we want to achieve

- Decision on expiring Regulations
- SJPB Review recommendations implemented:
  - Sector-specific exceptions should be in modern awards set by the Fair Work Commission (Recommendation 17)
  - Regulations as a last resort where there is no clear award pathway
  - s22(1)
- Engagement on cross-cutting issues with key roles for other departments – Finance, Social Services and Education.

### End the exception for higher education

Stakeholders have had opportunity to address issues through recent award process and workshops  
s22(1)

. Award variation made to address technical issue only; no consensus on substantive issues.

#### Benefits

- Consistent with government advice to stakeholders that Regulations are temporary pending conclusion of award processes and Review.
- Consistent with approach for live performance where exception repealed after award variation.

#### Sensitivities

- Insecure work issues likely to continue to be ventilated through Education Department processes (e.g. Expert Council on Governance).
- May be controversial with some employers.
- Interaction with medical and health research.

s 47C(1)

### Make the sports exception permanent

No clear award pathway for organised and high-performance sport - lacks modern award coverage.

#### Benefits

- Certainty for relevant stakeholders.
- Stakeholders, such as Brisbane 2032 Olympic Organising Committee and the Australian Sports Commission, support permanent extension.
- Consultation not likely to yield other solutions.

#### Sensitivities

- Possible that stakeholders will lobby for exception in legislation, rather than regulations.
- s45(1)

s47C(1)

s 22(1)

AND

Next steps 2025

Stakeholder and ministerial engagement on specific Regulations – August and September

Consultation on Exposure Draft Regulations in mid-September to allow Regulations to be made by 31 October

s 22(1)

s22(1)

**Exceptions to the limit on fixed term contracts****Fair Work Act 2009****333F Exceptions to limitations**

(1) Subsection 333E(1) does not apply in relation to a contract of employment entered into by a person and an employee if:

- (a) the employee is engaged under the contract to perform only a distinct and identifiable task involving specialised skills; or
- (b) the employee is engaged under the contract in relation to a training arrangement; or
- (c) the employee is engaged under the contract to undertake essential work during a peak demand period; or
- (d) the employee is engaged under the contract to undertake work during emergency circumstances or during a temporary absence of another employee; or
- (e) in the year the contract is entered into the amount of the employee's earnings under the contract is above the high income threshold for that year; or
- (f) the contract relates to a position for the performance of work that:
  - (i) is funded in whole or in part by government funding or funding of a kind prescribed by the regulations for the purposes of this subparagraph; and
  - (ii) the funding is payable for a period of more than 2 years; and
  - (iii) there are no reasonable prospects that the funding will be renewed after the end of that period; or
- (g) the contract relates to a governance position that has a time limit under the governing rules of a corporation or association of persons; or
- (h) a modern award that covers the employee includes terms that permit any of the circumstances mentioned in subsections 333E(2) to (4) to occur; or
- (i) the contract is of a kind prescribed by the regulations for the purposes of this paragraph.

**Fair Work Regulations 2009**

Exception for organised and high-performance sport (subregs 2.15(1)-(4)) covers:

- contracts between organised sporting bodies or their affiliates and athletes, coaches, performance support professionals and match officials
- contracts with employees employed to directly support the administration or organisation of an international high-performance sport event.

Higher education (subreg 2.15(6)) exception covers the *Higher Education Industry—Academic Staff—Award 2020* and the *Higher Education Industry—General Staff—Award 2020*.

Government and philanthropic funding exceptions cover:

1. Charities and not-for-profit (subregs 2.15(7)-(8))
2. Medical and health research (subreg 2.15(9))
3. Public hospitals (sub reg 2.15(10)) where there is majority philanthropic funding

with safeguards for all 3 to ensure the contract aligns with the duration of funding (up to a max of 5 years), with a total limit on consecutive contracts of 7 years.

## Annexure A.2: Background on sector-specific exceptions and impact of proposed approach

Sector-specific exception	Background/context	Stakeholder views	Impact of proposed approach
<b>Organised and high-performance sport</b> (subregs 2.15(1)-(4)) for: <ul style="list-style-type: none"> <li>contracts between organised sporting bodies or their affiliates and athletes, coaches, performance support professionals and match officials</li> <li>contracts with employees employed to directly support the administration or organisation of an international high-performance sport event.</li> </ul>	<ul style="list-style-type: none"> <li>No comprehensive award-based option, as noted in Secure Jobs, Better Pay (SJBP) Review Report.</li> </ul>	<ul style="list-style-type: none"> <li>s47G(1)(b)</li> <li>s45(1)</li> <li>s45(1), s47G(1)(b)</li> </ul>	<ul style="list-style-type: none"> <li>Limited opportunity for employees in organised and high-performance to become permanent.</li> </ul>
<b>Higher education</b> (subreg 2.15(6)) for all employees covered by the <i>Higher Education Industry—Academic Staff—Award 2020</i> and the <i>Higher Education Industry—General Staff—Award 2020</i> .	<ul style="list-style-type: none"> <li>s 22(1)</li> <li>Issues of insecure work arise in this sector because of employer concerns about funding uncertainty and generous redundancy entitlements in enterprise agreements for permanent employees.</li> <li>Employers want to create a new form of employment or continue short-term engagements such as continuing contingent employment arrangements where a contract ends based on external funding ending.</li> <li>A recent award variation process before the Fair Work Commission also did not address substantive issues about when fixed term contracts can be used under the two relevant awards. Instead, the matter concluded with a consent variation to address a technical issue.</li> </ul>	<ul style="list-style-type: none"> <li>s45(1)</li> </ul>	<ul style="list-style-type: none"> <li>s42(1)</li> <li>Currently, the two higher education awards provide that fixed term contracts can be used for a specific task or project, research work, replacement employees, student subsidies and pre-retirement up to 5 years.</li> <li>Most universities are covered by enterprise agreements, which provide for continuing contingent employment arrangements.</li> <li>As employers want to expand the circumstances in which fixed term contracts can be used and address other issues affecting employment arrangements in the sector, they are likely to pursue a further award variation.</li> </ul>
<b>Government and philanthropic funding</b> exceptions cover: <ol style="list-style-type: none"> <li>Charities and not-for-profit (subregs 2.15(7)-(8))</li> <li>Medical and health research (subreg 2.15(9))</li> <li>Public hospitals (sub reg 2.15(10)) where there is majority philanthropic funding with safeguards for all 3 to ensure the contract aligns with the duration of funding (up to a max of 5 years), with a total limit on consecutive contracts of 7 years.</li> </ol> <p>The charities and not-for-profit exception does not apply where funding relates to the Commonwealth Home Support Programme.</p>	<ul style="list-style-type: none"> <li>Stakeholders consider the legislated exception for government funded work is too uncertain given the lack of regularity in how grant funding is allocated.</li> <li>Exceptions in the Regulations were put in place to address significant stakeholder concerns about the impact of the limitations on the operation of charities and not-for-profits (including those associated with public hospitals) and medical research programs given the prevalence of employees on fixed term contracts because of the uncertain nature of funding arrangements.</li> <li>The need for these exceptions, even on a temporary basis, and their scope, was contested and changes were made to address concerns raised by union stakeholders.</li> <li>SJBP Review recognises that issues in sectors funded by government and philanthropy cannot easily be resolved through modern awards.</li> </ul>	<ul style="list-style-type: none"> <li>s 45(1)</li> <li>The previous Minister, Senator the Hon Murray Watt and the Minister for Finance, Senator the Hon Katy Gallagher, met with and wrote to s45(1) and relevant unions on this issue in November 2024.</li> </ul>	<ul style="list-style-type: none"> <li>s42(1) <ul style="list-style-type: none"> <li>In August 2024, 5.3% (105,300 employees) in the health care and social assistance sector were engaged on a fixed term contract (ABS, Characteristics of Employment).</li> </ul> </li> <li>s 47C(1)</li> </ul>

## Attachment F

### Overview of the fixed term contract framework

**The Fair Work Legislation Amendment (Secure Jobs, Better Pay) Act 2022 implemented the government's 2022 election commitment to limit the use of fixed term contracts.**

- The Fair Work Act 2009 (Fair Work Act) limits the use of fixed term contracts to 2 years (including renewals) or 2 consecutive contracts, whichever is shorter (s 333E).
- The limitation applies to contracts entered into after 6 December 2023 (the commencement date). However, any contract in place prior to the commencement of these reforms will count towards the limitation (subs 333E(4)).
- If the limit is breached, the contract end date has no effect and is considered a contract of permanent or ongoing employment (s 333G). The employee continues to be employed under the contract as either a full-time or part-time permanent or casual employee. Contravention of the limitations in s 333E is a civil remedy provision.
- An employer must not engage in conduct to avoid the limitation, such as terminating an employee's employment, delaying the reengagement of or not reengaging an employee or changing the nature of an employee's work, or otherwise alter an employment relationship (s 333H).
- Parties can refer disputes to the Fair Work Commission, including by consent arbitration (s 333L). The small claims jurisdiction is also available (s 548).
- The Fair Work Act also has a longstanding provision in the National Employment Standards that ensures employers are not exempt from the obligation to pay redundancy pay and payment in lieu of notice entitlements at the end of an employee's fixed term contract, where the substantial reason for engaging the employee in such a manner is to avoid paying those entitlements (subs 123(2)).

**Consistent with the election commitment, the Fair Work Act and Fair Work Regulations 2009 (Regulations) provide certain exceptions to the limitation where genuinely necessary and appropriate.**

- The exceptions in the Fair Work Act are intended to apply across a range of employment relationships, for example for tasks involving specialised skills or for essential work during a peak demand period (see [here](#) for full text of s 333F).
- The Regulations provide time-limited exceptions for organised and high performance sports, higher education, charities and not-for-profits, medical or health research and public hospitals (reg 2.15; see [here](#) for full text of current regulations), which expire on 31 October 2025.
- The intent of these Regulations is to allow parties to progress discussions regarding the ongoing use of fixed term contracts within their sectors.
- A separate regulation (reg 2.14) sets out how the high income threshold is calculated for the purpose of that exception in the Fair Work Act (para 333F(1)(e)).

### **Fixed Term Contract Information Statement**

- The Fair Work Ombudsman has published a Fixed Term Contract Information Statement, which employers are required to give to employees when they are offered a new contract of employment that is for a fixed term (s 333J).
- The Statement assists employers and employees to understand the limitations on the use of fixed term contracts, and any obligations or rights that arise because of the improper use of fixed term contracts.

## Attachment G

### **Key ABS data on employees on fixed term contracts (*Characteristics of Employment, August 2024*)**

#### **512,300 employees (4.2% of all employees) are working on fixed term contracts**

This share is above 4% for the first time since 2016.

In August 2024:

- **31.6%** of all employees on fixed term contracts (161,600) had been **with their employer for over two years**.
- More than half (**54.4%**) of employees engaged on fixed term contracts were **women**.
- 72.4% of employees engaged on fixed term contracts were employed **full-time**.
- 21.1% of employees engaged on fixed term contracts were **casual employees**.
- The bulk of employees engaged on fixed-term contracts worked in **Education and training** (26.9%), **Health care and social assistance** (20.5%) and **Public administration and safety** (15.3%).

#### *Rolling fixed term contracts*

- As of August 2024, 20.8% of employees on fixed term contracts (106,500) **were long-term workers on rolling fixed-term contracts** (had been with their employer for over 2 years and contract length was 2 years or less). (ABS, *Characteristics of Employment, August 2024*, unpublished Tablebuilder).

**Table: Incidence and share of employees engaged on fixed-term contracts by industry, August 2024**

Sector	Employees on a fixed term contract ('000)	Incidence of employees engaged on a fixed-term contract (%)	Share of employees engaged on a fixed-term contract (%)
<b>Education and training</b>	137.6	11.7%	26.9%
<b>Health care and social assistance</b>	105.3	5.3%	20.5%
<b>Public administration and safety</b>	78.3	8.1%	15.3%
<b>Professional, scientific and technical services</b>	34.2	3.4%	6.7%
<b>Financial and insurance services</b>	17.1*	3.4%	3.3%
<b>Construction</b>	16.4	1.9%	3.2%
<b>Arts and recreation services</b>	16.3	7.9%	3.2%
<b>Retail trade</b>	15.5	1.3%	3.0%
<b>Administrative and support services</b>	13.8	4.5%	2.7%
<b>Mining</b>	11.2*	4.3%	2.2%

**Source:** ABS, *Characteristics of Employment, August 2024*.

**Notes:** Due to data limitations, numbers for some industries have been suppressed but are represented in totals.

\*Data has a relative standard error of 25% to 50% and should be used with caution.

Totals may not equal sum of components due to rounding.

#### **Data and analysis from the Secure Jobs, Better Pay Review**

- ABS data shows decline in fixed term contracts between 2022 to 2023 and an increase in 2024
  - August 2022: there were 383,300 fixed term employees (3.4% of all employees)
  - August 2023: this went down to 339,800 (2.9% of all employees)
  - August 2024: this increased to 512,300 (4.2% of all employees), representing an increase of 129,000 fixed term employees (or 33%) since August 2022.

**Source:** ABS *Working Arrangements, August 2024*

- The Review Report notes marked decline in use of fixed term contracts between 2022 and 2023, particularly among women employed full-time and men employed part-time.
- Regarding the 2024 increase, the Report states 'There may be many explanations for this increase, including the anticipation of the limited additional exceptions [...] coming to an end' (p 241).
- By August 2024, the number of full-time employees engaged on fixed term contracts was nearly 50% higher than levels recorded in 2014.

**Attachment H****Secure Jobs, Better Pay Review - Fixed term contracts - Key points**

In relation to fixed term contracts, the Secure Jobs, Better Pay Review Report found that:

- There is **little consensus** among stakeholders on the appropriate way forward. Unions support strengthening the limitation and narrowing exceptions, while employers seek repeal or further, clearer exceptions (p 269).
- Strong stakeholder perceptions about '**uncertainties and ambiguities** created by the exceptions and extensions have potentially undermined the intended effect of the legislation in the short term' (p 270).
- The 'timing and certainty of **government funding arrangements** were a recurring issue raised throughout consultations' (p 271). Workplace relations settings must complement broader government funding settings (i.e. the grants and procurement framework) (p 272).
- It is appropriate to 'draw a line in the sand' with stakeholders and **progress a final approach for managing the framework**, rather than a 'piecemeal' approach (p 271).
- Stakeholders should work **collaboratively** to reach agreed solutions. To this end, there is merit in a short, final period of consultation to identify targeted improvements (p 271).

s 22(1)

- 'The process for **additional exceptions in the Fair Work Regulations should become the option of last resort**' (p 271), or used in circumstances where there is no clear award pathway. Where regulations are appropriate, they should be made for longer periods to provide certainty or to permit other processes to unfold (p 271).
- The design of the framework provides **opportunities for establishing industry or occupation-specific conditions in modern awards**, particularly where solutions cannot be achieved collaboratively (p 270).

In submissions to the Secure Jobs, Better Pay Review:

- Stakeholders called for the following exceptions to be made permanent or expanded:
  - organised and high-performance sport s11C(1)(b)
  - the s11C(1)(b) wanted the sports exception expanded to other roles
  - charities and not-for-profits s11C(1)(b)
- Stakeholders suggested new exceptions for the:
  - retail industry s11C(1)(b)
  - on-hire industry s11C(1)(b)
  - creative industry s11C(1)(b)
- Employer representatives, including the s11C(1)(b), called for the limitation to be repealed entirely.
  - In the alternative, employer representatives argued for the limitations and exceptions more readily applicable in practice arguing that they have caused confusion and anxiety for employers s11C(1)(b)
  - s11C(1)(b) suggested increasing the threshold (e.g. 4 years and 3 renewals).

**Attachment H**

- Conversely, unions sought to strengthen the limitation, and to clarify and reduce the exceptions s11C(1)(b)
- The uncertainty of government funding was raised by employer and union/employee stakeholders including the s11C(1)(b)



To **Minister for Employment and Workplace Relations**

Action Required **For Decision**

## Text Approval for Consultation – Fair Work Amendment (Fixed Term Contracts) Regulations 2025

**Timing** Please action **by close of business, Monday, 15 September 2025** to allow consultation with the Committee on Industrial Legislation (CoIL) and others on the exposure draft in the week commencing 15 September 2025.

**Recommendations:**

1. That you **approve** the exposure draft of the Fair Work Amendment (Fixed Term Contracts) Regulations 2025 (proposed regulations) at **Attachment A**.  
**Approved / Not approved / Please discuss**
2. s 47C(1)

**Agreed / Not Agreed / Please discuss**

3. That you **agree** to the department consulting the Committee on Industrial Legislation, state and territory officials and other stakeholders as set out at **Attachment B** on the proposed regulations in the form approved at either recommendation 1 or 2 in the week commencing 15 September 2025 with further details of the consultation to be agreed with your office.

**Agreed / Not Agreed / Please discuss**

4. That you **agree** the department settle any further minor and technical changes with your office prior to consultation.

**Agreed / Not Agreed / Please discuss**

**Minister Rishworth**

**Date:** / /2025

**Comments:**

Clearing Officer s22(1)

Signature \_\_\_\_\_

\_\_\_\_\_ 8 / 09 / 2025

s22(1) 

Deputy Secretary, Workplace Relations

Mob: s22(1)

Contact Officer

s22(1)  
First Assistant Secretary  
| ECD | Employment Conditions  
Division  
Ph: s22(1)  
Mob: s22(1)

**Executive summary:**

1. The draft regulations reflect your decisions on 7 August 2025 (**MS25-000310** refers), stakeholder feedback and discussions with your office on a preferred approach. In line with this, the proposed regulations would:
  - a. make the sport exception permanent, without any changes (subregs 2.15(1) to (4) of the Fair Work Regulations 2009 (Fair Work Regulations))
  - b. end the higher education exception (subreg 2.15(6) of the Fair Work Regulations)
  - c. s 47C(1)
  - d. end the public hospital exception (subreg 2.15(10) of the Fair Work Regulations).
2. s 47C(1)

**Key Points:**Higher Education, Sports and Public Hospitals Exceptions

3. On 7 August 2025, you agreed to end the higher education exception (**MS25-000310** refers). The department expects stakeholders in this sector will have anticipated this outcome. In the future, they will likely rely on the award exception in paragraph 333F(1)(h) of the *Fair Work Act 2009* (Fair Work Act), following recent variations to awards in this sector on the use of fixed term contracts.
4. On 7 August 2025, you also agreed to make the sports exception permanent s45(1)

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<sup>1</sup> s45(1)

5. The proposed regulation would also end the public hospitals exception. This exception has limited scope. It covers a limited range of activities in public hospitals that are philanthropically funded but not directly provided by charities. Further, the Fair Work Act only applies to employees of public hospitals where the employer is not a State or a State entity, for example, where the employer is a religious organisation.

6. s 45(1)

Although we do not have specific information about the revenue base of public hospitals, it is reasonable to assume that they have a sufficient revenue base to make provision for the limited amount of redundancy pay that may flow from the regulation ceasing.

7. s 45(1)

8. Given the limited scope of the regulation and the lack of evidence of significant impacts of the expiry of this regulation, the department considers it open to you to allow the regulation to expire, subject to any feedback on impacts from the outcome of this consultation.

Contracts supported by government and philanthropic funding in the charities and health and medical research sectors

9. In line with your decision on 7 August 2025 and in consultation with your office, the department has consulted with employer and union representatives in the sectors covered by the current exceptions, as well as relevant government stakeholders (see stakeholder list at Attachment B (MS25-000310 refers). A detailed summary of stakeholder views is at Attachment C).
10. Through these consultations the department has not been able to identify an agreed pathway forward for the sectors.

*Recommended option: extend the exception by 12 months and narrow the scope of the regulations in the charities and health and medical research sectors*

11. In the absence of an agreed pathway forward, the department recommends that you extend the exception for the charities and health and medical research sectors by 12 months. In consultation with your office, the department has been exploring options to narrow the scope of the regulations in the charities and health and medical research sectors, to ensure those falling within the scope of the exception are organisations that have less flexibility to absorb the impact of the regulation ending.
12. The charities sector (across all sizes) identified 2 key concerns if the exceptions were to expire – provisioning for redundancy pay if fixed term employees were required to be engaged as permanent staff (which was seen as a particular issue for smaller entities), and misalignment between engaging an employee on an ongoing contract when their position is supported by often short-term rolling funding arrangements.

## 13. s 47C(1)

14. The annual revenue classifications from the ACNC annual report and the corresponding workforce data in the charities sector are as follows.

Charity Size	Annual Revenue	Percentage of the charity sector workforce	Average number of employees by headcount (as calculated by the department)
Extra Small	less than \$50,000	0.6%	0.44
Small	\$50,000 to less than \$500,000	2.0%	2.05
Medium	\$500,000 to less than \$3 million	6.0%	12.67
Large	\$3 mil to less than \$10 million	8.4%	46.16
Very Large	\$10 million to less than \$100 million	32.6%	209.54
Extra Large	more than \$100 million	50.0%	2734.99

*Impact on the charity sector*

## 15. s 47C(1)

Small businesses are exempt from paying redundancy under the Fair Work Act (section 121(1)(b)) and so would not need to provision for redundancy in any event.

## 16. s 47C(1)

<sup>2</sup> Note that some ACNC reporting is provided at a group level, which accounts for approximately 2.3% of all registered charities. The ACNC allows some groups of registered charities to submit one Annual Information Statement and financial report. As the individual entities comprising these groups are not included in ACNC's reporting data, it is possible that the proposed regulation could apply to a slightly higher proportion of the charities sector workforce.

*Impact on the health and medical research sector*

17. The current regulation for health and medical research institutions does not cover universities.

While data are not as readily available in this sector, based on a sample provided by s

45

(1)

The sector has indicated it is under significant financial strain and notes that grant funding does not cover the full cost of medical research, covering only an estimated 63 cents for every \$1 spent on research.

18. s 47C(1)

19. Narrowing the scope of the regulations is not without risk, including:

- a. The department does not have sufficient evidence to determine with certainty the appropriate level at which to set the annual revenue limit. Using an annual revenue figure means there will be some large charities that are also small businesses that would not fall within the regulation. These organisations would not need to provision for redundancy, so the impact is expected to be limited.
- b. It does not address the underlying problem of uncertain and short-term funding arrangements in the sectors and there is potential for reduction of services provided by funded entities, in response to the need to provision for redundancy. This may, in turn, lead to pressure for government to meet the costs of redundancy or accept a lower level of service delivery.
- c. There is the potential for organisations to restructure their arrangements to ensure they fall below the limit, although the likelihood of this may be mitigated by the short duration of the proposed extension.

s 47C(1)

20. s 47C(1)

21. s 47C(1)

22. It is also open to you to take a more cautious approach by setting the annual revenue at a higher level, and we have provided a summary of the available data at Attachment D.

s22(1)

#### Consultation – next steps

24. The Commonwealth is required to consult with state and territory officials on all amendments to the Fair Work Regulations in accordance with the *Intergovernmental Agreement for a National Workplace Relations System for the Private Sector* (IGA). Under agreed terms of reference, the Commonwealth also consults with the CoIL on draft changes to the Fair Work Regulations. Consultations focus on technical rather than policy issues.
25. There are very tight timeframes in which to develop the proposed regulations before the current regulations expire on 31 October 2025. The department proposes to consult CoIL, state and territory officials and other relevant stakeholders by email (on the papers) in the week commencing 15 September 2025.
26. Following consultation, the department will refine the proposed regulations in consultation with your office and then seek your urgent approval of the final text of the regulations no later than 7 October 2025 to ensure the regulations can be considered at the Executive Council meeting on 16 October 2025.
27. This approach is subject to the proposed regulations not being substantially amended after consultation. If substantive changes are required, the department will settle next steps with your office, including possibly seeking agreement to delay consideration of the regulations to a later Federal Executive Council meeting in October 2025. The associated risks of this approach are detailed in paragraph 36 below.

