

IN THE FAIR WORK COMMISSION

MATTER: CASUAL AWARD TERMS REVIEW 2021

MATTER NO: AM2021/54

OUTLINE OF SUBMISSIONS FOR THE AUSTRALIAN WORKERS' UNION – GROUP 1 AWARDS

BACKGROUND

1. On 27 March 2021, the *Fair Work Amendment (Supporting Australia's Jobs and Economic Recovery) Act 2021* amended the *Fair Work Act 2009* ('**FW Act**') primarily to insert a new definition of "casual employee" into s 15A of the FW Act and to include casual conversion entitlements in the National Employment Standards ('**NES**').
2. The amendments also included a requirement, inserted as a new clause 48 of Schedule 1 to the FW Act, for the Fair Work Commission ('**FWC**') to review modern award terms relating to casual employment and resolve any inconsistencies and uncertainties generated by the amendments ('**Review**').
3. On 16 July 2021, a five-member Full Bench issued a decision as part of the Review concerning a priority group of 'Stage 1' awards: [2021] FWCFB 4144 ('**Stage 1 Decision**').
4. On 3 August 2021, a three-member Full Bench issued a statement concerning the Review of 'Group 1' awards: [2021] FWCFB 4714 ('**Statement**').
5. The Statement contains a number of provisional views concerning the Review of Group 1 awards, with the provisional views generally reflecting the outcome of issues considered in the Stage 1 Decision.
6. In accordance with the directions included in the Statement, the following are submissions from The Australian Workers' Union ('**AWU**') concerning the Full Bench's provisional views about Group 1 awards.

OPPOSITION TO PROVISIONAL VIEWS – ACCESS TO CASUAL CONVERSION AFTER SIX MONTHS

7. The AWU opposes the Full Bench’s provisional view identified at [24] of the Statement concerning the casual conversion clause in the *Building and Construction General On-site Award 2020 (On-site Award’)* and the provisional view identified in Attachment B of the Statement concerning the casual conversion clause in the *Food, Beverage and Tobacco Manufacturing Award 2020 (FBTM Award’)*.
8. In both cases, the AWU is opposed to the variations because they will prevent eligible casual employees from accessing conversion to permanent employment until they have worked for an employer for 12 months. Under the On-site Award and the FBTM Award, eligible employees can access conversion after six months of employment.
9. The AWU supports the submissions of the Construction Division of the Construction, Forestry, Maritime, Mining and Energy Union (‘**CFMMEU**’) in relation to the On-site Award.
10. Although the submissions are yet to be finalised, the AWU has had discussions with the Australian Manufacturing Workers’ Union (‘**AMWU**’) in relation to the FBTM Award and expects to support the AMWU’s submissions.
11. As the CFMMEU submits in relation to the On-site Award, the detriment associated with losing access to casual conversion after six months of employment appears to outweigh the improvements that may arise for employees under the NES casual conversion provisions.
12. The introduction of casual conversion conditions into the NES was intended to provide a universal **minimum standard** for national-system employees. It is unfortunate that the largely administrative process of reviewing awards to ensure consistency with the minimum standards in the NES has led to, and may further lead to, a substantive reduction in existing conversion conditions.
13. As the AWU identified in its Stage 1 submissions concerning the *Manufacturing and Associated Industries and Occupations Award 2020*, the explanatory documents and other background materials associated with the ‘IR Working Groups’ process suggest this type of substantive reduction in existing conversion conditions would be an unintended consequence of the amendments.

PROVISIONAL VIEWS – NOT OPPOSED

14. Subject to the points above concerning access to casual conversion after six months of employment, the AWU does not oppose the provisional views identified in the Statement concerning the On-site Award and the FBTM Award.
15. The AWU also does not oppose the provisions views contained in the Statement in relation to the following awards:
- *Airline Operations-Ground Staff Award 2020;*
 - *Amusement, Events and Recreation Award 2020;*
 - *Cemetery Industry Award 2020;*
 - *Dry Cleaning and Laundry Industry Award 2020;*
 - *Funeral Industry Award 2020;*
 - *Hair and Beauty Industry Award 2010;*
 - *Pest Control Industry Award 2020;*
 - *Racing Clubs Events Award 2020;*
 - *Registered and Licensed Clubs Award 2020 and*
 - *Water Industry Award 2020.*

10 AUGUST 2021