

**From:** David Bliss [<mailto:david@sdan.org.au>]  
**Sent:** Thursday, 20 July 2017 12:12 AM  
**To:** AMOD; Chambers - Hatcher VP  
**Cc:** Julia Fox; Katie Biddlestone  
**Subject:** 4 YEARLY REVIEW OF MODERN AWARDS: CASUAL EMPLOYMENT AND PART-TIME EMPLOYMENT (AM2014/196 AND AM2014/197)

Dear Associate,

I refer to the above matter and refer to the Directions contained in the Full Bench's decision of 5 July 2017 ([2017] FWCFB 3541).

Pursuant to Direction 10 at paragraph [902] of the Decision, please find attached draft determinations giving effect to paragraph [678] of the Decision with respect to the following Awards:

- General Retail Industry Award 2010
- Fast Food Industry Award 2010
- Hair and Beauty Industry Award 2010

Please don't hesitate to contact me should you have any questions regarding this matter or the draft determinations.

Yours sincerely,

David Bliss

Assistant Secretary

SDA Newcastle and Northern Branch

**MA000003 PRXXXXXX**

**FAIR WORK COMMISSION**

## **DRAFT DETERMINATION**

*Fair Work Act 2009*

s156 – 4 Yearly reviews of modern awards

### **4 yearly review of modern awards – Casual employment and Part-time employment**

(AM2014/196 and AM2014/197)

### **FAST FOOD INDUSTRY AWARD 2010**

MA000003

Fast food industry

VICE PRESIDENT HATCHER

SENIOR DEPUTY PRESIDENT HARRISON

SENIOR DEPUTY PRESIDENT HAMBERGER

COMMISSIONER ROE

COMMISSIONER BULL

SYDNEY, DD MM 2017

*4 yearly review of modern awards – Part-time employment and Casual employment.*

Further to the Decision and Reasons for Decision of 5 July 2017 in AM2014/196 and AM2014/197, it is determined pursuant to section 156(2)(b)(i) of the *Fair Work Act 2009*, that the General Retail Industry Award 2010 be varied as follows:

1. Delete the first paragraph of Clause 26 and insert in lieu thereof the following:

The rate of overtime for full time and part-time employees shall be time and a half for the first two hours on any one day and at the rate of double time thereafter, except on a Sunday which shall be paid for at the rate of double time and on a Public Holiday which shall be paid for at the rate of double time and a half. The rate of overtime for casual employees shall be 175% of the ordinary hourly rate of pay for the first two hours on any one day and 225% of the ordinary hourly rate of pay thereafter, except on a Sunday which shall be 225% of the ordinary hourly rate of pay and 275% on a Public Holiday.

2. Delete Clause 26.1 and insert in lieu thereof the following:

26.1 An employee shall be paid overtime for all work as follows:

(a) In excess of:

- (i) 38 hours per week or an average of 38 hours per week averaged over a four week period; or
- (ii) five days per week (or six days in one week if in the following week ordinary hours are worked on not more than four days); or
- (iii) eleven hours on any one day; or

(b) Before an employee's rostered commencing time on any one day; or

(c) After an employee's rostered ceasing time on any one day; or

(d) Outside the ordinary hours of work; or

(e) Hours worked by part-time employees in excess of the agreed hours in clause 12.2 or as varied under clause 12.3; or

(f) Hours worked by a casual employee in excess of 38 hours per week or an average of 38 hours per week averaged over a four week period; or

(g) Hours worked by a casual employee in excess of 11 hours on any one day.

3. Delete Clause 26.2 and insert in lieu thereof the following:

26.2 Where an employee works overtime on a Sunday and that work is not immediately preceding or immediately following ordinary hours, then that employee must be paid double time with a minimum payment of four hours at such rate. The rate for a casual employee shall be 225% of the ordinary hourly rate of pay.