#### **Public Sensitivities:**

28. Employer and industry representatives are likely to oppose narrowing the scope of the charities and not-for-profit and medical and health research exceptions regardless of the turnover threshold determined. These stakeholders are likely to approach the Opposition and crossbench with their concerns.

**Consultation: Yes**

29. The department has conducted targeted in-confidence consultation with unions and employer stakeholders on the proposed approach to the regulations, noting the findings of the final report of the review of the *Fair Work Legislation Amendment (Secure Jobs Better Pay) Act 2022*, which was publicly released on 14 August 2025 (MS25-000310 refers). See also Attachment E for case studies provided by stakeholders during consultation.
30. The department will consult on an exposure draft of the proposed regulations with Coll, state and territory officials and others as appropriate in accordance with the IGA.
31. s 22(1)

**Legal advice / Legislative impacts:**

s42(1)

33. If substantive changes to the proposed regulations are required after consultation, there is a risk they may not be ready by the following key dates:
  - a. final papers must be lodged by 7 October 2025
  - b. Federal Executive Council will consider the regulations on 16 October 2025.
34. The Federal Executive Council Handbook states the Governor-General will only consider requests for late items to be submitted to the Executive Council on a written request from the Prime Minister.
35. There is one further Executive Council meeting in October, on 30 October 2025. Following approval at the Executive Council meeting, the Office of Parliamentary Council requires 2 full working days to register instruments, however advance arrangements can be made for urgent cases. s 42(1)

**Financial impacts:**

36. N/A

**Stakeholder Implications:**

37. Concerns about the interaction of the fixed term contracts framework and government funding arrangements have been consistently raised by stakeholders since the introduction of the limitations, including from service providers in this portfolio represented by the National Employment Services Association.

38. Stakeholders' viewpoints are entrenched and unlikely to change. Employers will continue to seek exceptions on a permanent basis, particularly those in sectors reliant on government funding. Unions consider existing exceptions in both the Act and Regulations should be limited as they undermine the government's secure jobs agenda.

**Attachments:**

- A:** Exposure Draft – Fair Work Amendment (Fixed Term Contracts) Regulations 2025
- B:** Stakeholders involved in Consultation on the Proposed Regulations
- C:** Summary of Stakeholder Views
- D:** Fixed Term Contract Regulations – Data
- E:** Fixed Term Contract Regulations – Case Studies

# Attachment B – Stakeholders involved in consultation on Fair Work Amendment (Fixed Term Contracts) Regulations 2025



Charities	<ul style="list-style-type: none"><li>• s45(1)</li><li>• Australian Council of Trade Unions</li><li>• Australian Council of Social Services</li><li>• s45(1)</li><li>• Live Performance Australia</li><li>• Australian Charities and Not-for-profits Commission</li><li>• Department of Treasury</li><li>• Department of Finance</li><li>• Department of Social Services</li></ul>	Sports	<ul style="list-style-type: none"><li>• s45(1)</li><li>• Australian Council of Trade Unions</li><li>• Office for Sport (Infrastructure)</li><li>• Australian Sports Commission</li></ul>
Public Hospitals	<ul style="list-style-type: none"><li>• s45(1)</li><li>• Australian Council of Trade Unions</li><li>• s45(1)</li><li>• Australian Nursing and Midwifery Federation</li><li>• s45(1)</li><li>• Victorian Government WR Officials</li><li>• Australian Capital Territory WR Officials</li><li>• Northern Territory WR Officials</li></ul>	Higher Education	<ul style="list-style-type: none"><li>• s45(1)</li><li>• Australian Council of Trade Unions</li><li>• s45(1)</li><li>• Department of Education</li></ul>
Medical Research	<ul style="list-style-type: none"><li>• s45(1)</li><li>• Australian Council of Trade Unions</li><li>• s45(1)</li><li>• Australian Nursing and Midwifery Federation</li></ul>		

**Consultation on fixed term contract exceptions under Fair Work Regulations – Summary of stakeholder views**

**GENERAL SUMMARY**

**Charity and not-for-profit sector**

- Broad agreement among stakeholders that uncertainty and short-term nature of government funding arrangements a key issue for sector. This is an ongoing issue that has been recognised by government.
- s45(1)

**Medical or health research sector**

- As with charity and not-for-profit sector, broad agreement funding uncertainty is a key issue.
- Some research institutes have significant resources (including universities and major institutes s11C(1)(b) ) while smaller institutes have limited accumulated financial reserves.
- s45(1)



### **Fixed term contract regulations – Data**

#### **Discussion**

The following data has been gathered by the Department of Employment and Workplace Relations from both independent sources (the Australian Bureau of Statistics (ABS) and the Australian Charities and Not-for-Profits Commission (ACNC)) and stakeholders in the charity and not-for-profit and medical or health research sectors.

#### Key ACNC data

The ACNC measures the size of charities based on total annual revenue.<sup>1</sup> Revenue is defined as income received by a charity when undertaking its ordinary activities (for example government funding or donations and bequests).<sup>2</sup> Charity size is ranked by the ACNC in the following way:

<b>Charity size</b>	<b>Total revenue</b>
Extra small	Less than \$50,000
Small	\$50,000 or more but less than \$500,000
Medium	\$500,000 or more but less than \$3 million
Large	\$3 million or more but less than \$10 million
Very large	\$10 million or more but less than \$100 million
Extra large	\$100 million or more

From the ACNC Annual Charities Report 11th Edition (2023), p. 9.

According to the ACNC, charities employ a total of 1,539,175 employees. A full breakdown of employee numbers by charity size is provided below.

<b>Charity size</b>	<b>No. of employees</b>	<b>No. of employees (cumulative)</b>
Extra small	9,073	9,073
Small	31,396	40,469
Medium	93,853	134,322
Large	130,042	264,364
Very large	501,647	766,011
Extra large	755,823	1,521,834
Unknown	17,341	1,539,175

From the ACNC Annual Charities Report 11th Edition (2023), p. 21.

Note that not-for-profit research institutes (including medical or health research) are classified as charities by the ACNC. The ACNC does not distinguish these institutes from other charities in its annual reporting.

#### Charities and not-for-profits

Charities provide a range of services across multiple industries. According to the ACNC, 20.3 per cent of all charities are involved in religion and faith-based spirituality. Other activities include human services (15.7 per cent), education (15.1 per cent), health (11.3 per cent) and community development (9.4 per cent).<sup>3</sup> Each of these categories appears to fall within two of

<sup>1</sup> ACNC, *Annual Charities Report 11th Edition* (2023), p. 9.

<sup>2</sup> ACNC, *Annual Charities Report 11th Edition* (2023), p. 24.

<sup>3</sup> ACNC, *Annual Charities Report 11th Edition* (2023), p.17.

the three industries cited by the ABS as employing the bulk of employees on fixed term contracts: Education and training and Health care and social assistance.<sup>4</sup>

s45(1)

#### *Smaller charities*

In relation to revenue and employment, there appears to be a significant divide between smaller and larger charities, as demonstrated by the above tables. Despite representing more than 30 per cent of entities reporting to the ACNC annually, extra small (annual revenue of less than \$50,000) charities generated only 0.1 per cent of the sector's total revenue.<sup>6</sup>

Smaller charities are more reliant on donations and bequests (i.e. philanthropic funding) than government funding, with donations and bequests making up 40 per cent of revenue for extra small charities and 37.7 per cent of revenue for small charities.<sup>7</sup> Government grants, on the other hand, only made up 8.1 per cent of revenue for extra small charities and 16.5 per cent of revenue for small charities.<sup>8</sup>

On average, smaller to medium charities employ fewer staff, with 88.4 per cent of extra small charities and 52.8 per cent of small charities employing no staff.<sup>9</sup> DEWR analysis of ACNC's 2023 reporting data (based on self-reports by charities) has estimated that charities employ the following number of employees on average:

<b>Charity size</b>	<b>Average no. of employees</b>
Extra small	0.44
Small	2.05
Medium	12.67
Large	46.16
Very large	209.54
Extra large	2734.99

s45(1)

It should also be noted that a small business employer is recognised under the *Fair Work Act 2009* as employing fewer than 15 employees.

Although revenue sources may be more precarious for smaller charities, particularly those relying primarily on philanthropic funding, charities of this size may be the least impacted by the expiry of the charity and not-for-profit exception under the Fair Work Regulations 2009 (the Regulations). This is because many extra small, small and medium sized charities would

<sup>4</sup> ABS, *Characteristics of Employment, August 2024*

<sup>5</sup> HumanAbility is a Jobs and Skills Council funded by the department.

<sup>6</sup> ACNC, *Annual Charities Report 11th Edition* (2023), p. 25.

<sup>7</sup> ACNC, *Annual Charities Report 11th Edition* (2023), p. 31

<sup>8</sup> ACNC, *Annual Charities Report 11th Edition* (2023), p. 30.

<sup>9</sup> ACNC, *Annual Charities Report 11th Edition* (2023), p. 21.

employ fewer than 15 employees, and therefore would be exempt from the obligation to provide redundancy pay under the National Employment Standards.

*Larger charities*

Although extra large charities represent just 0.5 per cent of Australian charities, they account for 56 per cent of the sector's total revenue.<sup>10</sup> ACNC data also indicates that extra large charities employ a total of 755,823 staff – around half of the sector's workforce.

Given their significantly higher revenue, extra large charities may be better resourced to respond to the expiry of the charity and not-for-profit exception under the Regulations. That is, these charities may be more able to provision for potential redundancy costs arising from a requirement to employ an increased number of staff on a permanent basis.

If a decision is made to temporarily extend the charity and not-for-profit exception, the above data may support a decision to narrow the scope of the exception to exclude charities at the larger end of the ACNC classifications.

*Summary Table*

<b>Charity Size</b>	<b>Annual Revenue</b>	<b>Percentage of the charity sector workforce</b>	<b>Average number of employees by headcount (as calculated by DEWR)</b>
Extra Small	less than \$50,000	0.6%	0.44
Small	\$50,000 to less than \$500,000	2.0%	2.05
Medium	\$500,000 to less than \$3mil	6.0%	12.67
Large	\$3mil to less than \$10mil	8.4%	46.16
Very Large	\$10mil to less than \$100mil	32.6%	209.54
Extra Large	more than \$100mil	50.0%	2734.99

Note that some ACNC reporting is provided at a group level, which accounts for approximately 2.3 per cent of charities. The ACNC allows some groups of registered charities to submit one Annual Information Statement and financial report. As the individual entities comprising these groups are not included in the ACNC's reporting data, it is possible that the proposed regulation could apply to a slightly higher proportion of the charities sector workforce.

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<sup>10</sup> ACNC, *Annual Charities Report 11th Edition* (2023), p. 25.

Medical or health research

s45(1)

s45(1)


It is difficult to make strong inferences about the medical or health research sector due to the lack of specific data on revenue and staffing levels. Although many medical research institutes are not-for-profits, the ACNC does not distinguish these institutes from other charities in its annual reporting. It also does not appear that the relevant Commonwealth entities—s1  
1C publish comparable data.

### **Key ABS data on economy-wide fixed-term arrangements**

The following data has been taken from the ABS *Characteristics of Employment, August 2024* release.

- 512,300 employees (4.2 per cent of all employees) are working on fixed term contracts
- There were 236,700 employees (46.2 per cent) on fixed term contracts in their main job that had been employed with the same employer for more than 2 years
- More than half (54.4 per cent) of employees engaged on fixed term contracts were women
- 72.4 per cent of employees engaged on fixed term contracts were employed full-time
- 21.1 per cent of employees engaged on fixed term contracts were casual employees
- The bulk of employees engaged on fixed-term contracts worked in Education and training (26.9 per cent), Health care and social assistance (20.5 per cent) and Public administration and safety (15.3 per cent).

#### **Rolling fixed term contracts**

- As of August 2024, 20.8 per cent of employees on fixed term contracts (106,500) were long-term workers on rolling fixed-term contracts (had been with their employer for over 2 years and contract length was 2 years or less).

#### **Increase in use of fixed term contracts**

Data from the ABS *Working Arrangements, August 2024* release shows a decline in fixed term contracts between 2022 and 2023, and an increase in 2024. The final report of the Secure Jobs, Better Pay Review suggests that this could be due to employers' anticipation of exceptions under the Fair Work Regulations 2009 coming to an end.

- August 2022: there were 383,300 fixed term employees (3.4 per cent of all employees)
- August 2023: this went down to 339,800 (2.9 per cent of all employees)
- August 2024: this increased to 512,300 (4.2 per cent of all employees), representing an increase of 129,000 fixed term employees (or 33 per cent) since August 2022.

s47C(1)



Note on Household, Income and Labour Dynamics in Australia (HILDA) data

Although the HILDA survey measures characteristics of employees on fixed term contracts, it does not reliably estimate the number of employees on these contracts. For example:

- in the HILDA 2023-24 data, approximately 1,066,800 employees self-identified as fixed-term contractors
- in contrast, ABS Characteristics of Employment (August 2023) estimated that there were only 339,800 employees on fixed-term contracts in their main job.
  - The ABS is considered the authoritative source for employment statistics in Australia due to its rigorous methodology and alignment with international standards.

## Index of statistics related to relevant sectors

The following index catalogues all data gathered by the department or provided by stakeholders during the August 2025 round of consultation. This data has been considered by the department and has informed the Discussion section above.

### Charity and not-for-profit sector

#### ACNC

The following data has been taken from the 11th edition of the *Australian Charities Report* (2025), a yearly analysis of trends in the charity and not-for-profit sector published by the ACNC. These figures are based on information that registered charities provided to the ACNC in their Annual Information Statements for 2023.

Charity size	No. of employees	No. of employees (cumulative)
Extra small	9,073	9,073
Small	31,396	40,469
Medium	93,853	134,322
Large	130,042	264,364
Very large	501,647	766,011
Extra large	755,823	1,521,834
Unknown	17,341	1,539,175

- Charities employed 10.7 per cent of Australia's workforce (1.54 million employees).
- 88.4 per cent of extra small charities and 52.8 per cent of small charities had no employees, whereas this was much lower for medium (17.4 per cent), large (9.1 per cent), very large (5.3 per cent) and extra large (1.8 per cent) charities.
- Total revenue from government (including grants) was \$107,493 million (48.4 per cent of the sector's revenue).
- Small charities were least reliant on government funding (extra small: 8.1 per cent; small: 16.5 per cent of total revenue), while larger charities were more reliant (large: 44.1 percent; very large: 46.7 percent; extra large: 51.8 per cent of total revenue).
- Smaller charities were more likely to rely on donations and bequests to operate – donations comprised around 40 per cent of the extra small charities' revenue compared to slightly more than 8 per cent for large charities.

s45(1)





To **Minister for Employment and Workplace Relations**

Action Required **For Decision**

## **Final text approval of the Fair Work Amendment (Fixed Term Contracts) Regulations 2025**

**Timing** Please action **by 12pm on Monday, 20 October 2025**. Final documents are due to be lodged with the Federal Executive Council Secretariat by close of business on 20 October 2025 to enable consideration at the 30 October 2025 Federal Executive Council meeting.

**Recommendations:**

1. That you **sign** the Fair Work Amendment (Fixed Term Contracts) Regulations 2025 (proposed regulations) (**Attachment A**) (**please do not date**).

**Signed / Not signed / Please discuss**

2. That you **approve** the Explanatory Statement of the Fair Work Amendment (Fixed Term Contracts) Regulations 2025 (**Attachment B**) (**please do not sign or initial**).

**Approved / Not approved / Please discuss**

3. That you **initial** the bottom right-hand corner of each page of the Explanatory Memorandum of the Fair Work Amendment (Fixed Term Contracts) Regulations 2025 (**including each page of its attachment**) (**Attachment C**).

**Initialled / Not initialled / Please discuss**

4. That you **sign** the Federal Executive Council Minute recommending the Governor-General make the proposed regulations (**Attachment D**).

**Signed / Not signed / Please discuss**

5. That you **note** the summary of stakeholder feedback at **Attachment E**.

**Noted / Please discuss**

6. That you **agree** to the insertion of new subregulations 2.15(7A) and 2.15(9A) s45(1) that relevant entities that are part of a larger corporate group whose total annual revenue exceeds the threshold should be taken individually to exceed that threshold.

**Agreed / Not Agreed / Please discuss**

7. That you **sign** the letters to relevant ministers with responsibility for the relevant sectors covered by the existing exceptions (**Attachment F - M**).

**Signed / Not signed / Please discuss**

8. That you **agree** to the department settling the approach to advise key employer and union stakeholders of the proposed regulations with your office.

**Approved / Not approved / Please discuss**

**Minister Rishworth**

**Date:** / /2025

**Comments:**

<u>Clearing Officer</u> s22(1)	<u>Contact Officer</u> s22(1) Senior Executive Lawyer (a/g)   WR   Workplace Relations Legal Ph: s22(1) Mob: s22(1)
Signature _____ s22(1)   WR   Employment Conditions Division Ph: s22(1)   Mob: s22(1)	17 / 10 / 2025

### Executive summary:

1. This submission seeks your text approval of the Fair Work Amendment (Fixed Term Contracts) Regulations 2025 (proposed regulations) at **Attachment A** to submit to the Federal Executive Council (ExCo) for consideration at their meeting on 30 October 2025.
2. Accompanying documents, being the Explanatory Statement, Explanatory Memorandum, and Minute, are at **Attachments B to D** for your approval, initialling and signature, respectively. The Explanatory Statement will be published with the proposed regulations once made. The Explanatory Memorandum and Minute are considered by ExCo and are not published with the proposed regulations.
3. This submission also seeks your signature on letters to relevant Ministers (at **Attachments F – M**) who have responsibility for the relevant sectors covered by the existing exceptions.

### Key Points:

#### Proposed regulations

4. Section 333E of the *Fair Work Act 2009* (Fair Work Act) limits employers from using fixed term contracts that exceed 2 years or 2 contracts, whichever comes first. Section 333F provides exceptions for when the limitations will not apply, including where funding or contracts are prescribed by regulation.
5. The proposed regulations reflect your decision on 25 September 2025 (**MS25-000512** refers), Senator the Hon Don Farrell's decision on 3 October 2025 while acting Minister for Employment and Workplace Relations (**MS25-000761** refers), and stakeholder feedback following consultation. The proposed regulations would:
  - make ongoing the existing exceptions for organised sports and high-performance sports – international event organising bodies (subregulations 2.15(1) to (4))
  - repeal the current exceptions that apply to higher education sector and public hospitals following their expiry on 31 October 2025 (subregulations 2.15(6) and 2.15(10)),
  - extend the operation of the current exceptions for entities in the charities and not-for-profit, and medical or health research sectors by 12 months (to 1 November 2026), subject to the

relevant entity having a total annual revenue of less than \$10 million and \$100 million respectively (subregulations 2.15(7) and 2.15(9)), and

- provide that where the relevant entity is part of an approved reporting group within the meaning of the *Australian Charities and Not-for-profits Commission Act 2012* (ACNC Act) and the total annual revenue of the reporting group is above the respective thresholds, the relevant entity will also be taken to be above the threshold.

6. In particular, the approach for the proposed regulations outlined above seeks to balance feedback from:

- s47C(1)

s45(1)

- key employer stakeholders that affected industries require more time to progress longer-term solutions, such as an award variation or changes to government funding arrangements.

7. The insertion of the new requirement that the annual revenue for the relevant entity is taken to be above the threshold where it is part of a wider ACNC reporting group was developed in consultation with s22(1) [redacted], Director of Workplace Relations. This policy change carries some risks and assumptions. The department discussed these risks with your office.

8. In particular:

- The department does not have a full and accurate picture of the annual revenue of all entities that report as part of an ACNC reporting group.
- The presumption may capture charities with a small annual revenue and therefore a lower ability to provision for (or pay) for redundancy payments.
- It assumes that the relevant charitable entity can seek and rely on funding from other entities in the ACNC reporting group to provision for (or pay) redundancy payments when this is not the usual operation of separate legal entities.
- A relevant entity may rebut the presumption that its total annual revenue is that of the whole of the reporting group on the basis of evidence that would satisfy a reasonable person to that fact. The effect of this is that a relevant entity that can provide an individual financial report that shows its total annual revenue is under the threshold can access the exception.
- The link to the ACNC reporting group threshold could be avoided as entities can choose at any time to end their group reporting arrangement (and may choose to do so in response to the change).

- It will also likely be viewed by stakeholders as a substantive change from the exposure draft consulted on and may have the effect of removing from the scope of the regulation many more charities than intended under the approved policy parameters.

9. These risks are mitigated to some extent by the fact that the exception is only for 12 months, and that the presumption can be rebutted by the employer. The rationale for this approach would need to rely on arguments about ACNC reporting groups having the ability to seek relevant funding from entities in the group with high annual revenues.
10. Although the department does not recommend this change at this time, the instrument reflects the position agreed in consultation with your office to address s45(1) .

Request for early announcement of proposed regulations

11. In **MS25-000731**, acting Minister Farrell agreed that the department would write on your behalf to the Secretary to ExCo seeking approval to write to industry-specific stakeholders and relevant unions regarding an early announcement of the proposed regulations.
12. On 14 October 2025, the department wrote to the Secretary to ExCo seeking agreement from Her Excellency the Honourable Ms Sam Mostyn AC, Governor-General of the Commonwealth of Australia to an early announcement of the proposed regulations (**Attachment N**). The Governor-General gave approval for early announcement on 15 October 2025 (**Attachment O**).
13. The department seeks your signature to the letters at **Attachment F – M** and your agreement to work with your office to advise relevant employer and union stakeholders of your recommendation of the proposed regulations to the Governor-General.
14. The early announcement will also note the ongoing and continued engagement across government and with stakeholders over the next 12 months during the extension period for these exceptions to address intersecting issues of job security and the uncertainty of government funding to relevant sectors.

