



Non-Ongoing Employment Legislation

This page sets out the basic legislative requirements for engaging persons on a non-ongoing (temporary) basis in the APS under the *Public Service Act 1999*.

Key

- *Public Service Act 1999*—PS Act
- Public Service Regulations 1999—Regulations
- Australian Public Service Commissioner's Directions 2022—Directions

Topic	Legislation
1. Power to employ An Agency Head, on behalf of the Commonwealth, may engage persons as employees for the purposes of the agency.	PS Act s22(1)
2. Term of employment The engagement of an APS employee must be:	PS Act s22(2) PS Act s10A(1)(b)

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<ol style="list-style-type: none"> 1. as an ongoing employee; or 2. for a specified term or specified task (temporary); or 3. for duties that are irregular or intermittent (casual). <p>The usual basis for engagement in the APS is as an ongoing employee.</p>	
<p>Time Limits</p> <p>Under prescribed circumstances:</p> <ul style="list-style-type: none"> • Non-SES and SES employees can be engaged on a specified term basis for an initial period of up to 18 months. This can be extended to a total maximum period of three years. • Where a temporary SES position has been advertised on APSJobs, it can be filled for a total maximum period of 5 years, either initially, or as the result of an extension. <p>There are no time limits on specified task employment or casual employment.</p>	<p>Regulations 3.5(4)</p> <p>Directions s27</p> <p>Regulations 3.4</p>
<p>3. Recruitment</p> <p>Opportunity to Apply</p> <p>A temporary vacancy that is for 18 months or less, or duties that are casual, do not need to be advertised in the Public Service Gazette (the Gazette). However, to comply with the provisions of merit, as far as practicable, eligible members of the community must be given a reasonable opportunity to apply.</p> <p>Jobs for a period of more than 18 months must be advertised in the Gazette.</p>	<p>PS Act s10(2)(a)</p> <p>Directions s5 and</p>

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<p>Assessment of Applicants</p> <p>For temporary employment of 18 months or less, as a minimum requirement, an Agency Head must be satisfied that the person has the work-related qualities required to perform the duties.</p>	<p>Directions s27</p>
<p>4.Engagement for a Specified Term</p> <p>Non-SES</p> <p>A person may be engaged as a non-SES employee for a specified term if:</p> <ol style="list-style-type: none"> 1. the duties are required for a limited time 2. the person prefers to be engaged as a temporary employee, or 3. the person is currently an ongoing Parliamentary Service employee*. <p>The initial engagement must be for a period that is reasonable estimate of the time during which the duties will be performed, and is not more than 18 months.</p> <p>* There are three other circumstances prescribed in the Regulations where a person may be engaged as a temporary non-SES employee. These are limited in scope and are rarely used.</p>	<p>Regulations 3.5(3)(a),(d) and (e)</p> <p>Regulations 3.5(4)(a)</p> <p>Regulations 3.5(3)(b) and (c)</p> <p>Regulations 3.5(6)</p>
<p>SES</p> <p>A person may be engaged as an SES employee for a specified term of up to 5 years, if the initial vacancy was advertised in the Gazette.</p> <p>Where an SES vacancy is not advertised in the Gazette, the initial period of engagement can only be 18 months or less, with the possibility of an extension to a total maximum period of three years.</p>	<p>Regulations 3.4</p> <p>Directions s27</p> <p>Directions s29</p>

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<p>Ongoing to non-ongoing</p> <p>An ongoing non-SES or SES employee may resign their ongoing employment in order to be engaged as temporary employee for a specified term at the same classification level. This is primarily intended to facilitate transition to retirement.</p>	
<p>5. Extending a period of specified term employment</p> <p>Non SES</p> <p>A period of specified term employment for a non-SES employee may be extended beyond the initial nominated end date where:</p> <ol style="list-style-type: none"> 1. there is a continuing need for the duties 2. the person is performing satisfactorily 3. the Agency Head is satisfied that it is still appropriate that the duties be performed on a non-ongoing basis, and 4. the Agency Head is satisfied that the extension will contribute to efficient and effective organisational performance. <p>For non-SES employees, the total period of engagement, including extensions, must not exceed three years. The Australian Public Service Commissioner may authorise an extension beyond the 3 year limit, for no more than 12 additional months, where they are satisfied that special circumstances exist.</p>	<p>Regulations 3.5(4)(b)(c)</p> <p>Directions s27(2)</p> <p>Regulations 3.5(5)</p>
<p>SES</p>	<p>Regulations 3.4 (3)</p>

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<p>A period of specified term employment for an SES employee may be extended beyond the initial nominated end date, provided the total term of employment does not exceed:</p> <ul style="list-style-type: none"> • five years—where the initial vacancy was advertised on APSJobs • three years—where the initial vacancy was not advertised on APSJobs 	<p>Directions s27</p>
<p>6. Engagement for a specific task</p> <p>There are no time limits on specified task employment. However, where a specified task may be for more than 18 months, it must be advertised in the Gazette.</p> <p>Before engaging a person for a specified task, an Agency Head must be satisfied that the services of the person are unlikely to be required after the task is complete. The Agency Head must also be able to make a reasonable estimate of the duration of the task.</p>	<p>Regulations 3.5(2)</p> <p>Directions s27</p>
<p>7. Engagement on a casual basis</p> <p>A person may be engaged on an irregular or intermittent basis. This is sometimes referred to as casual employment. These duties are usually required to be undertaken for one-off short term tasks, duties where there is no regular pattern of work.</p>	<p>PS Act s22(2)(c)</p>
<p>8. Terminating temporary employment</p> <p>An Agency Head may terminate the employment of a temporary employee at any time by notice in writing.</p>	<p>PS Act s29(1)</p>

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<p>Provisions in relation to termination of temporary employment are often included in agency enterprise agreements or individual employment contracts. This can include arrangements for compensation where employment is terminated by an agency before the nominated end date or completion of a specified task.</p>	
<p>In any case, where employment is terminated early, the person may be entitled to notice of termination and redundancy pay in accordance with the National Employment Standards (NES). While this sets a minimum requirement, compensation for early termination must also be reasonable and take account of individual employment circumstances.</p>	<p><i>Fair Work Act 2009 s117 and s119</i></p>