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**The Australian HR Institute
Submission to the Department of Employment
and Workplace Relations**

Casual Employment

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The Australian HR Institute

The Australian HR Institute (AHRI) is the professional body for Human Resources in Australia, with approximately 16,500 members from Australia and across the globe. AHRI members have a professional responsibility to act ethically, and support employers and employees fairly and objectively.

AHRI members are usually those within organisations advising on the implementation of the workplace and employment regulatory framework, and they have a clear understanding of what works in practice.

Their role includes managing the organisation's response to changes in workplace and employment legislation, educating and influencing management, and actively partnering with others in the organisation, including leaders and line managers, to ensure compliance.

HR professionals often also manage an organisation's relationships with third parties.

It is this unique position that provides AHRI members with a valuable perspective on changes to workplace and employment legislation and to be able to meaningfully contribute to proposed changes.

Background

AHRI welcomes the opportunity to comment on the Government's review of legislation related to casual employees. Australia is one of the least regulated and flexible economies in the western world, which explains why job creation is strong and structural unemployment is low.

AHRI's guiding principle is therefore that regulation should always be a last resort and applied in as light touch a way as necessary to achieve its specified objectives at minimum administrative cost.

AHRI's position is that employers and employees are best placed to jointly agree on what HR professionals call the total reward package – i.e. pay, benefits and other aspects of the job, such as employment status.

Implications for amending existing legislation

AHRI believes that the existing legislation, in particular the automatic right to casual conversion after 12 months' service, is resulting in an inferior outcome from both an employment and productivity perspective.

The negative impact on employment arises because the regulation, as it currently stands, is increasing labour costs for employers. The cost increase is due to the administrative costs incurred in meeting the regulatory requirements.

Employers currently need to make a written offer to convert their casual employees to permanent employment within 21 days after the employee's 12-month anniversary (and then annually), if the employee has been employed for 12 months, has worked a regular pattern of hours on an ongoing basis for at least the last 6 months and could continue working these hours as a full-time or part-time employee without significant changes,

This requires that all potentially eligible casual employees have their pattern of hours assessed and for a letter to be prepared to advise them of their right to request conversion.

Especially for employers without a time and attendance system this can be a manual process of reviewing rosters and time sheets. For employers with a system, it still requires a review of timesheets and rosters from system reports which (even with the ability to pull data from a system) can be a time-consuming exercise which needs to be undertaken, even if the employee has no intent to convert.

The result of the increase in labour costs is that employers will, all other things being equal, employ fewer people.

Meanwhile, the negative impact of the existing casual conversion policy on productivity arises because management time is being spent administering red tape rather than focusing on business performance and innovation.

Official data¹ tentatively shows that there has not been a significant shift in the casual conversion rates since March 2021 when legislation was introduced to require employers to offer casual employees the option to convert to permanent employment through a process called casual conversion. This observation - that a low proportion of casual employees are taking up the right to casual conversion - is consistent with soundings we have taken from our members. Recent AHRI research shows that almost a quarter (24%) of employers say that the typical length of service of casual employees at their organisation is more than two years. Small employers (2-19 employees) are most likely to report this (38%).

The result is that management time is spent administering a policy for a small proportion of casual employees, which is harming market efficiency. In addition, it may push employers to hire from labour hire companies rather than directly employing.

Looking ahead, there will be further harm to market efficiency if the government seeks to strengthen regulation in this area, partly because the labour market will become even less flexible in the face of change, such as a sharp deterioration in unfavourable economic conditions.

AHRI believes that productive and inclusive workplaces are those that engage all employees and make the most of their potential. A recent AHRI survey of HR professionals suggests that employee engagement levels are higher among casual employees compared with permanent employees. A quarter (25%) of HR professionals say that casual employees are more engaged than their permanent colleagues. By comparison, just eight per cent say

that casual employees are more engaged. Around two thirds (66%) of employers who employ casuals report no difference between the employee engagement levels of permanent employees and casual employees.

AHRI policy proposals

AHRI proposes therefore that the right to request casual conversion, which is currently restricted to small employers, should be extended to all organisations; replacing the current right to convert.

In making this proposal, AHRI does not support any Fair Work Commission (FWC) role in granting requests, making orders about working arrangements or becoming involved in a broader range of disputes where a request is declined on business grounds. The decision should be determined solely by organisations themselves because we believe that employers and employees are best placed to jointly bargain over the total reward package.

Overall, AHRI believes that replacing the current right to convert with the right to request a permanent contract can be a positive driver of workplace practice for all casual employees.

Prepared by:
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References

ⁱ ABS. (2022). *Analysis of changes in casual conversion*. Available at:
https://www.google.com.au/url?sa=t&rct=j&q=&esrc=s&source=web&cd=&ved=2ahUKEwiQmquJ1c7_AhXICYgKHUOQCCwQFnoECAwQAQ&url=https%3A%2F%2Fwww.dewr.gov.au%2Fdownload%2F14867%2Fabs-technical-data-report-analysis-changes-casual-conversion-australia%2F31302%2Fabs-technical-data-report-analysis-changes-casual-conversion-australia%2Fdocx&usq=AOvVaw3zfu7x8xofRyTIPREuaixM&opi=89978449
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