

Checklist for Casual Employees – 2021 Amendments to Fair Work Act

Timeline	Steps	Action required	Comments	Completed (tick)
Ongoing	1	<p>Check and maintain records in relation to casual employees, most importantly:</p> <ul style="list-style-type: none"> • Date of commencement • The hours worked each week • How long they have worked an ongoing and regular pattern of hours 		
	2(A)	Assess employee eligibility for casual conversion	<p>Eligible employees include employees:</p> <ul style="list-style-type: none"> • <i>Who have been employed on a casual basis for 12 months; and</i> • <i>During the last 6 months of that period, the employee has worked a regular pattern of hours on an ongoing basis, which, without significant adjustment, the employee could continue to work as a full-time or part-time employee.</i> 	

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<p>Within 21 days of the casual employee's 12-month anniversary</p> <p style="text-align: center;">OR</p> <p>Before 27 September (whichever is later)</p>	<p>2(B)</p>	<p>Assess whether there are reasonable grounds not to make an offer to an eligible employee for casual conversion.</p> <p>Assess whether the reasonable grounds are based on facts that are known, or reasonably foreseeable, at the time of deciding not to make the offer.</p> <p>If reasonable grounds exist, proceed to step 2(D).</p>	<p>Reasonable grounds include (but are not limited to):</p> <ul style="list-style-type: none"> • <i>The employee's position will cease to exist in the next 12 months after the time of deciding not to make the offer; or</i> • <i>The hours of work which the employee is required to perform will be significantly reduced in that period; or</i> • <i>There will be a significant change in either or both of the following in that period:</i> <ul style="list-style-type: none"> a. <i>The days on which the employee's hours of work are required to be performed;</i> b. <i>The times at which the employee's hours of work are required to be performed;</i> <p><i>and the change cannot be accommodated within the days or time the employee is available to work during that period.</i></p> <ul style="list-style-type: none"> • <i>Making an offer would not comply with a recruitment or selection process required by law</i> 	

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	2(C)	If eligible, issue written correspondence offering casual conversion to permanent full time or permanent part time.		
	2(D)	If a casual employee who has been employed for 12 months or more is ineligible for conversion or reasonable grounds not to offer conversion exists, issue written notice explaining why casual conversion is not being offered	<p><i>Correspondence must:</i></p> <ul style="list-style-type: none"> • Advise the employee that the employer is not making an offer for conversion; and • Include details of the reasons for not making the offer, including any grounds on which the employer had decided not to make an offer. 	
Within 21 days of issuing an offer for casual conversion	3	Employee must accept the offer in writing if they are wishing to do so. If offer is verbally rejected, confirm this in writing.	<i>If employee fails to give a written response, the employee is taken to have declined the offer.</i>	
Within 21 days after the day of the employee's	4(A)	Consult with employee to discuss the terms of the conversion.	<p><i>Terms to be discussed include:</i></p> <ul style="list-style-type: none"> • Whether the employee is converting to full-time employment or part-time employment; • The employee's hours of work after the conversion takes effect; • The day the employee's conversion takes effect. 	

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acceptance of an offer for casual conversion	4(B)	Give written notice to the employee confirming the terms of their employment. This can occur by way of an updated employment contract.	<p><i>Terms to be confirmed in the notice include:</i></p> <ul style="list-style-type: none"> • <i>Whether the employee is converting to full-time employment or part-time employment;</i> • <i>The employee's hours of work after the conversion takes effect;</i> • <i>The day the employee's conversion takes effect.</i> <p><i>The conversion takes effect on the day specified in the notice which must be the first day of the employee's first full pay period that starts after the day the notice is given.</i></p> <p style="text-align: center;">OR</p> <p><i>Another date agreed by the employee and employer, as specified in the notice.</i></p>	
After 27 September 2021	5	If no offer for conversion is made by employer, eligible employees may request, in writing, to be converted to a permanent employee (either full-time or part-time, as applicable to their hours).	<p><i>An employee is only eligible to make a request if all of the following apply:</i></p> <ul style="list-style-type: none"> • <i>The employee has been employed by the employer on a casual basis for 12 months;</i> • <i>During the last 6 months of their employment, ending on the date the request is given, the employee has worked a regular pattern of hours on an ongoing basis, which, without significant</i> 	

