

From: Stuart Maxwell <smaxwell@cfmeu.org>

Sent: Monday, 6 September 2021 9:48 AM

To: Chambers - Hatcher VP <Chambers.Hatcher.VP@fwc.gov.au>

Cc: Melissa Adler (m.adler@hia.com.au) <m.adler@hia.com.au>; Ruchi Bhatt <ruchi.bhatt@aigroup.com.au>; Julian.Arndt@ablawyers.com.au; Stephen Smith <Stephen.Smith@aigroup.com.au>; Rebecca Sostarko <rebecca@masterbuilders.com.au>; Vivienne Wiles <vwiles@cfmeumd.org>; Stephen Crawford <stephen.crawford@nat.awu.net.au>; Yolla Abousleiman <yolla@etuaustralia.org.au>; Keely Tobin <keely.tobin@amwu.org.au>; Sunil Kemppe <skemppi@actu.org.au>

Subject: RE: AM2021/54 - Casual terms award review

Dear Associate,

The CFMMEU has noted an error in the amended draft determinations for the construction awards sent earlier this morning. The references to 'applies in lieu of' in the proposed new clauses 13.1 and 13A.1 of the Building and Construction General On-site Award 2020, new clauses 12.1 and 12A.1 of the Joinery and Building Trades Award 2020 and new clauses 9.7 and 9.8 of the Mobile Crane Hiring Award 2020 should be deleted and replaced with the phrase 'supplements the'. The provisions should then read: 'This clause supplements employer offers of casual conversion under ss 66AA-66E of the Act' and 'This clause supplements the residual right to casual conversion under ss 66F-66J of the Act'.

This language is adopted in the Black Coal Mining Award 2020 in relation to personal leave:

https://www.fwc.gov.au/documents/documents/modern_awards/award/ma000001/default.htm

Regards,

Stuart Maxwell

Senior National Industrial Officer

CFMEU

Construction & General Division, National Office

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From: Stuart Maxwell

Sent: Monday, 6 September 2021 9:03 AM

To: 'chambers.hatcher.vp@fwc.gov.au' <chambers.hatcher.vp@fwc.gov.au>

Cc: Melissa Adler (m.adler@hia.com.au) <m.adler@hia.com.au>; Ruchi Bhatt <ruchi.bhatt@aigroup.com.au>; Julian.Arndt@ablawyers.com.au; Stephen Smith <Stephen.Smith@aigroup.com.au>; 'Rebecca Sostarko' <rebecca@masterbuilders.com.au>; 'Vivienne Wiles' <vwiles@cfmeumd.org>; 'Stephen Crawford' <stephen.crawford@nat.awu.net.au>; Yolla Abousleiman <yolla@etuaustralia.org.au>; 'Keely Tobin' <keely.tobin@amwu.org.au>; 'Sunil Kemppli' <skemppli@actu.org.au>

Subject: AM2021/54 - Casual terms award review

Dear Associate,

Please find attached an amended draft determinations document which the CFMMEU will refer to during this morning's hearing in regard to the construction awards. The other parties have been cc'd into this email.

Regards,

Stuart Maxwell

Senior National Industrial Officer

CFMEU

Construction & General Division, National Office

Level 1, 1 Miller Lane, Pyrmont, NSW 2009

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DRAFT DETERMINATION

Fair Work Act 2009

cl.48 of Schedule 1 – Variations to modern awards

Casual terms award review 2021

(AM2021/54)

BUILDING AND CONSTRUCTION GENERAL ON-SITE AWARD 2020

[MA000020]

Building, metal and civil construction industries

VICE-PRESIDENT HATCHER

DEPUTY PRESIDENT EASTON

COMMISSIONER BISSETT

SYDNEY,SEPTEMBER 2021

Fair Work Amendment (Supporting Australia's Jobs and Economic Recovery) Act 2021 — casual amendments — review of modern awards—award varied.

A. Pursuant to clause 48 of Schedule 1 to the Fair Work Act 2009 and the decision issued by the Full Bench on2021 [[2021] FWCFB XXXX], the above award is varied as follows:

1. By inserting in alphabetical order in clause 2 a definition of ‘casual employee’ as follows:

casual employee has the meaning given by section 15A of the Act.

2. By deleting the second row in the table in clause 7.2 (containing in the first column ‘13.11’ and in the second column ‘Casual conversion to full-time or part-time employment’).

