

**IMPORTANT:** New casual employees also need to be given the Fair Work Information Statement. Visit [www.fairwork.gov.au/fwis](http://www.fairwork.gov.au/fwis) for more information.

## ? Who is a casual employee?

From 27 March 2021, changes to workplace laws relating to casual employees mean that you are a casual employee if:

- you are offered a job
- the employer makes **no firm advance commitment** that the work will continue indefinitely with an agreed pattern of work
- you accept the offer knowing that there is **no firm advance commitment** and become an employee.

Whether you're a casual employee is assessed **at the time** you are offered and accept the job.

### > No firm advance commitment

To work out if your employer made **no firm advance commitment** when offering you the job, only 4 factors are to be considered. They are whether:

- your employer can choose to offer you work and it's your choice whether to work or not
- you'll be offered work when the employer needs you to work
- your employment is described as casual
- you'll be paid a casual loading or a specific pay rate for casual employees.

A regular pattern of work doesn't automatically mean you're permanent (full-time or part-time).

Find out more about casual employment at [www.fairwork.gov.au/casual](http://www.fairwork.gov.au/casual)

## 📅 Becoming a permanent employee (casual conversion)

As a casual employee, you have the right to become a permanent (full-time or part-time) employee in some circumstances. This is known as 'casual conversion'.

### > Small businesses

If you are employed by a small business (fewer than 15 employees), your employer does not have to offer you casual conversion, but you can make a request to your employer if you meet the requirements for making a request (see table below). Unlike employees who work for a business with 15 or more employees, you don't have to wait until 28 September 2021 before you can make a request. Find out more information about what a small business employer is and the rules for making a request at [www.fairwork.gov.au/casualconversion](http://www.fairwork.gov.au/casualconversion)

### > Other businesses

If you work for a business with 15 or more employees, the rules about offers and requests for casual conversion are:

OFFERS	REQUESTS
<p>Your employer must <b>offer</b> you casual conversion if:</p> <ul style="list-style-type: none"> <li>• you've been employed by them for <b>12 months</b></li> <li>• you've worked a regular pattern of hours for at least the last <b>6 months</b> on an ongoing basis, and</li> <li>• your regular hours could continue as a permanent employee without significant changes.</li> </ul> <p>Your employer doesn't have to offer you casual conversion if:</p> <ul style="list-style-type: none"> <li>• there are reasonable grounds for them not to, or</li> <li>• you are not eligible.</li> </ul> <p>Depending on when you started as a casual employee with the employer, there are different rules and timeframes that apply.</p> <p><b>If you started as a casual employee before 27 March 2021</b>, your employer needs to assess whether they need to make you an offer for casual conversion by 27 September 2021. If you meet the requirements, they need to make the offer to you in writing within 21 days after making the assessment. You have to respond in writing within 21 days after the offer is given to you.</p>	<p>From 28 September 2021, you can make a <b>request</b> to your employer to become a permanent employee if:</p> <ul style="list-style-type: none"> <li>• you've been employed by them for at least <b>12 months</b></li> <li>• you've worked a regular pattern of hours in the last <b>6 months</b> on an ongoing basis</li> <li>• your regular hours could continue as a permanent employee without significant changes</li> <li>• you haven't refused a previous offer to become a permanent employee in the last <b>6 months</b></li> <li>• your employer hasn't told you in the last <b>6 months</b> that they won't offer you casual conversion on reasonable grounds, and</li> <li>• your employer hasn't already refused a request from you to become a permanent employee based on reasonable grounds in the last <b>6 months</b>.</li> </ul>

## OFFERS (continued)

If your employer decides not to offer you casual conversion (including if you don't meet the requirements because you haven't been employed for 12 months), your employer needs to tell you that in writing within 21 days of making the assessment but by no later than 27 September 2021.

**If you started as a casual employee on or after 27 March 2021** and are eligible for casual conversion, your employer needs to make the offer to you in writing within 21 days after your 12-month anniversary. You have to respond to the offer in writing within 21 days after the offer is given to you.

