



NHV Assist
HR and IR for community organisations



FIXED TERM CONTRACTS

Thursday 13 February 2024 | 12pm - 1:30pm

Brought to you by ANHCA
Presented by NHV Assist and Salt Legal

Australian Neighbourhood Houses and Centres Association, NHV Assist and SALT Legal acknowledges the Traditional Owners of the lands across Victoria. We pay our respects to their spirits, ancestors, elders and Aboriginal and Torres Strait Islander community members past, present and emerging.

Meet ANHCA

The Australian Neighbourhood Houses and Centres Association (ANHCA) is the national peak body for Neighbourhood Houses and Centres in Australia.



1,021

172 New South Wales
143 Queensland
108 South Australia
35 Tasmania
418 Victoria
145 Western Australia

Website: anhca.org
Facebook: [@ANHCA.org](https://www.facebook.com/ANHCA.org)
Instagram: [@anhca_org](https://www.instagram.com/anhca_org)
LinkedIn: [@anhca](https://www.linkedin.com/company/anhca)
Email: emily@anhca.org

Meet NHV Assist

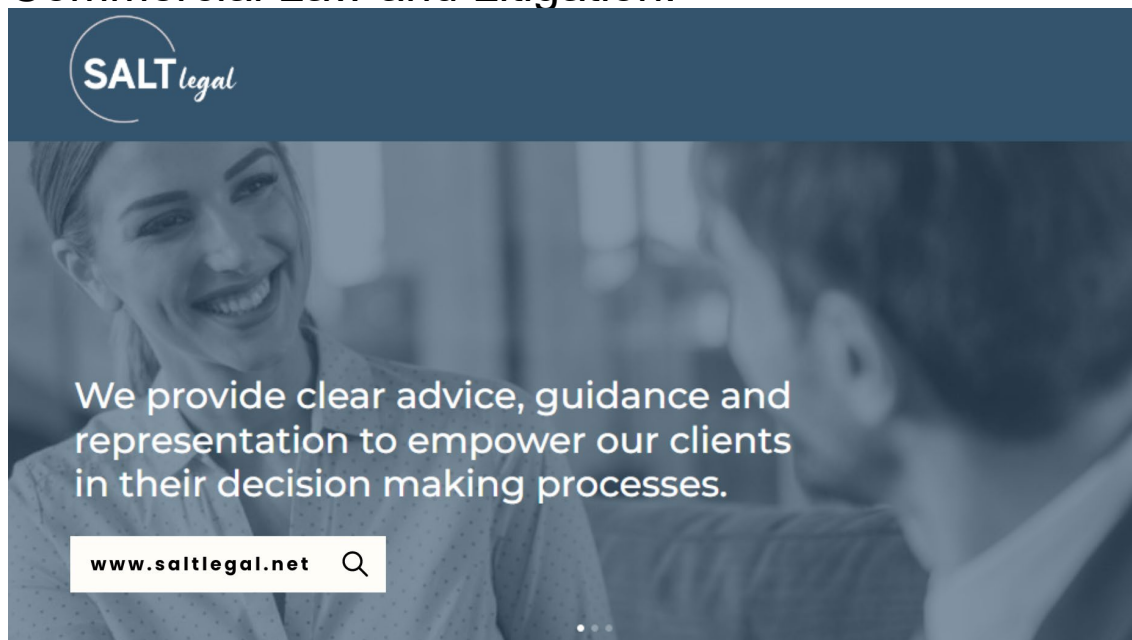
NHV Assist is a human resources and industrial relations support service based in Victoria, Australia, primarily focused towards the neighbourhood house and community education sectors.



Website: nhvassist.com
Facebook: [@NHVAssist](https://www.facebook.com/NHVAssist)
LinkedIn: [@nhv-assist](https://www.linkedin.com/company/nhv-assist)
Email: info@nhvassist.com

Meet Salt Legal

Salt Legal is based in Victoria Australia, we provide legal services nationally across Australia. We specialise in Employment Law, Business Law, Commercial Law and Litigation.