3. By deleting clause 12.1.

4. By deleting clause 13. Casual conversion to full-time or part-time employment and replacing it with new clauses 13 and 13A as follows:

13.1 This clause applies in lieu of the employer offers of casual conversion under ss 66AA-66E of the Act

13.2 Subject to clause 13.6, an employer who is not a small business employer must make an offer to a casual employee under this clause if:

- (a) the employee has been employed by the employer for a period of 6 months beginning the day the employment started; and
- (b) during that 6 month period, the employee has worked a regular pattern of hours on an ongoing basis which, without significant adjustment, the employee could continue to work as a full-time weekly hire employee, full-time daily hire employee or a part-time employee (as the case may be).

- 13.3** An offer made under clause 13.2 must:
- (a) be in writing; and
 - (b) be an offer for the employee to convert:
 - (i) for an employee that has worked the equivalent of full-time hours during the period referred to in paragraph (1)(b)--to full-time employment; or
 - (ii) for an employee that has worked less than the equivalent of full-time hours during the period referred to in paragraph (1)(b)--to part-time employment that is consistent with the regular pattern of hours worked during that period; and
 - (c) be given to the employee within the period of 21 days after the end of the 6 month period referred to in paragraph (1)(a).
- 13.4** An employee must give the employer a written response to the offer within 21 days after the offer is given to the employee, stating whether the employee accepts or declines the offer. If the employee fails to give the employer a written response within 21 days, the employee is taken to have declined the offer.
- 13.5** If the employee accepts the offer, the employer must, within 21 days after the day the acceptance is given to the employer and after first discussing the matters in (a)-(c) in this clause, give written notice to the employee of the following:
- (a) whether the employee is converting to full-time employment or part-time employment;
 - (b) the employee's hours of work after the conversion takes effect;
 - (c) the day the employee's conversion to full-time employment or part-time employment takes effect, which must be the first day of the employee's first full pay period that starts after the day the notice is given, unless the employee and employer agree to another day.
- 13.6** An employer is not required to make an offer under clause 13.2 if:
- (a) there are reasonable grounds not to make the offer; and
 - (b) the reasonable grounds are based on facts that are known, or reasonably foreseeable, at the time of deciding not to make the offer.
- 13.7** Without limiting clause 13.6(b), reasonable grounds for deciding not to make an offer include the following:
- (a) the employee's position will cease to exist in the period of 6 months after the time of deciding not to make the offer;
 - (b) the hours of work which the employee is required to perform will be significantly reduced in that period;
 - (c) there will be a significant change in either or both of the following in that period:
 - (i) the days on which the employee's hours of work are required to be performed;

(ii) the times at which the employee's hours of work are required to be performed; which cannot be accommodated within the days or times the employee is available to work during that period;

(d) making the offer would not comply with a recruitment or selection process required by or under a law of the Commonwealth or a State or a Territory.

13.8 Where an employer decides not to make an offer under clause 13.6 or the employee has been employed by the employer for the 6 month period referred to in clause 13.2(a) but does not meet the requirement referred to in clause 13.2(b), the employer must give a written notice to the employee:

(a) advising the employee that the employer is not making an offer under clause 13.1;

(b) including details of the reasons for not making the offer (including any grounds on which the employer has decided to not make the offer); and

(c) such notice must be given to the employee within 21 days after the end of the 6 month period referred to in clause 13.1(a).

13A.1 This clause applies in lieu of the residual right to request casual conversion under ss 66F-66J of the Act.

13A.2 A casual employee may make a request of an employer under this provision if:

(a) the employee has been employed by the employer for a period of at least 6 months beginning the day the employment started; and

(b) the employee has, in the period of 6 months ending the day the request is given, worked a regular pattern of hours on an ongoing basis which, without significant adjustment, the employee could continue to work as a full-time weekly hire employee, full-time daily hire employee or a part-time employee (as the case may be); and

(c) all of the following apply:

(i) the employee has not, at any time during the period referred to in paragraph (b), refused an offer made to the employee under clause 13.2;

(ii) the employer has not, at any time during that period, given the employee a notice in accordance with clause 13.8;

(iii) the employer has not, at any time during that period, given a response to the employee under clause 13A.3 to this Award refusing a previous request made under this clause.

(d) The request must:

(i) be in writing; and

(ii) be a request for the employee to convert to:

- (1) for an employee that has worked the equivalent of full-time hours during the period referred to in paragraph 13.2(b)—to full-time employment
- (2) for an employee that has worked less than the equivalent of full-time hours during the period referred to in paragraph 13.2(b)—to part-time employment that is consistent with the regular pattern of hours worked during that period;
- (3) be given to the employer.

