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industrial relations : human resources : employment matters : training

CIRCULAR: GEN/ 056/NAT/056/17
DATE: 7 July 2017
SUBJECT: Fair Work Commission Decision – Casual Conversion
ATTENTION: Chief Executive Officer

As part of the 4-yearly review of Modern Awards, a Full Bench of the Fair Work Commission (**the Commission**) has accepted part of the ACTU's claim for the inclusion of a casual conversion clause for 85 Modern Awards which do not currently contain a provision of this nature. Importantly, the Commission did not accept the ACTU's claim that a casual employee should have a right to convert to permanent employment (in contrast to the right to request to convert).

The proposed model clause contains the following criteria for a casual employee to convert to full-time or part-time employment:

- a qualifying period of 12 calendar months in which the casual employee has worked a pattern of hours on an ongoing basis which, without significant adjustment, could continue to be performed in accordance with the full-time or part-time employment provisions of the relevant Award; and
- the Employer may refuse conversion on the grounds that:
 - it would require a significant adjustment to the casual employee's hours of work; or
 - it is known, or reasonably foreseeable, that the casual employee's position will cease to exist; or
 - the employee's hours of work will significantly change or be reduced within the next 12 months; or
 - on other reasonable grounds based on facts which are known or reasonably foreseeable.

The Commission also indicated that the model clause will require the Employer to make a copy of the casual conversion clause available to the casual employee within the first 12 months of the initial engagement.

The Commission rejected the ACTU's claim to vary the casual conversion clauses in existing Modern Awards.

Interested parties will be provided with an opportunity to make further submissions about the terms of the proposed model clause.

We will provide a further update on specific aspects of this new change as more detailed information becomes available. In the interim, if you have any questions or if you require further information please contact the SIAG national advisory service on 03 9644 1400 or 1300 (SIAG HR) / 1300 742 447.

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