**Public Sensitivities:**

15. s45(1)

There have also been several requests for confirmation of the decision so that employers in affected sectors can be ready to transition to any new requirements imposed by the Proposed Regulations. There may be criticism and confusion from stakeholders even with an early announcement.

16. The approach for the proposed regulations does not completely resolve the tension between the government's commitments of secure work and fiscal responsibility, which is likely to be enduring.
17. The annual revenue presumption for reporting groups in the charities and not-for-profit and medical or health research sector exceptions has been added to the regulations following formal consultation. There may be criticism from stakeholders who were not formally consulted on this

change. They are likely to seek a clear explanation of why this presumption was added and is expected to work in practice.

**Consultation: Yes**

Targeted Policy Consultation

18. The department undertook targeted consultation with employer and union representatives in the sectors affected by the current exceptions, as well relevant government stakeholders (**MS25-000310** refers).

Text Consultation

19. In mid-September 2025, the department met with officials from the Department of Finance, Department of Health, and Department of Social Services at your request. s47C(1)

20. On 3 October 2025, acting Minister Farrell approved consultation with the Committee on Industrial Legislation, state and territory officials, Commonwealth agencies and other key industry stakeholders on an exposure draft of the proposed regulations (**MS25-000512** refers). The consultation was held on 8 October and the feedback received was relayed to s22(1) , Deputy Chief of Staff, of your office on 9 October.

21. Stakeholder feedback is set out in detail at Attachment E. s45(1)

22. On 16 October 2025, your office confirmed your decision to include a presumptive provision in the charities and not-for-profit and medical or health research sector exceptions following consultation across government s45(1)

**Legal advice / Legislative impacts:**

23. The current exceptions for all sectors expire on 31 October 2025. Your decision is required by 12 pm on Monday, 20 October 2025 to enable the department to lodge final documents with the ExCo Secretariat on the same day for consideration at the 30 October 2025 ExCo meeting.
24. The Governor-General will only consider requests for late items to be submitted to ExCo on written request from the Prime Minister.

25. Following approval at the ExCo meeting, the Office of Parliamentary Council typically requires 2 full working days to register instruments, however the department will make advance arrangements for urgent registration to ensure the proposed regulations commence on 1 November 2025.

s42(1)

**Financial impacts:**

27. Entities in the charities and not-for-profit, and medical or health research sectors with an annual revenue exceeding \$10 million and \$100 million respectively are excluded from the proposed regulation's scope. While some entities may seek government support to offset increased staffing costs, the high threshold reflects an assumption that these entities can absorb the impact without additional assistance.

**Stakeholder Implications:**

28. The residual underlying funding issues which stakeholders have raised are entrenched and cannot be resolved through the workplace relations system. The department will continue to work with relevant agencies, in particular the Department of Finance, Department of Health and Department of Social Services, regarding the interaction of funding arrangements and the limits on fixed term contracts.

**Attachments:**

- A:** Fair Work Amendment (Fixed Term Contracts) Regulations 2025
- B:** Explanatory Statement of the Fair Work Amendment (Fixed Term Contracts) Regulations 2025
- C:** Explanatory Memorandum of the Fair Work Amendment (Fixed Term Contracts) Regulations 2025
- D:** Federal Executive Council Minute in respect of the Fair Work Amendment (Fixed Term Contracts) Regulations 2025
- E:** Summary of Stakeholder Positions on the Exposure Draft
- F:** Letter to Senator the Hon Katy Gallagher, Minister for Finance (enclosure contained in Attachment F1)
- G:** Letter to the Hon Dr Andrew Leigh MP, Assistant Minister for Productivity, Competition, Charities and Treasure (enclosure contained in Attachment G1)
- H:** Letter to the Hon Dr Jim Chalmers MP, Treasurer (enclosure contained in Attachment H1)
- I:** Letter to the Hon Jason Clare MP, Minister for Education (enclosure contained in Attachment I1)

**J:** Letter to the Hon Annika Wells MP, Minister for Sport (enclosure contained in Attachment J1)

**K:** Letter to the Hon Tanya Plibersek MP, Minister for Social Services (enclosure contained in Attachment K1)

**L:** Letter to the Hon Mark Butler MP, Minister for Health and Ageing

**M:** Letter to Senator the Hon Malarndirri McCarthy, Minister for Indigenous Australians

**N:** Letter to the Secretary to the Federal Executive Council

**O:** Letter from the Federal Executive Council to the department



# **Fair Work Amendment (Fixed Term Contracts) Regulations 2025**

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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 2025

Sam Mostyn AC  
Governor-General

By Her Excellency's Command

Amanda Rishworth  
Minister for Employment and Workplace Relations

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## 1 Name

This instrument is the *Fair Work Amendment (Fixed Term Contracts) Regulations 2025*.

## 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.

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<b>Commencement information</b>		
<b>Column 1</b>	<b>Column 2</b>	<b>Column 3</b>
<b>Provisions</b>	<b>Commencement</b>	<b>Date/Details</b>
1. The whole of this instrument	1 November 2025.	1 November 2025

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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 Paragraph 2.15(1)(c)**

Repeal the paragraph, substitute:

- (c) the contract is entered into on or after 6 December 2023.

#### **2 Paragraph 2.15(3)(e)**

Repeal the paragraph, substitute:

- (e) the contract is entered into on or after 6 December 2023.

#### **3 Subregulation 2.15(6)**

Repeal the subregulation.

#### **4 After paragraph 2.15(7)(a)**

Insert:

- (aa) the total annual revenue of the relevant entity is less than \$10,000,000; and

#### **5 Paragraph 2.15(7)(g)**

Repeal the paragraph, substitute:

- (g) at the time the contract is entered into, the employee is not covered by either of the following modern awards:
  - (i) the *Higher Education Industry—Academic Staff—Award 2020*;
  - (ii) the *Higher Education Industry—General Staff—Award 2020*; and

#### **6 Paragraph 2.15(7)(h)**

Omit “the day this subregulation commences”, substitute “1 November 2024”.

#### **7 Paragraph 2.15(7)(i)**

Repeal the paragraph, substitute:

- (i) the contract is entered into:
  - (i) on or after 1 November 2024; and
  - (ii) before 1 November 2026.

#### **8 After subregulation 2.15(7)**

Insert:

- (7A) For the purposes of paragraph 2.15(7)(aa), if:

- (a) the relevant entity is part of a reporting group (within the meaning of the *Australian Charities and Not-for-profits Commission Act 2012*); and
- (b) the total annual revenue for the reporting group is \$10,000,000 or more for the most recent financial year (for which financial statements are available) to end before the person entered into the contract with the employee; the relevant entity’s total annual revenue is taken to be \$10,000,000 or more, unless the relevant entity provides evidence to the contrary that would satisfy a reasonable person.

**9 After paragraph 2.15(9)(a)**

Insert:

- (aa) the total annual revenue of the relevant entity is less than \$100,000,000;
- and

**10 Paragraph 2.15(9)(h)**

Repeal the paragraph, substitute:

- (h) at the time the contract is entered into, the employee is not covered by either of the following modern awards:
  - (i) the *Higher Education Industry—Academic Staff—Award 2020*;
  - (ii) the *Higher Education Industry—General Staff—Award 2020*; and

**11 Paragraph 2.15(9)(i)**

Omit “the day this subregulation commences”, substitute “1 November 2024”.

**12 Paragraph 2.15(9)(j)**

Repeal the paragraph, substitute:

- (j) the contract is entered into:
  - (i) on or after 1 November 2024; and
  - (ii) before 1 November 2026.

**13 After subregulation 2.15(9)**

Insert:

- (9A) For the purposes of paragraph 2.15(9)(aa), if:

- (a) the relevant entity is part of a reporting group (within the meaning of the *Australian Charities and Not-for-profits Commission Act 2012*); and
- (b) the total annual revenue for the reporting group is \$100,000,000 or more for the most recent financial year (for which financial statements are available) to end before the person entered into the contract with the employee;

the relevant entity’s total annual revenue is taken to be \$100,000,000 or more, unless the relevant entity provides evidence to the contrary that would satisfy a reasonable person.

**14 Subregulation 2.15(10)**

Repeal the subregulation (not including the note).

**15 In the appropriate position in Chapter 7**

Insert:

**Part 7-7—Amendments made by the Fair Work Amendment (Fixed Term Contracts) Regulations 2025****7.12 Application of amendments**

The amendments made by items 4 and 9 of Schedule 1 to the *Fair Work Amendment (Fixed Term Contracts) Regulations 2025* apply in relation to contracts entered into on or after 1 November 2025.

## **Explanatory Statement**

**Issued by the authority of the Minister for Employment and Workplace Relations**

***Fair Work Act 2009***

***Fair Work Amendment (Fixed Term Contracts) Regulations 2025***

### **Authority**

The *Fair Work Act 2009* (the Act) provides a balanced framework for cooperative and productive workplace relations that promotes national economic prosperity and social inclusion for all Australians. *The Fair Work Regulations 2009* (Principal Regulations) support matters of detail within the legislative framework contained in the Act.

Subsection 796(1) of the Act provides that the Governor-General may make regulations prescribing matters required or permitted by the Act to be prescribed, or necessary or convenient to be prescribed for carrying out or giving effect to the Act.

Section 333F of the Act provides, in part, that the Governor-General may make regulations prescribing exceptions that may apply to the limitations on fixed term contracts established by the Act.

As regulations made under the Act, the *Fair Work Amendment (Fixed Term Contracts) Regulations 2025* (Instrument) are specifically exempted from sunsetting pursuant to section 12 of the *Legislation (Exemptions and Other Matters) Regulations 2015*.

### **Purpose and Operation**

Sections 333E to 333L of the Act limit the use of fixed term contracts. The Act prohibits the use of fixed term contracts for the same role beyond 2 years or 2 consecutive contracts (whichever is shorter), including renewals. Section 333F of the Act provides principles-based exceptions for certain fixed term contracts to which the limitation will not apply. Section 333F also contains regulation making powers that allow for regulations to be made prescribing types of fixed term contracts to which the limitations do not apply.

The provisions are intended to promote job security for employees engaged under successive fixed term contracts, while allowing employers to continue to use fixed term contracts for legitimate purposes. The provisions commenced operation on 6 December 2023.

The purpose of Instrument is to amend the Principal Regulations to:

- make ongoing the existing exceptions for organised sports and high-performance sport - international event organising bodies, which applies to contracts entered into on or after 6 December 2023
- extend the operation of current exception in the charities and not-for profit, and medical or health research sectors by 12 months (to 1 November 2026), subject to the relevant entity having a total annual revenue of less than \$10 million and \$100 million respectively
- provide that relevant entities belonging to a reporting group that has a total annual revenue in excess of the threshold amount is taken to have the total annual revenue of the reporting group, unless the entity can demonstrate otherwise, and

- repeal the current exceptions from the fixed term provisions of the Act that apply to the higher education and public hospital sectors following their expiry on 31 October 2025.

These changes reflect the finding of the *Secure Jobs, Better Pay Review Report* (SJBP Review Report) that providing for exceptions in the Principal Regulations should be an option of last resort or for those circumstances where modern awards are not a solution. The Report recommended stakeholders should seek variations to modern awards to tailor the limitation on the use of fixed term contracts to their industry or occupation (Recommendation 17).

## **Commencement**

The whole of the Instrument commences on 1 November 2025.

## **Consultation**

The Department of Employment and Workplace Relations undertook consultation with key stakeholders in sectors who will be affected by the Instrument, the members of the Committee on Industrial Legislation (a subcommittee of the National Workplace Relations Consultative Council, established under the *National Workplace Relations Consultative Act 2002*), relevant Commonwealth agencies, and states and territories under the *Intergovernmental Agreement for a National Workplace Relations System for the Private Sector*.

## STATEMENT OF COMPATIBILITY WITH HUMAN RIGHTS

*Prepared in accordance with Part 3 of the Human Rights (Parliamentary Scrutiny) Act 2011*

### *Fair Work Amendment (Fixed Term Contracts) Regulations 2025*

The *Fair Work Amendment (Fixed Term Contracts) Regulations 2025* (Instrument) is compatible with the human rights and freedoms recognised or declared in the international instruments listed in section 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011*.

#### **Overview of the Instrument**

The Instrument amends the Fair Work Regulations 2009 (Principal Regulations) to:

- make ongoing the existing exceptions from the fixed term provisions of the *Fair Work Act 2009* (the Act) that apply to organised and high-performance sport - international event organising bodies, which apply to contracts entered into on or after 6 December 2023
- extend the operation of the current exceptions in the charities and not-for profit, and medical or health research sectors by 12 months (to 1 November 2026), subject to the relevant entity having a total annual revenue of less than \$10 million and \$100 million respectively
- provide that relevant entities belonging to a reporting group that has a total annual revenue in excess of the threshold amount is taken to have the total annual revenue of the reporting group, unless the entity can demonstrate otherwise, and
- repeal the exceptions from the fixed term provisions of the Act that apply to the higher education and public hospital sectors following their expiry on 31 October 2025.

#### **Human rights implications**

The Instrument engages the following rights:

- the right to the enjoyment of just and favourable conditions of work under Articles 6 and 7 of the *International Covenant on Economic Social and Cultural Rights* (ICESCR).

#### Right to work and rights in work

Article 6 of the ICESCR requires the State Parties to the Covenant to recognise the right to work and to take appropriate steps to safeguard this right. The United Nations Committee on Economic, Social and Cultural Rights has stated that the right to work in Article 6(1) encompasses the need to provide the worker with just and favourable conditions of work.

Article 7 of the ICESCR requires the State Parties to the Covenant to recognise the right of everyone to the enjoyment of just and favourable working conditions.

The Principal Regulations provide certain exceptions to the limitation on the use of fixed term contracts under the Act.

The Instrument amends the Principal Regulations to make ongoing the existing exception that applies to organised sport and high-performance sport - international event organising bodies. This is necessary because, there is no clear modern award pathway for appropriate and necessary industry specific arrangements to be provided for fixed term contracts for employers and employees. Making the exception ongoing promotes the right to just and favourable conditions of work by ensuring employers may use fixed term contracts for legitimate purposes while providing certainty to employees.

The Instrument repeals the exception for the higher education sector, which terminated on 31 October 2025. Extending the operation of this exception is not necessary or appropriate on the basis that applications to vary the *Higher Education Industry-Academic Staff-Award 2020* and *Higher Education Industry-General Staff-Award 2020* have concluded, and the Fair Work Commission's orders varying those awards took effect on 31 March 2025. The Instrument promotes just terms and conditions of employment by ensuring that exceptions to the Act are appropriate and fixed term contracts are only used where there is a genuine need.

The Instrument narrows the application of the exception available to employers in the charities and not-for profit, and medical or health research sectors to entities with a total annual revenue of less than \$10 million and \$100 million respectively. The Instrument also extends the current exceptions by 12 months (to 1 November 2026). These changes promote the right to just and favourable conditions of work by ensuring the availability of an exception to the protections in the Act to those employers with lower annual revenue and permitting additional time for parties in those sectors to reach agreement on appropriate and necessary amendments to relevant modern awards in relation to fixed term contracts consistent with the recommendations in the *Secure Jobs, Better Pay Review Report* (SJBP Review Report).

The Instrument repeals the exception that applies to the public hospitals sector. These changes promote the right to just and favourable conditions of work by ensuring more employees have access to secure work.

The Instrument balances the aim of providing secure and, where applicable, permanent work for employees with the uncertain nature of funding in these sectors. The employer bears the evidentiary burden to establish it is entitled to rely on an exception when entering into a fixed term contract that would otherwise not be permitted under the Act.

Where an employer enters into a fixed term contract in contravention of the limitations in the Act, and where no exception set out in the Act or Instrument applies, the employee is not deprived of their employment. Rather, the employment contract continues on foot as if the termination date in the contract is of no effect, and the employee would be entitled to notice of termination and redundancy pay under the Act (which are generally not available to employees employed under a fixed term contract).

As such, the Instrument facilitates just terms and conditions of employment, including by protecting the right of employees not to be unfairly deprived of work by ensuring that fixed term contracts are used only where subject to an exception and employees are otherwise entitled to the same rights and entitlements under the Act.

## **Conclusion**

The Instrument is compatible with human rights because it promotes the right to the enjoyment of just and favourable working conditions.

**The Hon. Amanda Rishworth MP, Minister for Employment and Workplace Relations**

***Fair Work Amendment (Fixed Term Contracts) Regulations 2025***

**EXPLANATION OF PROVISIONS**

**Section 1: Name**

1. This section states that the title of the Instrument is the *Fair Work Amendment (Fixed Term Contracts) Regulations 2025* (Instrument).

**Section 2: Commencement**

2. This section provides for the provisions of the Instrument to commence on 1 November 2025.

**Section 3: Authority**

3. This section provides that the Instrument is made under the *Fair Work Act 2009* (the Act).

**Section 4: Schedules**

4. This section provides that each item that is specified in a Schedule to the Instrument is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to the Instrument has effect according to its terms.

**Schedule 1 – Amendments**

***Fair Work Regulations 2009***

**Item [1] – Paragraph 2.15(1)(c)**

5. This item repeals and substitutes paragraph 2.15(1)(c) of the *Fair Work Regulations 2009* (Principal Regulations) to remove the expiry date for the exception for organised sport in subregulation 2.15(1). The effect of this is to make the operation of the exception ongoing.
6. This item would not otherwise change the operation of the exception. It would still apply to contracts between an employer and an employee, where the employee is employed to primarily perform in an organised sport as either an athlete, coach for an athlete, match official, or a performance support professional who directly works to support or assess an athlete or match official participating in an organised sport.

**Item [2] – Paragraph 2.15(3)(e)**

7. This item repeals and substitutes paragraph 2.15(3)(e) of the Principal Regulations to remove the expiry date for the exception for high-performance sport - international event organising bodies in subregulation 2.15(3) and make the operation of the exception ongoing.

8. This item does not otherwise change the operation of the exception in paragraph 2.15(3)(e). It continues to apply to contracts between an employer and an employee, where the employee is employed to directly support the administration or organisation of an international event for a high-performance sport.

**Item [3] – Subregulation 2.15(6)**

9. This item repeals the temporary exception to the limits on the use of fixed term contracts in the higher education sector in subregulation 2.15(6) of the Principal Regulations after its expiry on 31 October 2025.
10. This exception was inserted into the Principal Regulations by the *Fair Work Amendment (Fixed Term Contracts) Regulations 2023* to enable parties to reach agreement on and pursue variations to relevant modern awards clarifying where employers and employees may enter into fixed term contracts in reliance on the modern award exception set out at paragraph 333F(1)(h) of the Act.
11. Proceedings before the Fair Work Commission in those matters have now concluded. Variations to the *Higher Education Industry-Academic Staff-Award 2020* and *Higher Education Industry-General Staff-Award 2020* took effect on 31 March 2025. As such, it is not appropriate or necessary to extend the operation of subregulation 2.15(6).

**Item [4] – After paragraph 2.15(7)(a)**

**Item [9] – After paragraph 2.15(9)(a)**

12. Subregulations 2.15(7) and 2.15(9) of the Principal Regulations set out exceptions available to certain entities in the charities and not-for-profit and medical and health research sectors respectively. Items [4] to [13] make amendments to these exceptions, including by:
  - narrowing the application of the exceptions (items [4], and [9])
  - extending the duration of the exception (items [7] and [12])
  - providing for how a relevant entity's total annual revenue is to be determined, if it reports revenue to the Australian Charities and Not-for-profits Commission (ACNC) within a reporting group (items [8] and [13]), and
  - making minor and consequential amendments (items [5], [6], [10] and [11]).
13. As these amendments are mirrored in both subregulation 2.15(7) and (9), the items are dealt with together below.
14. Items [4] and [9] insert new paragraphs 2.15(7)(aa) and 2.15(9)(aa) to introduce an annual revenue threshold that limits the application of the exception to entities that:
  - in the charities and not-for-profit sector – have annual revenue of less than \$10 million, and
  - in the medical and health research sector – have an annual revenue of less than \$100 million.

15. The term ‘total annual revenue’ is not defined in the Instrument. It is intended to be interpreted according to its ordinary meaning, having regard to relevant financial reports and statements.
16. Depending on regulatory requirements applying to an organisation, these could include financial statements published in annual reports, prepared in accordance with the Australian Accounting Standards, or for charities, revenue reported to the Australian Charities and Not-for-profit Commission on an annual basis.
17. These documents are generally readily available, and it is anticipated that employers seeking to rely on the exception will be able to ascertain the entity’s annual revenue at the time the contract is to be entered into in order to satisfy themselves of the entity’s eligibility to do so.
18. Should a dispute arise, the employer relying on the exception bears the evidential burden of demonstrating it is permitted to rely on an exception to the limitation in section 333E of the Act (subsection 333F(4)).

**Item [5] – Paragraph 2.15(7)(g)**

**Item [10] – Paragraph 2.15(9)(h)**

19. These items repeal and substitute paragraphs 2.15(7)(g) and 2.15(9)(h) of the Principal Regulations to provide that, for the exceptions in subregulations 2.15(7) and 2.15(9) to apply to an entity, the employee with whom the entity is entering into a contract of employment must not be covered by the *Higher Education Industry-Academic Staff-Award 2020* or the *Higher Education Industry-General Staff-Award 2020*.
20. These items do not change the operation of the exceptions in subregulation 2.15(7) or 2.15(9), rather are consequential to the repeal of subregulation 2.15(6).

**Item [6] – Paragraph 2.15(7)(h)**

**Item [11] – Paragraph 2.15(9)(i)**

21. These items amend paragraphs 2.15(7)(h) and 2.15(9) of the Principal Regulations to make clear that the funding arrangement to which the contract relates must have come into effect after 1 November 2024, the date on which the exceptions provided by subregulations 2.15(7) and 2.15(9) were initially inserted into the Principal Regulations.
22. As the exceptions are being extended, this will assist the reader to determine from the face of the Principal Regulations whether the exception applies.

**Item [7] – Paragraph 2.15(7)(i)**

**Item [12] – Paragraph 2.15(9)(j)**

23. These items repeal and substitute paragraphs 2.15(7)(i) and 2.15(9)(j) of the Principal Regulations to extend the operation of the exception for the charities and not-for-profit

sector and medical and health research sector for 12 months, to include contracts that are entered into on or after 1 November 2024 and before 1 November 2026.

24. Including an express reference to the date from which the exception applies (rather than referring to ‘the day this subregulation commences’) as well as an end date is intended to assist the reader to determine from the face of the Principal Regulations whether the exception applies.
25. These amendments provide additional time to employer and employee representatives to consider a longer-term approach to fixed term contracts in the respective sectors, including by applying to the Fair Work Commission to vary modern awards.

