The case of the missing conversion clause:

Why don't we have a casual conversion clause in the academics award?

1. Introduction
2. Why does it matter whether there's a casual conversion clause in the academics award?
3. Why was the NTEU's application for a casual conversion clause for academics dropped?
4. If the reasons don't stack up, what does that tell us?
5. Appendices:
   Motion moved by NTEU Fightback re casual conversion
   Amendment moved by National General Secretary Matt McGowan
   Conversion clause in the professional staff award
   Conversion clause in the hospitality award

1. Introduction

The exploitation of casual workers is one of the biggest problems in higher education. But one of the basic mechanisms to tackle it – applying to have a casual conversion clause in the academics award – hasn't happened. In the leadup to bargaining next year, it's useful background to have an idea of why this is the case.

This document gets pretty detailed, sifting through the exact wording of clauses. There is no way around this.

In fact, we believe it's crucial that as many union activists as possible have a handle on the detailed wording of clauses. After all, a seemingly small change in wording can sometimes change a clause with strong, legally enforceable language – which can be effectively used to win workers rights – into meaningless, unenforceable verbiage with very little effect. Many unionists will be familiar with clauses which read well, but have a phrase like "best endeavours" which makes the whole clause unenforceable.

This sort of knowledge can't be left to the paid staff and officials of the union. It's not just us who thinks this. Many readers would be familiar with US organiser Jane McAlevey's approach to "big bargaining", where hundreds of workers take place in bargaining. This photo shows McAlevey leading a caucus of a worker negotiating team – with a hundred workers on it.

Part of this approach involves groups of rank and file workers seriously getting their heads around particular clauses. After

all, it's the workers who will need to live with this clause, who will have their working lives governing it, and who will have to enforce it. Here's a picture from Jane McAlevey's Strike School of an "article committee", part of a big bargaining team at a hospital. Their role is to know all the ins and outs of one particular important clause: what has been won at other places, what works, what doesn't, how management is trying to water down the wording

So, getting workers familiar with the various clauses governing casual conversion, their strengths and weaknesses (and sometimes, their total failures) is one important component of an industrial campaign.

2. Why does it matter whether there's a casual conversion clause in the academics award?

The big majority of "modern awards", which lay down the legal minimum wages and conditions of workers in Australia, have had "casual conversion" clauses added to them over the past two years. Workers employed as "casuals" but who have worked regular or systematic hours for a year (not just a few hours or days here and there) have a right to apply to be converted to a permanent job. Employers can refuse conversion, but can only do so legally on one of several, specified, "reasonable business grounds".

The award clauses aren't the strongest conversion clauses ever seen. For instance they fall far short of the standard won by construction unions, where workers were converted to permanent automatically (i.e. with no application process) after six weeks. We talk through the wording of this and other casual conversion clauses in our detailed document on casual conversion, one of several resources on enterprise bargaining on the NTEU Fightback website.

Despite their lack of teeth, award conversion clauses are still worth having. For the millions of workers whose conditions are governed by awards, and their unions, they are useful legal leverage to help win permanent jobs.

Award conversion clauses are also relevant for workers such as employees of universities, even though we are covered by long-established, union-negotiated enterprise agreements (EAs) which give better conditions than the legal minimum standards contained in awards. Legally, every EA must pass the "better off overall test" (the BOOT), where the Fair Work Commission certifies that the EA leaves every single worker better off than the relevant award. So a conversion clause in the underlying award will give some extra leverage in enterprise bargaining, if we're trying to win a casual conversion clause in EAs.

Though most awards now have casual conversion clauses, one very notable exception is the award for one of the most casualised occupations in the country – teaching at universities. This omission is even more notable for two reasons: firstly, unlike the academics award, the award covering professional staff at universities *does* have a casual conversion clause. Second, the NTEU actually applied to have a conversion clause inserted into the academics award but then withdrew the application.

The lack of conversion clauses in the academics award was a subject of discussion at the NTEU's National Council meeting in late October 2020. NTEU Fightback members moved a motion asking for an explanation for the failure to win a conversion clause, and stating that the union should apply to insert a casual conversion clause in the academics award at the first available opportunity.

In response, NTEU National General Secretary Matt McGowan moved an amendment. This offered a rationale for withdrawing the application for a conversion clause, which we discuss below, and deferred consideration of the matter. Both our motion and McGowan's amendment are in the appendix at the end of this document.

