

IR OMNIBUS BILL – FACT SHEET



Casual Employees

Definition of “casual”

- A new statutory definition of a “casual employee” is to be introduced into the *Fair Work Act 2009* (Cth).
- The new definition is “forward looking” – in other words, the question of whether a person is a casual will be assessed on the basis of the offer of employment and the acceptance of that offer, not on the basis of any subsequent conduct of either party.

Casual conversion

- Employers **must** provide the opportunity for casual employees who have worked for 12 months and who work regular pattern of hours on an ongoing basis for at least the last 6 months, to become part time or full time, **unless** there is reasonable business grounds not to.
- A casual employee may elect not to convert to permanent employment.
- A casual employee’s status can only change if a casual is converted to full time or part time

employment or they accept other employment with the employer.

- The Fair Work Commission is empowered to deal with disputes about casual conversion by conciliation and may also arbitrate a dispute but only where the parties agree to this.

Employer obligations

- There is an obligation on employers to provide employees with a Casual Employee Information Statement prepared by the Fair Work Ombudsman at the start of employment.

Double-dipping protections

- There are protections against the “double-dipping” problem caused by the *WorkPac Pty Ltd v Rossato* decision.
- Courts now have a statutory provision which mandates they set off claims for non-casual entitlements where a loading has been paid.

For more information contact:

Steven Amendola
Partner
steven.amendola@kingstonreid.com.au
+61 3 9958 9606

Christa Lenard
Partner
christa.lenard@kingstonreid.com.au
+61 2 9169 8404

Duncan Fletcher
Partner
duncan.fletcher@kingstonreid.com.au
+61 8 6381 705