

ESCAPING THE CASUAL EMPLOYMENT TRAP

ACTU Research Report

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1. SUMMARY

Australia has had one of the highest levels of casual employment in the world. Nearly one in four employees (24.1%) on average, were classified as casual over nine years of Coalition governments from 2013 to 2022.

But as this report outlines, this is changing: nine out of the ten jobs created under the Albanese Government have been permanent ones, largely because of its commitment to job security, including through the *Secure Jobs Better Pay* and *Closing Loopholes* reforms to workplace laws. These reforms have changed the hiring practices of employers.

To put it another way, an extra 230,000 people have been able to gain permanent work, over casual work, than would have otherwise been the case. As a result, casual employment has dropped to 22.2% of all employment today. New laws tightened the definition of casual employment, limiting the ability of employers to deem people “casual”. This change was an election commitment for the Albanese Government in 2022, resulting in changing employment practices delivering more secure jobs for hundreds of thousands of Australians.

The *Closing Loopholes* reforms introduced a new definition of casual work, and gave the Fair Work Commission – the independent workplace umpire – the power to settle disputes over an employee seeking to move into permanent work.

For those workers wanting to stay as casual, the new laws also enshrine their right to do so. The new laws also strengthen these workers’ rights, particularly through stronger laws to tackle wage theft. This report also finds that around one in three casual workers are likely paid below the minimum rates of pay in Awards.

From 26 February 2025, a worker can now write to their employer seeking a permanent job if they believe they are no longer casual, with the new power of the Fair Work Commission to ensure they get a fair go. This is likely to further increase permanent jobs in years to come.

As this report also highlights, an estimated 687,500 casuals want a permanent job, but only a small minority – barely 1 in 15 – have been able to secure it. This new right will assist many workers. As this report shows, many people are seeking job security and paid leave entitlements, particularly given the toll work insecurity can have on their health and financial security and for their families that rely on them.

These are all significant changes to the Coalition-era laws that allowed employers to call any employee a casual, left workers with no power to challenge it and let wage theft become a widespread business model.

The Coalition voted against, and have committed to repeal, all of these changes. This is a key issue in the upcoming election as political parties have vastly different policies on the rights of workers, including rights for casual workers.

2. CASUAL WORK IN AUSTRALIA

A casual worker has no guarantee that they will get work in the future, and no rights to paid leave. In exchange (in theory), they should typically receive a loading – usually 25% on top of their base rate of pay – plus the right to refuse requests by their employer for them to work. But the actual practice of casual work is much messier.

Today, women make up 53.8% of all casual employees¹, largely because they are often the only roles available that offer the hours to accommodate greater caring responsibilities. It is also a business model in key female-dominated industries and occupations. The three industries of retail, accommodation and food services, and health care and social assistance together employ half of all casual employees.²

While 40.3% of casual employees are between the ages of 15 to 24, there are people of all ages in casual work.

Today, nearly 2.75 million people in Australia are in casual employment, or 22.2% of all employees.³ By international standards, that is a high number. The UK has just over 1.5 million employees working on a “temporary” basis, but with a larger population, that represents just 4.5% of all people at work.⁴ Canada similarly has 2.1 million workers in temporary or casual arrangements, but again, only 10.1% of total employment.⁵ Levels of casual employment in New Zealand are high but also below Australia’s, at 19.9%.⁶

Today’s figures however are a significant reduction on what prevailed under nine years of Coalition Governments. Casual employment then averaged about 24.1% of total employment (See Chart 1). This includes the period of the pandemic, where at least 510,000 casual workers lost their jobs, in large part because then Prime Minister Scott Morrison refused to extend Job Keeper support to casual workers with less than 12 months service.⁷ Excluding the period of the pandemic, the average level of casual work under the Coalition jumps to 24.6%.

In contrast, the average under the Albanese Government has been 22.6% and is currently even lower, at 22.2%.⁸ This is largely due to a strong focus on improving job security, including through the *Secure Jobs Better Pay* and *Closing Loopholes* reforms to workplace law, where nine of out ten jobs created have been permanent ones. Practically, that means an extra

¹ ABS Labour Force Detailed, November 2024.

