



Casual or permanent employment

This fact sheet explains the differences between casual and permanent employment arrangements.

Whether employees are casual or permanent will depend upon a number of factors such as the regularity of work and the expectation of ongoing employment.

Whether a worker is classified as casual or permanent is determined by the nature of the working arrangement, not by the label the employer gives the person.

If the employment is ongoing and systematic, casual status will not offset the employee's right under the relevant legislation to leave entitlements.

Outlined below are some basic factors which can be used to clarify whether an employee is casual or permanent.

Casual employees

Generally casual employees are employed on an irregular basis with no set roster or routine as to when they work. Furthermore, there is no expectation by employer and employee that there will be regular ongoing employment. Casuals are employed on an 'as needs' basis, often to meet a changing workload within the workplace.

The following points highlight the employment characteristics of casual employees:

- recognised as casuals from the beginning of their employment;
- usually work for short periods of time on an irregular basis with their actual hours varying from week to week;

- employed and paid by the hour and do not receive annual leave or sick leave;
- do not have consistent starting or finishing times, or regular hours of work;
- generally contacted regularly and asked to work, rather than just knowing when they are required;
- have no expectation of ongoing work; and
- are free to refuse to work at any time due to other commitments.

Permanent employees

Permanent employees, whether working full time or part time hours, have an on-going relationship with their employer that is regular and systematic. They are engaged for a fixed number of hours each week or fortnight with an expectation of ongoing employment.

The following points highlight the employment characteristics of permanent employees:

- usually work on a regular basis with a set roster;
- are employed on an on-going basis; and
- are entitled to receive entitlements such as annual and sick leave proportionate to the number of hours they work.

Hourly rate does not define casual employment

Many employers consider casual employees to be simply employees who are paid a higher hourly rate than permanent employees, and that this rate compensates for the lack of paid leave and other entitlements. This is not correct.

If the employment is ongoing and regular, how employees are paid and classified by their employers are not sufficient factors to cancel out employees' rights under the relevant awards and legislation to leave entitlements.

Award definitions

Many award definitions of casual employment do not override how the courts determine what is casual employment. Employees can meet the definition of casual employment under a particular award, such as the Shop and Warehouse (Wholesale and Retail Establishments) Award, and still not be a casual because they may be working regular and predictable hours and have an expectation of ongoing employment.

However, some awards are more definitive about what is a casual. For example, the Printing Award states that after two weeks of continuous work, a casual employee shall become a weekly employee.

Therefore, if employees work for longer than two weeks continuously, under this award they become permanent employees.

Why is it important to classify employees correctly?

Incorrectly classifying employees can be costly for the employer. An employee perceived to be a casual might be deemed permanent by a court or the Western Australian Industrial Relations Commission.

While a recent court decision has broadened the application in Western Australia of when payments made to employees can be offset against award pay and entitlements, employers who are incorrectly classifying employees as casuals still risk being liable for penalties for contravention of the award.

Need more information?

If you require more information about State awards, flexible employment options or redundancy provisions, contact Wageline on 1300 655 266.

Wageline - 1300 655 266

8.30am - 5.00pm weekdays
except Wednesdays 9.00am - 5.00pm

This information is provided by the Department of Commerce as a general guide and is not designed to be comprehensive nor to render legal advice. Readers should not rely on the contents of this information without first obtaining legal advice.

The Department of Commerce does not accept liability for any claim which may arise from any person acting on, or refraining from acting on, this information.

This publication is available in other formats on request to assist people with special needs.

National Relay Service: 13 36 77
Quality of service feedback line: 1800 30 40 59

Regional Offices

Goldfields/Esperance	(08) 9026 3250
Great Southern	(08) 9842 8366
Kimberley	(08) 9169 2811
Mid-West	(08) 9964 5644
North-West	(08) 9185 0900
South-West	(08) 9722 2888