4. This determination comes into force on and from DD MM 2017.

PRESIDING MEMBER

**MA000004 PRXXXXXX**

**FAIR WORK COMMISSION**

## **DRAFT DETERMINATION**

*Fair Work Act 2009*

s156 – 4 Yearly reviews of modern awards

### **4 yearly review of modern awards – Casual employment and Part-time employment**

(AM2014/196 and AM2014/197)

#### **GENERAL RETAIL INDUSTRY AWARD 2010**

MA000004

Retail industry

VICE PRESIDENT HATCHER

SENIOR DEPUTY PRESIDENT HARRISON

SENIOR DEPUTY PRESIDENT HAMBERGER

COMMISSIONER ROE

COMMISSIONER BULL

SYDNEY, DD MM 2017

*4 yearly review of modern awards – Part-time employment and Casual employment.*

Further to the Decision and Reasons for Decision of 5 July 2017 in AM2014/196 and AM2014/197, it is determined pursuant to section 156(2)(b)(i) of the *Fair Work Act 2009*, that the General Retail Industry Award 2010 be varied as follows:

1. Delete Clause 29.2 and insert in lieu thereof the following:

#### 29.2 Overtime

- (a) Hours worked in excess of the ordinary hours of work, outside the span of hours (excluding shiftwork), or roster conditions prescribed in clauses 27 and 28 are to be paid at time and a half for the first three hours and double time thereafter.
- (b) Hours worked by part-time employees in excess of the agreed hours in clause 12.2 or as varied under clause 12.3 will be paid at time and a half for the first three hours and double time thereafter.
- (c) Hours worked by casual employees in excess of 38 hours per week or, where the casual employee works in accordance with a roster, in excess of 38 hours per week averaged over the course of the roster cycle shall be paid at 175% of the ordinary hourly rate of

- pay for the first three hours and 225% of the ordinary hourly rate of pay thereafter.
- (d) Hours worked by casual employees outside the span of hours for each day specified in clause 27.2(a) shall be paid at 175% of the ordinary hourly rate of pay for the first three hours and 225% of the ordinary hourly rate of pay thereafter.
  - (e) Hours worked by casual employees in excess of 9 hours per day shall be paid at 175% of the ordinary hourly rate of pay for the first three hours and 225% of the ordinary hourly rate of pay thereafter, provided that for one day per week a casual employee may work 11 hours without attracting overtime penalty rates in accordance with clause 27.3.
  - (f) The rate of overtime for full-time and part-time employees on a Sunday is double time, and on a public holiday is double time and a half.
  - (g) The rate of overtime for casual employees on a Sunday is 225% of the ordinary hourly rate of pay, and on a public holiday is 275% of the ordinary hourly rate of pay.
  - (h) Overtime is calculated on a daily basis.

2. This determination comes into force on and from DD MM 2017.

PRESIDING MEMBER

**MA000005 PRXXXXXX**

**FAIR WORK COMMISSION**

## **DRAFT DETERMINATION**

*Fair Work Act 2009*

s156 – 4 Yearly reviews of modern awards

### **4 yearly review of modern awards – Casual employment and Part-time employment**

(AM2014/196 and AM2014/197)

### **HAIR AND BEAUTY INDUSTRY AWARD 2010**

MA000005

Hair and beauty

VICE PRESIDENT HATCHER

SENIOR DEPUTY PRESIDENT HARRISON

SENIOR DEPUTY PRESIDENT HAMBERGER

COMMISSIONER ROE

COMMISSIONER BULL

SYDNEY, DD MM 2017

*4 yearly review of modern awards – Part-time employment and Casual employment.*

Further to the Decision and Reasons for Decision of 5 July 2017 in AM2014/196 and AM2014/197, it is determined pursuant to section 156(2)(b)(i) of the *Fair Work Act 2009*, that the General Retail Industry Award 2010 be varied as follows:

1. Insert new paragraphs (b) and (c) following paragraph (a) of clause 31.2 as follows:
  - (b) Hours worked by casual employees in excess of 38 hours per week or, where the casual employee works in accordance with a roster, in excess of 38 hours per week averaged over the course of the roster cycle shall be paid at 175% of the ordinary hourly rate of pay for the first three hours and 225% of the ordinary hourly rate of pay thereafter.
  - (c) Hours worked by casual employees in excess of 10 ½ hours per day shall be paid at 175% of the ordinary rate of pay for the first three hours and 225% of the ordinary rate of pay thereafter in accordance with clause 28.3.

and renumber the remaining paragraphs accordingly.

2. This determination comes into force on and from DD MM 2017.

PRESIDING MEMBER