

1 December 2015

NAT 024/15

FWC Casual and Part-time Employment Case

SUMMARY

The Fair Work Commission's (FWC's) *Casual and Part-time Employment Case* is underway as part of the 4 Yearly Review of Awards. The unions are pursuing a raft of claims which would impose major restrictions and increased costs upon employers.

Ai Group is strongly opposing the unions' claims.

Ai Group would appreciate the support of Members who would be impacted by the unions' claims. It is important that the FWC understands the adverse impacts on industry if the unions' claims are granted. Members who may be willing to give evidence in the case as a witness or provide feedback to Ai Group on the impacts of the unions' claims on their industry or business are urged to contact Ai Group without delay.

What claims are the unions pursuing?

The unions' claims include:

- Giving employees an absolute right to convert to permanent employment after a period of regular service, with employers having no right of reasonable refusal;
- Minimum engagement periods for casual and part-time employees of at least four hours per day/shift (with even longer periods in some awards);
- A prohibition on employers engaging a greater number of casual or part-time employees unless existing casual and part-time employees have been offered more hours by the employer and declined the offer; and
- A requirement that employers give each casual on engagement certain information in writing, including the likely number of hours that the casual will work each week.

What arguments is Ai Group pursuing?

Ai Group is arguing that the flexibility to engage casuals is critical for businesses. The availability of casual employment is also critical for many employees who need or want the flexibility that casual employment offers.

We are arguing that there is no casualisation problem in Australia; the problem is the ongoing attempts by unions and others to limit flexibility for employers and employees. The level of casual employment in Australia today is about the same as it was 5 years ago and 10 years ago – about 20 per cent of the workforce.

The standard award definition of a 'casual employee' is an employee engaged and paid as such, regardless of how regular the hours worked by a casual are, and Ai Group is arguing that this definition must not be disturbed.

In Ai Group's view, casual and part-time employment needs to be dealt with on an award by award basis. Model award provisions are not appropriate because of major differences between industries.

Ai Group is pursuing additional flexibility in various awards which contain overly restrictive casual and part-time provisions.

When will the case be heard by the Commission?

Initial submissions and evidence in the case were filed in October, with reply submissions and evidence due in February 2016.

The case has been listed for nine days of hearings between 14 and 24 March 2016 before a five Member Full Bench of the FWC headed by Vice President Hatcher.

How can Members assist with evidence in the case?

Ai Group would appreciate the support of Members who would be impacted by the unions' claims. It is important that the FWC understands the adverse impacts on industry if the unions' claims are granted.

Members who may be willing to give evidence in the case as a witness or provide feedback on the impacts of the unions' claims on their industry or business are urged to contact Nicola Street, National Manager – Workplace Relations Policy of Ai Group on telephone 02 9466 5541 or email nicola.street@aigroup.com.au without delay to discuss the matter.

Ai Group's evidence in opposition to the unions' claims must be filed **by 22 February 2016**.

Do you require further advice?

For information or assistance, please contact the **Ai Group Workplace Advice Line** on 1300 55 66 77.

Should you require any detailed advice on developing policies, contracts of employment, enterprise agreements or other instruments for full-time, part-time, casual or fixed term employees, Ai Group's team of professional workplace relations advisers and [Ai Group Workplace Lawyers](#) are available to assist you.



Stephen Smith
Head of National Workplace Relations Policy