

Excerpt from the *University of South Australia Enterprise Agreement 2011*

28. FIXED-TERM EMPLOYMENT

28.1 Categories of Work

The use of fixed-term employment for contracts offered on or after the date of commencement of this Agreement, shall be limited to the employment of a staff member engaged on work activity that comes within the description of one or more of the following circumstances:

a) **Specific Task or Project**

A definable work activity which has a definable starting time and which is expected to be completed within an anticipated timeframe. Without limiting the generality of the circumstance, it shall also include a period of employment provided for from identifiable funding external to the University, not being funding that is part of an operating grant from government or funding comprised of payments of fees made by or on behalf of students.

b) **Research**

Work activity by a person engaged on research only functions or a person directly supporting such a person and funded by the same source (not being funding that is part of an operating grant from government or funding comprised of payments of fees made by or on behalf of students) for a contract period not exceeding five (5) years.

- i) Staff employed in relation to a specific research grant should normally be offered a contract for the whole period for which work of the type they have been contracted to provide will be required.
- ii) Staff should not be required to work prior to the signing of a contract for the services they are to provide. If funding for the research project is delayed the staff member should not be required to begin work or their contract should be funded by the cost centre within which the research project will be located and subsequently reimbursed from the project funding.
- iii) Staff engaged on successive research projects shall be considered to have unbroken service with the University if the period between successive contracts is less than six (6) months, but the period between contracts will not count as service.

c) **Replacement Staff Member**

Work activity replacing a full-time or part-time staff member for the whole of the period for which the staff member is either on authorised leave of absence or is temporarily seconded away from his/her usual work area, for a period normally not in excess of two (2) years, or performing the duties of:

- i) A vacant position for which the University has made a definite decision to fill and has commenced recruitment action; or
- ii) A position the normal occupant of which is performing higher duties pending the outcome of recruitment action initiated by the employer and in progress for that vacant higher duties position,
- iii) until a full-time or part-time staff member is engaged for the vacant position or vacant higher duties position as applicable.

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d) **Recent Professional Practice Required**

Where a curriculum in professional or vocational education requires that work be undertaken by a person who has recent practical or commercial experience, such a person may be engaged for a fixed period not exceeding two (2) years.

e) **Work-Force Planning Contract**

Where a full-time or a part-time staff member declares that it is his or her intention to retire, a fixed term contract expiring on or around the relevant retirement date may be adopted as the appropriate type of employment for a period of up to five (5) years, as further detailed in clause 36, Flexible Work Arrangements.

f) **Student Employment**

Where a person is enrolled as a student, employment under a fixed-term contract may be adopted as the appropriate type of employment for work activity, not within the description of another circumstance in the preceding paragraphs of this clause, provided that the work required by the contract is within the student's Division or an associated research unit of that Division and is work generally related to a degree course that the student is undertaking with the Division, provided that:

- i) Such fixed-term contract employment shall be for a period that does not extend beyond, or that expires at the end of, the academic year in which the person ceases to be a student, including any period that the person is not enrolled as a student but is still completing postgraduate work or is awaiting results; and
- ii) That an offer of fixed-term employment under this paragraph shall not be made on the condition that the person offered the employment undertake the studentship.

g) **Apprenticeship or Traineeship**

An apprentice or trainee employed pursuant to an apprenticeship or traineeship approved by the relevant state training authority.

h) **New Organisational Area**

- i) A fixed-term contract may be offered in the case of employment in a new organisational area, for up to two (2) years prior to or from the establishment of any such area. This does not apply to an area that arises out of the restructuring of an existing area(s). A further fixed-term contract of a maximum of twelve (12) months may be offered subsequent to the initial contract.
- ii) For the purpose of this sub-clause a new organisational area shall mean:
 - A group of not less than three (3) positions established in relation to a new organisational area or discipline not previously offered, or
 - Another new function organised either in a new geographic location outside Adelaide or organised distinctly from existing Schools or Units and not created from the merger or division of or movement of work from an existing School or Unit.
- iii) A fixed-term contract offered in the circumstances described in the sub-clause above will be subject to the following conditions:
 - The letter of offer of employment includes an understanding that should the position or substantially the same position occupied by the staff member continue beyond the maximum contract period of three (3) years, the staff

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member shall, subject only to satisfactory performance, be offered continuing employment in that position (or in another agreed position) at the conclusion of the contract period;

