

Wednesday, 3 June 2020

794,000 businesses affected by casual employee ruling

A special Roy Morgan SMS survey of 881 Australian businesses shows over a third (34.5%) are set to be affected by the Federal Court's ruling on the entitlements of casual employees.

A quarter of businesses, 567,000 (24.5%), say the ruling will 'Deter them from hiring casual employees', over one-in-ten businesses, 245,000 (10.5%) say the ruling will have a 'Large financial impact'.

Most worryingly, as many as 123,000 (5.5%) businesses say they will be 'forced to close' because of the ruling. Businesses were able to provide multiple responses to the survey question.

Respondents to the survey were asked: *"The Federal Court recently decided that some casual workers, which it held were permanent employees, are entitled to payment of holiday pay and sick pay, in addition to their casual loading, for all time worked during the past six years. How will that decision affect your business?"* Respondents who answered the first question were then asked: *"And why do you say that?"*

Queensland hardest hit by Federal Court ruling on casual employees

Queensland is the hardest hit State by the ruling with nearly half (45%) of Queensland businesses saying they will be affected by the ruling. Next most effected is Western Australia (39%) followed by NSW (33%) and Victoria (28.5%). South Australia (24.5%) is the least effected State.

Small and Medium sized businesses with 5-199 employees will suffer the biggest impact

A majority of small businesses (54.5%) with 5-19 employees and medium businesses (54.5%) with 20-199 employees say they will be affected by the ruling in some way.

Over a third of large businesses (36%) with 200+ employees and just under a third of micro businesses (32%) with 1-5 employees say they will be affected by the ruling in some way.

Agriculture, Retail, Manufacturing, Transport & Postal and Wholesale are hardest hit industries

The Federal Court's ruling on casual employees is set to have a disproportionate impact on some industries led by Transport, Postal & Warehousing (59% affected), Wholesale (54.5%), Manufacturing (47%), Retail (45.5%) and Agriculture (40%).

Roy Morgan CEO Michele Levine said the Federal Court's ruling on casual employees has the potential to have a significant impact on hundreds of thousands of Australian businesses:

"It is incumbent upon the business community and the union movement to come together and reach a truly equitable and sensible outcome about how to handle the industrial relations implications of this decision in the interests of a healthy Australian jobs market.

"The biggest direct impact forecast by around a quarter of businesses is that they will be deterred from hiring casual employees in future. Many businesses mentioned "double-dipping" and the fact that "casual workers already get a 25% loading for sick pay and annual leave etc."

"In addition as many as 123,000 businesses say they will be 'forced to close' because of the ruling as they have a significant reliance on casual employees. A clear example are hospitality businesses, one of whom who said they would be forced to close pointed out that "We run a hospitality business with 80% casual workforce, we don't have the cash reserves to pay."

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“This reluctance to hire casual employees because of the increase in costs and uncertainty surrounding how these workers will be considered in the future is a troubling development in an economy which has just experienced over a million job losses due to the COVID-19 pandemic.

“Prime Minister Scott Morrison has already flagged working together with unions and the business community to re-boot the Australian economy in the aftermath of the COVID-19 pandemic but this impetus must really be driven by business and union leaders if it’s to truly have a chance of success.”

Of the 5.5% of businesses (123,000) who said the Federal Court’s ruling on casual employees means they *‘will be forced to close’* respondents referred to the large number of casual employees they have, the already high labour costs being made even higher, the crippling hit to cash flow and the potential for accrued liabilities under this ruling to drive the business bankrupt if forced to pay up:

‘Because it would cripple my cash flow.’

‘I have only casuals so this would be an extra 25% in wages immediately.’

‘I employ 20 long-term casuals.’

‘Because we only have casual staff – we’re a tutoring business so very tied to school terms and times of year and uni students who tutor for us while they’re at uni – sometimes for up to 5 years – but our hours can be chopped if a student gets sick. We don’t want permanent staff.’

‘Casual wages include a loading to cover holiday and sick pay.’

‘Because we already struggle with penalty loading and some aren’t interested in full-time. They have been asked and are happy with the way it is.’

‘Adds a high additional cost with no flexibility with rostering. These are additional benefits my business can’t sustain.’

‘We run a hospitality business with 80% casual workforce, we don’t have the cash reserves to pay.’

‘We already have relatively high labour costs for unskilled workers exceeding what the buying customers are willing to pay. Labour costs are the single biggest issue in cost to running a business.’

‘Because we are in hospitality and the ramifications are disastrous.’

‘The money simply isn’t there.’

‘That combined with the problems caused by the Coronavirus will tip us over the edge.’

‘Not budgeted for and there’s just no way. We would go bankrupt.’

‘My staff of 18 is almost entirely young casuals. I’ve already had to pay them 25% extra and for that they get the privilege of taking days off whenever. If my casual staff all make a claim for leave entitlements over the last 5 years I can’t afford to re-open.’

‘The liability of many years of all workers on casual rates would drive me bankrupt.’

