

L.N. 239 of 2008

**EMPLOYMENT AND INDUSTRIAL RELATIONS ACT
(CAP. 452)**

**Contracts of Service for a Fixed Term (Amendment) Regulations,
2008**

IN exercise of the powers conferred by article 34 of the Employment and Industrial Relations Act, 2002, the Minister for Social Policy has made the following regulations –

1. The title of these regulations is the Contracts of Service for a Fixed Term (Amendment) Regulations, 2008, and they shall be read and construed as one with the Contracts of Service for a Fixed Term Regulations, 2007, hereinafter referred to as “the principal regulations”.

Title.
L.N. 51 of 2007.
2. In sub-regulation (2) of regulation 3 of the principal regulations:

Amends regulation
3 of the principal
regulations.

 - (a) for paragraph (b) thereof there shall be substituted the following:

“(b) an assignment or assignments of particular responsibilities or work objectives, within the context of an indefinite contract of employment, which are for a period, alone or in aggregate, not exceeding four years:

Provided that breaks of up to a period of three months in an assignment or between successive assignments of substantially the same nature shall be included in the calculation of the four year period;” and
 - (b) for paragraph (d) thereof there shall be substituted the following:

“(d) where the employment relationship is not valid according to law.”.
3. In regulation 7 of the principal regulations:

Amends regulation
7 of the principal
regulations.

 - (a) in sub-regulation (1)(b), for the words “paragraphs (i)(a), (iii)(a) or (iv)(a) of sub-regulation (6)” there shall be substituted the words “sub-regulation (4) of regulation 7”; and

(b) for sub-regulation (4) there shall be substituted the following:

“(4) An employer may only retain an employee on a fixed term contract beyond four years when such retention is justified by objective reasons based on precise and concrete circumstances characterizing a given activity. Such circumstances may result, in particular, from the specific nature, or from inherent characteristics, of the tasks to be performed in the fixed term contract, and may, where appropriate, include situations such as where an employee:

(a) was employed as a casual substitute or similar employee on a back to back basis or as a temporary substitute employee;

(b) occupies

(i) a top management position, or

(ii) a position where the maintenance of a higher level of trust is necessary by virtue of the nature of the position or where a higher level of trust is objectively an essential element of the employment relationship;

(c) was employed by means of an appointment made to safeguard particular security or economic interests of the State:

Provided that this shall only apply when the employee is granted a contract of employment for a minimum period of 2 years;

(d) was employed on temporary assignments in missions or postings abroad for a duration not exceeding six years;

(e) was engaged to serve as a person of trust of a particular individual who himself holds an office of a temporary nature such as persons engaged to serve in the office of holders of publicly elected office.”.