

MT 2 -

Contrat de travail à durée déterminée (CDD)

Le contrat à durée déterminée constitue l'exception : il est conclu pour une durée limitée et pour l'exécution d'une tâche précise et non durable.

Le recours au contrat à durée déterminée est ainsi permis pour assurer le remplacement d'un salarié temporairement absent, pour faire face à un accroissement temporaire et exceptionnel du volume de travail ou encore pour l'exécution de travaux saisonniers pour ne citer que ces exemples ¹.

En aucun cas, un contrat à durée déterminée ne peut être conclu pour occuper durablement un salarié dans un emploi lié à l'activité normale et permanente de l'entreprise.

Forme du contrat

Un contrat à durée déterminée doit impérativement être conclu par écrit en double exemplaire, daté et signé.

Si aucun écrit n'est dressé, le contrat est présumé conclu pour une durée indéterminée. Aucune preuve contraire n'est admissible.

Contenu du contrat

Tout contrat de travail à durée déterminée doit comporter un certain nombre d'éléments obligatoires qui sont repris dans le modèle ci-après.

Ces clauses sont les mêmes que pour un contrat à durée indéterminée. Cependant, certaines clauses sont spécifiques au contrat à durée déterminée :

- l'objet du contrat : pour recourir valablement à un contrat à durée déterminée, les parties doivent préciser la nature de la tâche précise et non durable que le salarié est amené à remplir dans le cadre du contrat de travail.
Par exemple, une description des fonctions ou des tâches assignées au salarié au moment de l'engagement par le simple terme « Machiniste-Ouvrier » est trop large. Elle démontre que le salarié n'a pas été affecté à une tâche précise et non durable. Le contrat est à requalifier en contrat de travail à durée indéterminée ([Cour d'appel, 4 mars 2010, n° 34598 du rôle, infosjuridiques, CSL n° 3/2010, page 4](#)) ;
- la date de l'échéance sinon la durée minimale du contrat ;
- le nom du salarié absent si le contrat est conclu pour assurer le remplacement de celui-ci ;
- le cas échéant, la clause de renouvellement du contrat ;
- le cas échéant une clause d'essai.

Il convient de préciser que ces clauses spécifiques doivent impérativement être insérées dans tout contrat à durée déterminée sous peine de sa requalification en contrat à durée indéterminée.

Durée du contrat

Un contrat à durée déterminée peut courir sur une période maximale de 24 mois.

Il peut être renouvelé deux fois pour une durée limitée, sans que la durée totale du contrat, renouvellements compris, ne puisse dépasser la limite des 24 mois.

Une exception à cette règle est prévue pour les contrats à caractère saisonnier qui peuvent avoir une durée maximale de 10 mois sur une même période de 12 mois successifs, renouvellements compris.

¹ Voir article L.122-103 du Code du travail

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