

## 15A Meaning of *casual employee*

- (1) A person is a *casual employee* of an employer if:
  - (a) an offer of employment made by the employer to the person is made on the basis that the employer makes no firm advance commitment to continuing and indefinite work according to an agreed pattern of work for the person; and
  - (b) the person accepts the offer on that basis; and
  - (c) the person is an employee as a result of that acceptance.
- (2) For the purposes of subsection (1), in determining whether, at the time the offer is made, the employer makes no firm advance commitment to continuing and indefinite work according to an agreed pattern of work for the person, regard must be had only to the following considerations:
  - (a) whether the employer can elect to offer work and whether the person can elect to accept or reject work;
  - (b) whether the person will work as required according to the needs of the employer;
  - (c) whether the employment is described as casual employment;
  - (d) whether the person will be entitled to a casual loading or a specific rate of pay for casual employees under the terms of the offer or a fair work instrument.

Note: Under Division 4A of Part 2-2, a casual employee who has worked for an employer for at least 12 months and has, during at least the last 6 months of that time, worked a regular pattern of hours on an ongoing basis may be entitled to be offered, or request, conversion to full-time employment or part-time employment.

- (3) To avoid doubt, a regular pattern of hours does not of itself indicate a firm advance commitment to continuing and indefinite work according to an agreed pattern of work.
- (4) To avoid doubt, the question of whether a person is a casual employee of an employer is to be assessed on the basis of the offer of employment and the acceptance of that offer, not on the basis of any subsequent conduct of either party.
- (5) A person who commences employment as a result of acceptance of an offer of employment in accordance with subsection (1) remains a *casual employee* of the employer until:
  - (a) the employee's employment is converted to full-time or part-time employment under Division 4A of Part 2-2; or
  - (b) the employee accepts an alternative offer of employment (other than as a casual employee) by the employer and commences work on that basis.