- should a position not be offered under the sub-clause above, upon request by the staff member, the University will, for three (3) months prior to the expiry of the contract, make reasonable attempts to identify other employment opportunities within the University; and
- where a fixed-term staff member employed in this circumstance is not offered further employment, he/she will receive on cessation of employment five (5) weeks severance pay for employment up to two (2) years, and seven (7) weeks severance pay for employment between two (2) and three (3) years. This sub-clause will replace any entitlement to severance pay elsewhere in this Agreement.

i) **Disestablished Organisational Area**

Where an organisational work area consisting of at least three (3) staff members has been the subject of a decision by the University to discontinue that work within thirty six (36) months, fixed-term contract employment may be offered to work in that area provided that:

- i) The letter of offer of employment includes an undertaking that, subject to satisfactory performance, should the decision to discontinue the work area be reversed, or should for any other reason the staff member's position or substantially the same position continue beyond a thirty six (36) month period, the staff member shall be offered that work on a continuing basis.
- ii) Should a position not be offered under sub-clause 28.1 i) i), upon request by the staff member, the University will, for three (3) months prior to the expiry of the contract, make reasonable attempts to identify other employment opportunities within the University.

j) **New or Discontinued Programs**

i) *New Program*

Where the University offers a new program and there is a demonstrable uncertainty as to the viability of that program, a fixed term contract may be offered for an additional position provided that the period of use of fixed-term employment shall not exceed two (2) years.

ii) *Discontinued Program*

Where a formal decision has been made to phase out an academic area represented by a program, a fixed term contract may be offered to meet commitments to students provided that the period of use of fixed term employment shall not exceed two (2) years.

k) **Sudden and Unanticipated Increase or Decrease in Enrolments**

Where a school/unit experiences a sudden and unanticipated increase or decrease in enrolments, fixed term employment may be offered with respect to that work for a minimum period of one (1) year up to a maximum of three (3) years.

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l) **Early Career Development Fellowships (ECDF)**

- i) Casual staff in the employ of the University may apply for an ECDF:
 - if they have been awarded a PhD and performed casual teaching work for the University in three (3) entire teaching periods over the previous five (5) years; or
 - they have been active candidates in their final year and have made satisfactory progress towards completion of their PhD during the preceding two (2) years and have performed casual teaching work for the University in at least five (5) major teaching periods over the last five (5) years;
- ii) A contract is to be of three (3) years' duration;
- iii) Employment is full-time, or if requested by the staff member and agreed to by the University, as a fractional appointment of not less than 0.5FTE;
- iv) A minimum of one (1) ECDF will be appointed in each academic Division during the nominal life of the new agreement; and
- v) ECDF's will only be advertised within the University to casual staff and applicants will be selected on the basis of merit.

m) **Teaching Focussed Roles**

- i) This category of fixed term employment is only open to casual academic staff who are in the employ of the University and have performed teaching work for the University in five (5) entire teaching periods over the previous five (5) years;
- ii) A contract is to be not less than six (6) months and no more than three (3) years;
- iii) A contract may be offered as full time or part-time;
- iv) Teaching duties shall not exceed 60% of the yearly allocated hours for a full time academic staff member, unless otherwise agreed between the staff member and Head of School/Director. A proportionate reduction based on the employment fraction is to be made for part time staff;
- v) Casual to teaching focussed roles may only be advertised within the University to casual staff; and
- vi) A major part of the workload of a teaching focussed contract must have been undertaken by one or more casual staff members.

28.2 **Entitlements and calculation of continuous service**

- a) A fixed-term staff member shall be entitled to the same terms and conditions as would apply to a continuing full-time or part-time staff member engaged in an equivalent classification and working an equivalent proportion of normal weekly ordinary hours for the classification.
- b) For the purpose of this Agreement and for the purpose of determining which provisions under this Agreement apply to fixed-term staff members, breaks between fixed-term appointments of up to two (2) times per year and of up to six (6) weeks shall not constitute breaks in continuous service. In addition, a break between fixed-term appointments over the summer period between study period 5 in one year and study period 2 in the following year shall not constitute a break in continuous service.
- c) Periods of approved unpaid leave shall not count for service, but shall not constitute breaks in service for the purposes of this clause.

