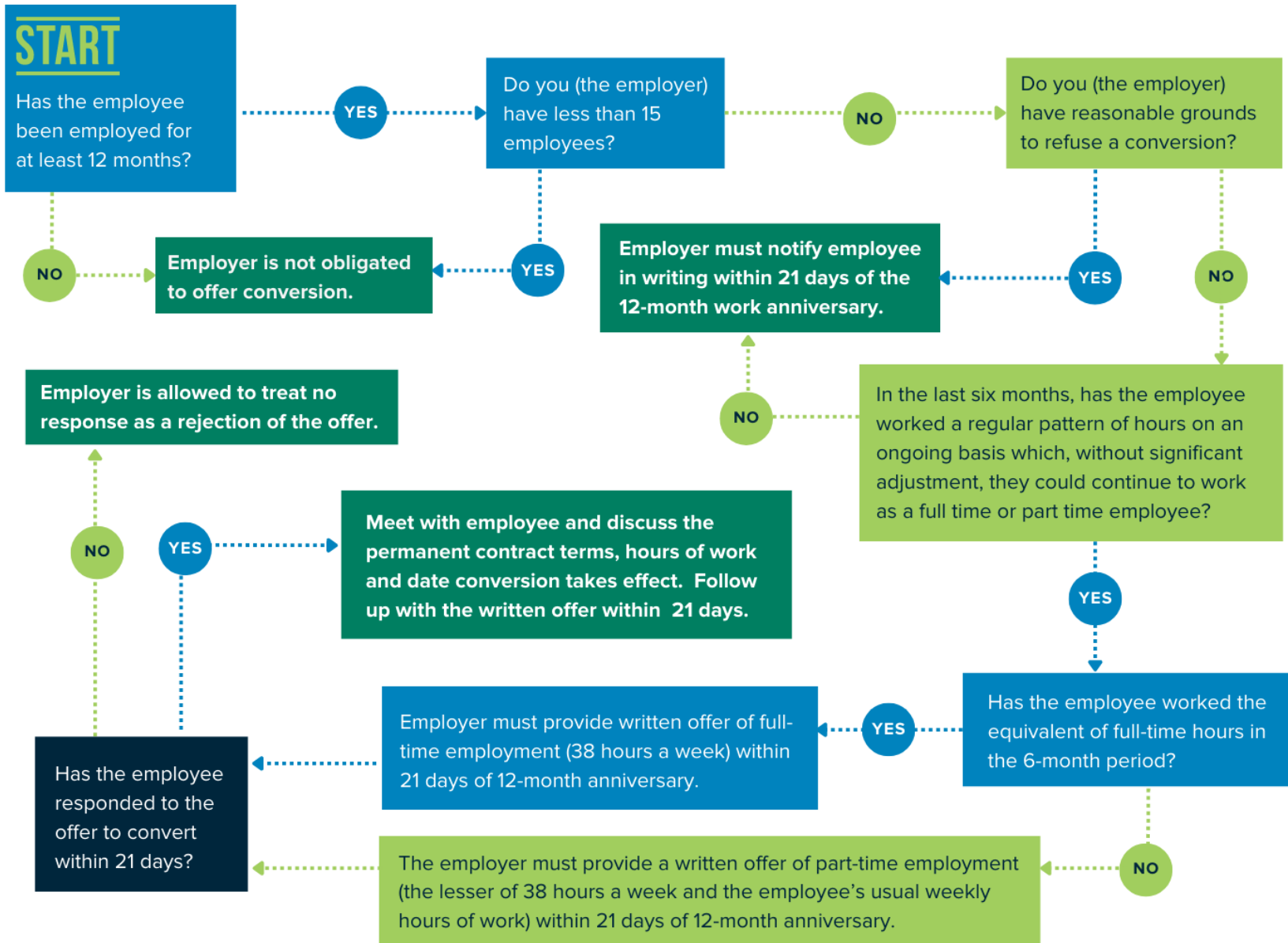


A GUIDE TO: CASUAL CONVERSION



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FREQUENTLY ASKED QUESTIONS

What is the test for casual conversion? The employee has been employed for at least 12 months and has worked a regular pattern of hours on an ongoing basis which, without significant adjustment, the employee could continue to work as a full time or part time employee.

What is the assessment period? The period at least six months prior to the employee's 12-month anniversary of commencement.

Who holds the responsibility? The employer must make the offer and the employee has a residual right to request.

What hours must be offered on conversion? If full-time, 38 hours a week in accordance with s 20(2)(a) of the FWA. If part-time, the lesser of 38 hours a week and the employee's usual weekly hours of work in accordance with s 20(2)(b) of the FWA.

What are the process requirements?

- The employer must provide written offer within 21 days of 12-month anniversary otherwise employee can request any time after that.
- The employee has 21 days to respond to offer to convert. If they do not respond, employer allowed to treat as employee saying no.
- If agreed, both must meet and discuss with employee whether full time or part time, the hours of work after conversion, and date conversion takes effect, then provide same within 21 days after acceptance of offer in writing.

Can the employee refuse? Yes, the employee is not obliged to accept the offer to convert.

Can the employer refuse? Yes, but only on reasonable grounds (which are known, or reasonably foreseeable at time of deciding) including:

- If the employee's position will cease to exist within next 12 months
- If the hours of work the employee is required to perform will be significantly reduced in next 12 months
- If the days and/or times the work is required to be performed will significantly change and cannot be accommodated within the times or days, the employee is available to work during that 12-month period
- If making the offer would not comply with a recruitment or selection process required under a State or Federal law.

When does the conversion take effect? The day agreed to between the employer and employee.

What is the process if no offer is made to convert? If the employee does not pass the test of regular pattern of hours, or the employer has reasonable grounds, the employer must notify employee in writing within 21 days of 12-month anniversary.

Are there any protections for the employer or employee?

- The employer must not reduce or vary an employee's hours of work, or terminate their employment, to avoid obligation to offer conversion; and
- The employer is not required to increase the hours of an employee seeking conversion.

What happens in the case of a dispute? The employee can bring an application in the FWC disputing a decision or lack of decision to convert.

Does this affect small businesses too? Employers with fewer than 15 employees are not obligated to offer conversion.