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## Immigration alert – Fixed term employment agreements for working holiday makers

### Background

The Immigration Act 2009 (**IA**) does not allow a Working Holiday Maker (**WHM**) to take up permanent employment. However, the Employment Relations Act 2000 (**ERA**) requires a genuine reason based on reasonable grounds for a fixed-term employment contract. This creates confusion for employers who are looking to comply with both Acts.

### Update

Immigration New Zealand (**INZ**) has clarified that the IA provides a genuine reason based on reasonable grounds for offering fixed-term employment to a WHM. This means that employers can specify that the fixed-term duration is to comply with both the IA and ERA.

### Our thoughts

This position is limited to the WHM visa category. INZ will not accept a fixed-term contract for most other temporary visa categories, based on the duration of a visa only.

If a fixed-term contract is used for other categories of visa, there must be a genuine reason based on reasonable grounds for the fixed-term duration that is not related to visa status. This could include seasonal work, project work or parental leave cover.

### Advice

When offering employment to a WHM, employers should state that the contract is fixed-term because the employee is a WHM. This is to comply with both the IA and ERA.

The visa duration cannot be used to justify a fixed-term employment contract for most other work visa categories.

### Questions?

If you have any questions about this article, please contact [Tash Rae](#) or a member of our specialist [Employment Team](#).