

Becoming a permanent employee

Reminder: Changes to casual employment laws

By 27 September 2021, employers (other than small businesses) need to assess whether their existing casuals are eligible to be offered permanent employment.

[Find out more below.](#)

The [National Employment Standards \(www.fairwork.gov.au/employee-entitlements/national-employment-standards\)](http://www.fairwork.gov.au/employee-entitlements/national-employment-standards) (NES) provide casual employees with a pathway to become a permanent employee. This is also known as 'casual conversion'.

On this page, you'll find information about:

- [how to access casual conversion](#)
- [small business employers](#)
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How to access casual conversion

Casual employees who have worked for their employer for 12 months need to be offered the option to convert to full-time or part-time (permanent) employment by their employer. Certain eligibility requirements need to be met for this to occur.

See [Employers offering casual conversion](#) below for information about the requirements and process for casual conversion.

[Small business employers \(www.fairwork.gov.au/Dictionary.aspx?TermID=2157\)](http://www.fairwork.gov.au/Dictionary.aspx?TermID=2157) aren't required to offer casual conversion to their casual employees. See [Small business employers](#) below for more information and [Employers offering casual conversion](#) below for the requirements and process.

Casual employees may be able to request that their employer converts their employment to full-time or part-time (permanent) in some circumstances. See [Employees requesting casual conversion](#) for details.

There are transitional arrangements for employers (other than small business employers) and their existing casual employees (employed before 27 March 2021). See [Existing casual employees](#) and [Requests by existing casual employees](#) for details.

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Small business employers

[Small business employers \(www.fairwork.gov.au/Dictionary.aspx?TermID=2157\)](http://www.fairwork.gov.au/Dictionary.aspx?TermID=2157) don't have to offer to convert their casual employees to permanent employment.

An eligible casual employee working for a small business employer can request to convert to permanent employment at any time on or after their 12-month anniversary. See [Employees requesting casual conversion](#) for eligibility information.

Existing casuals working for a small business employer before 27 March 2021 can also make a request to convert to permanent at any time from 27 March 2021 if they are eligible. See [Requests by existing casual employees](#) for details and eligibility information.

To respond to an employee's request to convert to permanent, employers need to write to them within 21 days and tell the employee if they have or haven't accepted their request. If the employer refuses the request, they have to tell the employee their reasons why in their written response. Employers can't refuse a request unless they have consulted the employee and have reasonable grounds to refuse the request. See [Reasonable grounds for not making an offer or refusing a request](#) for further information.

Employers offering casual conversion

Employers (except [small business employers \(www.fairwork.gov.au/Dictionary.aspx?TermID=2157\)](http://www.fairwork.gov.au/Dictionary.aspx?TermID=2157)) need to make a written offer to convert their casual employee to permanent employment within 21 days after the employee's 12-month anniversary, if the employee:

- has been employed by the employer for 12 months
- has worked a regular pattern of hours on an ongoing basis for at least the last 6 months
- could continue working these hours as a full-time or part-time employee without significant changes.

The offer needs to be for the employee to convert to:

- full-time employment, if the employee's hours worked for at least the last 6 months have been the same as full-time hours, or
- part-time employment (consistent with the employee's regular pattern of hours worked for at least the last 6 months), if the employee's hours worked for at least the last 6 months have been less than full-time hours.

Find out whether an employee's hours are full-time or part-time by checking:

- the relevant award or agreement (if the employee is covered by one), or
- the hours worked by other full-time or part-time employees who work in the same or a similar position.

For more information about permanent employment, including hours and entitlements, go to:

- [Full-time employees \(www.fairwork.gov.au/employee-entitlements/types-of-employees/casual-part-time-and-full-time/full-time-employees\)](http://www.fairwork.gov.au/employee-entitlements/types-of-employees/casual-part-time-and-full-time/full-time-employees)
- [Part-time employees \(www.fairwork.gov.au/employee-entitlements/types-of-employees/casual-part-time-and-full-time/part-time-employees\)](http://www.fairwork.gov.au/employee-entitlements/types-of-employees/casual-part-time-and-full-time/part-time-employees) .

Existing casual employees

By 27 September 2021, employers (other than [small business employers \(www.fairwork.gov.au/Dictionary.aspx?TermID=2157\)](http://www.fairwork.gov.au/Dictionary.aspx?TermID=2157)) need to assess whether any of their existing casual employees employed before 27 March 2021, are eligible to be offered to convert to permanent employment.

The employer needs to:

- make a written offer to convert their casual employee to permanent employment (this must be done within 21 days after making the assessment), or
- write to their employee explaining why they won't be making an offer (this needs to be done within 21 days of making the assessment but by no later than 27 September 2021).