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28.3 Notice

- a) The University shall provide to a fixed-term staff member, other than staff member employed on a contract described in sub-clauses 28.1 c), 28.1 e), 28.1 f) and 28.1 g), a written notice of the University's intention to renew, or not to renew, employment with the University upon the expiry of the contract. Such notice shall be the greater of:
- i) Any entitlement to notice of the University's intention to renew, or not to renew, employment with the employee upon the expiry of the contract; or
 - ii) Notice as per the following table:

Period of Continuous Service	Period of Notice
Up to 3 years	At least 2 weeks
3 years but less than 5 years	At least 3 weeks
5 years or over	At least 4 weeks

In addition to this notice, a staff member over the age of forty five (45) years at the time of the giving of notice and with not less than two (2) years continuous service shall be entitled to an additional one (1) week's notice.

- b) Where, because of circumstances external to the University and beyond its control, which relate to the provision of specific funding to support employment, the University is not reasonably able to give the notice required by this sub-clause, it shall be sufficient compliance with this sub-clause if the University:
- i) Advises those circumstances to the staff member in writing at the latest time at which the notice would otherwise be required to be given; and
 - ii) Gives notice to the staff member at the earliest practicable date thereafter.

28.4 Severance Pay

- a) A fixed-term staff member whose contract of employment is not renewed in circumstances where the staff member seeks to continue the employment shall be entitled to a severance payment in accordance with the entitlements in sub-clause 28.4 b) below in the following circumstances:
- i) The staff member is employed on a second or subsequent fixed term contract to do work required for the circumstances described in sub-clause 28.1 a) or 28.1 b) and the same or substantially similar duties are no longer required by the University; or
 - ii) The staff member is employed on a fixed term contract to do work required for the circumstances described in sub-clause 28.1 a) or 28.1 b) and the duties of the kind performed in relation to work continue to be required but another person has been appointed, or is to be appointed, to the same or substantially similar duties because the incumbent has not met the requirements specified in sub-clause 28.5 a) i) below.
- b) Where a staff member is entitled to a severance payment in accordance with sub-clause 28.4 a) above, the following payments shall apply:

Length of Continuous Service	Severance Pay
More than 1 but less than 2 years	4 weeks pay
2 years and up to the completion of 3 years	6 weeks pay
3 years and up to the completion of 4 years	7 weeks pay
4 years and over	8 weeks pay

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- c) Where the University advises a staff member in writing that further employment may be offered within six (6) weeks of the expiry of a period of fixed-term employment, then the University may defer payment of severance benefits for a maximum period of four (4) weeks from the expiry of the period of fixed-term employment.

28.5 Right to Further Employment

- a) At the time of giving the notice required by sub-clause 28.3 above, the University shall also advise whether it intends to continue the position or not. Where the decision is to continue the position, the incumbent has a right to further employment in accordance with the following criteria:
 - i) Where the staff member is employed on a contract in the circumstances described in sub-clause 28.1 a), 28.1 b), 28.1 j) and 28.1 k), the incumbent will be offered further employment in the position provided the incumbent was employed in the relevant position through a competitive and open selection process and has performed satisfactorily in that position;
 - ii) Where the staff member is employed on a contract in the circumstances described in sub-clause 28.1 h), the conditions specified in sub-clause 28.1 h) shall apply;
 - iii) Where the staff member is employed on a contract in the circumstances described in sub-clause 28.1 i), the conditions specified in sub-clause 28.1 i) shall apply; and
 - iv) Where the staff member is employed on a contract in the circumstances described in sub-clause 28.1 l), the incumbent shall, subject to satisfactory performance, be offered continuing employment.
- b) Where the staff member is employed on a contract in the circumstances described in sub-clause 28.1 c), 28.1 d), 28.1 e), 28.1 f), 28.1 g) and 28.1 m), no right to further employment exists. Nothing in this provision will preclude staff in these categories from applying for other positions in the University in accordance with recruitment and selection policies and procedures.

28.6 Contracts Offered Prior to Commencement of Agreement

- a) In relation to fixed term contracts offered prior to the commencement date of this Agreement, entitlements and conditions concerning notice, severance payments and rights to further employment shall be determined as follows:
 - i) Academic and Professional Staff – in accordance with Clause 24 of the University of South Australia Academic and Professional Staff Collective Agreement 2006;
 - ii) Security and Grounds Staff – in accordance with Clause 18 of the University of South Australia Security and Grounds Staff Enterprise Agreement 2008; and
 - iii) Documents Services Staff – in accordance with Clause 22 of the University of South Australia Document Services Staff Collective Agreement 2006.
- b) The entitlements and conditions prescribed in sub-clause 28.6 a) above, shall apply in lieu of those prescribed in sub-clause 28.3, 28.4 and 28.5 of this Agreement. Where no entitlement exists in sub-clause 28.6 a) above, an entitlement does not extend by virtue of this Agreement.