

MTA Queensland	
Question	Response
Q2a : Do you or your organisation consider the amendments regarding the definition of 'casual employee' under the FW SAJER Act are appropriate and effective?	Yes
Q2ai : Why do you or your organisation consider the amendments appropriate and effective?	MTA Queensland considers there have been no detrimental unintended consequences since the introduction of this legislation and the way it has been applied by the Fair Work Ombudsman. Noticeably, the newly inserted definition of casual employee into the Fair Work Act 2009 at section 15A has provided clarity and confidence for business to employ people. Further, it has reduced previous ambiguity and uncertainty which resulted from the significant Watpac High Court Decision around the issue of the nature of initial employment and leave accruals. The amendments have maintained consistency with the Fair Work framework. We have noticed that casual jobs continue to be challenging to fill, as are all types of employment due to current labour skills shortages.
Q2b : What concerns do you or your organisation hold about the definition of 'casual employee' provided by the FW SAJER Act?	
Q2c : What, if anything, would you change about the definition of 'casual employee' under the FW SAJER Act, or any other law?	
Q3a : Do you or your organisation consider the amendments regarding casual conversion are appropriate and effective?	Yes
Q3ai : Why do you or your organisation believe the amendments regarding casual conversion are appropriate and effective?	We are essentially supportive of the concept, consistent with the modern award provisions and objectives, that a casual employee has a right to request conversion to full-time or part-time employment after working for 12 months, the last 6 on a regular and systematic basis. We are also supportive of the provisions for a business to take account of its operational requirements when responding to an eligible casual employee. There has been little if any demonstrated need for employers of 15 or more to have to pro-actively offer casual conversion given the clarity provided by the Casual Employee Information Statement. Nevertheless, we accept this was as part of the totality of changes made. We do so in part based on the understanding that larger employers are likely to have the resources to enable compliance with the requirement. Some larger employers have commented on the administrative tasks being somewhat of a burden on their Payroll and Human Resources staff by way of administration and counselling type discussions with eligible

	employees. We note that our members continue to inform us of the consistent decline to suggestions to convert to permanent employment by over 90% of casual employees, as it was prior to the 2021 legislative and modern Award changes.
Q3b : What concerns do you or your organisation hold about casual conversion under the FW SAJER Act?	
Q3c : What, if anything, would you change about the casual conversion provisions under the FW SAJER Act, or any other law?	
Q4a : Do you or your organisation consider that there should be a different approach to casual conversion for employees of small business employers?	Yes
Q4ai : Why should the casual conversion provisions under the FW SAJER Act apply differently, to small business employers?	
Q4b : In your view, how should the casual conversion provisions under the FW SAJER Act apply to small business employers?	<p>We consider it important to maintain the current approach for small business employers who need to maintain flexibility in their workforce, and who find that casual employees frequently do not convert even if a few are initially interested in converting to more permanent work. We see the residual right of a casual employee to request permanent days and hours is reasonable. We have provided advice for clarity about small business rights and responsibilities, and reassurance about the process, otherwise very little advice has been requested by members. Small business employers do not have the resources to enable compliance with more procedural driven provisions. They do not have separate specialist roles to do this if this aspect were to change. If changes resulted in more administration it would be an unreasonable burden on the business. When the results of the casual conversion decision were first released in 2021, small business of less than 15 employees were to implement changes with very short notice. In our experience, small business employers understood, implemented and complied with the new requirements. Small business appreciated the change to the time frame, and the clarity provided by the Casual Employees Information Statement (CEIS). In relation to small business employers, it is important for the current arrangements (including the current exemption from offering casual conversion in some circumstances) to continue to apply for the following reasons:</p> <ul style="list-style-type: none"> • We believe the residual right of an eligible casual employee to request conversion is appropriate and reasonable, as is the dispute resolution procedure as provided by the modern Awards.

	<ul style="list-style-type: none"> We have found that there have been few workplace disputes, if any, regarding casual conversion, as it is usually found that the employees decline the option to convert. <p>Those eligible casuals give various reasons, predominantly either financial or needing the flexibility to alternate hours and/or days of work at short notice, often arranged with other employees in a contented workplace culture. Many casual employees in our sectors are students, and parents who choose not work in full-time permanent roles. These are the scenarios we are told about.</p>
Q5a : Do you or your organisation consider the amendments regarding set-off of casual loading are appropriate and effective?	Yes
Q5ai : Why do you or your organisation consider the amendments regarding set-off of casual loading are appropriate and effective?	The amendments regarding set -off of casual loading are appropriate and effective, effectively endorsing the High Court decision in the Watpac matter, and We consider that the drafting of s545A assumes that it seems an employer has discretion to determine what separately identifiable loading amount they wish to pay in lieu of each entitlement. For modern award covered employee that is not the case where one casual loading is paid in lieu of all such entitlements. One consideration here for this review is for section 545A to be amended to make clear with appropriate wording that payment by the employer of casual loading payable under the applicable modern award. Such amendment will remove the current apparent ambiguity and risk of dispute so as no claim for alleged entitlement can be made under s545A(4).
Q5b : What concerns do you or your organisation hold about set-off of casual loading?	
Q5c : What, if anything, would you change about set-off of casual loading under the FW SAJER Act, or any other law?	
Q6a : Do you or your organisation consider the Casual Employee Information Statement is appropriate and effective?	Yes
Q6ai : Why do you or your organisation consider that the Casual Employee Information Statement is appropriate and effective?	<p>The large extent of consultation with stakeholders on the content of the Casual Employees Information Statement is acknowledged. These are some of the outcomes:</p> <ul style="list-style-type: none"> Given the lack of disputes in the workplace, and the relatively few enquiries following the introduction of these changes. There have been occasional enquiries from our members for assistance to resolve potential workplace disagreements about casual conversion to our industrial

	<p>relations advisors. This indicates the effectiveness of the reforms made in 2021 and their ongoing application.</p> <ul style="list-style-type: none"> The CEIS is effective and appropriate and should not change
Q6b : What concerns do you or your organisation hold about the Casual Employment Information Statement?	
Q6c : What, if anything, would you change about the Casual Employment Information Statement under the FW SAJER Act, or any other law?	
Q7a : Please provide any additional views regarding the operation of the amendments to the FW SAJER Act, particularly in the context of Australia's employment and economic conditions.	N/A
Q8 : Do you wish to raise any other matters for the independent review to consider?	<p>Anecdotally, members experience that their casual employees have their own personal demands requiring flexibility, and or preferring the higher rate of pay with set-off in their casual loading. Successful businesses clearly have appropriate communication methods to provide their casual employees with the flexibility they need to balance their life with their work, and achieve the work productivity required to meet customers and the business' expectations.</p>
Q9 : Should you wish to provide additional supporting documentation, you may upload an attachment here. Please do not upload any attachments that contain personal data (including names, addresses or personal financial information). The review will only consider matters relevant to the scope of this review.	