‘This money has never been accounted for in the past so it will cripple business to pay it out now.’

Of the 10.5% of businesses (245,000) who said the Federal Court’s ruling on casual employees will have a *‘Large financial impact’* many mentioned the casual employees they have and the large financial impost of paying them significant back pay, businesses will have to cut costs or increase prices, one way to deal with the change will be to fire the casuals and take on (fewer) full-time staff, casuals are already paid a loading – surely they can’t have both?!

‘Because my company may have to back pay two casual employees six years of holiday/sick pay.’

‘It will be a lot of money to back pay and we are only a small business.’

‘Businesses couldn’t afford to pay the casual loading and the holiday pay.’

'Massive back-payments.'

'Six years of entitlements coming all at once is considerable and unbudgeted.'

'Because the business is still impacted by COVID-19 and the JobKeeper payments from the employer side of things still haven't been paid.'

'There is no medium impact. I have a couple of casual employees that chose casual over part-time. I'll now have to pay them.'

'All our casuals are students'

'Casual employees are already paid a premium on their hourly rate and it would impact on our rate overall.'

'Casual workers already get a higher hourly rate.'

'Casual wages are already paid with leave and public holiday loading in their rates?!'

'I have a casual employee that wanted to be casual as it paid 25% more thus seems unfair to now have to pay for holidays and sick leave so if this is the case will need to consider my options.'

'Businesses will need to reduce expenses or put up prices.'

'I have a lot of staff.'

'We employ a large number of casual employees.'

'We'll have less flexibility with staffing in the future.'

Of the 24.5% of businesses (567,000) who said the Federal Court's ruling on casual employees will *'Deter (them) from hiring casual employees'* many mentioned that the additional cost just wasn't worth it, not being able to afford the extra cost in addition to their existing loading and entitlements, the 'double-dipping', the preference now to have full-time employees, the lack of future certainty, loss of flexibility, a preference to pay over-time rather than the hassle of new casual staff, and only hiring part-time in future.

'Casual is casual!'

'The additional cost is just not worth it.'

'They've already got entitlements.'

'An impost on the business that's additional to casual loading.'

'The additional admin cost gives rise to increased risk of 'issues' and 'ambiguity' about the employment situation. Also, we already pay them more hence a casual rate. We would have to reduce their hourly rate.'

'Because casual means casual and it shouldn't be generating leave entitlements.'

'My business bottom line is very fragile during COVID-19.'

'The casual loading is supposed to be in compensation for not receiving sick leave and annual leave. Why would you pay the extra per hour rate?'

'We can't afford both the loading and entitlements.'

'We can't afford the addition to their existing casual loading.'

'Casual workers already get a 25% loading to make up for sick pay, annual leave etc. as well as get super.'

'Casual employees are expensive already. This will price them out of the market.'

'Casual employees get better hourly rate to cover holiday and sick pay. And the idea of 6 years back-pay will send many companies broke and force them to close.'

'It's double-dipping' (Several respondents said this).

'Financial pressures. More expense for no real gain.'



'We're better off hiring permanents and re-aligning rosters.'

'We will employ full-time employees instead.'

'A low hour permanent with a lower hourly rate becomes more cost-effective.'

'No point having a casual employee if it's no cheaper than a full-time employee.'

'It's not financially viable to do so. Plus they are double-dipping – it's ridiculous.'

'Loading and benefits make them too expensive.'

'This means less flexibility and higher cost.'

'It's an unsustainable model for businesses.'

'This brings a lack of future certainty about our financial exposure to casual employees.'

'There is now uncertainty about hiring casual employees that didn't exist before. If they are casual employees for just 8-10 weeks per year (on an annual basis) will we be required to pay another 25-30% annual leave, sick leave, holiday loading for their future employment etc.?'

