

CASUAL CONVERSION CLAUSE KICKS IN FROM 1 OCTOBER 2018

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Casual employment has been a hot topic lately, particularly following the Full Federal Court decision in *Workpac Pty Ltd v Skene*.

What you now need to know is that from 1 October 2018 the new casual conversion clause will be added to 84 awards.

This means employers whose workers are covered by those awards will need to comply with the casual conversion clause on and from 1 October 2018. Further any employer currently negotiating an enterprise agreement should confirm whether the underlying award is impacted by this change.

WHAT ARE THE KEY FEATURES OF THE CASUAL CONVERSION CLAUSE?

The new clause will give casual employees the right to request that their employment be converted to full-time or part-time employment if, for the preceding 12 months, they have worked a pattern of hours on an ongoing basis, which without significant adjustment they could continue to work as a full-time or part-time employee.

Conversion to permanent employment is not automatic however, and an employer may refuse the request to convert, but only on reasonable grounds after consultation with the employee.

Reasonable grounds for refusing the request may include that:

- it would require a significant adjustment to the casual employee's hours of work in order for the employee to be engaged as a full-time or part-time employee in accordance with the provisions of the relevant award – that is, the casual employee is not truly a regular casual employee
- it is known or reasonably foreseeable that the regular casual employee's position will cease to exist within the next 12 months
- it is known or reasonably foreseeable that the hours of work which the regular casual employee is required to perform will be significantly reduced in the next 12 months
- it is known or reasonably foreseeable that there will be a significant change in the days and/or times at which the employee's hours of work are required to be performed in the next 12 months which cannot be accommodated within the days and/or hours during which the employee is available to work

This list of reasonable grounds is not exhaustive and other matters may arise which makes it reasonable to refuse an employee's request to convert.

Under the new clause, an employer must not engage, re-engage an employee, or reduce a casual employee's hours of work in order to prevent the employee from being able to make the conversion request.

WHAT DO EMPLOYER'S NEED TO DO?

Casual employees **must** be given a copy of the new clause within the first 12 months of their employment, or if already engaged, by 1 January 2019.

If your business has a current enterprise agreement, there will be no immediate implication. However if the underlying award is one of the 84 to include the conversion clause, you will need to consider the inclusion of the casual conversion clause in any future negotiations for a replacement enterprise agreement.

To view the Model Clause, please [click here](#).

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