We ended up accepting Matt McGowan's amendment on the day. But it's worth spending some time on the rationale given for withdrawing the application for the conversion clause, because it raises at least as many questions as it answers.

3. Why we're told there's no conversion clause: do these reasons stack up?

In his amendment, Matt McGowan gave four reasons for shelving the NTEU's application for a conversion clause in the academics award. The problem is, none of these reasons really stack up. Which then leaves the question – what's the real reason? We'll venture a hypothesis on that. But first let's go through McGowan's reasoning.

Would narrow eligibility criteria stuff the whole thing up?

McGowan states that the application for a conversion clause in the academics award was withdrawn because "we were not likely to get a satisfactory outcome", especially looking at the standard clauses "formulated by the FWC for inclusion in Awards". McGowan says:

> *In particular the requirement for the employee to have been employed "on an ongoing basis" for 12 months, would knock-out 98% of academic casuals because the breaks between semesters mean that academic casuals will not be eligible.*

If this was true, it would be grounds for thinking that there's no point to the whole exercise. But it's not.

It *is* true, as McGowan says, that the Fair Work Commission's landmark decision in 2017 announcing that the FWC was minded to insert a casual conversion provision into 85 modern awards, uses the phrase quoted at length in McGowan's amendment, referring to employment "on an ongoing basis" as a criteria of eligibility (clause 381).

However, it's *also* true that the FWC invites parties "to make further submissions concerning this proposed model clause, including whether it requires adaption to meet the circumstances of particular

awards". As a result of these submissions, the final wording of the conversion clauses for many awards contains no trace of the "ongoing basis" phrase which McGowan states is a key stumbling block.

One relevant example is the Higher Education Industry (General Staff) Award. The phrase "on an ongoing basis" which is meant to be such a problem is nowhere to be seen. We've put the entire clause in the appendix below, but here is the key passage, on eligibility:

> ***(b) Eligibility for conversion***
>
> *(i) To be eligible to apply for conversion, a casual employee must be employed on a regular and systematic basis in the same or a similar and identically classified position in the same department (or equivalent), either:*
>
> • *over the immediately preceding period of 12 months and in those immediately preceding 12 months the average weekly hours worked equalled at least 50% of the ordinary weekly hours that would have been worked by an equivalent full-time employee; or*
>
> • *over the immediately preceding period of at least 24 months.*

The key test here is whether the worker has been employed on "a regular and systematic basis". This is a set of words with a well established meaning in industrial law. It's actually not a very high bar to hit. For instance the Fair Work Commission's *Bench Book* states that "evidence of regular and systematic employment can be established" where "work was offered and accepted regularly enough that it could no longer be regarded as occasional or irregular."

There is no requirement here that the employment is "ongoing" in the sense of, not stopping for a semester break. Working over multiple semesters is neither occasional nor irregular. McGowan has built up the phrase "ongoing basis" into some major obstacle, when it's clearly not.

Confirmation of this comes from looking at the Hospitality Award – which, with due respect to the United Workers Union, is not usually seen as some bastion of workers rights.

In the hospo award, eligibility for conversion applies to

> *a casual employee who is employed by an employer on a regular and systematic basis* ***for several periods of employment*** *or on a regular and systematic basis for an ongoing period of employment* ***during a period of at least 12 months****.* (emphasis added)

You might have to read it a couple of times, but its clear that a hospo worker can apply for conversion even if their employment has *not* been "ongoing" but rather "for several periods" in 12 months or more. This is the situation faced by casual academics employed for several semesters.

In other words, the exact scenario that McGowan states is a hurdle way too high for the NTEU to overcome in the Higher Education Industry (Academics) Award, is not an obstacle at all in the less-than-mighty Hospo Award.

In summary: the closer we look, the more it seems that the supposedly great obstacle outlined by McGowan, the phrase "on an ongoing basis", is not written into stone tablets. Language which would accommodate (for example) a casual academic employed over several semesters applying for conversion can be found in other awards. So McGowan's case for not pushing ahead with the application for the conversion clause looks pretty weak so far.

Would an award conversion clause lead to a feeble outcome for individuals

McGowan writes:

> *Any award provision will only be able to convert the actual work done by an individual. It would not be able to aggregate work of several people and then convert one of them. So, for example a person with no post-grad qualification who did 4 tutes in 22 teaching weeks could be offered a 0.11-fraction contract, simply to do that work. This may have limited value to the individuals.*

0.11 of a full time job (if that's what the fraction works out as, after including marking, preparation and other associated work) may indeed have "limited value" to an individual. In which case that individual has no obligation to apply for conversion or to accept it. On the other hand, even 0.11 is somewhere around $10,000 guaranteed per year, and a foot in the door, compared to zero under current arrangements.

