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KPMG Review Team

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Statutory Review of Casual Employment Legislation

The Housing Industry Association (HIA) refers to the Statutory Review of Casual Employment Legislation regarding the amendments made to casual employment arrangements by the *Fair Work Amendment (Supporting Australia's Jobs and Economic Recovery) Act 2021* (the Amending Legislation).

During the inquiry of the *Fair Work (Supporting Australia's Jobs and Economic Recovery) Bill 2020* (the Bill), HIA made the submission that overall, the measures in the Bill would provide clarity regarding casual employment, however some aspects created duplicated and burdensome requirements for employers.

HIA's primary position is that the provisions inserted by the Amending Legislation remain appropriate and are operating as intended. Any changes to these provisions would be unwise and unnecessary.

This is particularly the case given the issues the residential building industry is currently facing and is likely to continue to face for the foreseeable future due to the material supply shortages and delays, labour shortages and price increases being experienced due to the ongoing impacts, both direct and indirect of COVID-19, international circumstances, and domestic weather events. Any changes that would affect existing employment arrangements could only serve to exacerbate these circumstances.

Since the passage of the Amending Legislation, employers have had certainty and clarity when defining the casual employment relationship. Importantly, the provisions align with, and reflect the approach taken by the High Court in recent high-profile decisions cementing the proposition that the current definition is working and there is no cause or reason for change.

A notable aspect of the current casual conversion provisions is the exclusion of small businesses from the requirement to offer conversion to more permanent employment arrangements. The removal of one limb of the dual burden of having to both proactively make an offer while also responding to conversion requests was a welcomed move. It is critical that this arrangement be maintained ensuring the administrative burden on small businesses is mitigated to the greatest extent possible.

Whilst HIA submits that further changes should be avoided, HIA would be supportive of the measures which reduce administrative burden for employers, whilst making employment rights easy to understand for employees.

HIA would support the removal of additional and unnecessary requirements such as the requirement for employers to provide the Casual Employment Information Statement in addition to the Fair Work Information Statement. It is arguable that such matters could be dealt with within the one document.

If you have any questions in relation to the above, please do not hesitate to contact the writer.

Yours sincerely

HOUSING INDUSTRY ASSOCIATION LIMITED

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