

# Employment Alert

Solicitors

## Fixed-term employees

As another World Cup tournament comes to an end who can believe that it was four years ago since we had the last one? Time certainly flies in the sporting arena, particularly, it seems, if you do not care much for the nation's favourite sport.

If you can recall that Ronaldo scored twice for Brazil to beat Germany in the World Cup 2002, you may also have etched in your memory that it was also four years ago that the Fixed-Term Employees (Prevention of Less Favourable Treatment) Regulations 2002 came into force. No? Well here is a reminder of why they have some particular significance four years on.

The regulations state that where an employee has been continuously employed on two or more fixed-term contracts for a period of four years or more, s/he shall be able to acquire permanent status. Therefore, employees who have been employed on fixed-term contracts for four years on 10 July 2006 will be entitled to be considered a permanent employee.

Such an employee may write to his/her employer requesting confirmation that s/he has become a permanent employee. The employer must reply in writing within 21 days confirming the permanent status unless the employer can objectively justify that the fixed-term status should remain at the date of the last renewal. For example, if the FA employed someone on fixed-term contracts for the specific task of overseeing the arrangements for football fans travelling from the UK to the Germany World Cup, the FA may be objectively justified in maintaining that this employee should remain on a fixed-term contract due to their task coming to an end imminently.

If the employee disputes the justification then s/he can apply to the Employment Tribunal for a declaration that his/her contract is permanent.

If the employee is confirmed as being permanent then the employer should give the employee, within one month of the anniversary, a statement of the changes to his/her terms and conditions, for example, as regards notice periods.

In practical terms this four year anniversary makes little difference to employers. The FA for example, would still have to tread carefully as the expiry of a fixed-term contract is still a dismissal. So before showing the employee a red card it will need to comply with the statutory dismissal procedure and make available to the employee any other vacancies within the FA. Presumably there will be one to deal with the arrangements for fans travelling to South Africa for the World Cup in four years time (it will come around quicker than you think) or even for those going to Austria and Switzerland for Euro 2008 - just two short years away. The England team had better start practising taking penalties sooner rather than later.

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If you would like any information on any of these or other employment matters, then please contact Kerry Scott-Patel ([kerry.scott-patel@rlb-law.com](mailto:kerry.scott-patel@rlb-law.com)) or Lara Crane ([lara.crane@rlb-law.com](mailto:lara.crane@rlb-law.com)) or telephone on 020 7222 7040.

Readers are advised to take specific advice before acting in reliance on the matters set out in this briefing.

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