

**Education and Employment Legislation Committee, Inquiry into Building and Construction Industry
(Improving Productivity) Amendment Bill 2017(2)**

Further Response to Questions on Notice

At page 21 of the draft transcript:

Senator Xenophon:

On the issue of casualisation, the Fair Work Ombudsman's Modern Award Fact Sheet 4 relates to casuals under the Building and Construction General On-site Award. It does make reference that if you have been there for six months—and it has all these safeguards against the employer trying to stop-start you to try and say you are not an ongoing casual—you do have the right to be seen as a permanent employee. Do you mind reflecting on whether you say that provides you some protection?

The Modern award provides certain rights to casual employees but does not deal with the spread of casual employment at the expense of full-time employment at the point of engagement. This is a matter that can be dealt with in enterprise agreements under the Fair Work Act. However, the 2016 Code expressly prohibits clauses in enterprise bargaining agreements that restrict the engagement of persons as casuals (see clause 11(3)(b) and the example referred to therein).

At page 27 of the draft transcript:

Senator Xenophon:

In relation to the CFMEU, Master Electricians has talked about different groups of employers. They are basically saying that there will not be a level playing field, contrary to what others have said from employers. Would you be able to comment on Master Electricians' submission saying that the act needs amendments?

CFMEU does not support a special exemption for employers with agreements that were made prior to 2 December 2016 but which have now passed their nominal expiry date. All employers with agreements made prior to the date the new Code came into effect should be subject to the same rules.