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			<p><i>adjustment, the employee could continue to work as a full-time or part-time employee;</i></p> <ul style="list-style-type: none"> • <i>The employee has not refused an offer for conversion made by the employer in the last 6 months prior to the request being given;</i> • <i>Within the last 6 months, the employer has not issued a notice explaining why casual conversion is not being offered (see step 2(D) above);</i> • <i>In the last 6 months, the employer has not provided a response to a previous request for conversion;</i> • <i>The request is not to made within 21 days of the employee's 12-month anniversary.</i> 	
<p>Within 21 days of receiving an employee request for conversion</p>	<p>6(A)</p>	<p>Assess employee eligibility and consider whether there are reasonable grounds to refuse the request.</p> <p>The reasonable grounds must be based on facts that are known, or reasonably foreseeable at the time of refusing the request.</p>	<p>Reasonable grounds include (but are not limited to):</p> <ul style="list-style-type: none"> • <i>It would require a significant adjustment to the employee's hours of work in order for the employee to be employed as full-time or part-time;</i> • <i>The employee's position will cease to exist in the next 12 months after the time of</i> 	

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			<p><i>deciding not to make the offer; or</i></p> <ul style="list-style-type: none"> • <i>The hours of work which the employee is required to perform will be significantly reduced in that period; or</i> • <i>There will be a significant change in either or both of the following in that period:</i> <ul style="list-style-type: none"> a. <i>The days on which the employee's hours of work are required to be performed;</i> b. <i>The times at which the employee's hours of work are required to be performed.</i> <p><i>and the change cannot be accommodated within the days or time the employee is available to work during that period.</i></p> <ul style="list-style-type: none"> • <i>Granting the requested offer would not comply with a recruitment or selection process required by law.</i> 	
	6(B)	If the employee is ineligible for conversion or reasonable grounds for refusal exist, consult with the employee prior to responding in writing.		

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	6(C)	If the employer is to accept the request for conversion, consult with the employee in respect of the terms of the conversion.	<p><i>Terms to be discussed include:</i></p> <ul style="list-style-type: none"> • <i>Whether the employee is converting to full-time employment or part-time employment;</i> • <i>The employee's hours of work after the conversion takes effect;</i> • <i>The day the employee's conversion takes effect.</i> 	
	6(D)	Respond to the employee in writing confirming refusal of the request (if applicable).	<p><i>Terms to be confirmed in the notice include:</i></p> <ul style="list-style-type: none"> • <i>Whether the employee is converting to full-time employment or part-time employment;</i> • <i>The employee's hours of work after the conversion takes effect;</i> • <i>The day the employee's conversion takes effect.</i> <p><i>The conversion takes effect on the day specified in the notice which must be the first day of the employee's first full pay period that starts after the day the notice is given.</i></p> <p style="text-align: center;">OR</p> <p><i>Another date agreed by the employee and employer.</i></p>	

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	6(E)	Respond to the employee in writing providing notice of the acceptance of the conversion request and confirming the terms of the conversion. This can be done by way of a cover letter and updated employment contract.	<p><i>Terms to be confirmed in the notice include:</i></p> <ul style="list-style-type: none"> • <i>Whether the employee is converting to full-time employment or part-time employment;</i> • <i>The employee's hours of work after the conversion takes effect;</i> • <i>The day the employee's conversion takes effect.</i> <p><i>The conversion takes effect on the day specified in the notice which must be the first day of the employee's first full pay period that starts after the day the notice is given.</i></p> <p style="text-align: center;">OR</p> <p><i>Another date agreed by the employee and employer as specified in the notice.</i></p>	