#### **Item [8] – After subregulation 2.15(7)**

#### **Item [13] - After subregulation 2.15(9)**

26. These items insert new subregulations 2.15(7A) and 2.15(9A) to provide that, for the purposes of the total annual revenue specified in paragraphs 2.15(7)(aa) and 2.15(9)(aa), if:
  - a relevant entity is part of a reporting group within the meaning of the *Australian Charities and Not-for-profits Commission Act 2012* (ACNC Act), and
  - the total annual revenue reported in the most recently available financial statements of the group meets or exceeds the relevant threshold,the relevant entity is taken to exceed the threshold. The most recently available financial statement for the group is generally publicly available on the ACNC website, and that statement may relate to a previous financial year.
27. The relevant entity may rely on the exception if, at the time it seeks to enter into a fixed term contract with an employee, it can provide evidence that would satisfy a reasonable person that its total annual revenue is below the threshold.
28. The effect of this is to ensure that relevant entities that are part of a larger corporate structure that, as a whole, have a total annual revenue in excess of the relevant threshold in paragraphs 2.15(7)(aa) and 2.15(9)(aa) are deemed to share the total annual revenue of the reporting group.
29. ‘Reporting group’ has the meaning provided for under the ACNC Act. Subsection 60-95(1) of the ACNC Act provides that the Australian Charities and Not-for-profits Commissioner may approve entities to report annual revenue to the ACNC as a group.

#### **Item [14] – Subregulation 2.15(10)**

30. This item repeals the exception to the limits on fixed term contracts in public hospitals provided by subregulation 2.15(10) of the Principal Regulations. Employees of public hospitals can be engaged on fixed term contracts subject to the limitations in Division 5 of Part 2-9 of the Act and the Principal Regulations.

31. The note that appears at the bottom of regulation 2.15 is not repealed. This note makes clear that entitlements to redundancy pay and payment in lieu of notice still arise if an employee is engaged on a fixed term contract with the intention of avoiding those obligations (see subsection 123(2) of the Act).

**Item [15] – In the appropriate position in Chapter 7**

32. This item makes clear that the new annual revenue thresholds inserted by items [4] and [9] apply prospectively in relation to contracts entered into on or after 1 November 2025.

## **EXPLANATORY MEMORANDUM**

Minute No. 311 of 2025 – Minister for Employment and Workplace Relations

Subject - *Fair Work Act 2009*

*Fair Work Amendment (Fixed Term Contracts) Regulations 2025*

The proposed instrument would amend the *Fair Work Regulations 2009* to reflect the findings of the *Secure Jobs Better Pay Review Report* that providing for exceptions to the limits on fixed term contracts should be an option of last resort for those circumstances where modern awards are not a solution.

The *Fair Work Act 2009* (Act) provides a balanced framework for cooperative and productive workplace relations that promotes national economic prosperity and social inclusion for all Australians. The *Fair Work Regulations 2009* (the Principal Regulations) support matters of detail within the legislative framework contained in the Act.

Subsection 796(1) of the Act provides the Governor-General may make regulations prescribing matters required or permitted by the Act to be prescribed, or necessary or convenient to be prescribed for carrying out or giving effect to the Act.

Sections 333E to 333L of the Act provide for the limitation on the use of fixed term contracts, including provisions dealing with disputes and anti-avoidance. The Act prohibits the use of fixed term contracts for the same role beyond 2 years or 2 consecutive contracts (whichever is shorter), including renewals. Section 333F of the Act provides principles-based exceptions for certain fixed term contracts to which the limitation will not apply. Section 333F also contains regulation making powers that allow for regulations to be made prescribing exceptions to the limitations on certain fixed term contracts.

The provisions provide protections for employees engaged under successive fixed term contracts, while allowing employers to continue to use fixed term contracts for legitimate purposes. The provisions commenced operation on 6 December 2023.

The purpose of the *Fair Work Amendment (Fixed Term Contracts) Regulations 2025* (proposed Instrument) is to amend the Principal Regulations to:

- make ongoing the existing exceptions for organised sports and high-performance sport - international event organising bodies, which applies to contracts entered into on or after 6 December 2023
- extend the operation of current exceptions in the charities and not-for profit, and medical or health research sectors by 12 months (to 1 November 2026), subject to the relevant entity having a total annual revenue of less than \$10 million and \$100 million respectively
- provide that relevant entities belonging to a reporting group that has a total annual revenue in excess of the threshold amount is taken to have the total annual revenue of the reporting group, unless the entity can demonstrate otherwise, and
- repeal the current exceptions from the fixed term provisions of the Act that apply to the higher education and public hospital sectors following their expiry on 31 October 2025.

The proposed would amendments reflect the finding of the *Secure Jobs, Better Pay Review Report* (SJBP Review Report) that providing for exceptions in the Principal Regulation should be an option of last resort or for those circumstances where modern awards are not a solution. The Report recommended stakeholders should seek variations to modern awards to tailor the limitation on the use of fixed term contracts to their industry or occupation (Recommendation 17).

The Department of Employment and Workplace Relations (the department) undertook consultation with key stakeholders in sectors who would be affected by the proposed Instrument, the members of the Committee on Industrial Legislation (a subcommittee of the National Workplace Relations Consultative Council, established under the *National Workplace Relations Consultative Act 2002*), relevant Commonwealth agencies and states and territories pursuant to the *Intergovernmental Agreement for a National Workplace Relations System for the Private Sector*. Public consultation was not considered necessary. One amendment was made to the proposed Instrument as a result of consultation.

The Act specifies no conditions that need to be satisfied before the power to make the Instrument may be exercised.

The proposed Instrument would be a legislative instrument for the purposes of the *Legislation Act 2003*.

The proposed Instrument would commence on 1 November 2025. Details of the proposed Instrument are set out in the Attachment.

The Minute recommends that the Instrument be made in the form proposed.

Authority: Subsection 796(1) of the  
*Fair Work Act 2009*

## ATTACHMENT

### **Details of the proposed Fair Work Amendment (Fixed Term Contracts) Regulations 2025**

#### Section 1 – Name

This section would provide that the title of the Regulations is the Fair Work Amendment (Fixed Term Contracts) Regulations 2025 (Instrument).

#### Section 2 – Commencement

This section would provide for the Instrument to commence on 1 November 2025.

#### Section 3 – Authority

This section would provide that the Instrument is made under the *Fair Work Act 2009* (the Act).

#### Section 4 – Schedules

This section would provide that each item that is specified in a Schedule to the Instrument is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to the Instrument has effect according to its terms.

#### Schedule 1 – Amendments

##### ***Fair Work Regulations 2009***

###### **Item [1] – Paragraph 2.15(1)(c)**

This item would repeal and substitute paragraph 2.15(1)(c) of the *Fair Work Regulations 2009* (Principal Regulations) to remove the expiry date for the exception for organised sport in subregulation 2.15(1). The effect of this would be to make the operation of the exception ongoing.

This item would not otherwise change the operation of the exception. It would still apply to contracts between an employer and an employee, where the employee is employed to primarily perform in an organised sport as either an athlete, coach for an athlete, match official, or a performance support professional who directly works to support or assess an athlete or match official participating in an organised sport.

###### **Item [2] – Paragraph 2.15(3)(e)**

This item would repeal and substitute paragraph 2.15(3)(e) of the Principal Regulations to remove the expiry date for the exception for high-performance sport - international event organising bodies in subregulation 2.15(3) and make the operation of the exception ongoing.

This item would not otherwise change the operation of the exception in paragraph 2.15(3)(e). It would apply to contracts between an employer and an employee, where the employee is employed to directly support the administration or organisation of an international event for a high-performance sport.

### **Item [3] – Subregulation 2.15(6)**

This item would repeal the temporary exception to the limits on the use of fixed term contracts in the higher education sector in subregulation 2.15(6) of the Principal Regulations after its expiry on 31 October 2025.

This time-limited exception was inserted into the Principal Regulations by the Fair Work Amendment (Fixed Term Contracts) Regulations 2023 to enable parties to reach agreement on and pursue variations to relevant modern awards clarifying where employers and employees may enter into fixed term contracts in reliance on the modern award exception set out at paragraph 333F(1)(h) of the Act.

Proceedings before the Fair Work Commission in those matters have now concluded. Variations to the *Higher Education Industry-Academic Staff-Award 2020* and *Higher Education Industry-General Staff-Award 2020* took effect on 31 March 2025. As such, it is not appropriate or necessary to extend the operation of subregulation 2.15(6).

### **Item [4] – After paragraph 2.15(7)(a)**

### **Item [9] – After paragraph 2.15(9)(a)**

Subregulations 2.15(7) and 2.15(9) of the Principal Regulations set out exceptions available to certain entities in the charities and not-for-profit, and medical and health research sectors respectively. Items [4] to [13] would make amendments to these exceptions, including by:

- narrowing the application of the exceptions (items [4] and [9])
- extending the duration of the exception (items [7] and [12])
- providing for how a relevant entity's total annual revenue is to be determined, if it reports revenue to the Australian Charities and Not-for-profits Commission (ACNC) within a reporting group (items [8] and [13]), and
- making minor and consequential amendments (items [5], [6], [10] and [11]).

As these proposed amendments are mirrored in both subregulation 2.15(7) and (9), the items are dealt with together below.

Items [4] and [9] would insert new paragraphs 2.15(7)(aa) and 2.15(9)(aa) to introduce an annual revenue threshold that limits the application of the respective exceptions to entities that:

- in the charities and not-for-profit sector – have annual revenue of less than \$10 million, and
- in the medical and health research sector – have an annual revenue of less than \$100 million.

The term ‘total annual revenue’ would not be defined in the Instrument. It is intended to have its ordinary meaning, having regard to relevant financial reports and statements.

Depending on regulatory requirements applying to the relevant entity, these could include financial statements published in annual reports, prepared in accordance with the Australian Accounting Standards, or for registered charities and not-for-profit organisations, revenue reported to the ACNC on an annual basis.

These documents are generally readily available, and it is anticipated that employers seeking to rely on the exception would be able to ascertain the entity’s annual revenue at the time the contract is to be entered into in order to satisfy themselves of the entity’s eligibility to do so.

Should a dispute arise, the entity relying on the exception bears the evidential burden of demonstrating it is permitted to rely on an exception to the limitation in section 333E of the Act (subsection 333F(4)).

**Item [5] – Paragraph 2.15(7)(g)**

**Item [10] – Paragraph 2.15(9)(h)**

These items would repeal and substitute paragraphs 2.15(7)(g) and 2.15(9)(h) of the Principal Regulations to provide that, for the exceptions in subregulations 2.15(7) and 2.15(9) to apply to an entity, the employee with whom the entity is entering into a contract of employment must not be covered by the *Higher Education Industry-Academic Staff-Award 2020* or the *Higher Education Industry-General Staff-Award 2020*.

These items would not change the operation of the exceptions in subregulation 2.15(7) or 2.15(9), rather are consequential to the repeal of subregulation 2.15(6).

**Item [6] – Paragraph 2.15(7)(h)**

**Item [11] – Paragraph 2.15(9)(i)**

These items would amend paragraphs 2.15(7)(h) and 2.15(9)(i) of the Principal Regulations to make clear that the funding arrangement to which the contract relates must have come into effect after 1 November 2024, the date on which the exceptions provided by subregulations 2.15(7) and 2.15(9) were initially inserted in the Principal Regulations by the Fair Work Amendment (Fixed Term Contracts – Exceptions Measures) Regulations 2024.

As it is proposed that the exceptions would be extended, this is intended to assist the reader to determine from the face of the Principal Regulations whether the exception applies in particular circumstances.

**Item [7] – Paragraph 2.15(7)(i)**

**Item [12] – Paragraph 2.15(9)(j)**

These items would repeal and substitute paragraphs 2.15(7)(i) and 2.15(9)(j) of the Principal Regulations to extend the operation of the exception for the charities and not-for-profit sector and medical and health research sector for 12 months, to include contracts that are entered into on or after 1 November 2024 and before 1 November 2026.

Including an express reference to the date from which the exception applies (rather than referring to ‘the day this subregulation commences’) as well as an end date is intended to assist the reader to determine from the face of the Principal Regulations whether the exception applies.

These amendments would provide additional time to employer and employee representatives to consider a longer-term approach to fixed term contracts in the respective sectors, including by applying to the Fair Work Commission to vary modern awards.

**Item [8] – After subregulation 2.15(7)**

**Item [13] - After subregulation 2.15(9)**

These items would insert new subregulations 2.15(7A) and 2.15(9A) to provide that, for the purposes of the total annual revenue specified in paragraphs 2.15(7)(aa) and 2.15(9)(aa), if:

- a relevant entity is part of a reporting group within the meaning of the *Australian Charities and Not-for-profits Commission Act 2012* (ACNC Act), and
- the total annual revenue reported in the most recently available financial statements of the group meets or exceeds the relevant threshold,

the relevant entity is taken to exceed the threshold. The most recently available financial statement for the group is generally publicly available on the ACNC website, and that statement may relate to a previous financial year.

The relevant entity would be able to rely on the exception if it can provide evidence that would satisfy a reasonable person that its total annual revenue is below the threshold.

The effect of this would be to ensure that relevant entities that are part of a larger corporate structure that, as a whole, have a total annual revenue in excess of the relevant threshold in paragraphs 2.15(7)(aa) and 2.15(9)(aa) are deemed to share the total annual revenue of the reporting group.

‘Reporting group’ would have the meaning provided for under the ACNC Act. Subsection 60-95(1) of the ACNC Act provides that the Australian Charities and Not-for-profits Commissioner may approve entities to report annual revenue to the ACNC as a group.

**Item [14] – Subregulation 2.15(10)**

This item would repeal the exception to the limits on fixed term contracts in public hospitals provided by subregulation 2.15(10) of the Principal Regulations. Employees of public

hospitals can be engaged on fixed term contracts subject to the limitations in Division 5 of Part 2-9 of the Act and the Principal Regulations.

The note that appears at the bottom of regulation 2.15 would not be repealed. This note makes clear that entitlements to redundancy pay and payment in lieu of notice still arise if an employee is engaged on a fixed term contract with the intention of avoiding those obligations (see subsection 123(2) of the Act).

**Item [15] – In the appropriate position in Chapter 7**

This item would make clear that the new annual revenue thresholds inserted by items [4] and [9] apply prospectively in relation to contracts entered into on or after 1 November 2025.



## MINISTER FOR EMPLOYMENT AND WORKPLACE RELATIONS

Departmental No. 311 of 2025

### Minute Paper for the Executive Council

#### Subject

Executive Council  
Meeting No. .....

*Fair Work Act 2009*

*Fair Work Amendment (Fixed Term Contracts)  
Regulations 2025*

Approved in Council

.....  
Recommended for the approval of Her Excellency the Governor-General in Council that she make Regulations in the attached form.

Sam Mostyn AC  
Governor-General

.....  
Filed in the Records  
of the Council

.....  
Secretary to the Executive Council

Amanda Rishworth  
Minister for Employment and  
Workplace Relations





## The Hon Amanda Rishworth MP

Minister For Employment and Workplace Relations

MS25-000634

Senator the Hon Katy Gallagher  
Minister for Finance  
Parliament House  
CANBERRA ACT 2600

s22(1)

Dear Minister

Further to my letter of 21 August 2025 (**attached**), I am writing to provide you with an update on next steps for the temporary exceptions to the limitations on the use of fixed term contracts in the Fair Work Regulations 2009 (Regulations). Thank you to you and your department for your ongoing engagement in settling these exceptions ahead of their expiration on 31 October 2025.

As you are aware, the Regulations permit the use of fixed term contracts beyond the limits provided under the *Fair Work Act 2009* (Fair Work Act) for certain contracts made between employers and employees in the organised and high-performance sport, charity and not-for-profit, higher education, medical or health research and public hospital sectors.

I am pleased to advise that after extensive consultation the government proposes to put forward amendments to the Regulations, specifically, the exceptions to the fixed term contract limitations in the Fair Work Act, for consideration by the Federal Executive Council at their meeting on 30 October 2025.

If approved, these changes would commence on 1 November 2025, immediately after the current Regulations expire. The proposed amendments are informed by the findings of the recent Secure Jobs, Better Pay Review tabled in Parliament on 14 August 2025 and stakeholder feedback.

The proposed regulations, if approved by the Federal Executive Council, would amend the existing exceptions to:

- make ongoing the exceptions for organised sport and high-performance sport
- repeal the current exceptions for the higher education sector and public hospitals following their expiry on 31 October 2025, and

- extend the operation of the current exceptions for entities in both the charities and not-for-profit, and medical or health research sectors to 1 November 2026, subject to the relevant entity (or, if relevant, the reporting group to which the relevant entity is a member as approved by the Australian Charities and Not-for-profits Commission) having – or being taken to have – a total annual revenue of less than \$10 million and \$100 million respectively.

Consistent with the findings of the Secure Jobs, Better Pay Review stakeholders are encouraged to seek variations to modern awards to tailor the use of fixed term contracts to their industry or occupation (Recommendation 17).

s45(1)

I recognise that further work is required across government and with key stakeholders to monitor the impact of these regulations, if approved, including to understand the corporate relationships between entities, and to identify longer-term solutions. s22(1)

I will be ensuring that key industry stakeholders are provided with early announcement of proposed amendments and are informed of ongoing work and avenues of engagement to further consider the outcomes of the Secure Jobs, Better Pay Review, including though considering opportunities to improve the certainty of government funding.

My department is available to assist should stakeholders raise these matters directly with you, and officers will engage directly with relevant department officials to ensure a coordinated approach to intersecting priorities such as government funding. The relevant departmental contact is s22(1) , Director, National Employment Standards Policy. s22(1) is available at s22(1) [@dewr.gov.au](mailto:@dewr.gov.au) and on s22(1) .

Yours sincerely

Amanda Rishworth MP

/ /2025

Enc.



The Hon Amanda Rishworth MP

Minister For Employment and Workplace Relations

MS25-000310

Senator the Hon Katy Gallagher  
Minister for Finance  
Parliament House  
CANBERRA ACT 2600

Senator.Katy.Gallagher@aph.gov.au

Dear Minister

*katy*

I am writing to provide you with an update on the findings and recommendations of the independent Review of the *Fair Work Legislation Amendment (Secure Jobs, Better Pay) Act 2022* (SJBP Act), including those that relate to use of fixed term contracts in government-funded sectors.

The SJBP Act put in place limits on the use of fixed term contracts. There are legislated exceptions to these limits, including for contracts funded in whole or in part by government funding for a period of more than 2 years and there is no reasonable prospect of funding being renewed. Alongside the legislated exceptions, regulation 2.15 of the *Fair Work Regulations 2009* (Regulations) provides a number of temporary exceptions, including for the charities and not-for-profit sector, medical and health research and programs in connection with public hospitals. These exceptions expire on 31 October 2025. My department is consulting with stakeholders on next steps for the treatment of the current exceptions in regulation 2.15 in order to provide advice to me. I will ensure your office remains informed of the outcome of this consultation.

In considering longer-term strategies for managing the use of fixed term contracts in sectors where these exceptions apply, I am informed by the findings of the Review, which recommends that stakeholders seek variations to modern awards to tailor the limitations to their industry or occupation, with regulations used as a 'last resort.' It also recommends a short, final period of consultation to identify targeted improvements to the framework to make it more readily applicable in practice. **s22(1)**

**s22(1)**

The Review also notes the relevance of government funding and procurement processes in resolving concerns about fixed term contracts; issues which have been raised with Government by stakeholders, particularly those in the social and community services sector. **s22(1)**

I welcome your feedback on these developments and confirm my department is available to assist should stakeholders raise these matters directly with you. The relevant departmental contact is **s22(1)** , Assistant Secretary, Safety Net Policy Branch. **s22** is available at **s22(1)** [@dewr.gov.au](mailto:@dewr.gov.au) and on **s22(1)** .

I have also copied this letter to the Hon Tanya Plibersek MP, Minister for Social Services, to ensure she is apprised of these developments given the close working relationship her portfolio has operationally with relevant sectors.

Yours sincerely

A handwritten signature in black ink, appearing to read "Amanda Rishworth".

Amanda Rishworth MP

21/8/2025



**The Hon Amanda Rishworth MP**

**Minister For Employment and Workplace Relations**

MS25-000634

The Hon Dr Andrew Leigh MP  
Assistant Minister for Productivity, Competition, Charities and Treasury  
Parliament House  
CANBERRA ACT 2600

s22(1)

Dear Assistant Minister

Further to my letter to the Treasurer of 21 August 2025 to which you were copied (**attached**), I am writing to provide you with an update on next steps for the temporary exceptions to the limitations on the use of fixed term contracts in the Fair Work Regulations 2009 (Regulations). Thank you to you and your agency, the Australian Charities and Not-for-profits Commission, for your ongoing engagement in settling these exceptions ahead of their expiration on 31 October 2025.

As you are aware, the Regulations permit the use of fixed term contracts beyond the limits provided under the *Fair Work Act 2009* (Fair Work Act) for certain contracts made between employers and employees in the organised and high-performance sport, charity and not-for-profit, higher education, medical or health research and public hospital sectors.

I am pleased to advise that after extensive consultation the government proposes to put forward amendments to the Regulations, specifically, the exceptions to the fixed term contract limitations in the Fair Work Act, for consideration by the Federal Executive Council at their meeting on 30 October 2025.

If approved, these changes would commence on 1 November 2025, immediately after the current Regulations expire. The proposed amendments are informed by the findings of the recent Secure Jobs, Better Pay Review tabled in Parliament on 14 August 2025 and stakeholder feedback.

The proposed regulations, if approved by the Federal Executive Council, would amend the existing exceptions to:

- make ongoing the exceptions for organised sport and high-performance sport
- repeal the current exceptions for the higher education sector and public hospitals following their expiry on 31 October 2025, and

- extend the operation of the current exceptions for entities in both the charities and not-for-profit, and medical or health research sectors to 1 November 2026, subject to the relevant entity (or, if relevant, the reporting group to which the relevant entity is a member as approved by the Australian Charities and Not-for-profits Commission) having – or being taken to have – a total annual revenue of less than \$10 million and \$100 million respectively.

Consistent with the findings of the Secure Jobs, Better Pay Review, stakeholders are encouraged to seek variations to modern awards to tailor the use of fixed term contracts to their industry or occupation (Recommendation 17).

s45(1)

I recognise that further work is required across government and with key stakeholders to monitor the impact of these regulations, if approved, including to understand the corporate relationships between entities, and to identify longer-term solutions. s22(1)

I will be ensuring that key industry stakeholders are provided with an early announcement of proposed amendments and are informed of ongoing work and avenues of engagement to further consider the outcomes of the Secure Jobs, Better Pay Review, including though considering opportunities to improve the certainty of government funding.

My department is available to assist should stakeholders raise these matters directly with you, and officers will engage directly with relevant agency officials to ensure a coordinated approach to intersecting priorities such as government funding. The relevant departmental contact is s22(1) , Director, National Employment Standards Policy. s22(1) is available at s22(1) [@dewr.gov.au](mailto:@dewr.gov.au) and on s22(1) .

Yours sincerely

Amanda Rishworth MP

/ /2025

Enc.