Fixed Term Contracts – What Are They

- Fixed-term contracts are employment agreements that terminate at the end of a set period.
 - This includes contracts where the employee is employed for a specific period, a set date, or a season.
 - Examples can be seen with fruit pickers or summer work. You might also see them for maternity leave vacancies or short-term contracts.
 - NHV examples might be sessional teachers or instructors.
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New Rules

- As of 6 December 2023, there are new rules that impact the use of fixed-term employment contracts.
 - These rules were part of the radical and rapid changes made with the introduction of the *Fair Work Legislation Amendment (Secure Jobs Better Pay) Act 2022*.
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New Limitations

- There are three (3) limitations to fixed-term contracts:
 1. Time limitations.
 2. Renewal limitations.
 3. Consecutive contract limitations.
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Time Limitations

- Under the new rules, fixed term contracts in Australia cannot exceed a period of two (2) years, including extensions and renewals.
 - What does this mean?
 - Regardless of the initial contracts duration when considering all extensions and renewals, the cumulative employment period must not exceed two (2) years.
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Renewal Limitations

- Employers will also be restricted from offering fixed-term contracts with options to extend or renew the employment contract if such an extension would result in an employment period, including the extension or renewal period, exceeding two (2) years, or where the contract contains a right to renew more than once.
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Consecutive Contract Limitations

- The rules also impose constraints on consecutive fixed-term contracts.
 - An employer cannot engage an employee in a new fixed-term contract if:
 1. The new contract primarily involves the same work as a previous fixed-term contract.
 2. There is no substantial break in the employment relationship between the previous and new contract.
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Consecutive Contract Limitations

3. Any of the following conditions apply:

- The total period of employment for the previous contract and the new fixed-term contract exceeds two (2) years.
 - The new fixed-term contract can be renewed or extended.
 - The previous fixed-term contract was extended.
 - There was an initial contract in place (before the previous contract) for primarily:
 - That was for a fixed term.
 - That was for the same or similar work, and
 - Where there was substantial continuity in the employment relationship.
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Exceptions

- There are exceptions to the new rules.
 - Requiring specialised skills.
 - Related to training.
 - For performing essential work during peak demand periods.
 - For emergency circumstances or temporarily replacing an employee.
 - For individuals earning more than the high-income threshold.
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Exceptions

There are exceptions to the new rules cont.

- Funded by the government for more than two (2) years, where funding is unlikely to be renewed.
 - Involving governance positions with limited timeframes, based on the rules of corporations or associations.
 - Where the Award covers employment and allows for different fixed-term contract options.
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Exceptions for Charities

There are exceptions to the new rules cont.

- <https://www.acnc.gov.au/media/news/new-rules-limit-use-fixed-terms-contracts>
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Non-Compliance

- There is a one (1) year adjustment period.
 - A breach of these rules may result in Civil Penalties.
 - There is also a risk that an invalid fixed-term contract may be deemed as an ongoing contract, exposing employers to legal risks of a wrongly classified employment relationship, causing an ongoing relationship, including all the entitlements permanent employees receive.
 - Another area of concern for an employer is the anti-avoidance provisions in the act. These incorporate measures to curb attempts to circumvent restrictions on fixed-term contracts.
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Non-Compliance

- These prevent terminating an employee's engagement for a specific time-frame, deliberately deferring the re-engagement of an employee, hiring another employee to undertake the same or substantially similar tasks, and modifying the nature of the work or tasks, to avoid fixed-term contract limitations.
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Information Statement

- Employers are required to provide employees entering into new fixed-term contracts with a 'Fixed-Term Contract Information Sheet'.
 - This document can be downloaded on the Fair Work Ombudsman or Fair Work Commission Websites.
 - <https://www.fairwork.gov.au/employment-conditions/information-statements/fixed-term-contract-information-statement>
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Salt Legal

- As with most areas in employment law, each scenario should be assessed on its own merits, there is no one solution or process that suits each issue or scenario.
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Audience Q&A

Fixed-Term Contracts



NHV Assist
HR and IR for community organisations

how can we help?

We are human resources and industrial relations support service based in Victoria, Australia, primarily focused towards the neighbourhood house and community education sectors.

Our key services!

-  Recruitment and on-boarding
-  HR Case Management and Contract Support
-  Employee Assistance Program
-  Pay tables
-  Mediation
-  Legal advice and support for IR matters

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Thanks for attending



If you have any questions about today's presentation, contact us at:

- NHV Assist: info@nhvassist.com
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