13A.3 The employer must give the employee a written response to the request made under clause 13A.2 within 21 days after the request is given to the employer, stating whether the employer grants or refuses the request.

13A.4 The employer must not refuse the request unless:

- (i) the employer has consulted the employee; and
- (ii) there are reasonable grounds to refuse the request; and
- (iii) the reasonable grounds are based on facts that are known, or reasonably foreseeable, at the time of refusing the request.

13A.5 For the purposes of clause 13A.4(iii), reasonable grounds for refusing the request include but are not limited to the following:

- (i) it would require a significant adjustment to the employee's hours of work in order for the employee to be employed as a full-time employee or part-time employee;
- (ii) the employee's position will cease to exist in the period of 6 months after giving the request;
- (iii) the hours of work which the employee is required to perform will be significantly reduced in the period of 6 months after giving the request;
- (iv) there will be a significant change in either or both of the following in the period of 6 months after giving the request:
 - (1) the days on which the employee's hours of work are required to be performed;
 - (2) the times at which the employee's hours of work are required to be performed; which cannot be accommodated with the days or times the employee is available to work during that period;
- (v) granting the request would not comply with a recruitment or selection process required by or under a law of the Commonwealth or a State or a Territory.

13A.6 If the employer refuses a request made under clause 13A.2, the written response must include details of the reasons for the refusal.

13A.7 If the employer grants a request made under clause 13A.2, the employer must, within 21 days after the day the request is given to the employer, give written notice to the employee of the following:

- (i) whether the employee is converting to full-time employment or part-time employment;
- (ii) the employee's hours of work after the conversion takes effect;
- (iii) the day the employee's conversion to full-time employment or part-time employment takes effect.

13A.8 The employer must discuss with the employee the matters the employer intends to specify for the purposes of clause 13A.7 before giving the notice.

13A.9 The day specified for the purposes of clause 13A.7(iii) must be the first day of the employee's first full pay period that starts after the day the notice is given, unless the employee and employer agree to another day.

13A.10 To avoid doubt, the notice required by clause 13A.7 may be included in the written response required by clause 13A.3.

B. This determination takes effect on ... September 2021.

VICE-PRESIDENT

Casual terms award review 2021

(AM2021/54)

JOINERY AND BUILDING TRADES AWARD 2020

[MA000029]

Building, metal and civil construction industries

VICE-PRESIDENT HATCHER

DEPUTY PRESIDENT EASTON

COMMISSIONER BISSETT

SYDNEY,SEPTEMBER 2021

Fair Work Amendment (Supporting Australia's Jobs and Economic Recovery) Act 2021 — casual amendments — review of modern awards—award varied.

A. Pursuant to clause 48 of Schedule 1 to the Fair Work Act 2009 and the decision issued by the Full Bench on2021 [[2021] FWCFB XXXX], the above award is varied as follows:

1. By inserting in alphabetical order in clause 2 a definition of 'casual employee' as follows:

casual employee has the meaning given by section 15A of the Act.

2. By deleting the second row in the table in clause 7.2 (containing in the first column '12.10' and in the second column 'Casual conversion to full-time or part-time employment').
3. By deleting clause 11.1
4. By deleting clause 12. Casual conversion to full-time or part-time employment and replacing it with new clauses 12 and clause 12A as follows:

12.1 This clause applies in lieu of the employer offers of casual conversion under ss 66AA-66E of the Act

12.2 Subject to clause 12.6, an employer who is not a small business employer must make an offer to a casual employee under this clause if:

- (a) the employee has been employed by the employer for a period of 6 months beginning the day the employment started; and
- (b) during that 6 month period, the employee has worked a regular pattern of hours on an ongoing basis which, without significant adjustment, the employee could continue to work as a full-time employee or a part-time employee (as the case may be).

12.3 An offer made under clause 12.2 must:

- (a) be in writing; and

- (b)** be an offer for the employee to convert:
 - (i)** for an employee that has worked the equivalent of full-time hours during the period referred to in paragraph (1)(b)--to full-time employment; or
 - (ii)** for an employee that has worked less than the equivalent of full-time hours during the period referred to in paragraph (1)(b)--to part-time employment that is consistent with the regular pattern of hours worked during that period; and
- (c)** be given to the employee within the period of 21 days after the end of the 6 month period referred to in paragraph (1)(a).

12.4 An employee must give the employer a written response to the offer within 21 days after the offer is given to the employee, stating whether the employee accepts or declines the offer. If the employee fails to give the employer a written response within 21 days, the employee is taken to have declined the offer.

