

**FIXED-TERM WORK EMPLOYEES
(PROHIBITION OF DISCRIMINATORY TREATMENT)
LAW, No. 98(I)/2003**

1. This Law may be cited as the Fixed-Term Work Employees (Prohibition of Discriminatory Treatment) Law of 2003.

2. In this Law, unless the context otherwise requires –

"comparable permanent employee" means an employee who has an employment contract or relationship of indefinite duration, in the same establishment or undertaking, and is engaged in the same or similar work/occupation, due regard being given to qualifications/skills.

"principle of pro rata temporis" means the principle whereby when a comparable permanent employee is employed with specific terms and conditions of employment, the fixed-term employee will be employed with the same terms and conditions of employment, based on a comparison of the period of employment of the comparable permanent employee and the fixed-term employee respectively.

"fixed-term employee" means an employee having an employment contract or relationship entered into directly between the employer and the employee, where the end of the employment contract or relationship is determined by objective conditions such as reaching a specific date, completing a specific task, or the occurrence of a specific event.

"Minister" means the Minister of Labour and Social Insurance.

3. The purpose of this Law is –

- (a) The improvement of the quality of fixed-term work, by providing for the application of the principle of non-discrimination, and
- (b) to prevent abuse arising from the use of successive fixed-term employment contracts or relationships.

4. - (1) This Law shall apply to every employee with a fixed-term employment contract or relationship as defined by Law, collective agreements or practice.

(2) This Law shall not apply in cases of:

- (a) Basic vocational training relationships and apprenticeship schemes, and
- (b) employment contracts or relationships which have been concluded within the framework of a specific public or publicly supported training, integration and vocational retraining programme.

5. - (1) In respect of terms and conditions of employment, a fixed-term employee shall not be treated less favourably than a comparable permanent employee by reason only that he/she has a fixed-term employment contract or relationship, unless different treatment is justified on objective grounds.

(2) Where appropriate, the principle of pro rata temporis shall apply.

(3) Period of service qualifications relating to the access to particular conditions

of employment shall be the same for fixed-term employees as for permanent employees, except where different length of service qualifications are justified on objective grounds.

6. - Where there is no comparable permanent employee in an establishment or undertaking, any comparison required to be made under this Law shall be made by reference to any specific collective agreement in force or, if no specific collective agreement exists, in accordance with relevant legislation, or any general collective agreement or practice.

7. (1) - When:

(a) An employer employs an employee with a fixed term contract, or following renewal of his contract, or

(b) the employee had previously been employed for a total period of thirty months or more with a fixed term contract of employment, independent of the number of successive renewals of fixed-term employment contracts or relationships, the contract shall be deemed in all circumstances to be an employment contract of indefinite duration. Any provisions in the above mentioned contract which limit the duration of the employment contract shall be void unless the employer can prove that the employment of the employee with a fixed-term employment contract can be justified on objective grounds.

(2) Objective grounds exist especially when:

(a) The needs of the undertaking or establishment for the completion of a specific task are temporary.

(b) The employee is temporarily replacing another employee.

(c) The particulars of a specific task justify the fixed-term duration of the contract.

(d) The fixed-term employee is employed on probation.

(e) The employment with a fixed-term contract is the result of the implementation of a judicial decision.

(f) The employment with fixed-term contracts refers to employment in the Armed Forces of the Republic of the Five Year Service Volunteers and the Volunteer Petty Officers.

(3) Pursuant to the enforcement of subsection (1) of the current section, in relation to employees with fixed-term employment contracts, or with a number of successive renewals of fixed-term employment contracts, on the date that this Law will come in to force, any employment period that took place before that date will not be taken into consideration for the purposes of paragraph (b) of subsection (1) of the current section.

8. - (1) The employer informs fixed-term work employees of vacancies available in the establishment or undertaking, so that it is ensured that they have equal opportunities to access permanent positions of employment like the other employees. This information can be communicated by means of a general announcement placed in an appropriate location within the establishment or undertaking.

(2) The employer, shall as far as possible, facilitate access by fixed-term employees to vocational training to enhance career opportunities and occupational mobility.

9: - (1) Fixed-term work shall be taken into consideration in calculating the threshold above which workers' representative bodies may be constituted in the establishment or undertaking, in accordance with national law, collective agreements and practice.

(2) The arrangements for the application of subsection (1) of the current section shall be defined in accordance with national law, collective agreements and practice having regard to the principle of non-discrimination according to Section 5 of this Law.

(3) The employer shall as far as possible give consideration to the provision of appropriate information to existing workers' representative bodies about fixed-term employment in the establishment or undertaking.

10. The Labour Disputes Court shall have exclusive jurisdiction to determine any dispute of a civil nature arising from the provisions of this Law.

11. Any employer who contravenes any provision of this Law shall be guilty of an offence and shall be liable, on conviction, to a fine not exceeding two thousand pounds.

12. The Minister may appoint Inspectors and such other Officers, as he may deem necessary for the more effective application of this Law.

13. (1) The Council of Ministers may issue Regulations for the more effective application of the provisions of this Law or in relation to any matter which this Law provides as requiring to be prescribed by Regulations.

(2) Without prejudice to the generality of subsection (1) above, any Regulations may in particular prescribe the duties or powers of Inspectors and/or other Officers appointed pursuant to section 12 of this Law.

14. The provisions of this Law do not impede the application of more favourable provisions agreed through collective agreements or other agreements between the employer and employees, or the representatives of the employees.