² ABS Characteristics of Employment, August 2024

³ ABS Labour Force Detailed, November 2024

⁴ Office for National Statistics (UK), EMP01 SA: Full-time, part-time and temporary workers, 21 January 2025

⁵ Statistics Canada, Labour Force Survey, December 2024.

⁶ Stats NZ, Employment Indicators: December 2024

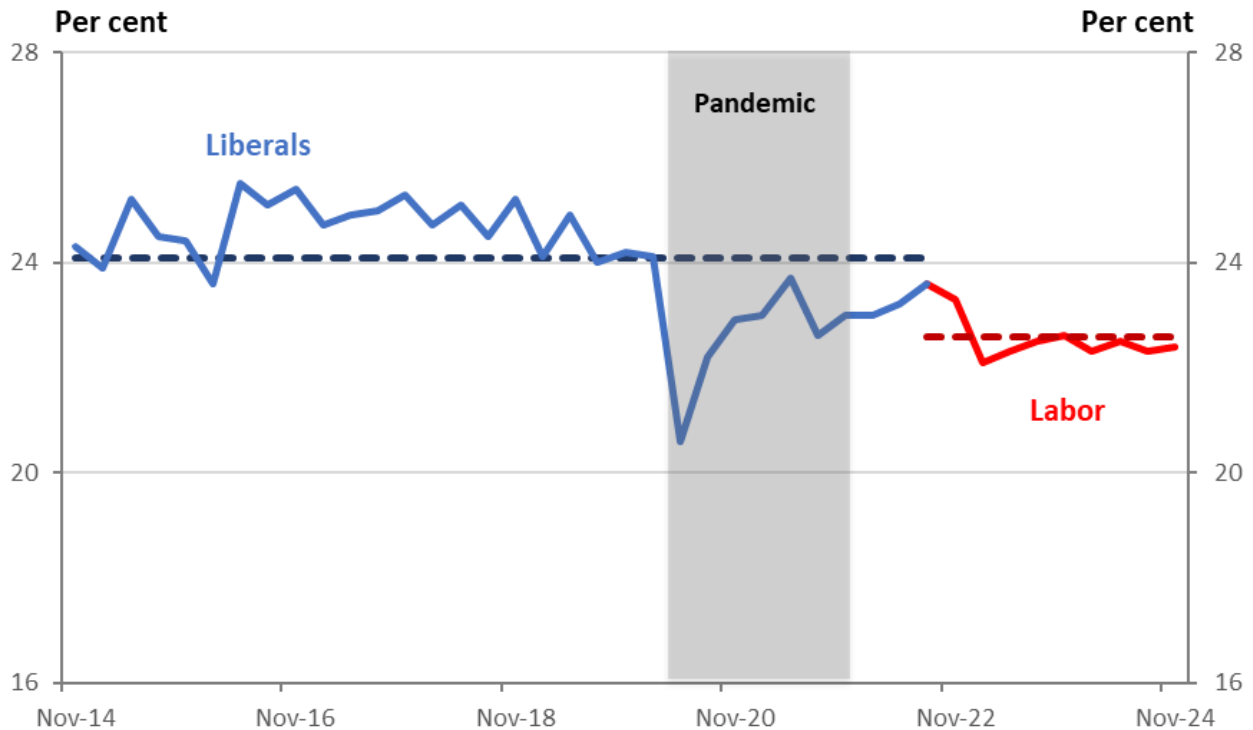
⁷ See ACTU, *Morrison’s record of failure on secure jobs*, May 2022, page 13

⁸ ABS Labour Force Detailed, November 2024

230,000 people have a permanent job today, instead of a casual one, because of this improvement.⁹

...an extra 230,000 people have a permanent job today, instead of a casual one, because of this improvement.

Chart 1: Casual employment as a % of total employment (2014 to 2024)



Source: ABS Labour Force Detailed, November 2024.