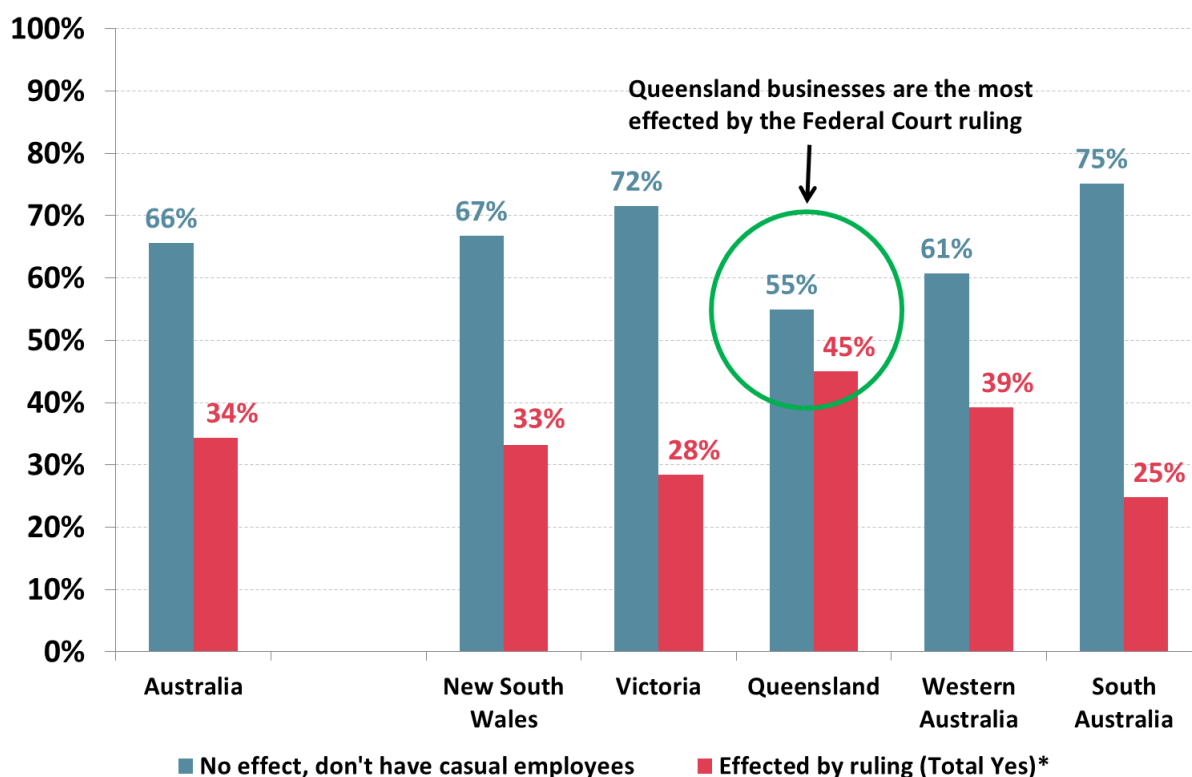
'Most of our staff are permanent, casuals are used to adjust for seasonal changes in demand. We would probably get permanent staff to work over-time as opposed to taking on casuals.'

'I prefer permanent part-time staff. Some casuals want the extra rather than leave entitlements so I won't risk it. Permanent or go away.'

'We will hire more part-time workers.'

'We will convert casual employees to part-time employees with set permanent hours.'

Will the Federal Court decision on casual employees affect your business – By State



Source: Roy Morgan Special Snap SMS Poll of Australian businesses on May 30-31, 2020, n=881. **Base:** Australian businesses. *Total Yes includes those answering effect of Federal Court's ruling would be either: Business will be forced to close, Large financial impact or it will deter from hiring casual employees.

Question 1

Respondents to the survey were asked: “The Federal Court recently decided that some casual workers, which it held were permanent employees, are entitled to payment of holiday pay and sick pay, in addition to their casual loading, for all time worked during the past six years. How will that decision affect your business?”

Businesses affected by Federal Court Ruling on casual employees – By State

	May 30-31, 2020	States					
		Australian Businesses	NSW	VIC	QLD	SA	WA#
		%	%	%	%	%	%
Business will be forced to close	5.5	9.5	3.5	2.5	3.5	3.5	
Large financial impact	10.5	11.5	5	17.5	14.5	3.5	
Deter from hiring casual employees	24.5	25	21	31.5	8	32	
TOTAL EFFECTED*	34.5	33	28.5	45	25	39	
NO EFFECT, NO CASUAL EMPLOYEES	65.5	67	71.5	55	75	61	
TOTAL	100	100	100	100	100	100	

**Businesses were able to give multiple answers to the question.*

#Sample sizes with fewer than 50 respondents should be treated with caution.

Businesses affected by Federal Court Ruling on casual employees – By Size of Business

	May 30-31, 2020	Size of Business				
		Australian Businesses	Micro	Small	Medium	Large
		%	%	%	%	%
Business will be forced to close	5.5	5	4	17	2	
Large financial impact	10.5	10	15	14	9.5	
Deter from hiring casual employees	24.5	23	38	25	24.5	
TOTAL EFFECTED*	34.5	32	54.5	54.5	36	
NO EFFECT, NO CASUAL	65.5	68	45.5	45.5	64	
TOTAL	100	100	100	100	100	

**Businesses were able to give multiple answers to the question. Micro = Under 5 employees, Small = 5-19 employees, Medium = 20-199 employees, Large = 200+ employees.*

For further comment or more information contact:

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About Roy Morgan

Roy Morgan is Australia's largest independent Australian research company, with offices in each state, as well as in the U.S. and U.K. A full-service research organisation, Roy Morgan has over 75 years' experience collecting objective, independent information on consumers.

Margin of Error

The margin of error to be allowed for in any estimate depends mainly on the number of interviews on which it is based. Margin of error gives indications of the likely range within which estimates would be 95% likely to fall, expressed as the number of percentage points above or below the actual estimate. Allowance for design effects (such as stratification and weighting) should be made as appropriate.

Sample Size	Percentage Estimate			
	40%-60%	25% or 75%	10% or 90%	5% or 95%
1,000	±3.0	±2.7	±1.9	±1.3