

Casual Conversion Series

9 June 2021

This is the fourth in a series of articles about the recent industrial relations reforms relating to casual employees.

This document contains general advice only. You should consider whether it is suitable for your particular business needs.

Need more information?

Contact Us

Girardi Human Resources

Phone

0421 085 546

Email

john@girardi.com.au

Website

www.girardi.com.au

Existing Employees & Casual Conversion



What do I need to do in the transition period?

This last article in this *Casual Conversion Series* discusses what steps you need to take in relation to existing casuals who were employed by you before 27 March 2021. The *Casual Conversion Series* of articles all relate to the broader topic of casual conversion (that is, the right of a casual employee to become a permanent employee in certain circumstances).



We will continue to update our website with resources to help you manage the casual conversion process.

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What happens with casual employees employed by me before the law changes started? Is there a transition period?

Employers other than small business employers

There is a six month transition period for employers (other than small business employers) which ends on 27 September 2021. The purpose of the transition period is to ensure casual employees who were employed by the employer prior to the law changes are not disadvantaged compared to new casual employees.

By the end of the transition period, an employer must review its workforce and determine which employees were casual employees employed immediately before 27 March 2021. This assessment needs to be made in the context of the employee's employment contract (and Award or Enterprise Agreement). It also applies to any person who was offered employment before 27 March 2021 and meets the new legislative definition of casual employee [[click here for our article about this definition](#)].

Assessment

In the transition period, the rules are modified so that each casual employee is to be assessed against the conversion criteria at a point in time during the six month transition period. For example, the assessment could be undertaken by one employer in June 2021, a different employer in August 2021 and a third employer in September 2021.

Once the employer picks the date at which the assessment will be made, each casual employee is to be assessed against the eligibility criteria at that date. For example, under the usual rules that will apply to new casual employees, an employee is assessed against the conversion criteria when they have been employed for 12 months. In contrast, in the transition period, the employee only needs to have been employed by the employer for a period of 12 months ending the day the assessment is made.

Once the assessment has been completed, the employer must either:

- △ **offer conversion** - to all eligible casual employees (unless the employer has reasonable grounds not to); or
- △ **refuse to offer conversion** (discussed in more detail below).

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Employers other than small business employers (cont.)

Refusal to offer conversion – the employer must provide a notice to each casual employee who is not offered conversion that includes the reasons why an offer is not being made. The available reasons are that:

- △ the employee has not met the eligibility criteria to be made an offer (eg because they have not been employed for at least 12 months from the date of the assessment); or
- △ the employee does not satisfy the regular pattern of hours requirement; or
- △ the employer has reasonable grounds for not making an offer.

Casual Employment Information Statement

After completion of the transition period (by 27 September 2021) the employer must then give each existing casual employee identified during that period a copy of the Casual Employment Information Statement ([click here for our article on the CEIS](#)). This ensures existing casual employees are notified about the new legislative definition of ‘casual employee’ and the casual conversion rights and obligations under the law changes.

Small Business Employers

Under the transitional arrangements, the conversion rules apply to an existing casual employee as if they were a ‘casual employee’ under the new legislative definition. This means that an existing casual employees can request casual conversion if they meet the eligibility criteria from 27 March 2021.

This is why small business employers had to give a copy of the Casual Employment Information Statement to casual employees as soon as practicable from 27 March 2021.

Next steps for employers

- △ **For all employers** – review your workforce and identify your casual employees.
- △ **For small business employers** - if you have not yet given each casual employee a Casual Employment Information Statement, do so.
- △ **Ask for help!** We will be updating our website with resources relating to casual conversion to help you navigate the process. Keep checking in for checklists, flowcharts and articles about the process. And, if you need clarification, please contact us.