Winning permanent work

Under the Morrison-era changes to casual work, a worker could request to move to permanent employment but couldn't do anything about it if the employer rejected their request. That is exactly what happened on 27 September 2021 when TAFEs across New South Wales sent a mass email to 7,700 casual staff advising them that they would not convert any of them to permanent employment.¹⁰

With this casual work loophole now closed the employer has completely changed their tune. An estimated 1,700 casual employees have already been offered permanent work this year, ahead of the new conversion date of 26 February 2025. Like many employers, they've decided to do the right thing ahead of the changes coming into effect. The employer is continuing to give casual staff the option to transition into permanent work.

⁹ This is the difference in the level of casual employment if the Coalition-era average of 24.1% casual work applied to current total employment.

¹⁰ [TAFE rally highlights plight of part-time casual teachers](#), NSW Teachers Federation, 23 November 2021

3. HOW CASUAL IS CASUAL WORK?

Casual work is supposed to be a flexible arrangement between employer and employee, but the reality is often very different. The most recent Australian Bureau of Statistics (ABS) survey on the working arrangements for casuals finds little flexibility for the employee:

- 65% of casual employees report working the same hours each week.
- 49% report that their income does not vary from week to week.
- 50% report that they have no say in any start or finish times.
- 74% report they do not have an agreement to work flexible hours.¹¹

The casual loading that casual workers are supposed to receive can also be a myth. Up to one-third of casual workers report receiving no loading, according to earlier academic research.¹² The ACTU conducted a similar analysis more recently and found that at least 875,000 casual workers, or again, about one in three of them are paid below the national minimum wage, or the lowest junior or casual rate of pay in the Award system; a shocking figure.¹³

Table 1: Casual employees paid below or above minimum rates of pay by age.

Age	Minimum pay rate for casuals	Paid below minimum (000's)	Paid above minimum (000's)	% paid below
15	\$12.83	13.8	65	17.5%
16	\$16.04	34.1	72.9	31.9%
17	\$19.24	55.9	65	46.2%
18	\$22.45	57.8	58.6	49.7%
19	\$25.65	78.9	41.2	65.7%
20	\$28.86	44.9	68.7	39.5%
21-24	\$30.13	158.5	192	45.2%
25-29	\$30.13	111.3	202.6	35.5%
30-34	\$30.13	75.1	132.4	36.2%
35-39	\$30.13	52.4	128.5	29.0%
40-44	\$30.13	36.6	116.8	23.9%
45-49	\$30.13	43	90.2	32.3%
50-54	\$30.13	30.1	107.1	21.9%
55-59	\$30.13	30.6	102.6	23.0%
60-64	\$30.13	17.2	89.7	16.1%
65 and over	\$30.13	34.8	93.6	27.1%
TOTAL		875.0	1626.9	35.0%

Source: ABS Characteristics of Employment, August 2024, ACTU Calculations

¹¹ ABS Working Arrangements, August 2024

¹² Peetz, D and May, R, (2022). "Casual truths: what do the data on casual employment really mean?" *Journal of Industrial Relations*, 64(5), 734-758.

¹³ ACTU Research Note, "Employees paid below the National Minimum Wage or minimum junior rates of pay", 20 December 2024.

The rates of pay from ages 15 to 20 are the lowest possible junior rates of pay in the *Fast Food Award*, one of the lowest paid Awards. These rates are typically short-term introductory rates that few workers are actually on. Many awards do not have junior rates of pay at all.

The rate used for employees 21 years and older is the current National Minimum Wage of \$24.10 with a 25% casual loading. While apprentice and trainee rates of pay are lower than the National Minimum Wage, they are not engaged on casual arrangements, and therefore not included in this table.

The data presented here is likely a significant underestimate of the extent of wage theft in Australia for the following reasons. Firstly, the analysis is using absolute minimum rates of pay. The vast majority of employees in Australia are entitled to higher rates of pay. Secondly, the hourly rate of pay that respondents have provided would be inclusive of any allowances, overtime or penalty rates they receive. These additional payments are not included in the minimum rates used in this analysis.

These findings underline the importance of recent laws to strengthen the right of workers to recover unpaid wages and clamp down on wage theft.