If your employer doesn't have to offer you casual conversion, they need to tell you that in writing within 21 days after your 12-month anniversary.

## REQUESTS (continued)

You need to make the request in writing. You can make the request from 21 days after your 12-month anniversary.

Your employer has to respond within 21 days.

Your employer can only say no after consulting you, and only if there are reasonable grounds. They have to tell you in writing.

If your employer refuses a request on reasonable grounds, you won't be able to make another request for 6 months. You'll need to meet the requirements to make another request.

### > Find out more about casual conversion requirements

Find out more, including rules about timeframes, making the offer or request in writing and responding in writing, and what counts as reasonable grounds, at [www.fairwork.gov.au/casualconversion](http://www.fairwork.gov.au/casualconversion)

### What if there is a disagreement?

If you and your employer have a disagreement about casual conversion, there are steps you can take to help resolve it:

- **If you're covered by an award, agreement or employment contract with a process for dealing with disputes** relating to the National Employment Standards, you need to follow that process.
- If **not**, you need to try to resolve the disagreement directly with your employer first. If you aren't able to resolve it, you can refer your dispute to the Fair Work Commission.

You can also seek help from the Federal Circuit Court (including the small claims court) if your dispute is about whether:

- you meet the requirements for your employer to make an offer to you to become a permanent employee
- you meet the requirements to make a request to your employer for casual conversion
- your employer has reasonable grounds to not offer or agree to your request for casual conversion.

You can have someone to support or represent you through the dispute process (which could include a union entitled to represent you).

**Get help with conversations:** Find free online courses to help you have conversations at work (including about casual conversion) at [www.fairwork.gov.au/learning](http://www.fairwork.gov.au/learning)

## WHO CAN HELP?

The Fair Work Ombudsman, Fair Work Commission and Australian Building and Construction Commission can help:

### FAIR WORK OMBUDSMAN

- provides information and advice about your rights as a casual employee, including casual conversion entitlements
- gives information and advice about pay and entitlements
- has free calculators, templates and online courses
- helps resolve workplace issues
- enforces workplace laws and seeks penalties for breaches of workplace laws.

[www.fairwork.gov.au](http://www.fairwork.gov.au) - 13 13 94

### FAIR WORK COMMISSION

- deals with disputes about casual conversion (if you are not able to resolve them directly with your employer)
- can deal with your dispute through mediation, conciliation, making a recommendation or expressing an opinion
- if you and your employer agree, can deal with your dispute through arbitration (making a binding decision).

[www.fwc.gov.au](http://www.fwc.gov.au) - 1300 799 675

If you work in the commercial building industry the Australian Building and Construction Commission can help.

[www.abcc.gov.au](http://www.abcc.gov.au) - 1800 003 338


## IMPORTANT INFORMATION ABOUT YOUR PAY AND CONDITIONS


Find out more about your workplace entitlements and obligations during the impact of coronavirus at [coronavirus.fairwork.gov.au](https://coronavirus.fairwork.gov.au)

Employees in Australia have entitlements and protections at work, under:

FAIR WORK LAWS	AWARDS	ENTERPRISE AGREEMENTS	EMPLOYMENT CONTRACTS
<ul style="list-style-type: none"> <li>minimum entitlements for all employees</li> <li>includes the National Employment Standards</li> </ul>	<ul style="list-style-type: none"> <li>set minimum pay and conditions for an industry or occupation</li> <li>cover most employees in Australia</li> </ul>	<ul style="list-style-type: none"> <li>set minimum pay and conditions for a particular workplace</li> <li>negotiated and approved through a formal process</li> </ul>	<ul style="list-style-type: none"> <li>provide additional conditions for an individual employee</li> <li>can't reduce or remove minimum entitlements</li> </ul>

Find your award at [www.fairwork.gov.au](https://www.fairwork.gov.au). Check if your workplace has an enterprise agreement at [www.fwc.gov.au/agreements](https://www.fwc.gov.au/agreements)

 **CASUAL EMPLOYEES** If you are a casual employee, you also need to be given the Casual Employment Information Statement when you start work. Visit [www.fairwork.gov.au/ceis](https://www.fairwork.gov.au/ceis) for more information.