**The Hon Amanda Rishworth MP**

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**Minister For Employment and Workplace Relations**

MS25-000634

The Hon Dr Jim Chalmers MP  
Treasurer  
Parliament House  
CANBERRA ACT 2600

s22(1)

Dear Treasurer

Further to my letter of 21 August 2025 (**attached**), I am writing to provide you with an update on next steps for the temporary exceptions to the limitations on the use of fixed term contracts in the Fair Work Regulations 2009 (Regulations). Thank you to you and your department for your ongoing engagement in settling amendments to these exceptions ahead of their expiration on 31 October 2025.

As you are aware, the Regulations permit the use of fixed term contracts beyond the limits provided under the *Fair Work Act 2009* (Fair Work Act) for certain contracts made between employers and employees in the organised and high-performance sport, charity and not-for-profit, higher education, medical or health research and public hospital sectors.

I am pleased to advise that after extensive consultation the government proposes to put forward amendments to the Regulations, specifically, the exceptions to the fixed term contract limitations in the Fair Work Act, for consideration by the Federal Executive Council at their meeting on 30 October 2025.

If approved, these changes would commence on 1 November 2025, immediately after the current Regulations expire. The proposed amendments are informed by the findings of the recent Secure Jobs, Better Pay Review tabled in Parliament on 14 August 2025 and stakeholder feedback.

The proposed regulations, if approved by the Federal Executive Council, would amend the existing exceptions to:

- make ongoing the exceptions for organised sport and high-performance sport
- repeal the current exceptions for the higher education sector and public hospitals following their expiry on 31 October 2025, and

- extend the operation of the current exceptions for entities in both the charities and not-for-profit, and medical or health research sectors to 1 November 2026, subject to the relevant entity (or, if relevant, the reporting group to which the relevant entity is a member as approved by the Australian Charities and Not-for-profits Commission) having – or being taken to have – a total annual revenue of less than \$10 million and \$100 million respectively.

Consistent with the findings of the Secure Jobs, Better Pay Review, stakeholders are encouraged to seek variations to modern awards to tailor the use of fixed term contracts to their industry or occupation (Recommendation 17).

s45(1)

I recognise that further work is required across government and with key stakeholders to monitor the impact of these regulations, if approved, including to understand the corporate relationships between entities, and to identify longer-term solutions. s22(1)

I will be ensuring that key industry stakeholders are provided with an early announcement of proposed amendments and are informed of ongoing work and avenues of engagement to further consider the outcomes of the Secure Jobs, Better Pay Review, including though considering opportunities to improve the certainty of government funding.

My department is available to assist should stakeholders raise these matters directly with you, and officers will engage directly with relevant department officials to ensure a coordinated approach to intersecting priorities such as government funding. The relevant departmental contact is s22(1) , Director, National Employment Standards Policy. s22(1) is available at s22(1) [@dewr.gov.au](mailto:@dewr.gov.au) and on s22(1) .

Yours sincerely

Amanda Rishworth MP

/ /2025

Enc.



The Hon Amanda Rishworth MP

Minister For Employment and Workplace Relations

MS25-000310

The Hon Dr Jim Chalmers MP  
Treasurer  
Parliament House  
CANBERRA ACT 2600

Jim.Chalmers.MP@aph.gov.au

Dear Treasurer

*Jim*

I am writing to provide you with an update on the findings and recommendations of the independent Review of the *Fair Work Legislation Amendment (Secure Jobs, Better Pay) Act 2022* (SJBP Act), including those that relate to use of fixed term contracts in government-funded sectors.

The SJBP Act put in place limits on the use of fixed term contracts. There are legislated exceptions to these limits. Alongside the legislated exceptions, regulation 2.15 of the *Fair Work Regulations 2009* (Regulations) provides a number of temporary exceptions, including for the charities and not-for-profit sector. These exceptions expire on 31 October 2025. My department is consulting with stakeholders on next steps for the treatment of the current exceptions in regulation 2.15 in order to provide advice to me. I will ensure your office remains informed of the outcome of this consultation.

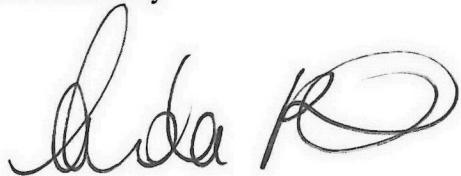
In considering longer-term strategies for managing the use of fixed term contracts in sectors where these exceptions apply, I am informed by the findings of the Review into the SJBP Act (the Review). It recommends that stakeholders seek variations to modern awards to tailor the limitations to their industry or occupation, with regulations used as a 'last resort.' It also recommends a short, final period of consultation to identify targeted improvements to the framework to make it more readily applicable in practice. **s22(1)**  
**s22(1)**

The Review also notes the relevance of government funding and procurement processes in resolving concerns about fixed term contracts; issues which have been raised with Government by stakeholders, including those in the charities and not-for-profit sector. **s22(1)**

I welcome your feedback on these developments and confirm my department is available to assist should stakeholders raise these matters directly with you. The relevant departmental contact is **s22(1)**, Assistant Secretary, Safety Net Policy Branch. **s22(1)** is available at **s22(1)** [@dewr.gov.au](mailto:@dewr.gov.au) and on **s22(1)**.

I have copied this letter to the Hon Dr Andrew Leigh MP, Assistant Minister for Productivity, Competition, Charities and Treasury.

Yours sincerely

A handwritten signature in black ink, appearing to read "Amanda Rishworth".

Amanda Rishworth MP

21/8/2025



**The Hon Amanda Rishworth MP**

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**Minister For Employment and Workplace Relations**

MS25-000634

The Hon Jason Clare MP  
Minister for Education  
Parliament House  
CANBERRA ACT 2600

s22(1)

Dear Minister

Further to my letter of 21 August 2025 (**attached**), I am writing to provide you with an update on next steps for the temporary exceptions to the limitations on the use of fixed term contracts in the Fair Work Regulations 2009 (Regulations). Thank you to you and your department for your ongoing engagement in settling amendments to these exceptions ahead of their expiration on 31 October 2025.

As you are aware, the Regulations permit the use of fixed term contracts beyond the limits provided under the *Fair Work Act 2009* (Fair Work Act) for certain contracts made between employers and employees in the organised and high-performance sport, charity and not-for-profit, higher education, medical or health research and public hospital sectors.

I am pleased to advise that after extensive consultation the government proposes to put forward amendments to the Regulations, specifically, the exceptions to the fixed term contract limitations in the Fair Work Act, for consideration by the Federal Executive Council at their meeting on 30 October 2025.

If approved, these changes would commence on 1 November 2025, immediately after the current Regulations expire. The proposed amendments are informed by the findings of the recent Secure Jobs, Better Pay Review tabled in Parliament on 14 August 2025 and stakeholder feedback.

The proposed regulations, if approved by the Federal Executive Council, would amend the existing exceptions to:

- make ongoing the exceptions for organised sport and high-performance sport
- repeal the current exceptions for the higher education sector and public hospitals following their expiry on 31 October 2025, and

- extend the operation of the current exceptions for entities in both the charities and not-for-profit, and medical or health research sectors to 1 November 2026, subject to the relevant entity (or, if relevant, the reporting group to which the relevant entity is a member as approved by the Australian Charities and Not-for-profits Commission) having – or being taken to have – a total annual revenue of less than \$10 million and \$100 million respectively.

Consistent with the findings of the Secure Jobs, Better Pay Review stakeholders are encouraged to seek variations to modern awards to tailor the use of fixed term contracts to their industry or occupation (Recommendation 17). As I have noted previously, higher education stakeholders have access to a viable modern award pathway to resolve any issues with the use of fixed term contracts in their sector and have had the opportunity to canvas these issues before the Fair Work Commission.

I do recognise that further work is required across government and with key stakeholders to monitor the impact of these regulations in relation to the charities and medical research sectors, s22(1)

I will be ensuring that key industry stakeholders are provided with early announcement of proposed amendments and are informed of ongoing work and avenues of engagement to further consider the outcomes of the Secure Jobs, Better Pay Review.

My department is available to assist should stakeholders raise these matters directly with you, s22(1)

relevant departmental contact is s22(1) The  
Policy. s22(1) is available at s22(1) , Director, National Employment Standards  
@dewr.gov.au and on s22(1) .

Yours sincerely

Amanda Rishworth MP

/ /2025

Enc.



The Hon Amanda Rishworth MP

Minister For Employment and Workplace Relations

MS25-000310

The Hon Jason Clare MP  
Minister for Education  
Parliament House  
CANBERRA ACT 2600

Jason.Clare.MP@aph.gov.au

Dear Minister *Jason*

I am writing to provide you with an update on the findings and recommendations of the independent Review of the *Fair Work Legislation Amendment (Secure Jobs, Better Pay) Act 2022* (SJBP Act) that relate to use of fixed term contracts.

The SJBP Act put in place limits on the use of fixed term contracts. Alongside a range of legislated exceptions to these limitations, regulation 2.15 of the *Fair Work Regulations 2009* (Regulations) provides a number of temporary exceptions which expire on 31 October 2025, including for higher education.

In considering longer-term strategies for managing the use of fixed term contracts in sectors where these exceptions apply, I am informed by the findings of the Review. It recommends that stakeholders seek variations to modern awards to tailor the limitations to their industry or occupation, with regulations used as a 'last resort'. It also recommends a short, final period of consultation to identify targeted improvements to the framework to make it more readily applicable in practice. **s22(1)**

As higher education stakeholders have access to a viable modern award pathway and have had an opportunity to canvass relevant issues before the Fair Work Commission, I am minded to permit the higher education exception in the Regulations to lapse. This is consistent with the recommendations of the Review and with the underlying policy intention of these reforms (that parties pursue issues by applying to the Fair Work Commission to vary the relevant awards).

**s22(1)**

I welcome your feedback on these developments and confirm my department is available to assist should stakeholders raise these matters directly with you. The relevant departmental contact is s22(1) [REDACTED], Assistant Secretary, Safety Net Policy Branch. s22 [REDACTED] is available at s22(1) [REDACTED] [@dewr.gov.au](mailto:@dewr.gov.au) and on s22(1) [REDACTED]

Yours sincerely

A handwritten signature in black ink, appearing to read "Amanda Rishworth".

Amanda Rishworth MP

21/8/2025



**The Hon Amanda Rishworth MP**

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**Minister For Employment and Workplace Relations**

MS25-000634

The Hon Anika Wells MP  
Minister for Sport  
Parliament House  
CANBERRA ACT 2600

[Anika.Wells.MP@aph.gov.au](mailto:Anika.Wells.MP@aph.gov.au)

Dear Minister

Further to my letter of 21 August 2025 (**attached**), I am writing to provide you with an update on next steps the temporary exceptions to the limitations on the use of fixed term contracts in the Fair Work Regulations 2009 (Regulations). Thank you to you and your agency, the Australian Sports Commission, for your ongoing engagement in settling amendments to these exceptions ahead of their expiration on 31 October 2025.

As you are aware, the Regulations permit the use of fixed term contracts beyond the limits provided under the *Fair Work Act 2009* (Fair Work Act) for certain contracts made between employers and employees in the organised and high-performance sport, charity and not-for-profit, higher education, medical or health research and public hospital sectors.

I am pleased to advise that after extensive consultation the government proposes to put forward amendments to the Regulations, specifically, the exceptions to the fixed term contract limitations in the Fair Work Act, for consideration by the Federal Executive Council at their meeting on 30 October 2025.

If approved, these changes would commence on 1 November 2025, immediately after the current Regulations expire. The proposed amendments are informed by the findings of the recent Secure Jobs, Better Pay Review tabled in Parliament on 14 August 2025 and stakeholder feedback.

The proposed regulations, if approved by the Federal Executive Council, would amend the existing exceptions to:

- make ongoing the exceptions for organised sport and high-performance sport
- repeal the current exceptions for the higher education sector and public hospitals following their expiry on 31 October 2025, and

- extend the operation of the current exceptions for entities in both the charities and not-for-profit, and medical or health research sectors to 1 November 2026, subject to the relevant entity (or, if relevant, the reporting group to which the relevant entity is a member as approved by the Australian Charities and Not-for-profits Commission) having – or being taken to have – a total annual revenue of less than \$10 million and \$100 million respectively.

Consistent with the findings of the recent Secure Jobs, Better Pay Review stakeholders (other than in the sports sector) are encouraged to seek variations to modern awards to tailor the use of fixed term contracts to their industry or occupation (Recommendation 17).

I will be ensuring that key industry stakeholders are provided with early announcement of proposed amendments and are informed of ongoing work and avenues of engagement to further consider the outcomes of the Secure Jobs, Better Pay Review.

My department is available to assist should stakeholders raise these matters directly with you. The relevant departmental contact is s22(1) , Director, National Employment Standards Policy. s22(1) is available at s22(1) [@dewr.gov.au](mailto:@dewr.gov.au) and on s22(1) .

Yours sincerely

Amanda Rishworth MP

/ /2025

Enc.



**The Hon Amanda Rishworth MP**

**Minister For Employment and Workplace Relations**

MS25-000310

The Hon Anika Wells MP  
Minister for Sport  
Parliament House  
CANBERRA ACT 2600

[Anika.Wells.MP@aph.gov.au](mailto:Anika.Wells.MP@aph.gov.au)

Dear Minister

A handwritten signature in black ink that appears to read 'Anika'.

I am writing to provide you with an update on the findings and recommendations of the independent Review of the *Fair Work Legislation Amendment (Secure Jobs, Better Pay) Act 2022* (SJBP Act) that relate to use of fixed term contracts.

The SJBP Act put in place limits on the use of fixed term contracts. Alongside a range of legislated exceptions to these limitations, regulation 2.15 of the *Fair Work Regulations 2009* provides a number of temporary exceptions, including for organised and high-performance sports. This exception expires on 31 October 2025.

I am writing to advise that I intend to recommend to Her Excellency the Governor-General the exception for the sports sector be made permanent to provide certainty. My proposed approach is informed by the findings of the Review which noted the gaps in modern awards coverage for employees in the sports sector. Given this, there is currently no clear pathway for the use of fixed term contracts to be regulated by modern awards for relevant employees engaged in organised and high-performance sports. Stakeholders may wish to consider issues of award coverage for these employees going forward.

I consider the proposed approach will enable Australia to remain competitive on the world stage and continue to attract high profile international sporting events. I note it is the approach sought by stakeholders, including the Australian Sports Commission, the Brisbane Olympic Organising Committee and the Coalition of Major Professional and Participation Sports.

The SJBP Act Review also recommends a short, final period of consultation to identify targeted improvements to the fixed term contracts legislative framework to make it more readily applicable in practice. **s22(1)**

I welcome your feedback on this proposal and confirm my department is available to assist should stakeholders raise these matters directly with you. The relevant departmental contact is s22(1) [REDACTED], Assistant Secretary, Safety Net Policy Branch. s22 [REDACTED] is available at s22(1) [@dewr.gov.au](mailto:@dewr.gov.au) and on s22(1) [REDACTED].

Yours sincerely

A handwritten signature in black ink, appearing to read "Amanda Rishworth".

Amanda Rishworth MP

21/8/2025



**The Hon Amanda Rishworth MP**

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**Minister For Employment and Workplace Relations**

MS25-000634

The Hon Tanya Plibersek MP  
Minister for Social Services  
Parliament House  
CANBERRA ACT 2600

s22(1)

Dear Minister

Further to my letter to Senator the Hon Katy Gallagher, Minister for Finance, of 21 August 2025, to which you were copied (**attached**), I am writing to provide you with an update on next steps for the temporary exceptions to the limitations on the use of fixed term contracts in the Fair Work Regulations 2009 (Regulations). Thank you to you and your department for your ongoing engagement in settling amendments to these exceptions ahead of their expiration on 31 October 2025.

As you are aware, the Regulations permit the use of fixed term contracts beyond the limits provided under the *Fair Work Act 2009* (Fair Work Act) for certain contracts made between employers and employees in the organised and high-performance sport, charity and not-for-profit, higher education, medical or health research and public hospital sectors.

I am pleased to advise that after extensive consultation the government proposes to put forward amendments to the Regulations, specifically, the exceptions to the fixed term contract limitations in the Fair Work Act, for consideration by the Federal Executive Council at their meeting on 30 October 2025.

If approved, these changes would commence on 1 November 2025, immediately after the current Regulations expire. The proposed amendments are informed by the findings of the recent Secure Jobs, Better Pay Review tabled in Parliament on 14 August 2025 and stakeholder feedback.

The proposed regulations, if approved by the Federal Executive Council, would amend the existing exceptions to:

- make ongoing the exceptions for organised sport and high-performance sport

- repeal the current exceptions for the higher education sector and public hospitals following their expiry on 31 October 2025, and
- extend the operation of the current exceptions for entities in both the charities and not-for-profit, and medical or health research sectors to 1 November 2026, subject to the relevant entity (or, if relevant, the reporting group to which the relevant entity is a member as approved by the Australian Charities and Not-for-profits Commission) having – or being taken to have – a total annual revenue of less than \$10 million and \$100 million respectively.

Consistent with the findings of the Secure Jobs, Better Pay Review, stakeholders are encouraged to seek variations to modern awards to tailor the use of fixed term contracts to their industry or occupation (Recommendation 17).

s45

I recognise that further work is required across government and with key stakeholders to monitor the impact of these regulations, if approved, including to understand the corporate relationships between entities, and to identify longer-term solutions. s22(1)

I will be ensuring that key industry stakeholders are provided with early announcement of proposed amendments and are informed of ongoing work and avenues of engagement to further consider the outcomes of the Secure Jobs, Better Pay Review, including though considering opportunities to improve the certainty of government funding.

My department is available to assist should stakeholders raise these matters directly with you, and officers will engage directly with relevant department officials to ensure a coordinated approach to intersecting priorities such as government funding. The relevant departmental contact is s22(1) , Director, National Employment Standards Policy. s22(1) is available at s22(1) [@dewr.gov.au](mailto:@dewr.gov.au) and on s22(1) .

Yours sincerely

Amanda Rishworth

/ /2025

Enc.



## The Hon Amanda Rishworth MP

Minister For Employment and Workplace Relations

MS25-000634

The Hon Mark Butler MP  
Minister for Health and Ageing  
Parliament House  
CANBERRA ACT 2600

s22(1)

Dear Minister

I am writing to provide you with an update on next steps for the temporary exceptions to the limitations on the use of fixed term contracts in the Fair Work Regulations 2009 (Regulations). Thank you to you and your department for your ongoing engagement in settling amendments to these exceptions ahead of their expiration on 31 October 2025.

In order to address job insecurity, the *Fair Work Legislation Amendment (Secure Jobs, Better Pay) Act 2022* put in place limits on the use of fixed term contracts for the same role to two years or two consecutive contracts (whichever is shorter). Alongside a number of legislated exceptions to these limitations under the *Fair Work Act 2009* (Fair Work Act), temporary regulations were put in place to permit the use of fixed term contracts beyond the prescribed limits for certain contracts made between employers and employees in the organised and high-performance sport, charity and not-for-profit, higher education, medical or health research and public hospital sectors.

I am pleased to advise that after extensive consultation the government proposes to put forward amendments to the Regulations, specifically, the exceptions to the fixed term contract limitations in the Fair Work Act, for consideration by the Federal Executive Council at their meeting on 30 October 2025.

If approved, these changes would commence on 1 November 2025, immediately after the current Regulations expire. The proposed amendments are informed by the findings of the recent Secure Jobs, Better Pay Review tabled in Parliament on 14 August 2025 and stakeholder feedback.

The proposed regulations, if approved by the Federal Executive Council, would amend the existing exceptions to:

- make ongoing the exceptions for organised sport and high-performance sport

- repeal the current exceptions for the higher education sector and public hospitals following their expiry on 31 October 2025, and
- extend the operation of the current exceptions for entities in both the charities and not-for-profit, and medical or health research sectors to 1 November 2026, subject to the relevant entity (or, if relevant, the reporting group to which the relevant entity is a member as approved by the Australian Charities and Not-for-profits Commission) having – or being taken to have – a total annual revenue of less than \$10 million and \$100 million respectively.

Consistent with the findings of the Secure Jobs, Better Pay Review stakeholders are encouraged to seek variations to modern awards to tailor the use of fixed term contracts to their industry or occupation (Recommendation 17).

I recognise that further work is required across government and with key stakeholders to monitor the impact of these regulations, if approved, including to understand the corporate relationships between entities, and to identify longer-term solutions. s22(1)

I will be ensuring that key industry stakeholders are provided with early announcement of proposed amendments and are informed of ongoing work and avenues of engagement to further consider the outcomes of the Secure Jobs, Better Pay Review, including though considering opportunities to improve the certainty of government funding.

My department is available to assist should stakeholders raise these matters directly with you, and officers will engage directly with relevant department officials to ensure a coordinated approach to intersecting priorities such as government funding. The relevant departmental contact is s22(1) , Director, National Employment Standards Policy. s22(1) is available at s22(1) [@dewr.gov.au](mailto:@dewr.gov.au) and on s22(1) .

Yours sincerely

Amanda Rishworth MP

/ /2025



## The Hon Amanda Rishworth MP

### Minister For Employment and Workplace Relations

MS25-000634

Senator the Hon Malarndirri McCarthy  
Minister for Indigenous Australians  
Parliament House  
CANBERRA ACT 2600

s22(1)

Dear Minister

I am writing to provide you with an update on next steps for the temporary exceptions to the limitations on the use of fixed term contracts in the Fair Work Regulations 2009 (Regulations). Thank you to you and your agency, the National Indigenous Australians Agency, for your ongoing engagement in settling amendments to these exceptions ahead of their expiration on 31 October 2025.

In order to address job insecurity, the *Fair Work Legislation Amendment (Secure Jobs, Better Pay) Act 2022* put in place limits on the use of fixed term contracts for the same role to two years or two consecutive contracts (whichever is shorter). Alongside a number of legislated exceptions to these limitations under the *Fair Work Act 2009* (Fair Work Act), temporary regulations were put in place to permit the use of fixed term contracts beyond the prescribed limits for certain contracts made between employers and employees in the organised and high-performance sport, charity and not-for-profit, higher education, medical or health research and public hospital sectors.

I am pleased to advise that after extensive consultation the government proposes to put forward amendments to the Regulations, specifically, the exceptions to the fixed term contract limitations in the Fair Work Act, for consideration by the Federal Executive Council at their meeting on 30 October 2025.

If approved, these changes would commence on 1 November 2025, immediately after the current Regulations expire. The proposed amendments are informed by the findings of the recent Secure Jobs, Better Pay Review tabled in Parliament on 14 August 2025 and stakeholder feedback.

The proposed regulations, if approved by the Federal Executive Council, would amend the existing exceptions to:

- make ongoing the exceptions for organised sport and high-performance sport
- repeal the current exceptions for the higher education sector and public hospitals following their expiry on 31 October 2025, and
- extend the operation of the current exceptions for entities in both the charities and not-for-profit, and medical or health research sectors to 1 November 2026, subject to the relevant entity (or, if relevant, the reporting group to which the relevant entity is a member as approved by the Australian Charities and Not-for-profits Commission) having – or being taken to have – a total annual revenue of less than \$10 million and \$100 million respectively.

