



Government  
of South Australia

Department of Trade and  
Economic Development

# BizFacts

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## Employment Contracts and Remuneration – An Overview

Once you have decided to appoint a new staff member (see BIZFACTS **Employing People in Your Business** and **Selecting the Right Employee**). You need to consider the method by which employment is offered and how much your new employee will be paid before selecting a person for the job.

Employees can be hired on a part-time or full-time basis, in a temporary, casual capacity or as “permanent” staff, or may instead be offered a fixed term employment contract. Temporary assignments are generally brief in duration and employment agencies are commonly used to find such staff. Casual employment (where an employee’s working hours may be erratic and continuing employment uncertain) may be the best solution where an employer doesn’t wish to commit to a permanent arrangement.

A fixed term employment contract may be used where there is a job of a defined duration to be done, resources are limited, or where other factors make it desirable to agree on the duration of employment at its outset. Fixed, short-term employment contracts can be offered directly to an employee or through an employment agency.

### What is an employment contract?

An employment contract is an agreement (usually written) between an employer and an employee that describes the terms and conditions of employment. An employment contract may be short or long, simple or complicated, and may be drawn up by a solicitor.

A letter of offer of employment may have the force of a contract in that when it is accepted it will bind the employer and the employee to act in certain ways.

### What are the benefits of a contract?

An express employment contract can provide some benefits including:

- greater certainty in the event of either party wishing to terminate employment
- it can provide an employee with greater job security, in the event that there are changes in the leadership of the organisation
- a fixed term contract can provide a focus to an employee to achieve outcomes in a defined timeframe
- written employment contracts can help employees understand what is expected of them by defining working hours, codes of behaviour, confidentiality issues and the like

- entitlements can be clearly set out by defining terms and conditions
- an employment contract can restrain a former employee from using confidential information unfairly.

### What are possible limitations of a contract?

Not all employers use written contracts when engaging staff. Here are some of the reasons why a written contract may not be favoured:

- there is an expense in time and perhaps legal fees in drafting the document
- both the employer and employee may prefer a more flexible working arrangement
- fixed term contracts often prompt an employee to look for another job towards the end of the contract term unless arrangements are made to “roll over” the contract or make the employee permanent
- some potential employees may be unwilling to sign an employment contract if they feel its terms and conditions are unduly demanding.

### Does my business need employment contracts?

If you are not sure whether a written employment contract is the best arrangement for your business, a Business Enterprise Centre Network or Regional Development Board Adviser, a solicitor or a recruitment consultant may be able to help.

### What should a letter of offer of employment contain?

Whether you decide to offer a detailed employment contract or not, it is a good idea as a minimum to provide a letter of appointment. This letter should contain:

- job title
- brief description of the role or what is expected
- details of the agreed salary
- hours of work
- a reference to the appropriate Award, if applicable
- superannuation, annual leave, long service leave and sick leave entitlements
- any overtime requirements

- the notice required in the event of termination by either party
- confidentiality clause
- probation period.

## How much should I pay my new employee?

Employers are often unsure how much to pay a new recruit. It may be that the role is a new one in the company, or the employer may be concerned about overpaying or underpaying relative to prevailing market rates.

An Award may set out pay scales relevant to the work.

Most employers understand the need to be competitive with remuneration. Paying too little makes it difficult to attract good staff. Paying too much erodes profitability. Here are some of the ways that you can determine an appropriate level of salary for a new staff member:

- talk to other employers in your industry
- ask an expert (industry association, remuneration adviser)
- read newspaper employment advertisements (although salary isn't always given)
- ask the new employee about their expectations

## What form of remuneration should I choose?

**For example:** Should I pay a straight salary, salary plus commission or straight commission?

Salaries can be made up of various components. These components may include a base salary, which is a set salary paid regularly, according to the hours worked, and/or commission. Commission is usually based on the successful achievement of set sales targets or volumes. "Commission only" remuneration is solely based upon the successful achievement of sales.

## What about Award or Junior rates?

You can seek information regarding Award rates and coverage, as well as the application of junior rates, from the Department of Administrative and Information Services (DAIS) – SafeWork SA Division, Business SA, industry associations, and/or relevant Internet sites, such as <http://www.safework.sa.gov.au> provided by DAIS.

## How do I attract and keep a valuable staff member?

### Attracting staff

- provide information on your organisation
- highlight the benefits of employment with your organisation in advertisements and interviews
- word advertisements carefully to attract prospective employees
- provide training opportunities and a career path
- offer attractive salary packages
- consider incentives, or commissions

- highlight beneficial terms and conditions
- offer flexibility.

### Keeping valuable staff

- regularly appraise performance and provide feedback
- reward with praise, not just money
- define their job roles clearly
- provide new challenges
- regularly review salary
- listen to their aspirations and ideas
- provide ongoing training
- offer promotion or provide internal transfer opportunities
- offer equity in the business.

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