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## Senate should avoid creating casual employee chaos

RESOURCES and energy employers urge the Senate to avoid chaos for Australian employers regarding potential back-pay of annual leave and other full-time employee entitlements to casual employees.

In December 2018, Minister for Jobs and Industrial Relations Kelly O'Dwyer sensibly introduced a new Fair Work Regulation clarifying the rights and responsibilities of employers and employees in relation to casual employment.

The Regulation stops the potential for casual workers to “double dip” by accepting high pay rates (casual loading) during their employment, only to also later claim back-pay for entitlements afforded to permanent employees, such as annual leave and redundancy.

It achieved this by clarifying that if a casual loading had been paid to an employee, that loading may be offset against any subsequent claim to be paid permanent employee entitlements.

The ALP is now seeking to overturn the Minister's appropriate and responsible resolution, recreating the uncertainty and chaos that faced employers over this issue in 2018.

“The Full Federal Court decision that created this uncertainty (*Workpac v Skene*) effectively went against the common understanding of rights and responsibilities of employers and employees regarding casual employment,” Tara Diamond, Acting CEO of AMMA.

“Simply, if an employee had accepted a higher rate of pay for being casually engaged, they should not be able to also claim for back-pay of permanent entitlements such as annual leave.

“The Regulation introduced in 2018 was a necessary clarification for all employers and employees.

“It brought the legislation in-line with the common understanding of casual arrangements in Australian workplaces, and ensured there would be no “double dipping” if casuals are later deemed to have in fact been full-time employees based on the characteristics of their employment.

“It is highly irresponsible of the Federal Opposition to attempt to throw this important clarification out the door, effectively recreating the uncertainty for employers both small and large, which impacted hiring decisions and business confidence in 2018.

“AMMA urges Australian Senators to vote in support of business confidence, clarity and common sense if and when the ALP's disallowance motion comes before them.”

**MEDIA CONTACT:** Brad Thompson, 0409 781 580