Consistent with the findings of the Secure Jobs, Better Pay Review, stakeholders are encouraged to seek variations to modern awards to tailor the use of fixed term contracts to their industry or occupation (Recommendation 17).

s45(1)

I recognise that further work is required across government and with key stakeholders to monitor the impact of these regulations, if approved, including to understand the corporate relationships between entities, and to identify longer-term solutions. s22(1)

I will be ensuring that key industry stakeholders are provided with early announcement of proposed amendments and are informed of ongoing work and avenues of engagement to further consider the outcomes of the Secure Jobs, Better Pay Review, including though considering opportunities to improve the certainty of government funding.

My department is available to assist should stakeholders raise these matters directly with you, and officers will engage directly with relevant agency officials to ensure a coordinated approach to intersecting priorities such as government funding. The relevant departmental contact is s22(1) , Director, National Employment Standards Policy. s22(1) is available at s22(1) [@dewr.gov.au](mailto:@dewr.gov.au) and on s22(1) .

Yours sincerely

Amanda Rishworth MP

/ /2025



Deputy Secretary  
s22(1)

The Secretary  
Federal Executive Council  
Department of the Prime Minister and Cabinet  
One National Circuit  
BARTON ACT 2600

Dear Secretary

I am writing on behalf of the Hon Amanda Rishworth MP, Minister for Employment and Workplace Relations, to seek agreement from Her Excellency the Honourable Ms Sam Mostyn AC, Governor-General of the Commonwealth of Australia to an early announcement of the government's intention to put forward the *Fair Work Amendment (Fixed Term Contracts) Regulations 2025* (proposed regulations) for consideration by the Federal Executive Council at their meeting on 30 October 2025.

The proposed regulations would amend the *Fair Work Regulations 2009* (Fair Work Regulations) to repeal or amend exceptions to the use of fixed term contracts in certain circumstances from 1 November 2025.

As the current exceptions are due to expire one day after the Federal Executive Council meeting on 30 October 2025, there is an imperative to provide as much advance notice to affected stakeholders as possible. This will mitigate the risk of further uncertainty and enable industry representatives to support any transition for their sectors resulting from the new regulations. The department has received numerous requests from stakeholders as to the approach to the proposed regulations from 1 November 2025.

If approved, the Minister would write to relevant portfolio Ministers and work with the department to write to affected industry stakeholders that the proposed regulations are to be put before the Governor General at the 30 October 2025 meeting of the Federal Executive Council. The relevant industries include charities, health and medical research, sports, higher education and public hospitals. Recipients of the correspondence will be asked to treat the correspondence confidentiality on a need-to-know basis within their organisations and memberships.

The proposed announcement would cover the following:

**Proposed amendments to the Fair Work Regulations – fixed term contracts**

After extensive stakeholder consultation, the government proposes to put forward amendments to the Fair Work Regulations for consideration by the Federal Executive Council at its meeting on 30 October 2025.

The proposed regulations would amend the Fair Work Regulations, specifically, the exceptions to the fixed term contract limitations in the *Fair Work Act 2009*. If approved, these changes will commence on 1 November 2025, immediately after the current Fair Work Regulations expire. The proposed regulations are informed by the findings of the recent *Secure Jobs, Better Pay Review* tabled in Parliament on 14 August 2025 and stakeholder feedback.

The proposed regulations, if approved, are expected to amend existing exceptions to:

- make ongoing the exceptions for organised sport and high-performance sport
- repeal the current exceptions for the higher education sector and public hospitals following their expiry on 31 October 2025, and
- extend the operation of the current exceptions for entities in both the charities and not-for-profit, and medical or health research sectors to 1 November 2026, subject to having a total annual revenue of less than \$10 million and \$100 million respectively.

Thank you for considering the Minister's request. I confirm this department is available to assist with any questions about this request. The relevant departmental contact is s22(1) [redacted], acting Senior Executive Lawyer, Employment Standards and Institutions Branch.

It would be of great assistance if you were able to respond by 16 October 2025 to support urgent briefing to the Minister for Employment and Workplace Relations on the early announcement and to support stakeholder communications as soon as possible.

Yours sincerely  
s22(1)

s22(1)

14 October 2025

**From:** Exco s22(1)  
**Sent:** Wednesday, 15 October 2025 4:45 PM  
**To:** s22(1) @dewr.gov.au>  
**Cc:** s22(1) @dewr.gov.au>; s22(1) @dewr.gov.au> s22(1) @dewr.gov.au>; Exco s22(1)  
**Subject:** Approved: Early announcement letter - Fair Work Amendment (Fixed Term Contracts) Regulations 2025 s22(1)

s22(1)

**CAUTION:** This email originated from outside of the organisation. Do not click links or open attachments unless you recognise the sender and know the content is safe.

s22(1)

Hi s22

Thank you again for sending through the request for early announcement in relation to the *Fair Work Amendment (Fixed Term Contracts) Regulations 2025*.

Government House have confirmed that they agree to the early announcement of the proposed regulations to affected stakeholders as outlined in the letter.

Please let us know if we can assist any further.

Kind regards  
s22(1)

s22(1) | Assistant Director  
Legal Information Integrity | Cabinet Governance and National Security  
Department of the Prime Minister and Cabinet  
p. s22(1) | m. s22(1)

One National Circuit, Barton ACT 2600 | PO Box 6500, Canberra ACT 2600  
e. s22(1) [@pmc.gov.au](mailto:@pmc.gov.au) w. [pmc.gov.au](http://pmc.gov.au)

s22(1)

**From:** s22(1) [@dewr.gov.au>  
\*\*Sent:\*\* Tuesday, 14 October 2025 5:56 PM  
\*\*To:\*\* Exco s22\(1\)  
\*\*Cc:\*\* s22\(1\) \[@dewr.gov.au>; s22\\(1\\) \\[@dewr.gov.au>  
@dewr.gov.au>; s22\\\(1\\\) \\\[@dewr.gov.au>\\\]\\\(mailto:@dewr.gov.au\\\)\\]\\(mailto:@dewr.gov.au\\)\]\(mailto:@dewr.gov.au\)](mailto:@dewr.gov.au)

**Subject:** Early announcement letter - Fair Work Amendment (Fixed Term Contracts) Regulations 2025 s22(1)

s22(1)

Hi s22(1)

Thank you very much for turning your review of our draft letter around so quickly. Please now find attached the signed letter seeking agreement from Her Excellency the honourable Ms Sam Mostyn AC, Governor-General of the Commonwealth of Australia to an early announcement of the government's intention to put forward the *Fair Work Amendment (Fixed Term Contracts) Regulations 2025* for consideration by the Federal Executive Council at their meeting on 30 October 2025.

Please let me know if there is anything further you require from us.

We look forward to hearing from you again.

Kind regards

s22

s22(1)

Principal Government Lawyer

Forms of Work, Unfair Dismissal and National Employment Standards Team | Employment Standards and Institutions Branch

Workplace Relations Legal

Australian Government Department of Employment and Workplace Relations

Phone s22(1)

Mobile s22(1)

[dewr.gov.au](http://dewr.gov.au)

s11C(1)(a)

The Department of Employment and Workplace Relations acknowledges the traditional owners and custodians of country throughout Australia and their continuing connection to land, waters and community. We pay our respects to them and their cultures, and Elders past, present and emerging.

s22(1)

**From:** Exco <s22(1)>

**Sent:** Tuesday, 14 October 2025 12:59 PM

**To:** s22(1) [@dewr.gov.au](mailto:@dewr.gov.au)

**Cc:** s22(1) [@dewr.gov.au](mailto:@dewr.gov.au); s22(1)

[@dewr.gov.au](mailto:@dewr.gov.au); s22(1) [@dewr.gov.au](mailto:@dewr.gov.au); Exco

s22(1)

**Subject:** RE: Draft early announcement letter - Fair Work Amendment (Fixed Term Contracts)  
Regulations 2025 s22(1)

s22(1)

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s22(1)

Hi s22

Thank you for sending through the draft letter in regards to the early announcement – we've suggested some edits in the attached version just to bring the letter under two pages. We're generally comfortable with these requests being high-level and don't usually require too much background information on the instrument itself.

We're comfortable that the letter is sufficient and provides a significant justification as to why an early announcement is required/important for affected stakeholders. We believe a 16 October date would be achievable for decision.

Kind regards

s22(1)

s22(1) | Assistant Director  
Legal Information Integrity | Cabinet Governance and National Security  
Department of the Prime Minister and Cabinet  
p. s22(1) | m. s22(1)

One National Circuit, Barton ACT 2600 | PO Box 6500, Canberra ACT 2600  
e. s22(1) [@pmc.gov.au](mailto:@pmc.gov.au) w. [pmc.gov.au](mailto:@pmc.gov.au)

s22(1)

**From:** s22(1) [@dewr.gov.au>  
\*\*Sent:\*\* Tuesday, 14 October 2025 9:41 AM  
\*\*To:\*\* s22\(1\) \[@pmc.gov.au>  
\\*\\*Cc:\\*\\* s22\\(1\\) \\[@dewr.gov.au>; s22\\\(1\\\)  
\\\[@dewr.gov.au>; s22\\\\(1\\\\) \\\\[@dewr.gov.au>; Exco  
s22\\\\\(1\\\\\)  
\\\\\*\\\\\*Subject:\\\\\*\\\\\* Draft early announcement letter - Fair Work Amendment \\\\\(Fixed Term Contracts\\\\\)  
Regulations 2025 s22\\\\\(1\\\\\)\\\\]\\\\(mailto:@dewr.gov.au\\\\)\\\]\\\(mailto:@dewr.gov.au\\\)\\]\\(mailto:@dewr.gov.au\\)\]\(mailto:@pmc.gov.au\)](mailto:@dewr.gov.au)

s22(1)

Hi s22(1)

I hope you're well. I am writing with respect to the proposed regulations outlined in the email below.

s22 in my team has been speaking with you regarding our intent to submit a request for the Governor-General's agreement to an early announcement of the proposed regulations. s22(1) also tried to give you a quick ring this morning ahead of this email.

We have now prepared a draft of the request letter (**attached**) and would appreciate it if you could provide a preliminary view on whether it is sufficient for this purpose and whether if the letter is submitted late today or early tomorrow a 16 October date will be achievable for a decision. The reason for seeking your early input is that we require the Deputy Secretary's signature on the letter, and we want to ensure it meets the necessary requirements before proceeding with signing and submission.

We would be very grateful if you could review and provide feedback on the draft request **as soon as possible today**. I appreciate it's likely a very busy day for you with draft papers due so please let me know if this will not be possible.

Very happy to discuss.

Kind regards,

s22

s22(1)  
Principal Government Lawyer

Forms of Work, Unfair Dismissal and National Employment Standards Team | Employment Standards and Institutions Branch  
Workplace Relations Legal  
Australian Government Department of Employment and Workplace Relations  
Phone s22(1)  
Mobile s22(1)  
[dewr.gov.au](mailto:dewr.gov.au)

s11C(1)(a)

The Department of Employment and Workplace Relations acknowledges the traditional owners and custodians of country throughout Australia and their continuing connection to land, waters and community. We pay our respects to them and their cultures, and Elders past, present and emerging.

s22(1)

s22(1) [@dewr.gov.au](mailto:@dewr.gov.au); s22(1)

[@dewr.gov.au](mailto:@dewr.gov.au)

**Subject:** Subject: Draft Papers for Executive Council Consideration – Fair Work Amendment (Fixed Term Contracts) Regulations 2025 s22(1)

s22(1)

Dear Secretariat,

Further to the email below, we have now completed consultation on the Fair Work Amendment (Fixed Term Contracts) Regulations 2025 (proposed regulations). We intend to submit the proposed regulations for the Executive Council's consideration at its meeting on **30 October 2025**.

As previously advised, it is necessary for the proposed regulations to be considered at this meeting as they include amendments which would extend and amend existing regulations that are due to expire on **31 October 2025**.

#### **Draft Papers**

Please find attached the following draft documents for your review and feedback:

- Draft Fair Work Amendment (Fixed Term Contracts) Regulations 2025
- Minute paper
- Explanatory memorandum

#### **Further Amendments**

Please note that the proposed regulations are subject to a minor technical amendment and potentially a further change in policy position to two items, as outlined below.

The department has instructed OPC to make a minor technical correction to **Item 9** of the Exposure Draft by inserting the missing words: "*Repeal the paragraph, substitute:*". This change will be reflected in the final papers.

We are also awaiting a final policy decision regarding whether the annual revenue of the relevant entity, for the purposes of **Items [4] and [8]**, should include the annual revenue of associated entities. If this change is confirmed, we will liaise with your office promptly to provide an update, and if necessary, submit a second pass of amended draft papers and regulations prior to final lodgement.

#### **Next Steps**

We would be grateful if you could confirm the minute number and provide any comments on the attached documents as soon as possible and by **COB Wednesday, 15 October 2025**. This will allow us to make any required amendments and obtain Ministerial sign-off ahead of the final paper deadline.

While we understand from previous advice that this timeframe should not pose an issue, we appreciate that it may place pressure on your team. Please do not hesitate to let us know as soon as possible if there are any concerns, and we will do our best to accommodate.

Kind regards,

s22(1)  
Senior Government Lawyer

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s22(1)

Dear Secretariat,

We are writing to advise that we intend to put the Fair Work Amendment (Fixed Term Contracts) Regulations 2025 (proposed regulations) out for consultation with our workplace relations stakeholders before putting it to the Executive Council for their consideration on **30 October 2025**.

## Proposed regulations

The proposed regulations would amend the Fair Work Regulations 2009 (Fair Work Regulations) to modify certain exceptions to the fixed term contracts provisions of the *Fair Work Act 2009* (Fair Work Act). The Fair Work Regulations prescribe exceptions allowing entities in certain sectors to enter into a contract of employment with an employee that would otherwise contravene the limitations on fixed term contracts in the Fair Work Act. The exceptions are due to expire on 31 October 2025.

The proposed regulations would amend the existing exceptions to:

- make ongoing the exceptions for organised sport and high-performance sport international event organising bodies sectors
- repeal the current exceptions for the higher education and public hospital sectors following their expiry on 31 October 2025, and
- extend the operation of current exceptions for employers in both the charities and not-for-profit, and medical or health research sectors by 12 months (to 1 November 2026), subject to the relevant entity having a total annual revenue of less than \$10 million and \$100 million respectively.

## Consultation

The Department of Employment and Workplace Relations has certain obligations under the *Intergovernmental Agreement for a National Workplace Relations System for the Private Sector*

with States and Territories and with the Committee on Industrial Legislation (COIL), which is a subcommittee of the National Workplace Relations Consultive Council. Consultation is planned to occur tomorrow, **8 October 2025**, with officials from State and Territories and COIL representatives, which includes employer and employee groups such as the s45(1)

. Select industry and union stakeholders will also be consulted as part of this process.

We advise that we intend to circulate the exposure draft of the proposed regulations as part of the department's consultation with the above stakeholders on 8 October 2025 in advance of consideration by the Executive Council.

**Lodgement of draft materials**

We expect to provide draft materials to you on 13 October 2025. If possible, we would be grateful for your urgent review of the papers by 15 October 2025. This is to make sure we can manage timeframes to receive the Minister's approval and signature of the regulations and relevant papers and ensure we are not out of time to submit final papers. Please let us know if this timing raises any issues for you and we can work to accommodate where possible.

Please do not hesitate to contact us if you have any questions or would like to discuss further.

Kind regards,

s22(1)  
Senior Government Lawyer

Forms of Work, Unfair Dismissal and National Employment Standards Team | Employment Standards and Institutions Branch  
Workplace Relations Legal Division  
Australian Government Department of Employment and Workplace Relations  
Phone s22(1) | [dewr.gov.au](http://dewr.gov.au)

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To **Minister for Employment and Workplace Relations**

Action Required **For Decision**

## Revised Approval for Consultation – Fair Work Amendment (Fixed Term Contracts) Regulations 2025

**Timing** Please action by **9:00am on Tuesday, 7 October 2025** to allow consultation with the Committee on Industrial Legislation (CoIL) and others on the exposure draft in the week commencing 6 October 2025.

### Recommendations:

1. That you **agree** the department amend the exposure draft of the Fair Work Amendment (Fixed Term Contracts) Regulations 2025 (proposed regulations) to:
  - a. reflect the approach agreed by Minister Rishworth in **MS25-000512** for sports, higher education and public hospitals, and
  - b. in accordance with the decision of relevant Ministers, extends the exception for employers in the charities and not-for-profit sector and medical and health research sector for 12 months, subject to the employer having an annual revenue of less than \$10 million and \$100 million respectively.

**Agreed / Not Agreed / Please discuss**
2. That you **agree** to the department consulting CoIL, state and territory officials and other stakeholders as set out at **Attachment A** on the proposed regulations in the week commencing 6 October 2025.

**Agreed / Not Agreed / Please discuss**
3. That you **agree** to the department finalising the text of the exposure draft of the proposed regulations with s22(1) [redacted], Director of Workplace Relations in Minister Rishworth's office.

**Agreed / Not Agreed / Please discuss**
4. That you **agree** to the department writing on behalf of Minister Rishworth to the Secretary to the Federal Executive Council (ExCo) seeking approval to an early announcement of the regulations by way of letters to sector specific stakeholders.

**Agreed / Not Agreed / Please discuss**

**Minister Farrell**

**Date:** / /2025

**Comments:**

<p><u>Clearing Officer</u></p> <p>s22(1)</p> <p><u>Signature</u> _____ 3 / 10 / 2025</p> <p>s22(1) , Chief Counsel   WR   Workplace Relations Legal Mob: s22(1)</p>	<p><u>Contact Officer</u></p> <p>s22(1) Acting Senior Executive Lawyer   WR   Workplace Relations Legal Mob: s22(1)</p>
---	---

### **Executive summary:**

1. The proposed regulations reflect the decisions of the Hon Amanda Rishworth MP, Minister for Employment and Workplace Relations on the sports, higher education and public hospitals exceptions agreed in **MS25-000512** and the revised approach to the charities and medical research exceptions provided to the department by s22(1) , Director of Workplace Relations in Minister Rishworth's office following further consultation across government.
2. The revised approach is to extend the charities and medical research exceptions for 12 months and narrow the application of the exceptions to cover only entities with an annual revenue of less than \$10 million and \$100 million respectively.
3. The current regulations expire on 31 October 2025 and ExCo will consider the proposed regulations at its meeting on 30 October 2025. Prior to this, the government is required to consult referring states and territories and CoIL, as set out further at paras [20] – [21] below.
4. To mitigate the risk of industry stakeholders criticising government for having no notice of the changes, we recommend the department write to the ExCo Secretariat seeking approval to provide stakeholders with an early announcement of the regulations. If you agree, letters to stakeholders can be provided with the text approval brief.

### **Key Points:**

#### Limitations on fixed term contracts and existing exceptions to limitations

5. The *Fair Work Legislation Amendment (Secure Jobs, Better Pay) Act 2022* amended the *Fair Work Act 2009* (Fair Work Act) to implement an election commitment to limit the use of fixed term contracts. The policy objective is to curb insecure work arrangements, while allowing the use of fixed term contracts for legitimate purposes.
6. As a result of the change, a fixed term contract cannot extend beyond 2 years (including renewals) or 2 consecutive contracts, whichever is shorter, unless there is an exception provided in the Fair Work Act or as prescribed by the *Fair Work Regulations 2009* (Regulations).
7. There are currently temporary, sector-specific exceptions in the Regulations permitting employers in higher education, organised and high-performance sport, charities, medical research and public hospitals to employ workers on fixed term contracts that would otherwise not be permitted under the Fair Work Act. These exceptions expire on 31 October 2025.

8. The exceptions were implemented in consultation with stakeholders in these sectors to address concerns regarding the operational feasibility of the limitations, particularly in the context of the short-term nature of grant and project-based funding in these sectors.
9. The temporary exceptions allow stakeholders to pursue longer term solutions to sector-specific fixed term employment issues, such as variation of modern awards. Consistently with this position, the *Secure Jobs, Better Pay Review Report* (Secure Jobs, Better Pay Review) concluded that prescribed sector-specific exceptions in the regulations should be used as a last resort or confined to circumstances where modern awards are not a solution.

#### Proposed Regulations

10. The proposed regulations would:
  - a. make ongoing the existing exceptions for the organised and high-performance sport sector
  - b. repeal the higher education sector and public hospitals exceptions after the current exceptions expire, and
  - c. extend the exceptions for the charities and medical research sectors for a period of 12 months and limit the application of the charities exception to entities with an annual revenue of less than \$10 million and the medical research exception to entities with an annual revenue of less than \$100 million.
11. The proposed regulations only apply to new contracts entered into from 1 November 2025 and do not affect existing contracts entered into prior that date (which will continue to operate until their end date unless terminated earlier by the parties).
12. For entities no longer captured due to the exception being repealed (for higher education and public hospitals) or new limitations being put in place (for charities and medical research), fixed term contracts will still available under the Fair Work Act for up to 2 years or 2 consecutive contracts (whichever is shorter) or in reliance on a legislated exception. Legislated exceptions include high income employees, those with specialist skills, where permitted by a modern award term or where the position is funded by government for more than 2 years with no reasonable prospects of renewal.

#### Narrowing the charities and medical research exceptions

13. The implementation of a revenue threshold for the charities and medical research exceptions in the proposed regulations will encourage stakeholders to pursue a longer-term solution, such as an award variation, while ensuring those organisations that have less flexibility to absorb the impact of the exceptions ending can continue to use it. The department understands the revenue thresholds for these exceptions have been agreed by Ministerial offices on the basis of the briefing note provided by the department (at **Attachment B**) and data provided from across government about potential impacts of a narrower exception for these sectors (**Attachment C**).
14. Narrowing the exceptions as set out in the proposed regulations would mean:
  - a. around 15% of medical research institutes (6 institutes) would no longer have access to the medical research exception for new fixed term contracts (see **Attachment B** and Table 1 in **Attachment C** setting out these figures).
  - b. approximately 6% of charities (around 2,660 of 42,089 charities) with an annual revenue greater than \$10 million would no longer have access to the charities exception for new fixed

term contracts. Of these estimated 2,660 charities, approximately 8% employ fewer than 15 employees and are exempt from paying redundancy under the Fair Work Act (see **Attachment B** and Tables B1 and B2 in **Attachment C** setting out these figures).