Would an award conversion clause undermine results in bargaining?

> *Worse than this, an award clause of this sort could damage our options in Bargaining. If we seek to pursue claims that converts <u>work</u> from casual to ongoing (rather than individuals), any award provision would then serve as the basis for the BOOT test and prevent a work based conversion clause as it may be seen to disadvantage individuals.*

This is factually not the case. The United Workers Union has repeatedly won maximum ratios for casual labour in warehouses, including just a couple of months ago at a major distribution centre in Wyong. The fact that there is a casual conversion clause for individuals covered in the Storage Services and Wholesale Award presented zero obstacle to winning this important measure to ensure secure work. This argument is a fiction.

Also, we don't want to sound flippant, but really it would be nice to have the problem of one effective legal remedy for casualisation competing with another, even more effective remedy. At the moment almost zero conversion – of work or of individuals – is happening for academic teaching. To put up a hypothetical scenario which the union has been unable to achieve (converting <u>work</u> from casual to

permanent), as counterposed to a conversion clause for individuals which every union in the country has been able to achieve (even rubbish, right wing unions like the SDA), is a real straw man of an argument.

Would an award conversion clause involve a lot of work for only a slim chance of success?

We don't doubt that significant work is involved in award variation applications. We're also prepared to believe that its very unusual to make such an application out of the blue, and that the Fair Work Commission might not look on this kindly.

This leads us to the biggest tragedy of this whole issue – or maybe travesty is a better word. The Fair Work Commision, in its decision of 2017, opened the door to inserting a conversion clause in 85 modern awards. A number of unions followed this up with further applications. The door was open. The work was already happening. Of course, there would be important issues to address in any application – for instance, what sort of position, with what sort of workload, would the worker convert to? But the NTEU was in the queue with its application for a clause for casual academics. And then they left the queue, and cancelled the application!

Due to a Coalition amendment to the Fair Work Act, there will be no further four yearly reviews of modern awards, under which the FWC considered the question of casual conversion. The union missed an important opportunity. And now the door is shut, it will be harder to convince the FWC to open it again.

Clearly, the path to getting a conversion clause inserted is now more difficult. But given that McGowan's rationale for dropping the case is less than convincing, we'd still want to see a more detailed case to convince us that it is impossible to proceed at present. Surely the case can be argued, among other grounds, on the basis of the large number of awards that now do include conversion clauses.

Secondly: if there's a compelling reason for dropping the application for a conversion clause, Matt McGowan has not shared it with us. Which then raises another important question: if none of the reasons advanced by McGowan really hold water, why was the application dropped?

4. So if none of these reasons stack up, what's really going on here?

Here's a hypothesis.

The famous sociologist C Wright Mills discussed trade unions as "managers of discontent". But as many Marxists and others have observed over decades, there can be and often is a shading over from "managing discontent" to managing the industry in which the union operates.

There are plenty of union leaderships which, regardless of individual motivations and history, have been cloistered with management for so long that they see themselves as partners with management: sitting

on different sides of the table, perhaps, but sitting at the same table dealing with the same problem of how to manage an enormous industry.

"Concessionary bargaining" is one manifestation of this. Take it a bit further and you have fully fledged "business unionism", where unions partner with management in "rationalising" entire industries at the expense of their members, or partnering with employers as the SDA does. The further along this spectrum a union leadership is found, the more often and more blatantly it will side with the bosses against its own members.

Our hypothesis is that the current national leadership of the NTEU is well advanced along this spectrum.

Manifestations of this include:

- Their first instinct when faced with an industry crisis is to design concessions – including wage cuts of 15% – and approach the vice chancellors for a partnership, rather than organise workers to fight. At a Q&A session at RMIT on Monday 25 May, McGowan made it clear that a large part of the rationale for this wage-cutting "Jobs Protection Framework" was the fact that this would give the union a seat at the table, or as he put it:

  > *...a form of authority that it hasn't had in over three decades. A national framework where the union is at the centre at that. We've not had that sort of authority in decades. And this will significantly improve the union's ability to impact on the future structure and direction of the sector. I'm not saying that's all written into the agreement, that's not. That's a comment about the way in which this dynamic can play out, if we play our cards right and we do what needs to be done...*

