

22 July 2022

Submitted via: [KPMG portal](#)

ARA SUBMISSION IN RELATION TO FAIR WORK (SUPPORTING AUSTRALIA'S JOBS AND ECONOMIC RECOVERY) ACT 2021 (CTH)

The Australian Retailers Association (ARA) welcomes the opportunity to participate in and comment on the statutory review of the *Fair Work (Supporting Australia's Jobs and Economic Recovery) Act 2021 (Cth)* (the Act).

The ARA is the oldest, largest and most diverse national retail body, representing a \$360 billion sector which employs 1.3 million Australians and is the largest private sector employer in the country. As Australia's peak retail body, representing more than 100,000 retail shop fronts and online stores, the ARA informs, advocates, educates, protects and unifies our independent, national and international retail community.

Based on feedback from our membership, the ARA makes the following conclusions about the implementation of the Act over the last 12 months:

- The changes enabled by the Act have been appropriate and effective, mostly in terms of clarifying the definition of a casual employee. This has provided both employees and employers with much needed certainty.
- While there has been some administrative impost on retailers, changes have now been effectively implemented.
- While retail has a high level of casualisation in comparison to other industries, due to the nature of the industry and workforce, it should be noted that conversion from casual to part-time was offered by most employers prior to the Act taking effect.
- Prior to and since the Act taking effect, retailers experience has been that most casual employees will choose to remain as casuals. This is most likely due to the financial incentives of remaining a casual but, in some cases, because it suits an employee's personal circumstances and lifestyle.
- Disputes have been the exception, usually due to confusion around when an employee qualifies for conversion. These disputes have been easily resolved.

These comments are intended to supplement our participation in the roundtable discussion hosted by KPMG in Sydney on 15 July 2022.

Finally, we submit that if the Government's desired policy outcome is for fewer casual employees in the retail sector; the best way to achieve this goal would be to look at regulation of part-time work and introduce further flexibility in these arrangements. Such an approach would create incentives for both employers and employees to convert from casual to part-time work.

Thank you for the opportunity to participate in the review discussions and to provide a submission via KPMG. Any queries in relation to this submission can be directed to our policy team at policy@retail.org.au.

Yours sincerely



Paul Zahra
Chief Executive Officer

Australian Retailers Association

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?	<p>Based on feedback from our membership, the ARA makes the following conclusions about the implementation of the Act over the last 12 months:</p> <ul style="list-style-type: none"> • The changes enabled by the Act have been appropriate and effective, mostly in terms of clarifying the definition of a casual employee. This has provided both employees and employers with much needed certainty. • While there has been some administrative impost on retailers, changes have now been effectively implemented. • While retail has a high level of casualisation in comparison to other industries, due to the nature of the industry and workforce, it should be noted that conversion from casual to part-time was offered by most employers prior to the Act taking effect. • Prior to and since the Act taking effect, retailers experience has been that most casual employees will choose to remain as casuals. This is most likely due to the financial incentives of remaining a casual but, in some cases, because it suits an employee's personal circumstances and lifestyle. • Disputes have been the exception, usually due to confusion around when an employee qualifies for conversion. These disputes have been easily resolved.
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?	as per submission file
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?	No
Q4ai : Why should the casual conversion provisions under the FW SAJER Act apply differently, to small business employers?	n/a
Q4b : In your view, how should the casual conversion provisions under the FW SAJER Act apply to small business employers?	
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	as per submission file

set-off of casual loading are appropriate and effective?	
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?	as per submission file
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?	Finally, we submit that if the Government's desired policy outcome is for fewer casual employees in the retail sector; the best way to achieve this goal would be to look at regulation of part-time work and introduce further flexibility in these arrangements. Such an approach would create incentives for both employers and employees to convert from casual to part-time work.

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.

["ARA Submission on FW (SAJER) Act Review (July 2022).pdf"]