

## Fixed Term Contracts

### Introduction

The use of fixed term contracts in the Engineering Construction Industry under NAECI is unusual. The nature of the work in many instances does in practice result in a fixed term contract whether or not it is explicit in the contract of employment. Fixed term contracts are not specified in NAECI, leaving contractors to decide whether or not to stipulate them when engaging operatives.

### Current Practice

Generally, contractors do not issue fixed term contracts preferring to leave the term open. The nature of the project or scope of the work to be undertaken is the defining factor in employees' expectations.

The NAECI has worked well in this regard and through many changes in fixed term contract law since its inception in 1981. As a result, in general, there have been no procedural issues to address to date on this matter.

### Guidance

The vast majority of NAECI contractors do not use fixed terms contracts. In the best interests of stable industrial relations, the following is recommended:

- Where it is deemed necessary to use a fixed term contract, then the reasons and justification for doing so should be fully communicated to the trades unions and their views considered.
- Where they are introduced, they will be of no less favourable terms than NAECI. If extensions are to be considered then the trade unions should be consulted.
- Projects which have SPAs should consider amendments to their SPAs to include some regulation of the introduction of fixed term contracts.

The NJC will ensure that this Guidance Note is actively promoted in the development of new SPAs.

### Fixed Term Contracts and Redundancy

Under the terms of the Fixed-term Employees (Prevention of Less Favourable Treatment) Regulations of 2002, a fixed term employee has the right not to be treated any less favourably than a comparable non-fixed term employee as regards their contract or by being subjected to any detriment by their employer. Effectively, a fixed term employee has to be treated as a non-fixed term member of the workforce but with a contract having an end date.

A fixed term employee has statutory rights for redundancy payments if two years of continuous service are completed during the fixed term and the contract is not renewed.

Contractual severance pay is a provision applicable to all NAECI employees upon their termination of employment because of redundancy, but not for those who leave voluntarily or who are dismissed for reasons other than redundancy.

As such, and to ensure fixed term employees are not treated less favourably than a comparable non-fixed term employee, NAECI severance should be paid to fixed term employees at the end of the contract.