



Casual Employee Checklist

This checklist can be used to determine whether a casual employee is likely to be considered a permanent employee

Employers should note that where a court determines an employee engaged as a casual is in reality a permanent employee, the employer may be ordered to pay backdated entitlements (to annual leave, paid personal/carer’s leave, etc). Employers could also be ordered to pay financial penalties.

This checklist is designed to help you determine whether your casual employee(s) are likely to be considered true casuals, or whether there is a risk they will be considered permanent employees.

Please answer the following questions		Yes	No
1.	Will the employee be required to work for an indefinite period of time on an ongoing basis?		
2.	Are the days / hours / location the employee will be working consistent?		
3.	Are you committed to providing work for the employee for the foreseeable future?		
4.	Is the employee committed to coming to work for the foreseeable future (as opposed to being free to accept / decline work as they choose)?		
5.	Does the employee have to apply for leave in advance?		

6.	Does the employee get paid when they take leave?		
7.	Does the employee work every week (as opposed to there being weeks when they do not work)?		
8.	Is the employee paid under a salary?		
9.	Has the employee been employed for a long period of time?		
10.	Is the employee's roster set well in advance?		
11.	Does the employee's contract of employment / letter of offer describe them as a full-time, part-time or permanent employee?		
12.	The employee is not paid a separate or identifiable casual loading?		

If you answered **YES to most questions** it looks like there is a risk your employee is a permanent employee. We suggest you seek further advice.

If you answered **NO to most questions** it looks like your employee is likely to be a true casual employee.

Disclaimer

The information provided in this checklist is general in nature and is not intended to be a substitute for professional advice. If you are unsure about how this information applies to your specific situation, we recommend you contact DreamStoneHR for advice.

Note: On 18 December 2018 the Government varied the Fair Work Regulations 2009 to allow employers, in certain circumstances, to offset the casual loading paid to an employee against certain entitlements that would need to be paid to the employee if they are found to be a permanent rather than a casual employee.

However, the casual loading needs to be "identifiable" – and it will also need to be clearly spelled out that the purpose of the loading is to compensate the employee for not having access to those particular entitlements.

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