- They appoint former unionist Jamie Doughney as their nominee to the Expert Assessment Panel, which is meant to sign off on the cuts to wages and conditions in enterprise agreement variations based on the "Jobs Protection Framework".
  As we detail in our document on the EAP, Doughney is a former NTEU branch President who has gone over to management, helped to wreck long standing conditions, and was part of the management team which sacked the entire union executive at Victoria Uni in the last bargaining round. It tells us something about the model of unionism which the national leadership subscribes to, that they appoint Jamie Doughney as *one of the union's two nominees* to the EAP.
- When faced with a difficult bargaining situation, their response is not to pour in organising resources to boost the industrial power of the branch, but rather to open up back channels of communication to get around local leaderships who are stubbornly resisting concessions, for instance at the University of New England.
- When faced by rank and file discontent, NTEU officials, at Branch, Division and National levels, have often tried to silence dissidents, by organising one-way meetings, in which members can only listen to the words of the wise; turning off the chat function; portraying disagreement with

their viewers as damaging the union; and most recently, at Murdoch, moving to outlaw dissent and sack delegates who are critical of union policy.
- They refuse to apply for a clause in the academics award which could pose even a minor threat to the business model the whole industry is based on.

If our hypothesis is correct, and the failure to apply for the conversion clause is explained by the national leadership's outlook (i.e. concessionary bargaining and "managing the industry") rather than any of the hollow legalistic arguments advanced by McGowan, this has important implications for next year's bargaining round and for how workers in the sector should organise.

More than a century ago, a group of workers on the Clyde in Scotland came up with the classic formulation for how rank and file workers should view our officials:

> *We will support the officials just so long as they rightly represent the workers, but we will act independently immediately they misrepresent them.*

Applying this approach today means building up as much organised rank and file strength and clarity as we can. It's this approach that supporters of NTEU Fightback are pursuing around the country. We'll have more to say on what this means concretely as we move towards next year's bargaining round.

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5. Appendices

5.1 NTEU Fightback motion re: National Council on academic award conversion clause

Application to insert conversion clause into Higher Education Industry - Academic Employees - Award

Motion: National Council:
- Notes that the Higher Education - Academic Employees - Award has no provision for conversion of casual employees to ongoing positions.
- Notes that casual conversion is now part of more than one hundred modern awards (including the General Retail Award, the Hospitality (General) Award, and the Higher Education Industry - Professional Employees - Award).
- Believes that casual conversion is an important industrial right for all regularly employed casual employees, including casual academic staff.
- Requests an explanation of why this important right was not included in the updating of the Academic Employees Award.

- Directs the National Executive to remedy this defect at the first available opportunity, by applying to vary the Higher Education – Academic Employees – Award to include a casual conversion clause no less favourable than the clause included in the Higher Education Industry – Professional Employees – Award.

Moved: Liam Ward
Seconded: Katie Wood

5.2 Amendment to NTEU Fightback motion moved by Matt McGowan

F2i (Amendment): Application to Insert Conversion Clause into Higher Education Industry - Academic Employees – Award

National Council:

- Notes that the Higher Education - Academic Employees - Award has no provision for conversion of casual employees to ongoing positions.
- Notes that casual conversion is now part of more than one hundred modern awards (including the General Retail Award, the Hospitality (General) Award, and the Higher Education Industry - Professional Employees - Award).
- Believes that casual conversion is an important industrial right for all regularly employed casual employees, including casual academic staff.
- Directs the National Executive to consult further with the National Tertiary Casuals Committee around a possible application to vary the Higher Education Academic Employees Award to include a casual conversion clause no less favourable than the clause included in the Higher Education Industry - Professional Employees - Award.

Statement in support of the amendment:

An academic conversion claim was lodged (as approved by the National Executive) as part of the 2014 Award Review but was put aside as circumstances made it clear that we were not likely to get a satisfactory outcome. If we make an application that fails or results in a bad outcome, the Commission would not consider a new application for 10 years unless the law is changed. We must get this right.

The standard clauses (formulated by the FWC for inclusion in Awards) provide for the following:

> **11.6 Right to request casual conversion**
> (a) A person engaged by a particular employer as a regular casual employee may request that their employment be converted to full-time or part-time employment.

(b) A regular casual employee is a casual employee who has over a calendar period of at least 12 months worked a pattern of hours on an **ongoing** basis which, without significant adjustment, the employee could continue to perform as a full-time employee or part-time employee under the provisions of this award.