Even if casual workers are paid the correct amount, they remain some of the lowest paid workers. 55.6% of workers in the lowest 25% of all earners do not receive any paid leave entitlements (the ABS definition of a casual worker), yet for the top 25% of earners, only 9.5% go without paid leave entitlements.¹⁴

¹⁴ ABS Working Arrangements, August 2024

4. HOW MANY CASUAL WORKERS WANT TO BECOME PERMANENT?

To better understand the extent to which people change – or want to change – between casual and permanent working arrangements, the (ABS) has been conducting a specific survey for the past two years.

The most recent results from August 2024 found that an estimated 25% of people on casual work arrangements would prefer to be in permanent work.¹⁵ These results are also consistent with a similar survey of 1,200 employees on casual work arrangements conducted by BETA in 2021 which found that 26% of longer-term casuals wanted to convert to permanent work.¹⁶

Of this group only 6.7%, or about 1 in 15 of them, secured permanent work in 2024. Applying these results to the latest Labour Force survey (which provides a more representative and up to date measure of casual employment); an estimated 687,000 casual employees would prefer to be in permanent work.

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Table 2: Casual workers wanting a permanent job by State and Territory

State / territory	Casuals wanting permanent jobs
New South Wales	215,967
Victoria	161,613
Queensland	156,897
South Australia	48,531
Western Australia	76,960
Tasmania	11,540
Northern Territory	4,953
Australian Capital Territory	10,776
TOTAL	687,500

Queensland and South Australia typically have the highest numbers of workers wanting to escape the casual employment trap, based on a select list of marginal federal electorates in Table 3 below. The seat of Sturt has the highest number with an estimated 5,550 workers wanting to change, followed by Forde in Queensland with 5,460 and Chisholm in Victoria with 5,350.

¹⁵ ABS Working Arrangements, August 2024

¹⁶ Behavioural Economics Team of the Australian Government (BETA), *Casual employment research findings to inform independent reviews of the SAJER Act* (August 2022), page 29.

Table 3: Casual workers wanting a permanent job by marginal federal electorate

New South Wales		Queensland	
Dobell	4,430	Blair	5,060
Gilmore	4,200	Leichhardt	5,510
Parramatta	5,270	Forde	5,460
Robertson	4,160	Kennedy	5,080
Paterson	4,500	Moreton	5,080
Hunter	4,570	South Australia	
Victoria		Boothby	5,280
Aston	5,180	Sturt	5,550
Bruce	5,240	Tasmania	
Chisholm	5,350	Lyons	3,480
Deakin	5,300	Western Australia	
Dunkley	4,970	Bullwinkel	4,460
Hawke	4,640	Tangney	5,140
McEwen	4,580	Northern Territory	
		Lingiari	2,860

Source: Census 2021, ABS Characteristics of Employment, Aug 24, ACTU calculations.

When asked why they want to change, most employees reported wanting paid leave entitlements, more secure employment and a stable income (Table 4). The BETA survey in 2021 also found that casuals experiencing high levels of financial stress or working a regular pattern of hours would also be far more likely to want a permanent role.¹⁷

Table 4: The main aspects of casual employment they would want to change?

Paid leave entitlements	31%
Stable income	17.9%
More opportunities for training or career progression	2.8%
Regular working hours	13.2%
More secure employment	20.7%
Happy with current arrangements	8.9%
Other	5.6%

Source: ABS Working Arrangements, August 2024

¹⁷ BETA page 11

The majority of these employees have never even had a discussion with their employer about converting to permanent: only 43.7% had. Of those, 84.7% had then had their request rejected by their employer.¹⁸

To be sure, many employees prefer to stay in casual work, citing the flexible hours and higher hourly pay from the casual loading as the top reasons (Table 5).

Table 5: Why casual employment is preferred over other types of employment.

Higher hourly pay from casual loading	21.6%
More flexibility in hours as a casual	53.4%
Interim job while waiting for another job to begin/completing studies	17.0%
Other	7.9%
Don't know	0.1%

Source: ABS Working Arrangements, August 2024

¹⁸ ABS Working Arrangements, August 2024.