12.5 If the employee accepts the offer, the employer must, within 21 days after the day the acceptance is given to the employer and after first discussing the matters in (a)-(c) in this clause, give written notice to the employee of the following:

- (a)** whether the employee is converting to full-time employment or part-time employment;
- (b)** the employee's hours of work after the conversion takes effect;
- (c)** the day the employee's conversion to full-time employment or part-time employment takes effect, which must be the first day of the employee's first full pay period that starts after the day the notice is given, unless the employee and employer agree to another day.

12.6 An employer is not required to make an offer under clause 12.2 if:

- (a)** there are reasonable grounds not to make the offer; and
- (b)** the reasonable grounds are based on facts that are known, or reasonably foreseeable, at the time of deciding not to make the offer.

12.7 Without limiting clause 12.6(b), reasonable grounds for deciding not to make an offer include the following:

- (a)** the employee's position will cease to exist in the period of 6 months after the time of deciding not to make the offer;
- (b)** the hours of work which the employee is required to perform will be significantly reduced in that period;
- (c)** there will be a significant change in either or both of the following in that period:
 - (i)** the days on which the employee's hours of work are required to be performed;
 - (ii)** the times at which the employee's hours of work are required to be performed;

which cannot be accommodated within the days or times the employee is available to work during that period;

- (d) making the offer would not comply with a recruitment or selection process required by or under a law of the Commonwealth or a State or a Territory.

12.8 Where an employer decides not to make an offer under clause 12.6 or the employee has been employed by the employer for the 6 month period referred to in clause 12.2(a) but does not meet the requirement referred to in clause 12.2(b), the employer must give a written notice to the employee:

- (a) advising the employee that the employer is not making an offer under clause 12.2;
- (b) include details of the reasons for not making the offer (including any grounds on which the employer has decided to not make the offer); and
- (c) such notice must be given to the employee within 21 days after the end of the 6 month period referred to in clause 12.2(a).

12A.1 This clause applies in lieu of the residual right to request casual conversion under ss 66F-66J of the Act.

12A.2 A casual employee may make a request of an employer under this provision if:

- (a) the employee has been employed by the employer for a period of at least 6 months beginning the day the employment started; and
- (b) the employee has, in the period of 6 months ending the day the request is given, worked a regular pattern of hours on an ongoing basis which, without significant adjustment, the employee could continue to work as a full-time employee or a part-time employee (as the case may be); and
- (c) all of the following apply:
 - (i) the employee has not, at any time during the period referred to in paragraph (b), refused an offer made to the employee under clause 12.2;
 - (ii) the employer has not, at any time during that period, given the employee a notice in accordance with clause 12.8 (which deals with notice of employer decisions not to make offers on reasonable grounds);
 - (iii) the employer has not, at any time during that period, given a response to the employee under clause 12A.3 to this Award refusing a previous request made under this clause.
- (d) The request must:
 - (i) be in writing; and
 - (ii) be a request for the employee to convert:

- (1) for an employee that has worked the equivalent of full-time hours during the period referred to in paragraph 12.2(b)—to full-time employment
- (2) for an employee that has worked less than the equivalent of full-time hours during the period referred to in paragraph 12.2(b)—to part-time employment that is consistent with the regular pattern of hours worked during that period;
- (3) be given to the employer.

12A.3 The employer must give the employee a written response to the request made under clause 12A.2 within 21 days after the request is given to the employer, stating whether the employer grants or refuses the request.

12A.4 The employer must not refuse the request unless:

- (i) the employer has consulted the employee; and
- (ii) there are reasonable grounds to refuse the request; and
- (iii) the reasonable grounds are based on facts that are known, or reasonably foreseeable, at the time of refusing the request.

12A.5 For the purposes of clause 12A.4(iii), reasonable grounds for refusing the request include but are not limited to the following:

- (i) it would require a significant adjustment to the employee's hours of work in order for the employee to be employed as a full-time employee or part-time employee;
- (ii) the employee's position will cease to exist in the period of 6 months after giving the request;
- (iii) the hours of work which the employee is required to perform will be significantly reduced in the period of 6 months after giving the request;
- (iv) there will be a significant change in either or both of the following in the period of 6 months after giving the request:
 - (1) the days on which the employee's hours of work are required to be performed;
 - (2) the times at which the employee's hours of work are required to be performed; which cannot be accommodated with the days or times the employee is available to work during that period;
- (vi) granting the request would not comply with a recruitment or selection process required by or under a law of the Commonwealth or a State or a Territory.

