

Employment Contract Essentials

A Guide for Australian Medical Practices

A well-drafted employment contract is the foundation of a successful employment relationship. For medical practices, contracts must navigate the Fair Work Act, relevant Awards, professional registration requirements, and healthcare-specific obligations.

This guide outlines the essential elements for employment contracts covering medical practitioners, nurses, allied health professionals, and administrative staff.

The Legal Framework

National Employment Standards (NES)

The NES provides 11 minimum entitlements that cannot be excluded or reduced by contract:

1. Maximum weekly hours (38 hours plus reasonable additional hours)
2. Requests for flexible working arrangements
3. Parental leave (up to 12 months unpaid)
4. Annual leave (4 weeks per year)
5. Personal/carer's leave (10 days per year)
6. Community service leave
7. Long service leave (per state/territory)
8. Public holidays
9. Notice of termination and redundancy pay
10. Fair Work Information Statement
11. Casual Employment Information Statement

Relevant Modern Awards

Employee Type	Likely Award Coverage
Medical practitioners (employed)	May be Award-free; check specific circumstances
Registered nurses / Enrolled nurses	Nurses Award 2020
Practice managers / Receptionists	Health Professionals and Support Services Award 2020

Allied health professionals

Health Professionals and Support Services Award 2020

Essential Contract Terms

1. Parties and Position

Clearly identify the employing entity, employee's full name, position title, reporting structure, location(s) of work, and commencement date.

"The Employer engages the Employee in the position of [Position Title], reporting to the [Reporting Manager]. The Employee's principal place of work will be [Address], though the Employee may be required to work at other locations as reasonably directed."

2. Employment Type

Specify the type of engagement:

- **Full-time** — ongoing, with guaranteed hours
- **Part-time** — ongoing, with guaranteed hours less than full-time
- **Casual** — no guaranteed hours, casual loading in lieu of leave entitlements
- **Fixed-term** — for a specified period or project

Fixed-Term Contract Limitations (from 6 December 2023)

Fixed-term contracts generally cannot exceed 2 years (including renewals) and cannot be renewed more than once.

3. Remuneration and Benefits

Address all components of the remuneration package:

- **Base salary or wages** — annual salary or hourly rate; confirm if inclusive/exclusive of superannuation
- **Superannuation** — currently 11.5%, increasing to 12% from 1 July 2025
- **Allowances** — uniform, travel, professional development, on-call
- **Salary sacrifice** — availability and administrative requirements

4. Hours of Work

Specify ordinary hours, spread of hours, overtime arrangements, on-call provisions, and time recording requirements.

5. Leave Entitlements

While NES provides minimums, contracts may enhance entitlements:

- **Annual leave** — 4 weeks minimum; additional leave, loading, restrictions
- **Personal/carer's leave** — 10 days minimum; evidence requirements
- **Parental leave** — Government-funded and employer-provided

- **Study leave** — professional development, conference, examination leave

6. Professional Obligations

For registered health practitioners, include provisions addressing:

Registration Requirements

"The Employee must maintain current registration with AHPRA and the relevant National Board throughout their employment. The Employee must immediately notify the Employer of any change to their registration status, any conditions or undertakings imposed, or any notifications made to AHPRA concerning them."

- **Professional indemnity insurance** — minimum coverage requirements
- **Medicare provider number** — obtain and maintain for practice location(s)
- **Continuing professional development** — responsibility and employer support

7. Confidentiality

Medical practice employees access highly sensitive patient information. Confidentiality provisions should cover:

- Patient health information and records
- Practice financial information
- Business strategies and plans
- Staff personal information
- Any information designated as confidential

Important: Confidentiality obligations should continue after termination.

8. Intellectual Property

Address ownership of intellectual property created during employment, including clinical protocols, research, educational materials, and software systems.

9. Restraint of Trade

Post-employment restraints may be appropriate for practitioners with patient relationships. For restraints to be enforceable, they must be reasonable in terms of:

- **Geographic scope** — reasonable for the practice's catchment area
- **Duration** — typically 6–12 months is more likely enforceable
- **Scope of activities** — distinguish between practice and patient solicitation

Drafting Tip

Use cascading provisions (e.g., 12/6/3 months; 10/5/2 km) to maximise enforceability. Overly broad restraints risk being entirely struck out.

10. Termination

Notice of Termination (NES Minimums):

Period of Service	Minimum Notice
Up to 1 year	1 week
1–3 years	2 weeks
3–5 years	3 weeks
Over 5 years	4 weeks
Over 45 years old with 2+ years service	Add 1 week

Also address payment in lieu of notice, summary dismissal grounds, and return of property obligations.

11. Policies and Procedures

Incorporate workplace policies by reference. Key policies include:

- Code of Conduct
- Privacy and Confidentiality Policy
- Work Health and Safety Policy
- Anti-discrimination and Harassment Policy
- Social Media Policy
- Infection Control Policy

Common Pitfalls to Avoid

1. **Failing to identify Award coverage** — employees retain Award entitlements unless properly contracted out
2. **Inadequate record-keeping** — maintain time and wage records for 7 years
3. **Sham contracting** — misclassifying employees as contractors attracts penalties
4. **Unenforceable restraints** — overly broad restraints may be struck out entirely
5. **Failing to provide required documents** — Fair Work Information Statement is mandatory
6. **Unlawful deductions** — require written authorisation and employee benefit

Contract Review Checklist

Parties correctly identified

Position, duties, and reporting line clear

Employment type specified (full-time, part-time, casual, fixed-term)

Commencement date and any probation period stated

Remuneration clearly stated (base salary, superannuation, allowances)

Hours of work and overtime arrangements addressed

Leave entitlements meet or exceed NES minimums

Professional registration and insurance requirements included

Confidentiality obligations appropriate

Restraint of trade provisions reasonable (if included)

Termination provisions comply with NES

Policies incorporated by reference

Disclaimer: This guide provides general information about employment contracts for medical practices in Australia. It does not constitute legal advice and should not be relied upon as such. Employment law is complex and subject to frequent change. We strongly recommend seeking independent legal advice before entering into or varying employment arrangements.

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