



Employment Contracts or Offers

Not all jobs involve an Employment Contract or Offer of Employment. It will usually depend on the hiring practices of the employer and the nature of the position. The more senior the position, the more likely that some kind of contract will be involved.

An Employment Contract is a formal agreement between employer and employee, signed by both parties. An Offer of Employment is often seen as less formal but its effect, once accepted, is to create a contract. An Offer will usually be in the form of a letter on the employer's letterhead with a place at the end for the employee to sign accepting the terms set out in it.

What They Cover

A Contract or an Offer will set-out the terms of employment. It will generally apply from the time of hiring through to the end of the employment relationship. It will focus primarily on compensation and benefits, the employee's duties, termination of employment, the employer's rules and policies, and actual employment conditions. It can also include provisions that can affect both parties after employment ends, such as ownership of intellectual property, non-disclosure, non-solicitation of employees or customers, and non-competition.

Do Not Be Pressured Into Signing

Even if your future employer is pressuring you to sign the Offer or Contract immediately after it is presented, you should resist the urge to sign (often brought on by the fear of losing out on the position) until the offer or agreement has been reviewed by your lawyer. Any reasonable and prudent employer will understand that this is simple due diligence. Even "boiler plate" clauses should be reviewed carefully and compared to terms agreed to during verbal negotiations.

From the employer's perspective, it is far better to allow the employee a little time to carefully consider the terms of employment. It is usually going to be far less disruptive and damaging to the employee/employer relationship to deal with issues up-front than deal with them after the employee has started work. It also sends an important message of respect for the employee at the start of the relationship.

Terms Commonly Found in Contracts or Offers

A Contract or Offer will deal with most or all of the following:

1. **Term:** It can be for an indeterminate (no end date) or determinate period (fixed end date) or have an automatic renewal clause. Be careful to understand how long the contract will last or how and when it will have to be re-negotiated or renewed.
2. **Compensation:** This is a very important section and likely the one that matters most to both employer and employee. It should deal with current compensation as well as future compensation considerations.
3. **Hours of work:** Depending on the type of employment, it can be a set number of hours over all seven days or hours based on the standard five-day work week. It is important to confirm whether the position includes weekend or evening work. Overtime should also be dealt with.
4. **Vacation Leave:** The Contract should confirm the number of days per year to which the employee is entitled. It may also deal with future increases, whether time can be carried over from year-to-year and whether time will be paid out as part of compensation if the employee does not use vacation leave in any given year.
5. **Sick Leave:** The same considerations apply as for Vacation Leave. In addition, the contract should specify what evidence of illness, if any, will be required if the employee does take a sick day. More and more employers are requiring medical certificates when employees miss a number of consecutive days.
6. **Benefits:** If benefits are offered by the employer, it is important to specify the extent of coverage, when it starts, and who pays for it. Are premiums covered by the employee, the employer, or some combination of the two?
7. **Job Description:** This should extend beyond setting out the job title. A written job description sets out expectations for both employer and employee. It should assist in developing an harmonious working relationship.
8. **Employer's Rules and Policies:** These are often referred to in the contract, without being provided at the time of hiring. A copy of them should be supplied and reviewed as part of the hiring process and before the deal is finalized.
9. **Termination:** This clause may provide for a notice period or payment instead of a notice period depending on the type of termination or severance. It may also include specific acts or omissions that will trigger automatic termination. This is often the most contested and hotly-debated clause in an employment contract.

10. Non-Competition/Non-Solicitation: These clauses may limit the employee's employment prospects on termination. They should be very carefully reviewed and discussed since the employee's ability to earn a living may be affected by them.

11. Ownership of Intellectual Property/Non-Disclosure: These provisions are included to protect the employer, usually by specifying that any intellectual property developed by an employment, in whole or in part, during employment belongs to the employer and by requiring the employee to keep confidential any proprietary information made available in the course of employment.

Final Thoughts

The temptation is always there to rush into employment arrangements. A little time invested up-front by both the employer and the employee will make certain that the employment relationship has a solid foundation to it. Written Employment Contracts or Offers need not be long and complicated to protect both employer and employee. We can assist you with the paperwork, regardless of whether you are doing the hiring or being hired. Give us a call.

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