12A.6 If the employer refuses a request made under clause 12A.2, the written response must include details of the reasons for the refusal.

12A.7 If the employer grants a request made under clause 12A.2, the employer must, within 21 days after the day the request is given to the employer, give written notice to the employee of the following:

- (i) whether the employee is converting to full-time employment or part-time employment;

- (ii) the employee's hours of work after the conversion takes effect;
- (iii) the day the employee's conversion to full-time employment or part-time employment takes effect.

12A.8 The employer must discuss with the employee the matters the employer intends to specify for the purposes of clause 12A.7 before giving the notice.

12A.9 The day specified for the purposes of clause 12A.7(iii) must be the first day of the employee's first full pay period that starts after the day the notice is given, unless the employee and employer agree to another day.

12A.10 To avoid doubt, the notice required by clause 12A.7 may be included in the written response required by clause 12A.3.

B. This determination takes effect on ... September 2021.

VICE-PRESIDENT

MA 000032 PRXXXXXX

DRAFT DETERMINATION

Fair Work Act 2009

cl.48 of Schedule 1 – Variations to modern awards

Casual terms award review 2021

(AM2021/54)

MOBILE CRANE HIRING AWARD 2020

[MA000032]

Building, metal and civil construction industries

VICE-PRESIDENT HATCHER

Fair Work Amendment (Supporting Australia's Jobs and Economic Recovery) Act 2021 — casual amendments — review of modern awards—award varied.

A. Pursuant to clause 48 of Schedule 1 to the Fair Work Act 2009 and the decision issued by the Full Bench on2021 [[2021] FWCFB XXXX], the above award is varied as follows:

1. By inserting in alphabetical order in clause 2 a definition of 'casual employee' as follows:

casual employee has the meaning given by section 15A of the Act.

2. By deleting the second row in the table in clause 7.2 (containing in the first column '9.7(g)' and in the second column 'Casual conversion to full-time or part-time employment').

3. By deleting clause 9.1.

4. By deleting clause 9.7 and replacing and replacing it with new clauses 9.7 and 9.8 as follows:

Clause 9.7

9.7 This clause applies in lieu of the employer offers of casual conversion under ss 66AA-66E of the Act

9.7.1 Subject to clause 9.7.5 an employer who is not a small business employer must make an offer to a casual employee under this clause if:

- (a) the employee has been employed by the employer for a period of 6 months beginning the day the employment started; and
- (b) during that 6 month period, the employee has worked a regular pattern of hours on an ongoing basis which, without significant adjustment, the employee could continue to work as a full-time employee or a part-time employee (as the case may be).

9.7.2 An offer made under clause 9.7.1 must:

- (a) be in writing; and
- (b) be an offer for the employee to convert:
 - (i) for an employee that has worked the equivalent of full-time hours during the period referred to in paragraph (1)(b)--to full-time employment; or
 - (ii) for an employee that has worked less than the equivalent of full-time hours during the period referred to in paragraph (1)(b)--to part-time employment that is consistent with the regular pattern of hours worked during that period; and
- (c) be given to the employee within the period of 21 days after the end of the 6 month period referred to in paragraph (1)(a).

9.7.3 An employee must give the employer a written response to the offer within 21 days after the offer is given to the employee, stating whether the employee accepts or declines the offer. If

the employee fails to give the employer a written response within 21 days, the employee is taken to have declined the offer.

9.7.4 If the employee accepts the offer, the employer must, within 21 days after the day the acceptance is given to the employer and after first discussing the matters in (a)-(c) in this clause, give written notice to the employee of the following:

- (a) whether the employee is converting to full-time employment or part-time employment;
- (b) the employee's hours of work after the conversion takes effect;
- (c) the day the employee's conversion to full-time employment or part-time employment takes effect, which must be the first day of the employee's first full pay period that starts after the day the notice is given, unless the employee and employer agree to another day.

9.7.5 An employer is not required to make an offer under clause 9.7.1 if:

- (a) there are reasonable grounds not to make the offer; and
- (b) the reasonable grounds are based on facts that are known, or reasonably foreseeable, at the time of deciding not to make the offer.

