

Casual Employment Checklist

Use this Checklist to understand your new obligations under the amended Fair Work Act and to assist you in taking the appropriate actions to remain compliant. **NOTE:** This Checklist only applies to national system employers and their casual employees, not State system employers and their employees.

OBLIGATION	WHAT DO I NEED TO DO?
DEFINITION OF A CASUAL EMPLOYEE	
<p>Ensure that an offer of casual employment is made or has been made with no firm advance commitment to continuing and indefinite work according to an agreed pattern of work, including:</p> <ul style="list-style-type: none"> • you can choose to offer or not offer shifts and the employee can choose to accept or reject shifts • the employee will work as required according to the needs of the employer • the employment is described as casual • the employee is entitled to a casual loading or casual rate of pay 	<p>Check that your employment contract:</p> <ul style="list-style-type: none"> <input type="checkbox"/> describes the employment as casual <input type="checkbox"/> does not commit the employee to work in advance or to work even if not required (e.g. 9am to 5pm every Tuesday, or for six months) <input type="checkbox"/> clearly and separately identifies the employee's casual loading or casual rate of pay <input type="checkbox"/> Contact the Advice Team if your employment contract does not contain the above or for specific advice <input type="checkbox"/> Use BrightHR to keep accurate records of time sheets <input type="checkbox"/> Ensure your contracts are stored securely and easily accessible through software like BrightHR <input type="checkbox"/> Use BrightHR's rostering feature to help plan and manage casual shifts and allow your casual employees to easily accept and reject shifts
ALL CASUAL EMPLOYEES	
Offering casual conversion	
<p>If you have fifteen or more employees, unless reasonable grounds apply, you must make an offer of permanent employment (Offer) in writing to a casual employee with 12 months' service who has worked a regular pattern of hours in at least the last six months that could continue as permanent employment.</p> <p>Reasonable grounds not to make the Offer include but are not limited to:</p> <ul style="list-style-type: none"> • the role will no longer exist in 12 months' time • the employee's hours of work will be significantly reduced in the next 12 months • there will be a significant change to the employee's days and times of work which cannot be accommodated within the employee's availability • making the Offer will not comply with recruitment or selection process requirements of the Commonwealth, States, or Territories 	<ul style="list-style-type: none"> <input type="checkbox"/> Check the number of employees that you engage and count any employees engaged by your associated entities <input type="checkbox"/> Diarise the employee's 12-month anniversary of employment and 21 days following that date. This information can be found in your BrightHR records <input type="checkbox"/> On that anniversary, assess if the employee's pattern of hours has been regular for at least the last six months and if there are reasonable business grounds not to make the Offer <input type="checkbox"/> Within 21 days of the employee's 12-month anniversary, provide to the employee in writing either: <ul style="list-style-type: none"> • the Offer • the reasonable grounds for refusing to make the Offer • why the employee does not satisfy the six-month regular pattern of hours requirement <input type="checkbox"/> If within 21 days of making an Offer the employee accepts, consult with the employee and give written notice of the details of their permanent employment <input type="checkbox"/> Contact the Advice Team for specific advice and letters to meet your obligations
Employee right to request conversion	
<p>Employees of any size business can request conversion if:</p> <ul style="list-style-type: none"> • they have not refused an Offer in the six months before the date of the request • you refused to make an Offer but did not give reasonable grounds • you have not refused a request to convert in the last six months, and • if you have fifteen or more employees, the request is made after 21 days following their 12-month anniversary of employment <p>You must respond to an employee's request to convert to permanent employment in writing.</p>	<ul style="list-style-type: none"> <input type="checkbox"/> After receiving the request, consult with the employee about their request <input type="checkbox"/> Within 21 days of receiving a request to convert, respond in writing with either: <ul style="list-style-type: none"> • your refusal, with reasons for the refusal, or • your granting of the request <input type="checkbox"/> If you grant the request, consult with the employee and give written notice of the details of their permanent employment <input type="checkbox"/> Contact the Advice Team for specific advice and letters to meet your obligations