15. As larger charities employ a large proportion of the workforce, more than 80% of the charities workforce would no longer be captured by the exception and over time could receive the job security benefits afforded by the fixed term contracts limitations consistent with government's secure jobs agenda.
16. Notwithstanding this, there is a potential for reduction of services provided by the excluded organisations in response to the need to provision for redundancy. The excluded organisations may look to government to assist with the additional cost. s22(1)
17. Further risks and sensitivities associated with narrowing the charities and medical research exceptions include: limited information, and no quantitative data, on the real impact of the existing exceptions to enable an assessment of potential impacts of narrowing the scope based on annual revenue; entities could restructure to fall below the threshold; it does not address the tension between the fixed term limitations and the short-term nature of funding arrangements across government.

**Public Sensitivities:**

18. Employer and industry representatives are likely to oppose narrowing the scope of the charities and medical research exceptions regardless of the revenue threshold determined. These stakeholders are likely to approach the Opposition and crossbench with their concerns and there is potential for public attention given the nature of some of the work, such as cancer research.

**Consultation:** Yes

19. Extensive consultation has been undertaken on the proposed regulations.
20. The Commonwealth is required to consult with state and territory officials on all amendments to the Fair Work Regulations in accordance with the *Intergovernmental Agreement for a National Workplace Relations System for the Private Sector* (IGA). Under agreed terms of reference, the Commonwealth also consults with CoIL, a subcommittee of the National Workplace Relations Consultative Committee, on draft changes to workplace relations legislation and regulations. Consultations focus on technical rather than policy issues.
21. The department proposes to consult CoIL, state and territory officials and other stakeholders by email in the week commencing 7 October 2025. Additional, sector specific stakeholders proposed to be consulted are provided at **Attachment A**.
22. The department has also conducted targeted in-confidence consultation with unions and employer stakeholders on the proposed approach to the Regulations, noting the findings in the final report of the Secure Jobs, Better Pay Review, which was publicly released on 14 August 2025 (**MS25-000310** refers).

23. Following consultation, the department will refine the proposed regulations in consultation with Minister Rishworth's office and then seek her approval of the final text of the proposed regulations ahead of the deadline for lodgement with ExCo on 20 October 2025.

**Legal advice / Legislative impacts:**

24. Given the additional cross-government consultation, the department will seek to have the proposed regulations considered by ExCo on 30 October 2025 and request urgent, same or next day registration. The aim is for the proposed regulations to commence on 1 November 2025.

25. For the proposed regulations to be considered at this meeting, final papers authorised by the Minister must be lodged with the ExCo Secretariat by 20 October 2025. The Governor-General will only consider requests for late items to be submitted to the ExCo on a written request from the Prime Minister.

26. Advance agreement by the Governor-General is required before announcing the making of proposed regulations that have not been approved by ExCo. These requests are made on behalf of the Minister to the Secretary to ExCo and should not be made unless there are compelling reasons. If agreed, the department will seek that agreement from the Governor-General to manage stakeholder expectations given the tight timing between the expiration of the current regulations and the making of the proposed regulations.

27. Any delays to the consideration of the proposed regulations to the next ExCo meeting on 13 November 2025 would likely be met with criticism from stakeholders as there would be a gap in which some entities would not be able to make new fixed term contracts in reliance on the exceptions. s42(1)

**Financial impacts:**

N/A

**Stakeholder Implications:**

29. Stakeholders' viewpoints are entrenched. Employers continue to seek exceptions on a permanent basis, particularly those in sectors reliant on government funding. Unions consider existing exceptions should be limited as they undermine the government's secure jobs agenda.

30. While there is no one solution to address competing stakeholder views in the charities and medical research sectors, the option of narrowing the scope of the exceptions would signal to both sides that:

- broader balancing is needed to improve access to secure work while recognising the financial sustainability concerns of the charities and medical research sectors,

- b. based on stakeholder feedback, there appears to be some capacity for larger employers to redeploy or pay redundancy to permanent workers and there are mechanisms available in the Act if they are unable to pay
- c. stakeholders need to seek an award variation as a longer-term solution, consistent with the findings of the Secure Jobs, Better Pay Review (**MS25-000310** refers).

31. In the final text approval brief, subject to agreement by the ExCo Secretary, the department will provide letters for Minister Rishworth to stakeholders with an early announcement that the regulations are being submitted to ExCo and an outline of the proposed approach going forward to actively and regularly engage with the sector during the 12-month extension period. It is intended this ongoing engagement will enable stakeholders to provide the department with evidence and data about the impact of the exceptions.

32. s22(1)

**Attachments:**

- A:** Stakeholders involved in Consultation on the Proposed Regulations
- B:** Briefing note provided to Ministerial offices on 1 October 2025
- C:** Data from across government on potential impacts of narrowing exceptions

# Attachment A – Sector specific stakeholders to receive exposure draft of the Fair Work Amendment (Fixed Term Contracts) Regulations 2025



Charities	<ul style="list-style-type: none"><li>• s45(1)</li><li>• Australian Council of Trade Unions</li><li>• Australian Council of Social Services</li><li>• s45(1)</li></ul>	Sports	<ul style="list-style-type: none"><li>• s45(1)</li><li>• Australian Council of Trade Unions</li></ul>
Public Hospitals	<ul style="list-style-type: none"><li>• s45(1)</li><li>• Australian Council of Trade Unions</li><li>• s45(1)</li><li>• Australian Nursing and Midwifery Federation</li><li>• s45(1)</li></ul>	Higher Education	<ul style="list-style-type: none"><li>• s45(1)</li><li>• Australian Council of Trade Unions</li><li>• s45(1)</li></ul>
Medical Research	<ul style="list-style-type: none"><li>• s45(1)</li><li>• s45(1)</li><li>• Australian Council of Trade Unions</li><li>• s45(1)</li><li>•</li><li>•</li><li>• Australian Nursing and Midwifery Federation</li></ul>	Commonwealth agencies	<ul style="list-style-type: none"><li>• Department of the Prime Minister and Cabinet</li><li>• Department of the Treasury</li><li>• Department of Finance</li><li>• Department of Social Services</li><li>• Department of Health, Disability and Ageing</li><li>• National Health and Medical Research Council</li><li>• National Indigenous Australians Agency</li><li>• Department of Education</li><li>• Office for Sport</li><li>• Australian Sports Commission</li><li>• Australian Charities and Not-for-profits Commission</li><li>• Fair Work Ombudsman</li></ul>



<b>Attention:</b>	<b>The Prime Minister's Office, Minister Rishworth's Office, Minister Gallagher's Office, Minister Butler's Office, Minister Plibersek's Office.</b>
<b>MO action by date</b>	Thursday 2 October 2025
<b>Subject</b>	Fixed Term Contracts   Temporary Exceptions for Charities and Medical Research Institutes   Cross-government data request
<b>Decision point</b>	Decide the treatment of the fixed term contract regulations in relation to charities and medical research institutes and if the coverage should be narrowed to: s47C(1)
<b>Contributing agencies</b>	<ul style="list-style-type: none"> <li>• Department of the Prime Minister and Cabinet</li> <li>• Department of Employment and Workplace Relations (DEWR)</li> <li>• Department of the Treasury</li> <li>• Department of Finance (Finance)</li> <li>• Department of Social Services (DSS)</li> <li>• Department of Health, Disability and Ageing (Health)</li> <li>• Australian Charities and Not-for-Profit Commission (ACNC), and</li> <li>• National Indigenous Australians Agency.</li> </ul>

## Context

1. Regulatory exceptions to the fixed term contract limitations for charities and medical research institutes expire on 31 October 2025. The exceptions allow fixed term contracts for certain positions funded by government or philanthropic entities where the contract aligns with the funding period (up to 5 years) and the employee's total period of employment is not more than 7 years.
2. Typically, government funding to not-for-profit entities is linked to budget cycles and therefore generally spans less than 5 years.
3. A 12-month extension is proposed and decision on the scope of exceptions is outstanding - specifically, whether to add a revenue threshold for charities and medical research institutes.
4. Given government's role as a key funder of charities and medical research institutes, cross-government consideration of the appropriate threshold for the exceptions is required.
5. An employee on a fixed term contract receives all the same entitlements as a permanent employee, except redundancy payment because the date of termination of their employment is known at the outset (hence it is for a 'fixed term'). A move from fixed term to permanent employment means employers could be liable for redundancy costs at the end of employment.
6. Ministerial Offices met on 29 September 2025 and requested further data from relevant agencies to inform their understanding of the impacts of these regulations being narrowed to apply to fewer organisations, and an appropriate threshold for narrowing the existing exceptions. s47C(1)
7. Any entities no longer captured by these exceptions can still use fixed term contracts up to 2 years or 2 consecutive contracts (whichever is shorter) or rely on a legislated exception, such as for high income employees, those with specialist skills or receiving government funding of greater than 2 years with no reasonable prospects of renewal.
8. The impact of narrowing the exception means some larger organisation will have a less straightforward pathway to using fixed term contracts beyond 2 years or 2 consecutive contracts. It



does not mean that there are no exceptions available to the sector or that any change will have an immediate effect on existing arrangements.

9. **Attachment A** provides a full breakdown of contributions provided by agencies across the 10 questions in the time available. Please note, there has not been opportunity in the time available to reconcile discrepancies between agencies' analysis of the data sets for varied purposes.

### Data summary

10. The most comprehensive data available on the operations and workforce composition of charities and medical research institutes is from the ACNC. Other agencies hold data through their grants management systems on the number of grants and organisations they fund and the total value of funding. Beyond these data sources, there is limited information readily available.

11. The ACNC's Charities Report 2023 provides data on registered charities but excludes basic religious charities who did not provide financial information to the ACNC. Across government there are differences and discrepancies in the collection and use of data which cannot be easily reconciled.

12. The available data, as analysed by respective agencies, demonstrates:

- The proportion of registered charities by annual revenue, to show the approximate number of registered charities that would be impacted by the inclusion of a threshold.
- s47C(1)
- The revenue sources of charities, which demonstrates the proportion of revenue from government funding generally increases with charity size.
- s47C(1)
- Some indication of the trends in Commonwealth grant funding year-by-year and the duration of Commonwealth grant activities, noting further analysis would be required.
- Insight into current scope and guidance on the ability of entities to use grant funds to pay for redundancy as a part of Commonwealth Grants processes, for further consideration across government.

13. Limited or no data is available to ascertain:

- The proportion of employees on fixed term contracts in the charities sector – however, in the medical research sector around 55% of employees are engaged in insecure work arrangements.<sup>1</sup>
- An accurate indication of volatility of government funding.

14. s47C(1)

<sup>1</sup> See Health input to Question 4 in Attachment A.

<sup>2</sup> Based on Tables B1 and B2 in Attachment A (noting this excludes charities where the size is unknown).



- s47C(1)

## Considerations

### Balancing the competing views of stakeholders

17. Stakeholders' viewpoints on fixed term contracts are entrenched – employers continue to seek exceptions on a permanent basis while unions consider existing exceptions in both the Act and Regulations should be limited or allowed to expire entirely as they undermine secure work.
18. While there is no one solution to address competing stakeholder views, the option of narrowing the scope of the exceptions would signal to both sides that:
  - broader balancing is needed to improve access to secure work while recognising the financial sustainability concerns of the charities and medical research sectors,
  - based on stakeholder feedback, there appears to be some capacity for larger employers to redeploy or pay redundancy to permanent workers and there are mechanisms available in the Act if they are unable to pay
  - stakeholders need to seek an award variation as a longer-term solution, consistent with the findings of the recent Secure Jobs, Better Pay review.<sup>7</sup>
19. Some of the risks and sensitivities include:
  - limited information, and no quantitative data, on the real impact of the existing exceptions to enable an assessment of potential impacts of narrowing the scope based on annual revenue
  - potential for a reduction of services provided by entities that would no longer have access to the exception, particularly those who receive funding from the Commonwealth to deliver programs
  - entities could restructure to fall below the threshold
  - potential for public and political attention given types of work e.g. cancer research, and
  - it does not address the tension between the fixed term limitations and the short-term nature of funding arrangements across government.

### Longer-term engagement across whole of government and with the sector

20. Work is ongoing to change the Commonwealth's approach to funding the community sector. In March 2025, the Government released the Community Sector Grants Engagement Framework. The

<sup>4</sup> Based on Table B2 in Attachment A which excludes charities where the size is unknown.

<sup>5</sup> See above.

<sup>6</sup> See Table 7 in Attachment A provided by DSS.

<sup>7</sup> Recommendation 17 is for stakeholders to seek variations to awards to tailor the use of fixed term contracts to their industry or occupation. The Review report is available at: <https://www.dewr.gov.au/workplace-relations-australia/review-secure-jobs-better-pay-act>.



Framework will help deliver grants that better service the sustainability of community sector organisations, including greater certainty and sufficiency of funding.

- The Framework complements existing investments in the sector, such as the October 2022-23 Budget measure providing \$560 million over 4 years from 2022-23 to support community sector organisations and changes to the indexation framework in the 2023-24 Budget.

21. s22(1)

- s22(1)

**Fixed term contracts**

**Cross-portfolio information regarding charities and medical research exceptions–  
1 October 2025 – Data attachment**

**Questions**

The following questions were provided by Minister's Offices for a whole of government response:

1. s47C(1)
2. Is it possible to match the ABNs of organisations currently funded by Commonwealth grants with ATO data or DEWR data? Note: this is in order to ascertain the number of employees of the charities and NFPs government funds, to ascertain the applicability of the small business redundancy exemption.
3. How many, and what proportion of charities and NFPs have more than 15 employees?
4. How many, and what proportion of employees are on fixed term contracts in charities and NFPs?
5. What is the operating budget of charities and NFPs (broken down by charity size)? We would like to work out whether these charities and NFPs receive philanthropic or other sources of funding.
6. s47C(1)
7. s47C(1)
8. How common is volatility of funding, i.e. where it moves by more than 10% year to year?
9. How many charities have ceased operation over the past 10 years?
10. How many grants (as both a number and a proportion) the Government has ceased funding for and (if known) whether those charities have continued to operate without government funding?

## **Responses to Questions**

s47C(1)

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<sup>1</sup> s47C(1)

s22(1)

2

s22(1)

3

s47C(1)

s47C(1)

#### Health input

The following table has been prepared by the Department of Health, Disability and Ageing from the ACNC data detailing grant funded charities and not-for-profits.

s22(1)

**Table 2: Charities and NFPs by Number of Grants - Health**

Entity Type	ACNC Charity Size	Number of Organisations	Number of Grants
Charities			
	Large*	1012	2816
	>\$100m	120	505
	\$50m-\$100m	101	768
	\$10m-\$50m	426	999
	<\$10m	365	544
	Medium (<\$3m)	219	309
	Small (<\$500k)	98	118
	Not available	116	259
<b>Total Charities</b>		<b>1445</b>	<b>3502</b>
Not for profit (not a charity)		169	409
<b>Grand total</b>		<b>1614</b>	<b>3911</b>

Source: ACNC data for Health grants

\*Note: Charities includes the following Primary Health Networks data: 29 organisations with 1,059 grants.

\* Note all active grants with an expiry date in the future have been included. Commonwealth Home Support Programme (CHSP) has been excluded as per clause 2.15 (8)(b) of the regulations, NFP only organisations are not charities, and any grants without funding in 2025-26 or later were excluded.

s47C(1)

s22(1)

s47C(1)

s22(1)

6

**Question 2: Is it possible to match the ABNs of organisations currently funded by Commonwealth grants with ATO data or DEWR data? Note: this is in order to ascertain the number of employees of the charities and NFPs government funds, to ascertain the applicability of the small business redundancy exemption.**

**Summary response:**

Treasury advise privacy provisions in the *Taxation Administration Act 1953* prohibit the ATO sharing information it collects unless one of the exemptions listed in the Act applies. The ATO's preliminary advice is no exemption is available for a request of this nature.

[As at 17:30 on 30 September, we are waiting for the ATO's formal response.]

DEWR does not hold any information to enable data matching of detailed employment figures.

**Question 3: How many, and what proportion of charities and NFPs have more than 15 employees?<sup>2</sup>**

**Summary response:**

7,316 or 17.4% of charities employ 15 or more employees.

s47C(1)

ACNC input

In the Annual Information Statement, charities are asked to report on the number of full-time, part-time or casual staff for the final pay period of the charity's reporting period. This information is published as part of the Charities Report.

See **Annexure A: ACNC table**

DEWR input

See **Annexure B: DEWR tables**

DSS input

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<sup>2</sup> Note the *Fair Work Act 2009* provides for an exception from the requirement to pay redundancy pay for organisations that employ fewer than 15 permanent or regular casual employees. When counting the number of employees, employees of associated entities of the employer are included.

The Community Grants Hub does not collect workforce or employee data from its grant recipients. The Hub has done a desktop search of the ACNC Charities website using Australian Business Numbers (ABNs) of grants over \$1 million to get an indicator of employee numbers.

Of the 143 organisations funded by DSS and listed on the ACNC register 131 (92%) have more than 15 employees. Employees are a head count of staff that include part time, full time and casual employees (it excludes) volunteers.

**Table 4: Breakdown of number of employees – organisations funded by DSS**

<b>Number of Employees</b>	<b>Number of Organisations</b>	<b>Percentage of Organisations</b>
< 15	12	8.36%
> 1000	20	12.30%
100 to 500	51	38.87%
15 to 50	28	18.87%
50 to 100	19	12.86%
500 to 1000	13	8.74%
<b>Grand Total</b>	<b>143</b>	<b>100%</b>

Source: ACNC data for DSS grants

**Question 4: How many, and what proportion of employees are on fixed term contracts in charities and NFPs?**

**Summary response:**

In the medical research sector, 55% of researchers are on fixed-term or casual contracts.

However, no data available on this for the charities sector. It would not be possible to obtain this data without undertaking a survey of charities or amending reporting requirements. ABS data on employees on fixed term contracts is only available by broad industry and occupation and cannot be matched with other data sets.

Almost two thirds (62.7%) of employees engaged on fixed-term contracts worked in either the Education and training (26.9%), Health care and social assistance (20.5%) or Public administration and safety (15.3%) industries.

### DEWR input

No data available on this. ABS data on employees on fixed term contracts is only available by broad industry and occupation.

In August 2024, 512,300 employees (4.2% of all employees) were working on fixed-term contracts.

Almost two thirds (62.7%) of employees engaged on fixed-term contracts worked in either the Education and training (26.9%), Health care and social assistance (20.5%) or Public administration and safety (15.3%) industries.

### Finance input

Finance does not have data on fixed term contract use in charities and NFPs.

### Health input

Health does not collect this information or require grant recipients to provide information about employment arrangements. Collection of this information would be a significant manual activity taking several months and would require upfront communication on how this information would be used.

The Health and Medical Research [Workforce Audit](#) (conducted by DHDA to inform the National Health and Medical Research Strategy) identifies job insecurity is a significant issue in the traditional research sector, with 55% of researchers on fixed-term or casual contracts. Federal government grants are the primary source of funding for traditional researchers.

### DSS input

The Community Grants Hub does not collect workforce or employee data from its grant recipients and cannot find data from another publicly available sources on contracts. To obtain this information the Hub would need to survey grant recipients to obtain this information, it would be up to grant recipients if they are willing to offer this information. This data exercise would take some weeks to complete to allow organisations a reasonable time to respond.

### NIAA input

The NIAA does not have any data about employment arrangements for each grantee.

**Question 5: What is the operating budget of charities and NFPs (broken down by charity size)?**

**Summary response:**

Operating budgets are not known. However, information is available on the share of revenue sources by charity size. Charities report on expenses – including employee expenses – and revenue as part of annual financial reporting.

However, information is available from the ACNC on the share of revenue sources by charity size. The proportion of revenue from government funding generally increases with charity size. For example, while small medium charities (annual revenue of between \$500,000 and \$3 million) receive 34.7% of funding from government, this rises to 44.4% for large charities (annual revenue of between \$3 million and \$10 million)

Note that this information varies across sources, as shown by the difference between DEWR input (based on data for all charities from ACNC reporting) and DSS input (based on analysis of charities receiving DSS grant funding). Government funding is likely a combination of state and territory and Commonwealth grants, and may come from multiple portfolios.

DEWR input

Table 6 shows the share of revenue sources by charity size (where charity size is defined by revenue range).

For example, an extra small charity (with revenue less than \$50,000) on average derives around 40% of its revenue from donations and bequests, 23% from goods and services, 16% from investments, 13% from other sources and just over 8% from government.

By contrast, a very large charity (with revenue above \$10 million but less than \$100 million) on average derives the bulk of its revenue (47%) from government, 37% from goods and services, 8% from donations and bequests, 5% from other sources and just 3% from investments.

**Table 5: Average proportion of revenue sources by total revenue amount, 2023**

Charity size	Revenue range	Government	Donations /bequests	Goods + services	Investments	Other sources
Extra small	Less than \$50,000	8.1%	40.1%	23.2%	15.7%	12.8%
Small	\$50,000 to less than \$500,000	16.5%	37.7%	24.4%	11.8%	9.6%
Medium	\$500,000 to less than \$3 million	34.3%	23.1%	29.0%	7.3%	6.3%
Large	\$3 million to less than \$10 million	44.1%	13.5%	31.2%	5.3%	5.9%
Very large	\$10 million to less than \$100 million	46.7%	8.1%	36.7%	3.2%	5.2%
Extra large	\$100 million or more	51.8%	6.2%	32.2%	2.7%	7.0%

Source: ACNC 2023 Annual Information Statement Data

Note: Excludes basic religious charities who did not provide financial information to the ACNC.

ACNC input

See **Annexure A: ACNC table**.

Note a charity's revenue does not necessarily represent its operating budget.

NIAA input

The NIAA does not have any information about grantees' total operating budgets.

DSS input

The Community Grants Hub does not collect income from other sources for our grant recipients. The Hub has done a desktop search of relevant ACNC charities website data using ABN numbers for the 143 DSS funded not for profits as detailed in Q1. The ACNC data is from the 2022-23 financial year as it relates to those DSS funded organisations have reported information to ACNC organisation type, organisation size and income type.