 **PAY** Your minimum pay rates are in your award or enterprise agreement. If there is no award or agreement for your job, you must get at least the National Minimum Wage. **You can't agree to be paid less.** Minimum pay rates are usually updated yearly. Find out what you should get at [www.fairwork.gov.au/minimum-wages](https://www.fairwork.gov.au/minimum-wages)

<b>NATIONAL MINIMUM WAGE</b> FROM 1 JULY 2021	 <b>\$20.33/hour</b> full-time or part-time	 <b>\$25.41/hour</b> casual	 Use our free calculators to check your pay, leave and termination entitlements at: <a href="https://www.fairwork.gov.au/pact">www.fairwork.gov.au/pact</a>
<b>This is the adult minimum rate for employees with no award or enterprise agreement.</b> Lower rates may apply to juniors, apprentices and employees with disability.			

### NATIONAL EMPLOYMENT STANDARDS

These are minimum standards for all employees. Rules and exclusions may apply. **Your award or agreement may provide more.** Find more information on the National Employment Standards at [www.fairwork.gov.au/NES](https://www.fairwork.gov.au/NES)

	Full-time and part-time employees	Casual employees
<b>Annual leave</b>	✓ 4 weeks paid leave per year (pro rata for part-time employees) + 1 week for eligible shift workers	✗
<b>Personal leave</b> (sick or carer's leave)	✓ 10 days paid leave per year (pro rata for part-time employees)	✗
<b>Carer's leave</b>	✓ 2 days unpaid leave per permissible occasion (if no paid personal leave left)	✓ 2 days unpaid leave per permissible occasion
<b>Compassionate leave</b>	✓ 2 days paid leave per permissible occasion	✓ 2 days unpaid leave per permissible occasion
<b>Family &amp; domestic violence leave</b>	✓ 5 days unpaid leave per 12 months	✓ 5 days unpaid leave per 12 months
<b>Community service leave</b> • Jury service	✓ 10 days paid leave with make-up pay + unpaid leave as required	✓ Unpaid leave as required
• Voluntary emergency management activities	✓ Unpaid leave as required to engage in the activity	✓ Unpaid leave as required to engage in the activity
<b>Long service leave</b>	✓ Paid leave (amount and eligibility rules vary between states and territories)	* Varies between states and territories
<b>Parental leave</b> eligible after 12 months employment	✓ 12 months unpaid leave - can extend up to 24 months with employer's agreement	✓ 12 months unpaid leave for regular and systematic casuals - can extend up to 24 months with employer's agreement
<b>Maximum hours of work</b>	✓ Full-time employees – 38 hours per week + reasonable additional hours Part-time and casual employees – 38 hours or employee's ordinary weekly hours (whichever is less) + reasonable additional hours	
<b>Public holidays</b>	✓ A paid day off if you'd normally work. If asked to work you can refuse, if reasonable to do so	✓ An unpaid day off. If asked to work you can refuse, if reasonable to do so
<b>Notice of termination</b>	✓ 1-5 weeks notice (or pay instead of notice) based on length of employment and age	✗
<b>Redundancy pay</b> eligible after 12 months employment	✓ 4-16 weeks pay based on length of employment (some exclusions apply)	✗
<b>Casual conversion</b>	✗	✓ The right to become a full-time or part-time employee in some circumstances

## IMPORTANT INFORMATION ABOUT YOUR PAY AND CONDITIONS



### FLEXIBILITY

After 12 months employment, you can make a written **request for flexible working arrangements** if you're 55 or over, a carer, have a disability, are experiencing violence from a family member (or are supporting a family or household member who is), or are the parent of, or have caring responsibilities for, a child of school age or younger. This includes employees returning from parental or adoption leave asking to work part-time to care for the child. Your employer must respond in writing within 21 days. They can only say no on reasonable business grounds.

