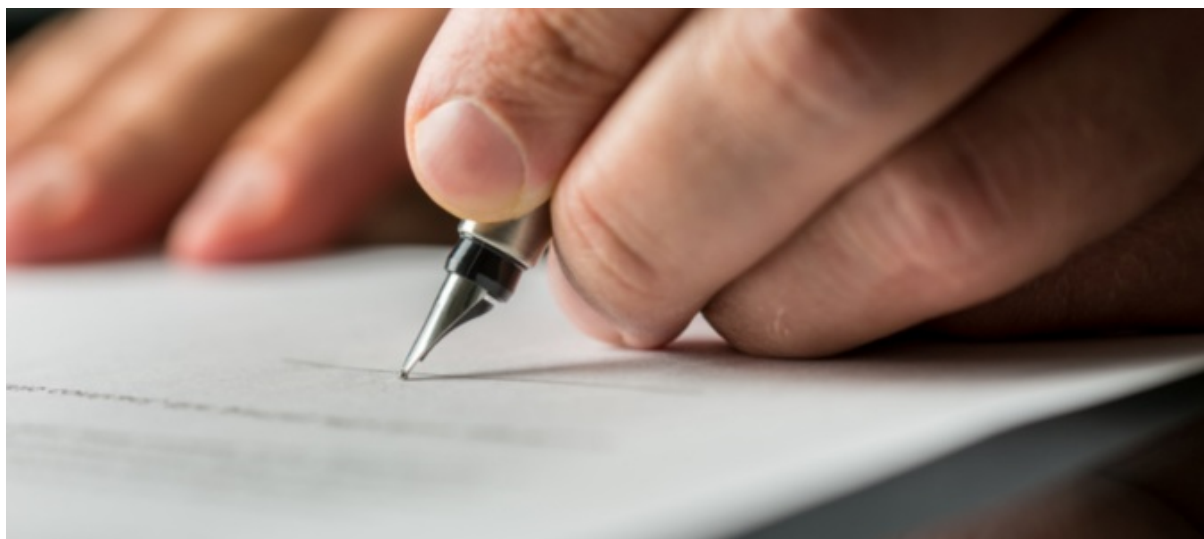


Employment contracts – Making them work for you

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You have finally landed the job you want, but it's now time to sign the contract. Do you understand the agreement? Do you know your rights?

What is a contract of employment?

A contract of employment is a written agreement between an employer and employee which sets out the terms and conditions of your employment. The written contract should be provided to you before you start your job, and it should reflect the nature of the actual arrangement which may have been discussed with you at a job interview.

There may be some room to negotiate the terms of the written contract. However, any changes that you may want to negotiate, should occur before you sign on the dotted line. Any changes that you negotiate will need to be agreed to by your perspective employer.

Every word in the contract matters. You should always read the fine print and consider the points discussed in this article before you sign the written contract.

Nature of employment

It is important that you understand your employer's expectations and the type of work which you are expected to perform. Check the contract to confirm that it is an employment relationship. It is not uncommon for medical and health practitioners to be engaged as contractors or to provide services through a service and facilities arrangement. These arrangements, when properly structured, are not employment arrangements. The benefits and obligations are different in an employment vs a contracting arrangement. It is important to understand what you are being offered in the written contract:

- Who is my employer?
- What is my role?
- What duties am I required to complete?
- Is it full time, part time or a casual arrangement?
- Is it a Fixed term or ongoing contract?

Minimum Entitlements

An employee's minimum entitlements are set out in legislation and provide for entitlements such as minimum wages, overtime, annual leave, personal leave, long service leave. The legislation that applies to medical and health practitioners will depend on whether you work in the private sector or the public sector, and the location in which you work.

The public and state sectors also have Awards which regulate an employee's minimum entitlements. An employment contract, modern award, state award, enterprise agreement or other registered agreement cannot provide for conditions that are less than the minimum entitlements set out in legislation.

Private Sector Employees

A modern award is regulated by the [Fair Work Act 2009 \(Cth\)](#) (FW Act) and outlines all the minimum terms and conditions of your employment on top of the National Employment Standards.

Modern awards are industry or occupation-based and apply to employers and employees who perform work covered by the award. A modern award regulates minimum entitlements such as rates of pay, allowances, breaks, hours of work, rosters, penalty rates, and overtime that will apply during your employment period. Your written contract should outline the relevant modern award, if one is applicable to you.

Public Sector Employees

There are a range of state-based awards that may apply to medical and health practitioners who work in the public sector. Similar to a modern award, a state-based award provides for an employee's minimum entitlements such as rates of pay, allowances, breaks, hours of work, rosters, penalty rates, and overtime. Your written contract should outline the relevant Award if one is applicable to you.

Enterprise Agreements

Enterprise agreements are registered agreements between an employer and a group of employees, that provide the minimum terms and conditions of the employment.

An enterprise agreement is negotiated between employers, employees and their bargaining representatives, and generally provides employees with the opportunity to bargain for better wages, greater flexibility and working conditions to suit their individual needs above the minimum standards that are provided in a modern award/state award or the NES.

An enterprise agreement also provides for minimum entitlements such as allowances, rates of pay, breaks, hours of work, rosters, penalty rates, and overtime. Your written contract should outline the relevant enterprise agreement if one is applicable to your workplace.

Insurance and Indemnity

Under Australian National Law, all healthcare practitioners must obtain professional indemnity insurance to register with Ahpra and to practice as a healthcare professional. This professional insurance must apply for the entire scope of a person's practice and may be obtained through their employer (*see note below for [hospital indemnified practitioner](#)) or on an individual basis ([private practice](#)).

When assessing your written employment contract, ask yourself:

- Am I being asked to accept liability for matters outside my control?
- Am I being asked to provide insurance cover beyond my own medical indemnity, such as for public liability or workers compensation?
- Are there any indemnity and/or insurance clauses in this agreement?

*Note: Although your employer may meet your key indemnity needs for medical negligence, you may still be exposed to additional risks not covered by your employer. MIPS is unable to provide these additional covers but can refer members to suitable insurance brokers to obtain cover.

Termination and post-employment restraints

Employers and employees may need to give notice when they end the employment relationship.

The National Employment Standards set out the minimum notice period that your employer must give you when terminating your employment, but your written contract may stipulate a longer notice period.

Your contract of employment or relevant Award may also provide an obligation on you to provide minimum notice to your employer if you chose to resign from your employment. You should always check your written contract or relevant Award to ensure you are complying your obligations.

Forward plan and consider future implications when entering an employment relationship. Some written contracts may include a restraint of trade clause. This type of clause usually applies when you leave the business and may prevent you from working in certain areas or at your employer's competitor.

To enforce a post-employment restraint clause, the employer must prove that the restraint is reasonably necessary to protect the legitimate interest of the business, and the restraint is no wider than reasonably necessary in terms of time and area.

Q. Are there any restrictions to where and how you practice following the end of your contract?

Things to remember

- Before accepting and signing any employment contract, obtain adequate expert advice from your industry association or solicitor to ensure full comprehension of its conditions. MIPS can assist with specific queries around indemnity and liability clauses.
- If you are employed, ensure you obtain written confirmation of your 'employer indemnity cover'.
- Maintain an appropriate membership category with your MDO or insurer.
- Ensure you fully understand your indemnity status and scope.

Any queries, [contact MIPS](#)

Insurance cover is subject to the terms, conditions and exclusions of the policy. The information provided is general advice only and does not take into account your personal circumstances or needs. You should review the [Member Handbook Combined PDS and FSG](#) and/or contact MIPS on 1800 061 113, before making a decision. Information is current as at the date published.