Employees responding to an offer

To accept an offer to convert, employees need to respond to their employer in writing within 21 days after getting the offer. If they don't respond, their employer can assume that they've declined the offer.

Employers not making an offer

If an employer (except a [small business employer \(www.fairwork.gov.au/Dictionary.aspx?TermID=2157\)](http://www.fairwork.gov.au/Dictionary.aspx?TermID=2157)) decides not to offer casual conversion, the employer needs to write to the employee within 21 days after the employee's 12 month anniversary, telling them:

- that they aren't making an offer of casual conversion
- the reasons for not making the offer.

The only reasons for not making an offer are:

- the employee hasn't worked a regular pattern of hours:
 - on an ongoing basis for at least the last 6 months
 - which they could continue working as a full-time or part-time employee without significant changes
- the business has [reasonable grounds](#) for not making an offer (see: [Reasonable grounds](#)).

Employees requesting casual conversion

An eligible casual employee (except if they are employed by a small business employer) can make a request to convert to permanent

employment from 21 days after their 12 month anniversary.

An eligible casual employee who works for a small business employer (www.fairwork.gov.au/Dictionary.aspx?TermID=2157) can make a request at any time on or after their 12 month anniversary.

To be eligible to request casual conversion, a casual employee:

- needs to have been employed by the employer for at least 12 months
- needs to have worked a regular pattern of hours on an ongoing basis for at least the last 6 months
- could continue working these hours as a full-time or part-time employee without significant changes.

An employee isn't eligible to make a request if, in the last 6 months:

- they've refused an offer from their employer to convert to permanent employment
- their employer has told them in writing that they won't be making an offer of casual conversion because there was a reasonable ground not to make the offer
- their employer has refused another request for casual conversion because there was a reasonable ground to refuse the request.

Casual employees who believe they're eligible to become a permanent employee can make a request for conversion every 6 months.

Sometimes employees can still make a request even if their employer has told them in the last 6 months that they won't be making an offer of casual conversion. Employees can only do this if they didn't get an offer because they hadn't worked a regular pattern of work in the 6 months before their earlier request, but they now have.

Example: making a request within 6 months of being told the employer wouldn't make an offer

Brett works casually as a produce assistant at a local greengrocer. He's one of 30 employees. After working there for 12 months, his employer writes to him telling him that they won't be making an offer to convert his employment to permanent. The employer explains that Brett isn't eligible because he's only worked a regular pattern of work for the last 4 months.

Brett then continues to work a regular pattern of work for the next 2 months, meaning he has now worked a regular pattern of work for the last 6 months. He then checks he is eligible makes a written request to his employer to convert his employment.

Brett's employer has to consider his request even though they wrote to him 2 months ago. This is because Brett has now worked a regular pattern of work in the last 6 months of employment and has worked there for at least 12 months.

Requests for casual conversion by existing casual employees

Existing casuals working for a small business employer before 27 March 2021 can make a request to convert to permanent employment at any time, if they are eligible.

Existing casuals working for an employer (other than a small business) before 27 March 2021 can make a request to convert from 28 September 2021, if they are eligible.

The request has to be in writing and be for:

- full-time employment, if the employee's hours worked for at least the last 6 months have been the same as full-time hours
- part-time employment (consistent with the employee's regular pattern of hours worked for at least the last 6 months), if the employee's hours worked for the last 6 months have been less than full-time hours.

Find out whether an employee's hours are full-time or part-time by checking:

- the relevant award or agreement (if the employee is covered by one), or
- the hours worked by other full-time or part-time employees who work in the same or a similar position.

For more information about permanent employment, including hours and entitlements, go to:

- [Full-time employees \(www.fairwork.gov.au/employee-entitlements/types-of-employees/casual-part-time-and-full-time/full-time-employees\)](http://www.fairwork.gov.au/employee-entitlements/types-of-employees/casual-part-time-and-full-time/full-time-employees)
- [Part-time employees \(www.fairwork.gov.au/employee-entitlements/types-of-employees/casual-part-time-and-full-time/part-time-employees\)](http://www.fairwork.gov.au/employee-entitlements/types-of-employees/casual-part-time-and-full-time/part-time-employees) .

Employers responding to a request

Employers need to respond in writing to an employee's request within 21 days and tell the employee if they have or haven't accepted the request. If the employer refuses the request, they also have to tell the employee their reasons why in their written response.

Employers can't refuse a request unless they have discussed the request with the employee and have reasonable grounds to refuse

the request.

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After an offer or request has been accepted

Before a casual employee converts to permanent employment, their employer has to discuss with the employee their:

- type of employment (full-time or part-time)
- hours of work as a permanent employee
- start date as a permanent employee.

If a casual employee accepts an employer's offer to convert, the employer needs to then confirm this information in writing to their employee within 21 days after the employee accepts their offer.