5. REMOVING THE COALITION'S CASUAL EMPLOYMENT TRAP

In early 2021, the former Morrison Government created a new loophole in the law to make it easier for an employer to call an employee a casual; denying workers paid leave entitlements, predictable hours of work, and job security – all in the middle of the pandemic.

The *Fair Work Act* was amended to define casual employment based on the terms of the contract of employment rather than the true nature of the work relationship. This position was also reaffirmed by the High Court at the time in the *Workpac v Rossato* decision.¹⁹

It was a green light for corporate lawyers to craft employment contracts to label any employee a casual. Even KPMG, the big four accounting firm that gives big business workplace relations advice and was commissioned to review these changes, found that this new definition could “...permit an employer to engage a casual employee under a sham arrangement”. Accordingly, it recommended that the new Albanese Government consider changing the definition.²⁰

The Morrison-era changes also introduced a process for a casual to convert to permanent employment which has proven to be of limited usefulness for two reasons. Firstly, an employer could reject an employee’s conversion request on “reasonable business grounds” – an incredibly broad exemption that has proven very difficult to challenge in practice. Secondly, while an employee could take a rejected conversion request to the Fair Work Commission (FWC), the Commission could only arbitrate on the matter if both parties agreed that it could. There is almost no incentive for an employer to agree to arbitration in such circumstances.

In practice, they haven’t. The FWC has only considered arbitrating on six matters in the four years these provisions have been in place. Four were dismissed on jurisdictional grounds, and in one case the Commission simply recommended the parties reconsider the matter in 6 months.²¹ In the only case that was decided, the employee was only able to do so because they were covered by a union collective agreement that gave them the right to seek Commission arbitration. Even then, the Commission found in favour of the employer.²² No employee has successfully used FWC arbitration to convert to permanent employment under these broken Coalition-era laws.

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¹⁹ *Workpac Pty Ltd v Rossato & Ors* [2021] HCA 23

²⁰ KPMG (October 2022), [Review of the Fair Work Amendment \(Supporting Australia's Jobs and Economic Recovery\) Act 2021](#), pages 6 & 7

²¹ *Application by Millwood* [2022] FWC 351

²² *Application by Klukowski* [2023] FWC 3077

The KPMG review also criticised these limitations, stating that the process “may present barriers that discourage employees” and that further consideration should be given to “better dispute resolution methods”.²³

As highlighted above, the new ABS data examined for this research note confirms the flawed nature of this former conversion process, showing that only 6.7% of casuals who want to convert to permanent employment have been able to do so. These Coalition-era laws are a “casual employment trap” for those wanting more job security.

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The Closing Loopholes Reforms

The *Closing Loopholes* legislation passed by the Parliament in early 2024, sought to address these flaws by introducing:

- a commonsense definition of casual employment that better reflects the case law prior to 2021;
- a new “employee choice” pathway which applies a fairer test for an employee to convert from casual work to permanent, and
- the power of the FWC to arbitrate on a dispute without requiring the consent of both parties.

These changes came into operation on 26 August 2024, but the transitional provisions still required an employee to wait for 6 months, (or 12 months if working for a small business) before making an application in writing to the employer seeking to become a permanent employee if they want to do so. If an employee prefers to stay as a casual, they have the absolute right to do so.

An employer would then have 21 days to respond to the application in writing, as well as meeting with the employee to discuss that application.

A casual employment relationship is now one characterised, “by an absence of a firm advance commitment to continuing and indefinite work”.²⁴ The key factors to have regard to when determining whether or not someone is casual, include, but aren’t limited to:

- An inability of the employee to accept or reject work (and whether this occurs in practice);
- Reasonably likely future availability of work;

²³ KPMG, page 75

²⁴ Section 15A, *Fair Work Act* (2009)

- Permanent employees performing the same kind of work; and
- A regular pattern of work.

In assessing these factors the practical reality of the working relationship needs to be examined rather than just the terms of the employment contract.

An employer can reject a request if it believes the employee still meets the definition of casual, and if converting them to permanent would require “substantial changes” or cause “significant impacts” on the employer’s operations.²⁵ These terms will be tested by the Commission and the Courts.

²⁵ Section 66AAC, FW Act.

