Subdivision B—Employer offers for casual conversion

66AA Subdivision does not apply to small business employers

This Subdivision does not apply in relation to an employer that is a small business employer.

66B Employer offers

(1) Subject to section 66C, an employer must make an offer to a casual employee under this section if:

(a) the employee has been employed by the employer for a period of 12 months beginning the day the employment started; and

(b) during at least the last 6 months of that 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).

Note: An employee who meets the requirements of paragraphs (a) and (b) would also be a regular casual employee because the employee has been employed by the employer on a regular and systematic basis.

(2) The offer 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 12 month period referred to in paragraph (1)(a).

Note: If an offer is accepted, the conversion to full-time employment or part-time employment has effect for all purposes (see section 66K).

(3) For the purposes of paragraph (2)(b), in determining whether an award/agreement free employee has worked the equivalent of full-time hours, regard may be had to the hours of work of any other full-time employees of the employer employed in the same position as (or in a position that is comparable to) the position of the employee.

66C When employer offers not required

(1) Despite section 66B, an employer is not required to make an offer under that section to a casual employee 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.

(2) Without limiting paragraph (1)(a), 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 12 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.

(3) An employer must give written notice to a casual employee in accordance with subsection (4) if:

(a) the employer decides under subsection (1) not to make an offer to the employee; or

(b) the employee has been employed by the employer for the 12 month period referred to in paragraph 66B(1)(a) but does not meet the requirement referred to in paragraph 66B(1)(b).

Note: If an employer fails to give notice to a casual employee, the employee has a residual right to request conversion to full-time or part-time employment in certain circumstances: see Subdivision C.

(4) The notice must:

(a) advise the employee that the employer is not making an offer under section 66B; and

(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) be given to the employee within 21 days after the end of the 12 month period referred to in paragraph 66B(1)(a).

66D Employee must give a response

(1) The 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.

(2) If the employee fails to give the employer a written response in accordance with subsection (1), the employee is taken to have declined the offer.

66E Acceptances of offers

(1) If the employee accepts the offer, the employer must, within 21 days after the day the acceptance is given to the employer, 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.

	(2) However, the employer must discuss with the employee the matters the employer intends to specify for the purposes of paragraphs (1)(a), (b) and (c) before giving the notice. (3) The day specified for the purposes of paragraph (1)(c) 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.