(g) Reasonable grounds for refusal include that:

(i) it would require a significant adjustment to the casual employee's hours of work in order for the employee to be engaged as a full-time or part-time employee in accordance with the provisions of this award – that is, the casual employee is not truly a regular casual as defined in paragraph (b);

(ii) it is known or reasonably foreseeable that the regular casual employee's position will cease to exist within the next 12 months;

(iii) it is known or reasonably foreseeable that the hours of work which the regular casual employee is required to perform will be significantly reduced in the next 12 months; or

(iv) it is known or reasonably foreseeable that there will be a significant change in the days and/or times at which the employee's hours of work are required to be performed in the next 12 months which cannot be accommodated within the days and/or hours during which the employee is available to work.

In particular the requirement for the employee to have been employed "on an ongoing basis" for 12 months, would knock-out 98% of academic casuals because the breaks between semesters mean that academic casuals will not be eligible.

Any award provision will only be able to convert the actual work done by an individual. It would not be able to aggregate work of several people and then convert one of them. So, for example a person with no post-grad qualification who did 4 tutes in 22 teaching weeks could be offered a 0.11-fraction contract, simply to do that work. This may have limited value to the individuals.

Worse than this, an award clause of this sort could damage our options in Bargaining. If we seek to pursue claims that converts work from casual to ongoing (rather than individuals), any award provision would then serve as the basis for the BOOT test and prevent a work based conversion clause as it may be seen to disadvantage individuals.

Significant work is involved in award applications and we should make any application at a time that is most advantageous to us, particularly given the limitations on making further claims in the future. The nature of our claims in bargaining is a matter we have not yet determined.

Regardless, under the current Commission arrangements, our chances of success are slim. The employers would run hard against even the test-case provision. The creation of tenured academic positions of demonstrators with no merit selection process would be hard to argue for on our part and may be controversial among our members.

The Commission does not look favourably on individual award-based applications. This is shown in two ways. (1) Few have succeeded, and (2) The Commission has quite specifically said that "it is assumed that the current award standards (or available test-case standards) are a fair safety net".

However, for all the reasons outlined above, and others (such as the personnel we would probably face in the Commission, the fact that the Commission has established a test-case standard which is of no value to us, and the fact that a provision, once inserted, could not be re-visited on the merits for a decade) it would be prudent to wait at LEAST until the next federal election or the content of the Government's omnibus industrial relations reform Bill is known, given that it has been widely discussed that it will contain a definition of casual worker (which is likely to be unfavourable for us and open the door to wider casualisation in our sector).

This has been outlined to the National Tertiary Casuals Committee last year, and although no resolution was passed, after some discussion this was accepted by the Committee members. The real concern is that we could end up with a result that it would be against the interests of casual academics at the present time. This was also outlined in 3 "Casual members Strategic Briefings" held in Vic, NSW and UQ last year.

This question should remain under constant review, but the nature of academic work is not like other work and we need to be strategic in how and when we make such an application.

MOVED: (General Secretary)
SECONDED:

5.3 Conversion clause in Higher Education Industry (General Staff) Award

https://www.fwc.gov.au/documents/documents/modern_awards/pdf/ma000007.pdf

12.4 Casual conversion

(a) General

(i) An employee must not be engaged and re-engaged nor have their hours reduced in order to avoid any obligation under this clause.

(ii) Upon appointment, the employer must advise a casual employee that, after serving qualifying periods, see clause 12.4(b), casual employees may have a right to apply for conversion and a copy of the conversion provisions of this award will be made available to such employees.

(iii) The employer must also take reasonable steps from time to time to inform casual employees of the conversion provisions of this award.

(iv) An eligible casual employee may apply in writing for conversion to noncasual employment in accordance with the conversion provisions of this award.

(b) Eligibility for conversion

(i) To be eligible to apply for conversion, a casual employee must be employed on a regular and systematic basis in the same or a similar and identically classified position in the same department (or equivalent), either:

- over the immediately preceding period of 12 months and in those immediately preceding 12 months the average weekly hours worked equalled at least 50% of the ordinary weekly hours that would have been worked by an equivalent full-time employee; or

- over the immediately preceding period of at least 24 months.

(ii) For the purposes of this clause occasional and short-term work performed by the employee in another classification, job or department must not:

- affect the employee's eligibility for conversion;

- be included in determining whether the employee meets or does not meet the eligibility requirements.

