

[TERMINATION OF EMPLOYMENT CONTRACT]

Fixed term contracts: the Labour code now allows to renew them twice

(L.1243-13 of the French Labour Code, Law n°2015-994, August 18th 2015)

Beginning August 18th 2015, a fixed term contract may be renewed twice, rather than only once under the former article L.1243-13 of the Labour Code.

However, the total duration of the contract (i.e.: renewals included) must not exceed 18 months (exceptional durations set aside).

This possibility is immediately applicable, even to contract already in force on August 18th.

In appearance, this modification of the law seems to largely ease the use of fixed term contracts and, hence, to constitute a major change. Actually, its impact is largely mitigated by the maximum duration of fixed term contract that remains the same and the fact that some fixed term contracts are not concerned by this change.

It must be reminded that, under French law, permanent employment contract is the rule and fixed term duration contract merely an exception available under specific circumstances. Indeed, this latter type of contract may never be used as a long term solution to fill in a permanent position.

The most common justifications for fixed term contracts are the temporary replacement of employees (i.e. during a sick leave, maternity leave, etc.), the temporary increase in the activity, or seasonal activities (L.1242-2 Labour Code.).

The maximum duration is set, as it was previously the case, at 18 months. It is:

- Reduced to 9 months in case of replacement in order to wait for the arrival an employee under a permanent contract *or* for hire to conduct emergency repairs;
- Increased to 24 months if the contract is to be performed abroad, *or* to replace somebody made redundant before the position is effectively closed, *or* to face an exceptional order for international exports

The initial duration of the contract and its renewals enclosed within this maximum duration; otherwise the relation could be construed as a permanent employment relationship.

This second renewal possibility does not concern the category of fixed term contracts without a specific end date. This paradoxically named category most notably includes contracts for replacements and seasonal activity contracts (L.1242-7). In this case, there is no specific end date - although a minimum duration must be set – and the contract ends upon the realization of a condition (e.g.: return of the replaced employee).

Fixed term contracts without a specific end date are not subject to a maximum duration as they may last as long as required. Needless to say that one renewal – or two – is thus pointless.

Finally, the renewal possibility only concerns the renewal of the same contract: same employee, same position and same justification. Thus, it does not affect the strict rules on successive fixed term contracts.

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