**Table 6: DSS funded charities total revenue**

Category	From government	Donations and bequests	Goods and services	Investments	All other revenue	Total revenue
Extra Small {\$0, \$50,000}	\$0	\$0	\$0	\$0	\$0	\$0
Medium {\$50,000, \$500,000}	\$28.5m	\$0.99m	\$1.7m	\$0.07m	\$1.9m	\$33.2m
Large {\$3m, \$10m}	\$142.4m	\$7.1m	\$20.7m	\$1.3m	\$7.5m	\$178.9m
Very Large {\$10m, \$100m}	\$1.9b	\$60.6m	\$471.7m	\$34.0m	\$80.7m	\$2.5b
Extra Large {\$100m, >\$100m}	\$5.4b	\$362.0m	\$2.9b	\$304.5m	\$280.1m	\$9.2b
<b>Total</b>	<b>\$7.4b</b>	<b>\$430.6m</b>	<b>\$3.4b</b>	<b>\$339.9m</b>	<b>\$370.2m</b>	<b>\$12.0b</b>

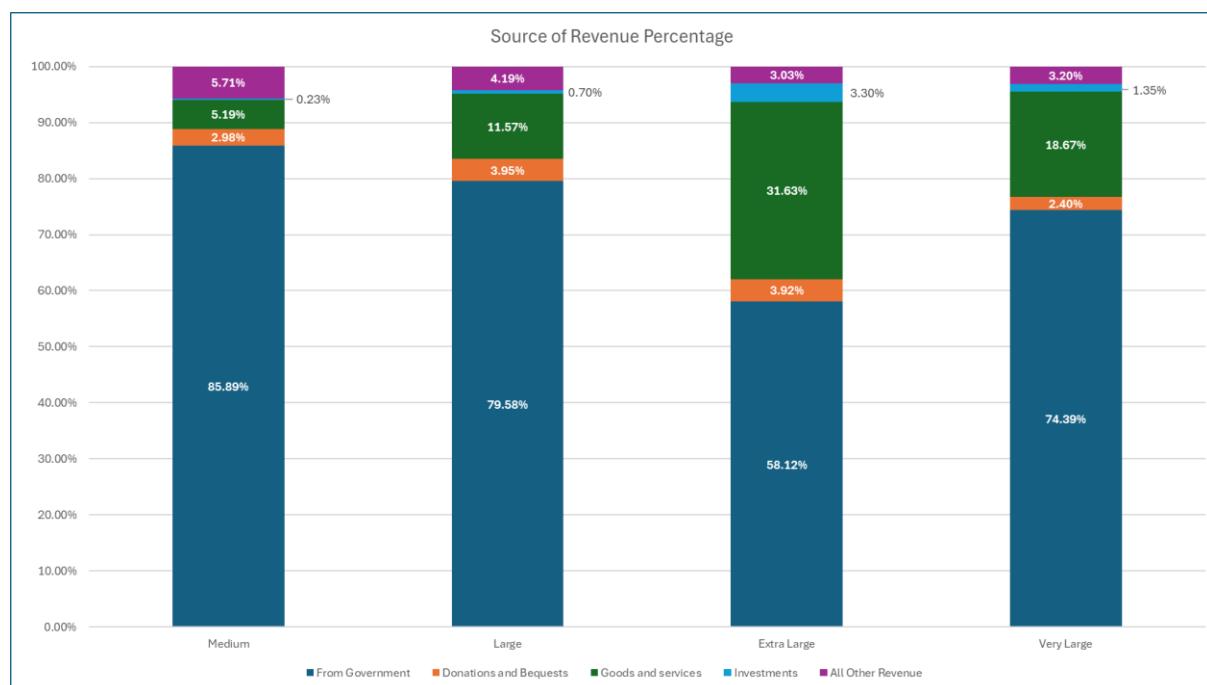
Source: 2022-2023 ACNC data for DSS grants

**Table 7: percentages of the source of revenue from Table 7**

	From Government	Donations and Bequests	Goods and services	Investments	All Other Revenue
Extra Small {\$50,000}	n/a	n/a	n/a	n/a	n/a
Medium \$50,000- \$500,000	85.89%	2.98%	5.19%	0.23%	5.71%
Large \$3m-\$10m	79.58%	3.95%	11.57%	0.70%	4.19%
Very Large \$10m-\$100m	74.39%	2.40%	18.67%	1.35%	3.20%
Extra Large >\$100m	58.12%	3.92%	31.63%	3.30%	3.03%

Source: 2022-2023 ACNC data for DSS grants

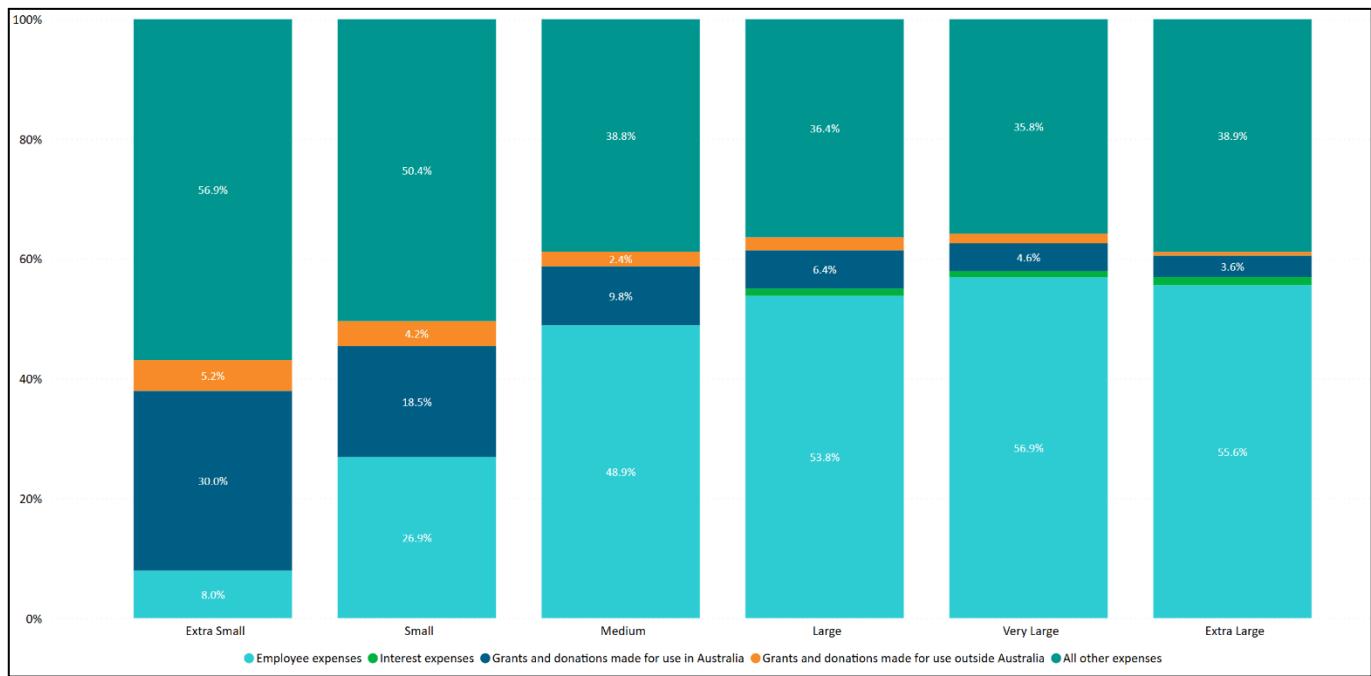
**Table 8: Source of revenue from Table 7 as a graphic**



Source: 2022-2023 ACNC data for DSS grants

**Table 9: Expenses by Charity Size (all NFPs registered with the ACNC)**

10



Source: Australian Charities Report 11th Edition

s47C(1)

s22(1)

14



**Question 8: How common is volatility of funding, i.e. where it moves by more than 10% year to year?**

**Summary response:**

It is difficult to provide sector specific data on the volatility of grant funding at an organisation level. Data provided shows:

- the total value of grants and grant funding has been growing over the past 5 years - of the 1,790 active DSS grants for 944 grant recipients, **18% are less than 2 years**.
- 939 of 2,065 (45.5%) of active NIAA grants being delivered by 578 of 975 (59.3%) charities have experienced volatility in funding across adjacent financial years.

More specific data would require manual data collation and analysis.

Finance Input

It is difficult to provide sector specific data on the volatility of grant funding. Below Finance has provided total grant funding by financial year for the last five years to give an indication of movement in Commonwealth grant funding. Please note that this data

only covers grants covered under the CGRPs (it does not capture grants to States and Territories that may flow through to the not-for-profit or charities sector). This data is drawn from GrantConnect and includes new grants and variations to existing grants.

**Table 11: Total Commonwealth grant funding by financial year**

Financial Year	Total volume of grants	Total value of grants
2020-2021	83,743	\$24.25B
2021-2022	80,096	\$30.93B
2022-2023	61,951	\$26.03B
2023-2024	66,987	\$39.49B
2024-2025	94,586	\$35.04B

Source: GrantConnect

This type of analysis is not something that can be done in a short timeframe. The data request raises several challenges as this will require analysis of a number of different types and forms of data which will take time to gather and then analyse. Finance does not hold these datasets nor is best placed to conduct this analysis.

#### DSS input

Out of the 1,790 active DSS grants for 944 grant recipients, **18% are less than 2 years**. Note that some grants that may have received extra funding through variations, which can extend their duration Volunteer Grants are not included in this data.

**Table 12: Summary of DSS grants activity period**

DSS Grant Activity period	# activities	% of total
under 2 years	319	18%
3 years or under	474	26%
4 years or under	82	5%
5 years or under	772	43%
over 5 years	143	8%
	<b>1,790</b>	<b>100%</b>

Source: ACNC data for DSS grants

#### Health input

Given time constraints, Health has focused on analysis of known grant funding for the next three financial years. Retrospective analysis could be completed but would take up to a week to complete and divert resources away from other analysis activities.

Analysis of grant activity identifies that 59% of grant agreements are for grants with less than two years in activity length. A large proportion of grant agreements are due to expire this financial year however Health is seeking further funding for these activities through upcoming MYEFO and Budget processes. Health is working to increase the proportion on open, competitive grant opportunities, as well as longer term grant agreements to provide greater financial certainty to grant recipients.

Funding for research institutes, via Medical Research Future Fund (MRFF) grants, is considered volatile. MRFF grants are provided via competitive grant opportunities. This results in no certainty for individual researchers or research organisations about if/when/how much funding may be provided via the MRFF.

#### NIAA input

939/2065 (45.5%) of the current grants being delivered by 578/975 (59.3%) of the ACNC organisations have experienced volatility in funding across adjacent financial years.

Volatility has been identified by considering a given financial year with its previous financial year, where the change is more than 10% of the previous financial year's funding amount.

Future financial years (2026-27 and onwards) have been considered as Not Applicable for this check, even where such funding has already been executed/entered in the system.

For the purposes of equivalent comparisons across financial years a given financial year's funding has been calculated in a proportionate way for a twelve month period where:

- the activity starts and/or ends during the middle of a financial year
- the activity has a duration of more than one year
- a non-zero amount of funding has been identified for that financial year.

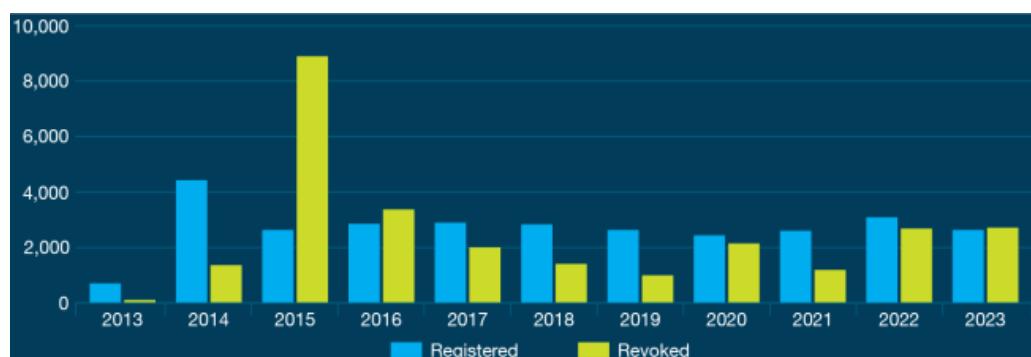
## Question 9: How many charities have ceased operation over the past 10 years?

### Summary response:

ACNC provides data on revocations of a charity's status. Of the 1,543 voluntary revocations processed in 2022-23, 918 (59%) were because a charity had ceased operating.

### ACNC input

**Table 13: Annual charity registrations vs revocations by financial year**



Source: Australian Charities Report 10th Edition

**Table 14: Annual charity revocations by type by financial year**



Source: Australian Charities Report 10th Edition

**Notes:** Reasons that the ACNC may revoke a charity's status include compliance issues, having a cancelled ABN, or being what is known as a 'double defaulter'. A double defaulter is a charity that has failed to submit its Annual Information Statement for two

years (often, charities that have failed to submit Annual Information Statements have ceased operating).

A charity can also request that the ACNC revoke its registration as a charity. This is known as voluntary revocation. The ACNC requires a charity to provide reasons for requesting voluntary revocation. These reasons include that the charity is no longer operating, has merged, no longer wants to be a charity or is no longer entitled to be a charity.

Of the 1,543 voluntary revocations processed in 2022-23, 918 (59%) were because a charity had ceased operating.

**Question 10: How many grants (as both a number and a proportion) the Government has ceased funding for and (if known) whether those charities have continued to operate without government funding?**

**Summary answer:**

This information is not available.

More information could be provided with additional time, but there are limitations because, for example, charities can receive funding from the Commonwealth and other levels of government. Undertaking this work would involve extensive resources as it would need to be done on a charity-by-charity basis working across government.

Treasury input

Treasury has noted that it would need information on which charities have received government funding but no longer receive such funding, to match this with charities still registered with the ACNC. Information on this would be held by the funding agencies, noting they would not necessarily have visibility over funding provided by other agencies.

Note that an entity may no longer be registered with the ACNC but still operating. Cross-checking with other sources of information, such as registration for GST, would be necessary to avoid deeming an entity no longer operating when it still is.

Charities report government funding to the ACNC. This does not differentiate funding from the Commonwealth and other levels of government. In the absence of this information, it might be possible to make assumptions about the most likely level of government based on the activities of the charity. This would need to be done on a charity-by-charity basis and would require an extensive diversion of resources.

## DSS input

DSS notes that while most major service grants have been in place for some time (43% over 5 years), from time-to-time organisations may have their grant agreements ceased due to:

- being a time-limited project
- non-delivery,
- lack of suitability in a competitive process, or
- corporate issues including insolvency or voluntary administration

## Annexure A: ACNC table, 2023

<u>Charity Size (total revenue)</u>	<u>Number of charities</u>	<u>Proportion (%) of all submissions</u>	<u>Average number of employees at each charity</u>	<u>Proportion of total revenue from government (%)</u>	<u>Revenue from donations and bequests (%)</u>	<u>Revenue from Investments and Goods and Services (%)</u>	<u>Other revenue (%)</u>
<u>Extra small (less than \$50k)</u>	<u>15964</u>	<u>30.33%</u>	<u>0.57</u>	<u>8.1</u>	<u>40.1</u>	<u>15.7</u>	<u>23.23</u>
<u>Small (\$50k - 500k)</u>	<u>15725</u>	<u>29.88%</u>	<u>2</u>	<u>16.5</u>	<u>37.7</u>	<u>11.8</u>	<u>24.4</u>
<u>Medium (\$500k - \$3m)</u>	<u>7642</u>	<u>14.52%</u>	<u>12.28</u>	<u>34.3</u>	<u>23.1</u>	<u>7.29</u>	<u>29</u>
<u>Large (\$3m - \$10m)</u>	<u>2862</u>	<u>5.44%</u>	<u>45.44</u>	<u>44.1</u>	<u>13.5</u>	<u>5.29</u>	<u>31.2</u>
<u>Very large (\$10m - \$100m)</u>	<u>2421</u>	<u>4.60%</u>	<u>207.21</u>	<u>46.7</u>	<u>8.1</u>	<u>3.21</u>	<u>36.7</u>
<u>Extra large (\$100m +)</u>	<u>271</u>	<u>0.51%</u>	<u>2789.01</u>	<u>51.8</u>	<u>6.21</u>	<u>2.74</u>	<u>32.2</u>
<u>Size unknown (BRC)</u>	<u>7742</u>	<u>14.71%</u>	<u>2.24</u>	-	-	-	-
<u>Total</u>	<u>52627</u>	-	-	<u>48.4</u>	-	-	-

<u>Total charities with revenue less than \$100m</u>	<u>44614</u>	<u>84.77%</u>
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Data source: <https://www.acnc.gov.au/australian-charities-report-11th-edition-charity-data-explorer>

## Annexure B: DEWR tables

**Table B1: The number of charities by number of employees (less than 15 or 15 or more) and revenue range, 2023**

Charity size	Revenue range	Number of charities with under 15 employees	Number of charities with 15 or more employees	Proportion of charities in group with 15 or more employees	Proportion of all charities with 15 or more employees	Cumulative proportion of all charities with 15 or more employees
Extra small	Less than \$50,000	13,473	58	0.4%	0.8%	0.8%
Small	\$50,000 to less than \$500,000	15,380	247	1.6%	3.4%	4.2%
Medium	\$500,000 to less than \$3 million	5,108	2,346	31.5%	32.1%	36.2%
Large	\$3 million to less than \$10 million	590	2,226	79.0%	30.4%	66.7%
Very large	\$10 million to less than \$100 million	211	2,178	91.2%	29.8%	96.4%
Extra large	\$100 million or more	11	261	96.0%	3.6%	100.0%
Total		34,773	7,316	17.4%		

Source: ACNC 2023 Annual Information Statement Data drawn from data.gov.au.

Note: Excludes basic religious charities who did not provide financial information to the ACNC and charities where size is unknown.

**Table B2: The number of employees by the total number of employees hired and revenue range, 2023**

Charity size	Revenue range	Number of employees who work for charities with under 15 employees	Number of employees who work for charities with 15 or more employees	Proportion of employees in group who work for charities with 15 or more employees	Proportion of all employees who work for charities with 15 or more employees	Cumulative proportion of all employees who work for charities with 15 or more employees
Extra small	Less than \$50,000	3,804	2,192	36.6%	0.2%	0.2%
Small	\$50,000 to less than \$500,000	23,915	8,110	25.3%	0.6%	0.7%
Medium	\$500,000 to less than \$3 million	27,960	66,479	70.4%	4.6%	5.3%
Large	\$3 million to less than \$10 million	2,852	127,129	97.8%	8.8%	14.1%
Very large	\$10 million to less than \$100 million	608	499,985	99.9%	34.5%	48.6%
Extra large	\$100 million or more	20	743,896	100.0%	51.4%	100.0%
Total		59,159	1,447,791			

Source: ACNC 2023 Annual Information Statement Data drawn from data.gov.au.

Note: Excludes basic religious charities who did not provide financial information to the ACNC and charities where size is unknown.



**To** Minister Rishworth

**Briefing Title** **Meeting Brief | Meeting with the Fair Work Ombudsman | 16 September 2025**

**Timing** Tuesday 16 September 2025, 10:00 am – 10:30 am (AEST)

**Location** Online

**Meeting with** Ms Anna Booth, the Fair Work Ombudsman (FWO)

**Prior Meetings** 16 June 2025, **MB25-000237** refers

**Departmental officer** s22(1) , Assistant Secretary, Bargaining and Industry Policy

s22(1)

- Talking points are provided at **Attachment A**. Background information regarding these topics, and on other relevant work of the department s22(1)  
*Fair Work Amendment (Fixed Term Contracts) Regulations 2025*, s22 is provided at **Attachment B**.

s22(1)



*Fair Work Amendment (Fixed Term Contracts) Regulations 2025*

- Issue: The Regulations will make changes to the fixed term contracts framework and may require changes to the Fixed Term Contract Information Statement (FTCIS).
- Update: The department is progressing amendments to temporary, sector-specific exceptions to limitations on fixed term contracts which are due to lapse this year. The department anticipates the regulations will be registered prior to the exceptions lapsing on 31 October 2025.
  - The department has advised your agency that these amendments may require updates to the FTCIS.
- Additional context: This work follows a recommendation by the Secure Jobs, Better Pay Review to identify potential improvements to the fixed term contracts framework.

s22(1)





**To** Minister Rishworth

**Briefing Title** Meeting Brief | Meeting with Cassandra Goldie - ACOSS | 4 September 2025

**Timing** For meeting on 4 September 2025, 4:00 pm to 4:30 pm

**Location** Canberra, APH

**Meeting with** Dr Cassandra Goldie, Chief Executive Officer, Australian Council of Social Service (ACOSS).

**Prior Meetings** None.

**Departmental officer** None.

s22(1)





s22(1)

Fixed term contracts

24. The *Fair Work Regulations 2009* (the Regulations) provide temporary, sector-specific exceptions to the fixed term contract limitations contained in the *Fair Work Act 2009*, including for charities and not-for-profits.
25. Stakeholders in the charity and not-for-profit sector have expressed concerns about the non-ongoing and uncertain nature of government funding, noting that it prevents employers from being able to offer secure employment (or provision for redundancy without delivering fewer services with limited funding).
26. As temporary exceptions under the Regulations are due to expire on 31 October 2025, the department has initiated a consultation process with stakeholders (including Edwina MacDonald from ACOSS). The department met with ACOSS, s45(1) on 18 August 2025 and provided an opportunity for written submissions by 26 August 2025.
27. ACOSS has noted that its members have not raised any concerns about the upcoming expiry of the charity and not-for-profit exception.

s22(1)

**Attachments:**

s2

**B:** Questions and Answers

s2

Clearing Officer:	s22(1)	First Assistant Secretary   Emp & W   Employment Strategy and Policy	Ph: s22(1) Mob: s22(1)
Contact Officer:	s22	Assistant Secretary, Employment System Strategy Branch   Emp & W   Employment Strategy and Policy	Ph: s22(1) Mob: s22(1)



s22(1)

### **Use of fixed-term contracts in the charities and not-for-profit sector**

- The *Fair Work Legislation Amendment (Secure Jobs, Better Pay) Act 2022* (SJBP Act) limited the use of fixed term contracts for the same role to 2 years (including renewals) or 2 consecutive contracts, whichever is shorter.
- These reforms implemented the government's election commitment to reduce the incidence of insecure forms of work.
- There are some limited exceptions in the Act for circumstances where the use of fixed term contracts is genuinely necessary and appropriate, for example for employees engaged to undertake essential work during a peak demand period.
- There are also time-limited exceptions to these limitations for some sectors under the Regulations, including for charities and not-for-profits.
- The exceptions are due to expire on 31 October 2025.
- Ahead of their expiry, my department has been consulting with stakeholders to gather information on the impact of the regulations expiring, and to identify a way forward to resolve outstanding issues concerning the use of fixed term contracts. I am particularly interested in the extent to which agreement between parties on this question may be possible.
- I appreciate ACOSS's involvement in this process and value the feedback provided. I also recognise the concerns raised about the nature of funding arrangements in the sector, and I am awaiting advice from my department about any insights gained from these discussions.
- Although I have not yet made any decisions about the treatment of the Regulations, my approach to these issues has been informed by the findings of the independent review of the Secure Jobs, Better Pay Act (the Review) which was tabled in Parliament on 14 August 2025.
- The Review recommends that parties pursue award variations to address issues with use of fixed term contracts in their sectors (Recommendation 17), and that regulations should be used as a last resort.

- Award variation applications would be a matter for parties to progress with the independent Fair Work Commission.
- This could involve agreement on when fixed term contracts can be used or, instead, circumstances where redundancy pay is not payable.
- I also note that funding arrangements in the charity and not-for-profit sector sit outside the scope of the Act and modern awards framework, and my department is liaising across government portfolios to ensure that the relationship between secure work and funding cycles is understood.

**Last updated:** 1 December 2025