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OBLIGATION	WHAT DO I NEED TO DO?
Other conversion obligations	
<p>You must not reduce or vary an employee's hours of work or terminate their employment to avoid casual conversion rights. You cannot require an employee to convert to full-time or part-time employment.</p> <p>Casual conversion rights form part of the National Employment Standards, so breaching this obligation risks civil penalties.</p>	<ul style="list-style-type: none"> <input type="checkbox"/> Call the Advice Team before reducing or varying a casual employee's hours or terminating their employment <input type="checkbox"/> Make clear in your Offer that it is the employee's choice to convert to permanent employment or continue as a casual employee
Casual conversion or casual loading disputes	
<p>If you and your employee disagree about casual conversion, you must attempt to resolve it by discussion before taking further steps.</p> <p>If a casual employee claims that they are, in fact, a permanent employee owed entitlements, you could ask a court in any proceedings to reduce any liability for entitlements by an amount of casual loading that you have paid or that would be appropriate having regard to an award, enterprise agreement, or employment contract.</p>	<ul style="list-style-type: none"> <input type="checkbox"/> If there is a disagreement about casual conversion, attempt first to discuss it with the employee. Call the Advice Team for assistance if this does not resolve the dispute <input type="checkbox"/> Make sure that the employee's casual loading is clearly identified in their contract and on their payslip
Casual Employment Information Statement	
<p>You must provide a Casual Employment Information Statement (CEIS) to new casual employees either before or soon after the employee begins employment.</p>	<ul style="list-style-type: none"> <input type="checkbox"/> Once available from the Fair Work Ombudsman, provide the CEIS to new casual employees
EXISTING CASUAL EMPLOYEES – 15 OR MORE EMPLOYEES ACROSS ALL ASSOCIATED ENTITIES	
<ul style="list-style-type: none"> • Assess your casual employees' eligibility to receive an offer for casual conversion within six months and make an Offer within 21 days of the date of assessment unless there are reasonable grounds not to • Within 21 days of the date of the assessment, provide notice in writing with the reasons for any refusal to make an Offer if reasonable grounds apply • Ensure consistency between the Act's definition of casual employment and your enterprise agreement, if you have one • Provide a CEIS to your casual employees 	<ul style="list-style-type: none"> <input type="checkbox"/> By 26 September 2021, assess all existing casual employees against eligibility for conversion as if the date of the assessment is the employee's 12-month employment anniversary and make an Offer within 21 days of the date of the assessment unless there are reasonable grounds not to <input type="checkbox"/> Within 21 days of the date of the assessment or 26 September 2021 (whichever is the earlier) provide a notice to any employee who is not offered conversion that includes the reasons why you have not provided the Offer <input type="checkbox"/> Apply to the Fair Work Commission to vary your enterprise agreement in line with the definition of casual employment <input type="checkbox"/> Give a CEIS to your casual employees as soon as practicable after 26 September 2021
EXISTING CASUAL EMPLOYEES – FEWER THAN 15 EMPLOYEES ACROSS ALL ASSOCIATED ENTITIES	
<ul style="list-style-type: none"> • Consider and respond to employee requests to convert to permanent employment • Provide your response to any request to convert in writing • Ensure consistency between the Act's definition of casual employment and your enterprise agreement, if you have one • Provide a CEIS to your casual employees 	<p>Refer to the Employee right to request conversion section.</p> <ul style="list-style-type: none"> <input type="checkbox"/> Apply to the Fair Work Commission to vary your enterprise agreement in line with the definition of casual employment <input type="checkbox"/> Give a CEIS to your casual employees as soon as practicable

BrightHR's rostering feature makes scheduling your casual employees easier than ever. And the best part? **As an EmploySure client you enjoy exclusive access to the BrightHR platform.**



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