

AM2021/54

Fair Work Commission – Full Bench

Casual Terms Award Review 2021

NOTE OF THE INDEPENDENT EDUCATION UNION
ON THE PROVISIONAL VIEWS OF THE FAIR WORK COMMISSION
DATED 21 JUNE 2021

1. On 19 April 2021, the Commission published a Discussion Paper (**Discussion Paper**) setting out 32 questions in respect of the Casual Terms Award Review. Following the filing of submissions by interested parties on 24 May 2021, and in reply on 16 June 2021, the Commission published its provisional views on 21 June 2021 [2021] FWCFB 3555) (**provisional views**).
2. This note is filed pursuant to the directions of the Commission dated 22 June 2021, and identifies which of the provisional views of the Commission are contested by the Independent Education Union (**IEU**).

IEU Response to the Commission’s provisional views

3. *Question 1.* The IEU agrees with the Commission’s provisional view.
4. *Question 2.* The IEU does not address Question 2.
5. *Question 3.* Not applicable.
6. *Question 4.* The IEU does not address Question 4.
7. *Question 5.* The IEU does not address Question 5.
8. *Question 6.* The IEU contests the Commission’s provisional view insofar as it suggests that clause 12.1 of the Teachers Award could give rise to relevant difficulties or uncertainty because of the definition of *casual employee* in s 15A of the Act. However, if after the hearing, the Commission confirms its provisional view, then the IEU proposes a variation to the Teachers Award in the terms attached to this Note (and see the answer to Question 7 below).

9. **Question 7.** The IEU contests the Commission's provisional view. However, if after the hearing, the Commission confirms its provisional view, then the IEU proposes a variation to the Teachers Award in the terms attached to this Note. The proposed variation attached to this Note supersedes the proposed variation submitted at paragraph 39 of the IEU's submissions dated 24 May 2021.
10. **Question 8.** As the Commission's provisional view is premised on matters in response to Questions 6 and 7 that are contested by the IEU, the IEU contests the Commission's provisional view. The IEU otherwise refers to and relies on paragraphs 36–38 of the IEU submissions dated 24 May 2021, and the proposed variation attached to this Note.
11. **Question 9.** The IEU agrees with the Commission's provisional view.
12. **Question 10.** The IEU does not address Question 10.
13. **Question 11.** The IEU agrees with the Commission's provisional view.
14. **Question 12.** The IEU agrees with the Commission's provisional view.
15. **Question 13.** The IEU does not address Question 13.
16. **Question 14.** The IEU does not address Question 14.
17. **Question 15.** The IEU contests the Commission's provisional view that clause 17.5(c) of the Teachers Award, which provides for minimum payments to casual employees, is a relevant term. The IEU agrees with the Commission's provisional view that clause 12.1 and 12.2 of the Teachers Award, which contains a maximum period of engagement for casual employment, is a relevant term.
18. **Question 16.** The IEU agrees with the Commission's provisional view.
19. **Question 17.** The IEU contests the Commission's provisional view.
20. **Question 18.** The IEU agrees with the Commission's provisional view.
21. **Question 19.** The IEU contests the Commission's provisional view.
22. **Question 20.** The IEU agrees with the Commission's provisional view.

23. *Questions 21–32.* The IEU does not address Questions 21–32.

23 June 2021

H Borenstein QC

K Burke

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IEU DRAFT VARIATION – TEACHERS AWARD

Amend clause 2 as follows:

2. Definitions

Insert the following after ‘all other teachers’:

casual employee has the meaning in s 15A of the *Fair Work Act*

Amend clause 12 as follows:

12. Casual employees

12.1 ~~Casual employment means employment~~ A casual employee shall be engaged on a day-to-day basis for a period of not more than 4 consecutive weeks, or 4 consecutive term weeks in the case of a teacher in a school or preschool.

12.2 [No change].

12.3 [No change].