6. THE BIGGEST RISK TO JOB SECURITY: PETER DUTTON AND THE BUSINESS LOBBY

The reforms provide a clear and objective basis for who is and who isn't a casual employee – rather than just letting the employer decide. Despite, or perhaps because of this, employers have reacted with fury about the changes. They have advanced four arguments against them, all without foundation.

Claim 1: It will undermine employee choice

Firstly the Business Council of Australia claimed that the changes would stifle employee and employer choice about deciding on the work arrangements to best suit them.²⁶ This is a deliberate misreading of the changes, which are clear that whether or not an employee seeks to move from casual to permanent work is entirely in the employee's hands.²⁷

Claim 2: The new definition of casual is too complex

Business groups have also called the new definition of casual employment “notoriously complex”.²⁸ At its heart, the new definition has a short list of four factors to consider. The main gripe from employers is that they can no longer use corporate lawyers to simply deem someone a casual in a written contract of employment.

Claim 3: The changes will destroy jobs

Employers have also claimed that this “radical overhaul will cost jobs”²⁹ or “destroy job creation”.³⁰ These claims are complete nonsense. Overall job growth continues to be positive, including after the changes to casual work came into operation on 26 August 2024 (see Table 6). Casual employment growth is also positive but slightly lower. Again, this is likely to reflect positive shift in employees being able to choose permanent work over casual work at higher rates than previously.

Table 6: Changes in total and casual employment ('000s)

	Aug-24	Nov-24	Change	As %
Total employment	12,159.4	12,364.5	205.1	1.69%
Casual employment	2,710.3	2,749.9	39.6	1.46%

²⁶ Business Council of Australia, *Pre-budget Submission*, January 2025, Page 17

²⁷ See s.66L(2) of the FW Act.

²⁸ See e.g. Ai Group, ["Can I continue to employ casuals?"](#) Accessed, 17 February 2025.

²⁹ Bran Black, “Radical casual work overhaul will cost jobs”, *Australian Financial Review*, 18 October 2023.

³⁰ [ACCI Submission to the Closing Loopholes Bill Senate Inquiry](#), September 2023. Page 14.

Claim 4: The changes will hurt productivity

Finally, employer groups have claimed that the changes will hurt productivity.³¹ But they are really complaining that it will be harder for employers to turn permanent jobs into sham casual arrangements. This has nothing at all to do with improving productivity. On the contrary, sham casual arrangements are likely to worsen it: academic research suggests that work insecurity can undermine workplace productivity due to the negative impact it has on employee well-being³², and businesses being less likely to invest in improving the skills of workers employed on these arrangements.³³

The Risk of Peter Dutton

Opposition leader Peter Dutton voted against these new protections for casual workers. He then went further in response to last year's Federal Budget, by promising to "revert to the former Coalition Government's simple definition of a casual worker" if elected.³⁴ It's a commitment he's repeated ever since. In doing so, he is siding with the big business lobby who simply want to make it easier for employers to call anyone a casual, and remove the ability for employees to challenge that via the Fair Work Commission.

There are hundreds of thousands of casual workers all across this country, from the seats of Sturt in Adelaide, to Forde in outer Brisbane, who want the security and stability of a permanent job. From 26 February 2025, new laws will help them, but the biggest risk facing these workers is a Peter Dutton government.

³¹ Bran Black and Luke Achterstraat, "Radical industrial relations reform an economic risk Australia can't afford", *The Australian* 24 January 2024

³² See, for example, Shoss, M, Su S, Schlotzhauer, A and Carusone, N, "[Job Insecurity harms both employee and employers](#)" *Harvard Business Review*, 26 September, 2022, De Angelis, M, Mazzetti, G and Guglielmi, D, "[Job Insecurity and Job Performance: A Serial Mediated relationship and the buffering effect of organisational justice](#)", *Frontiers in Psychology*, 9 September 2021.

³³ See for example, Daragh McCarthy, "[The impact of precarious work on wages, productivity and economic growth](#)", Nevin Economic Research Institute, 6 August 2015

³⁴ [Leader of the Opposition – Transcript – Budget In Reply Address **check against delivery** – Peter Dutton MP](#)