



# Casual Employment Industrial Relations Reform

On Friday 26 March 2021, the Fair Work Act 2009 was amended to change workplace rights and obligations for casual employees.

## Introduction

The changes were made by the Fair Work Amendment (Supporting Australia's Jobs and Economic Recovery) Act 2021 (Amendment Act).

These changes come into effect on **Saturday 27 March 2021**.

More information will be released over the coming period. In the meantime, all the information you need about the changes are covered in this fact sheet.

## The Amendment to the Act has seen (Attached):

- Introduction of the Casual Employment Information Statement (attached)
- Definition of Casual Employment (see below)
- Pathway for Casual Employees

## Casual Employment Information Statement

Employers have to give every new casual employee a Casual Employment Information Statement (the CEIS) before, or as soon as possible after, they start their new job. The CEIS is in addition to the existing Fair Work Information Statement (FWIS) that must be provided to all employees at the commencement of their employment.

Small business employers need to give their existing casual employees a copy of the CEIS as soon as possible after 27 March 2021. Other employers have to give their existing casual employees a copy of the CEIS as soon as possible after 27 September 2021.

## What is a Casual Employee?

Changes to workplace laws relating to casual employees means you are defined as a casual if:

- you are offered a job;
- the offer does not include a **firm advance commitment** that the work will continue indefinitely with an agreed pattern of work; and
- you accept the offer knowing that there is **no firm advance commitment** and become an employee.

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## Casual Conversion: The right to become a permanent employee

A casual employee has the right to become a permanent (full-time or part-time) employee in some circumstances. This is known as 'Casual Conversion.'

As an employer, there will be a requirement for you to offer your employees casual conversion, or an employee has a right to request it.

An employer has to offer their casual employee to convert to full-time or part-time (permanent) when the employee:

- has worked for their employer for 12 months
- has worked a regular pattern of hours for at least the last 6 of those months on an ongoing basis
- could continue working those hours as a permanent employee without significant changes.

Some exceptions apply, including:

- small business employers (less than 15 employees)
- if an employer has 'reasonable grounds' not to make an offer to a casual employee for casual conversion

## Employer Offer

As an employer, you must make an offer to your casual employee to become a permanent employee if:

- they have been employed for **at least 12 months**;
- they have worked a regular pattern of hours for **the last 6 months** on an ongoing basis; and
- their regular hours could continue as a permanent employee without significant changes.

An employer needs to make this offer in writing before 27 September 2021 or within 21 days after the employee's 12-month anniversary, whichever is later.

NOTE: An employer does not have to offer an employee casual conversion if:

- there are reasonable grounds for them not to; or
- you are not eligible.

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## Where to from here?

Employers will need to ensure they have given all casual employees the new Casual Employee Information Sheet as soon as possible.

They will then need to assess whether to make an offer for casual conversion before 27 September 2021.

If employees do not meet the requirements because they have not been employed for 12 months, then the employer will need to inform the employee in writing within 21 days of making the assessment.

## Employee Requests

After 27 September 2021, an employee can make a request to their employer to become a permanent employee if:

- they have been employed for at least 12 months
- they have worked a regular pattern of hours in the last 6 months on an ongoing basis;
- their regular hours could continue as a permanent employee without significant changes;
- they have not been refused a previous offer to become a permanent employee in the last 6 months;
- as their employer, you have not informed your employee in the last 6 months that you will not offer them casual conversion on reasonable grounds; and
- as their employer, you have not refused a request from your employee to become a permanent employee based on reasonable grounds in the last 6 months.

Need help ensuring you are on top of your obligations when it comes to keeping up with Fair Work legislation?

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