



# ‘Change law to stop double-dipping’

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Employers have called on the Morrison government to legislate to stop “double-dipping” claims by workers after the High Court granted special leave to labour hire firm WorkPac to appeal a landmark casuals ruling.

With the appeal to be considered by the court in 2021, employers said Attorney-General Christian Porter could use forthcoming industrial relations changes to allow companies to offset claims from former employees with casual loadings already paid to them.

The omnibus bill, to be introduced into parliament in December, is expected to contain a definition of casual employment and allow casual workers to apply for permanency after nine months with one employer.

A spokesman for Mr Porter declined to comment on whether the employer demands were addressed in the bill.

WorkPac is seeking to overturn the full Federal Court ruling in May that workers on regular casual shifts will be entitled to seek paid leave.

The full Federal Court upheld a ruling that casuals who had worked regular and predictable shifts — and been paid a 25 per cent loading — were entitled to paid leave.

It rejected a bid by WorkPac to have a former employee, Robert Rossato, declared a casual employee and not entitled to paid leave.

Mr Porter, who intervened on

behalf of the commonwealth to support the WorkPac application, said on Thursday the Rossato decision had caused confusion and uncertainty for employers and their employees.

He said the decision had the potential to expose businesses to significant financial liability — up to \$39bn on some estimates — during a period when businesses were facing their greatest challenge as a result of COVID-19.

Australian Industry Group chief executive Innes Willox said the Federal Court’s decision had alarmed businesses and was operating as a barrier to employers taking on casual staff.

CFMEU mining and energy division general president Tony Maher said the appeal would delay resolution of a class action being brought by the union seeking compensation for members unlawfully employed as casual mine workers by WorkPac.

“Employers have put forward hysterical claims about the cost to business. But this toxic employment practice also comes at a staggering cost to workers, families and communities,” he said.

AMMA chief executive Steve Knott said the government should deliver the certainty the private sector needed to hire and invest. “The government does have the live option of legislating against ‘double dipping’,” he said.

Australian Chamber of Commerce and Industry chief executive James Pearson called on parliament to restore clarity to casual employment and decades of established law and practice, by reversing the unexpected Federal Court decision.