If an employer accepts a casual employee's request to convert, the employer needs to then confirm this information in writing to their employee within 21 days after the employee has requested to convert. This can be in the same notice as when the employer tells the casual employee that they are accepting their request.

The start date for the permanent hours is on the first day of the first full pay period after the employer has written to their employee, unless the employer and employee agree to another day. For example, if an employee's pay period ends on Tuesday and the employer writes to the employee on Friday, then the start date for their permanent hours would be the following Wednesday.

If a casual employee converts to permanent employment, they will be a full-time or part-time employee, even if a contract or other agreement entered into when their employment started says they are casual. For more information about permanent employment, including hours and entitlements, go to:

- [Full-time employees \(www.fairwork.gov.au/employee-entitlements/types-of-employees/casual-part-time-and-full-time/full-time-employees\)](http://www.fairwork.gov.au/employee-entitlements/types-of-employees/casual-part-time-and-full-time/full-time-employees)
- [Part-time employees \(www.fairwork.gov.au/employee-entitlements/types-of-employees/casual-part-time-and-full-time/part-time-employees\)](http://www.fairwork.gov.au/employee-entitlements/types-of-employees/casual-part-time-and-full-time/part-time-employees) .

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Reasonable grounds for not making an offer or refusing a request

If an employer decides to not make an offer, or refuses to accept a request, for a casual employee to convert to permanent on 'reasonable grounds', the reasonable grounds they rely on have to be based on facts that are known or reasonably foreseeable.

Reasonable grounds for deciding not to make an offer can include that, in the next 12 months:

- the employee's position won't exist
- the employee's hours of work will significantly reduce
- the employee's days or times of work will significantly change, and that can't be accommodated within the employee's available days or times for work.

Reasonable grounds can also include:

- making the offer would not comply with a recruitment or selection process required by or under a Commonwealth, State or Territory law
- the employer would have to make a significant adjustment to the employee's work hours for them to be employed full-time or part-time.

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Protections at work

An employer can't reduce or change an employee's hours of work, or terminate their employment, to avoid having to offer or accept a request for casual conversion. For example, an employer can't deliberately change their employee's roster so they don't meet the eligibility requirements.

Casual employees are also protected against adverse action by an employer because they have a workplace right to convert to permanent employment. For more information on protections from adverse action, see [Protections at work \(www.fairwork.gov.au/employee-entitlements/protections-at-work\)](http://www.fairwork.gov.au/employee-entitlements/protections-at-work) .

Regular and systematic casual employees may also be protected from unfair dismissal. See [Unfair dismissal \(www.fairwork.gov.au/ending-employment/unfair-dismissal\)](http://www.fairwork.gov.au/ending-employment/unfair-dismissal) .

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Fixing workplace problems

Workplace problems can usually be fixed quickly when employees and employers work together to come up with a solution. Sometimes this isn't possible and extra help is needed.

If an award, registered agreement or a contract includes a dispute resolution process for dealing with disputes relating to the National Employment Standards, the employer and employee need to follow that process.

Other employers and employees need to try to resolve the problem at the workplace by discussing it with each other. Employers and employees can appoint a person to support or represent them through the dispute process, including at the workplace or the Fair Work Commission. The person may be from their employer organisation or union, but doesn't have to be.

If the problem is unresolved employers and employees can seek further assistance from the [Fair Work Commission – Resolving disputes](https://www.fwc.gov.au/disputes-at-work/how-the-commission-works/resolving-disputes) [☞](https://www.fwc.gov.au/disputes-at-work/how-the-commission-works/resolving-disputes) (<https://www.fwc.gov.au/disputes-at-work/how-the-commission-works/resolving-disputes>) .

For more information on fixing workplace problems, see [Fixing a workplace problem \(www.fairwork.gov.au/workplace-problems/fixing-a-workplace-problem\)](http://www.fairwork.gov.au/workplace-problems/fixing-a-workplace-problem) .

Resolving disputes in court

In some circumstances the Federal Circuit Court can resolve casual conversion disputes. See [Legal action in the small claims court \(www.fairwork.gov.au/workplace-problems/fixing-a-workplace-problem/resolving-disputes-with-our-help/legal-action-in-the-small-claims-court\)](http://www.fairwork.gov.au/workplace-problems/fixing-a-workplace-problem/resolving-disputes-with-our-help/legal-action-in-the-small-claims-court) for further information.

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Fair Work Infoline: 13 13 94

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Contact the Translating and Interpreting Service (TIS) on 13 14 50

Hearing & speech assistance

Call through the National Relay Service (NRS):

For TTY: 13 36 77. Ask for the Fair Work Infoline 13 13 94

Speak & Listen: 1300 555 727. Ask for the Fair Work Infoline 13 13 94

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