You and your employer can also **negotiate an individual flexibility arrangement**. This would change how certain terms in your award or enterprise agreement apply to you. An individual flexibility arrangement must be a genuine choice – it can't be a condition of employment – and it must leave you better off overall. Find out more at:

[www.fairwork.gov.au/flexibility](http://www.fairwork.gov.au/flexibility)

### DID YOU KNOW?

You can create a free My account to save your workplace information in one place at:  
[www.fairwork.gov.au/register](http://www.fairwork.gov.au/register)

You can find free online courses to help you start a new job or have difficult conversations at work, visit:  
[www.fairwork.gov.au/learning](http://www.fairwork.gov.au/learning)

The **Record My Hours app** makes it quick and easy to record the hours you work. It's free on the App Store and Google Play.



### ENDING EMPLOYMENT

When your employment ends, your final pay should include all **outstanding entitlements**, such as wages and unused annual leave and long service leave.

You may be entitled to **notice of termination**, or pay instead of notice. If you're dismissed for serious misconduct, you're not entitled to notice. If you resign you may have to give your employer notice. To check if notice is required and what should be in your final pay visit:

[www.fairwork.gov.au/ending-employment](http://www.fairwork.gov.au/ending-employment)

If you think your **dismissal was unfair** or unlawful, you have **21 calendar days** to lodge a claim with the Fair Work Commission. Rules and exceptions apply. Find out more at:

[www.fairwork.gov.au/termination](http://www.fairwork.gov.au/termination)



### PROTECTIONS AT WORK

**All employees have protections at work.** You can't be treated differently or worse because you have or exercise a workplace right, for example, the right to request flexible working arrangements, take leave or make a complaint or enquiry about your employment.

You have the right to join a union or choose not to, and to take part in lawful industrial activity or choose not to.

You also have protections when temporarily absent from work due to illness or injury, from discrimination, bullying and harassment, coercion, misrepresentation, sham contracting, and undue influence or pressure. Find out more at:

[www.fairwork.gov.au/protections](http://www.fairwork.gov.au/protections)



### AGREEMENT MAKING

Enterprise agreements are negotiated between an employer, their employees, and any employee representatives (e.g. a union). This process is called 'bargaining' and has to follow set rules. The Fair Work Commission checks and approves agreements. For information about making, varying, or terminating an enterprise agreement visit:

[www.fwc.gov.au/agreements](http://www.fwc.gov.au/agreements)



### TRANSFER OF BUSINESS

If a transfer of business occurs, your employment with your old employer ends. If you're employed by the new employer within three months to do the same (or similar) job, some of your entitlements might carry over to the new employer. This may happen if, for example, the business is sold or work is outsourced. Find out more at:

[www.fairwork.gov.au/transfer-of-business](http://www.fairwork.gov.au/transfer-of-business)



### RIGHT OF ENTRY

Union officials with an entry permit can enter the workplace to talk to workers that they're entitled to represent, or to investigate suspected safety issues or breaches of workplace laws.

They must comply with certain requirements, such as notifying the employer, and can inspect or copy certain documents. Strict privacy rules apply to the permit holder, their organisation and your employer. Find out more at:

[www.fwc.gov.au/entry-permits](http://www.fwc.gov.au/entry-permits)

## WHO CAN HELP?

### FAIR WORK OMBUDSMAN

- information and advice about pay and entitlements
- free calculators, templates and online courses
- help resolving workplace issues
- enforces workplace laws and seeks penalties for breaches of workplace laws.

[www.fairwork.gov.au](http://www.fairwork.gov.au) - 13 13 94

### FAIR WORK COMMISSION

- hears claims of unfair dismissal, unlawful termination, bullying, discrimination or 'adverse action' at work
- approves, varies and terminates enterprise agreements
- issues entry permits and resolves industrial disputes.

[www.fwc.gov.au](http://www.fwc.gov.au) - 1300 799 675

If you work in the commercial building industry the Australian Building and Construction Commission can help.  
[www.abcc.gov.au](http://www.abcc.gov.au) - 1800 003 338