(c) Application for conversion

The employer will not unreasonably refuse an application for conversion. However, it may refuse an application on reasonable grounds. Reasonable grounds include, but are not limited to, the following:

(i) the employee is a student, or has recently been a student, other than where their status as a student is irrelevant to their engagement and the work required;

(ii) the employee is a genuine retiree;

(iii) the employee is performing work which will either cease to be required or will be performed by a non-casual employee, within 26 weeks (from the date of application);

(iv) the employee has a primary occupation with the employer or elsewhere, either as an employee or as a self-employed person;

(v) the employee does not meet the essential requirements of the position; or

(vi) the work is ad hoc, intermittent, unpredictable or involves hours that are irregular.

(d) Offer of non-casual employment

(i) The employer must determine an application for conversion either by offering conversion to non-casual employment or by rejecting the application. If the employer rejects the application, it must provide written reasons for rejecting it. If the application is accepted, the employee will be offered a non-casual position.

(ii) Conversion may be to either a continuing appointment or to a fixed-term appointment. The offer of conversion will indicate the hours and pattern of work which, subject to due consideration of the employer's operational requirements and the desirability of offering the employee work which is as regular and continuous as is reasonably practicable, will be consistent with the employee's casual engagement. The conversion offer will also constitute (and include such other details as are required for) an instrument of engagement under the award.

(iii) Employees converted under this clause will not have their casual service count as service for the purpose of calculating any other existing entitlements except for:

• long service leave, if, at the time of conversion, the employer provides casual employees with an entitlement to long service leave. In such a case casual service with the employing institution would count for the purposes of any qualifying period for long service leave, but would not give rise to any paid leave entitlement in respect of that casual service, except where institutions, at the time of making this award, pay long service leave to casuals in relation to their casual service; and

• any applicable unpaid parental leave.

(e) Further applications

An employee whose application for conversion is rejected will not be entitled to apply again within 12 months except where:

(i) that rejection is solely based upon the ground set out in 12.4(c)(iii); and

(ii) that ground ceased to apply

5.4 Conversion clause in Hospitality Award

Just for reference, even the lowly Hospitality (General) Award has a provision for conversion, here:

https://www.fwc.gov.au/documents/documents/modern_awards/pdf/ma000009.pdf

11.7 Conversion to full-time or part-time employment

(a) This clause only applies to a regular casual employee.

(b) A regular casual employee means a casual employee who is employed by an employer on a regular and systematic basis for several periods of employment or on a regular and systematic basis for an ongoing period of employment during a period of at least 12 months.

(c) A regular casual employee who has been engaged by a particular employer for at least 12 months may elect (subject to the provisions of this clause) to have their contract of employment converted to full-time or part-time employment.

(d) An employee who has worked at the rate of an average of 38 or more hours a week in the period of 12 months casual employment may elect to have their employment converted to full-time employment.

(e) An employee who has worked at the rate of an average of less than 38 hours a week in the period of 12 months casual employment may elect to have their employment converted to part-time employment.

(f) Where a casual employee seeks to convert to full-time or part-time employment, the employer may consent to or refuse the election, but only on reasonable grounds. In considering a request, the employer may have regard to any of the following factors:

- the size and needs of the workplace or enterprise;
- the nature of the work the employee has been doing;
- the qualifications, skills, and training of the employee;
- the trading patterns of the workplace or enterprise (including cyclical and seasonal trading demand factors);
- the employee's personal circumstances, including any family responsibilities; and
- any other relevant matter.

(g) Where it is agreed that a casual employee will have their employment converted to full-time or part-time employment as provided for in this clause, the employer and employee must discuss and agree upon:

- the form of employment to which the employee will convert—that is, full-time or part-time employment; and
- if it is agreed that the employee will become a part-time employee, the matters referred to in clause 10.

(h) The date from which the conversion will take effect is the commencement of the next pay cycle following such agreement being reached unless otherwise agreed.

(i) Once a casual employee has converted to full-time or part-time employment, the employee may only revert to casual employment with the written agreement of the employer.

(j) An employee must not be engaged and/or re-engaged (which includes a refusal to re-engage) to avoid any obligation under this award.

(k) Nothing in this clause obliges a casual employee to convert to full-time or part-time employment, nor permits an employer to require a casual employee to so convert.

(l) Nothing in this clause requires the employer to convert the employment of a regular casual employee to full-time or part-time employment if the employee has not worked for 12 months or more in a particular establishment or in a particular classification stream.

(m) Nothing in this clause requires an employer to increase the hours of a regular casual employee seeking conversion to full-time or part-time employment.