9.7.6 Without limiting clause 9.7.5(b), reasonable grounds for deciding not to make an offer include the following:

- (a) the employee's position will cease to exist in the period of 6 months after the time of deciding not to make the offer;
- (b) the hours of work which the employee is required to perform will be significantly reduced in that period;
- (c) there will be a significant change in either or both of the following in that period:
 - (i) the days on which the employee's hours of work are required to be performed;
 - (ii) the times at which the employee's hours of work are required to be performed; which cannot be accommodated within the days or times the employee is available to work during that period;
- (d) making the offer would not comply with a recruitment or selection process required by or under a law of the Commonwealth or a State or a Territory.

9.7.7 Where an employer decides not to make an offer under clause 9.7.6 or the employee has been employed by the employer for the 6 month period referred to in clause 9.7.1(a) but does not meet the requirement referred to in clause 9.7.1(b), the employer must give written notice to the employee:

- (a) advising the employee that the employer is not making an offer under clause 9.7.1;
- (b) including details of the reasons for not making the offer (including any grounds on which the employer has decided to not make the offer); and

- (c) such notice must be given to the employee within 21 days after the end of the 6 month period referred to in clause 9.7.1(a).

9.8.1 This clause applies in lieu of the residual right to request casual conversion under ss 66F-66J of the Act.

9.8.2 A casual employee may make a request of an employer under this provision if:

- (a) the employee has been employed by the employer for a period of at least 6 months beginning the day the employment started; and
- (b) the employee has, in the period of 6 months ending the day the request is given, worked a regular pattern of hours on an ongoing basis which, without significant adjustment, the employee could continue to work as a full-time employee or a part-time employee (as the case may be); and
- (c) all of the following apply:
 - (i) the employee has not, at any time during the period referred to in paragraph (b), refused an offer made to the employee under clause 9.7.1;
 - (ii) the employer has not, at any time during that period, given the employee a notice in accordance with paragraph 9.7.7 (which deals with notice of employer decisions not to make offers on reasonable grounds);
 - (iii) the employer has not, at any time during that period, given a response to the employee under clause 9.8.3 to this Award refusing a previous request made under this clause.
- (d) The request must:
 - (i) be in writing; and
 - (ii) be a request for the employee to convert:
 - (1) for an employee that has worked the equivalent of full-time hours during the period referred to in paragraph 9.8.2(b)—to full-time employment
 - (2) for an employee that has worked less than the equivalent of full-time hours during the period referred to in paragraph 9.8.2 (b)--to part-time employment that is consistent with the regular pattern of hours worked during that period;
 - (3) be given to the employer.

9.8.3 The employer must give the employee a written response to the request made under clause 9.8.1 within 21 days after the request is given to the employer, stating whether the employer grants or refuses the request.

9.8.4 The employer must not refuse the request unless:

- (i) the employer has consulted the employee; and

- (ii) there are reasonable grounds to refuse the request; and
- (iii) the reasonable grounds are based on facts that are known, or reasonably foreseeable, at the time of refusing the request.

9.8.5 For the purposes of clause 9.8.4(iii), reasonable grounds for refusing the request include but are not limited to the following:

- (i) it would require a significant adjustment to the employee's hours of work in order for the employee to be employed as a full-time employee or part-time employee;
- (ii) the employee's position will cease to exist in the period of 6 months after giving the request;
- (iii) the hours of work which the employee is required to perform will be significantly reduced in the period of 6 months after giving the request;
- (iv) there will be a significant change in either or both of the following in the period of 6 months after giving the request:
 - (1) the days on which the employee's hours of work are required to be performed;
 - (2) the times at which the employee's hours of work are required to be performed; which cannot be accommodated with the days or times the employee is available to work during that period;
- (vii) granting the request would not comply with a recruitment or selection process required by or under a law of the Commonwealth or a State or a Territory.

9.8.6 If the employer refuses a request made under clause 9.8.2, the written response must include details of the reasons for the refusal.

9.8.7 If the employer grants a request made under clause 9.8.2, the employer must, within 21 days after the day the request is given to the employer, give written notice to the employee of the following:

- (i) whether the employee is converting to full-time employment or part-time employment;
- (ii) the employee's hours of work after the conversion takes effect;
- (iii) the day the employee's conversion to full-time employment or part-time employment takes effect.

9.8.8 The employer must discuss with the employee the matters the employer intends to specify for the purposes of clause 9.8.7 before giving the notice.

9.8.9 The day specified for the purposes of clause 9.8.7(iii) must be the first day of the employee's first full pay period that starts after the day the notice is given, unless the employee and employer agree to another day.

9.8.10 To avoid doubt, the notice required by clause 9.8.7 may be included in the written response required by clause 9.8.3.

B. This determination takes effect on ... September 2021.

VICE-PRESIDENT