

## IN THE FAIR WORK COMMISSION

Matter No: AM2014/204

Title: s156 – 4 yearly review of modern awards –  
Health Professionals and Support Services  
Award

## SUBMISSIONS

5 August 2016

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## Introduction

1. These draft determinations are provided by the Health Services Union [HSU] in accordance with the directions issued by VP Hatcher on transcript during the mention in the Group 2 matters on 7 July 2016<sup>1</sup>.
2. The intention in proposing all parties provide new draft determinations was to clearly identify exactly which matters each party still intends to pursue. To that end the HSU has included only matters it intends to pursue.

**Leigh Svendsen**  
Senior National Industrial Officer

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<sup>1</sup> [https://www.fwc.gov.au/documents/sites/awardsmodernfouryr/20160707\\_am2014199.pdf](https://www.fwc.gov.au/documents/sites/awardsmodernfouryr/20160707_am2014199.pdf)



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FAIR WORK COMMISSION

## DRAFT DETERMINATION

*Fair Work Act 2009*

Part 2-3, Div 4 – 4 Yearly reviews of modern awards

### Health Professionals and Support Services Award 2010

(ODN AM2014/190) MA000027

Health and Welfare

VICE PRESIDENT HATCHER <<PLACE, MONTH, YEAR>>

Review of modern awards to be conducted.

A. The above award is varied

**[1] Delete clauses 8.1 and 8.2 and insert the following:**

8.1 **Ordinary** hours and roster cycles

(a) Span of hours – day worker

Ordinary hours of work for a day worker are worked between 6.00 am and 6.00 pm, Monday – Friday.

(b) A shiftworker is an employee who is regularly rostered to work their ordinary hours of work outside the span of hours of a day worker as defined in clause 8.1(a).

(c) The ordinary hours of work for a full-time employee will be:

(i) 38 hours per week; or

(ii) 76 hours per fortnight; or

(iii) 152 hours over 28 days.

(d) The shift length or ordinary hours of work per day will be a maximum of 10 hours exclusive of meal breaks.

(e) The hours of work will be continuous, except for meal breaks. Except for the regular changeover of shifts, an employee will not be required to work more than one shift in each 24 hours.



[2] Delete clause 9.1 and insert the following:

**9.1 Unpaid meal breaks**

- (a) An employee who works in excess of five hours will be entitled to an unpaid meal break of between 30 minutes and 60 minutes. The meal break will, wherever reasonably practicable, be taken between the fourth and sixth hours of commencing work.
- (b) The time of taking the meal break may be varied by agreement between the employer and employee.
- (c) An employee who works not more than six hours may elect to forgo the meal break, with the consent of the employer.

[3] Delete clauses 18.1, 18.2, and 18.4, renumber clause 18.3 Public holidays to 18.2 Public holidays and insert the following:

**18.1 Weekend penalties**

- (a) For all ordinary hours worked between midnight Friday and midnight Sunday, a full time or part time employee will be paid 150% of the minimum hourly rate applicable to their classification and pay point.
- (b) A casual employee who works on a Saturday or Sunday will be paid 175% of the minimum hourly rate applicable to their classification and pay point for all time worked, but will not be paid the casual loading of 25%.

**18.2 Public holidays**

Payment for public holidays is in accordance with clause 23.1.

**18.3 Shift work**

- (a) For the purposes of this clause:
  - (i) Afternoon shift means any shift commencing not earlier than 12.00 noon and finishing after 6.00 pm on the same day; and
  - (ii) Night shift means any shift commencing on or after 6.00 pm and finishing before 7.30 am on the following day.
- (b) Shift penalties
  - (i) Where an employee works a rostered afternoon shift between Monday and Friday, the employee will be paid a loading of 12.5% of their minimum hourly rate.
  - (ii) Where an employee works a rostered night shift between Monday and Friday, the employee will be paid a loading of 15% of their minimum hourly rate.



- (iii) The provisions of this clause do not apply where an employee commences their ordinary hours of work after 12.00 noon and completes those hours at or before 6.00 pm on that day.
- (iv) The shift penalties prescribed in this clause will not apply to shiftwork performed by an employee on Saturday, Sunday or public holidays where the extra payment prescribed by clause xx – Saturday and Sunday work and clause yy – Public holidays applies.

**[4] Delete clause 19.1 and insert the following:**

**19 Overtime rates**

**19.1 Overtime is paid in the following circumstances:**

- (a) Where a full time employee:
  - (i) works in excess of their ordinary hours;
  - (ii) works in excess of 10 ordinary hours per shift;
- (b) Where a part time employee:
  - (i) works in excess of their ordinary hours, except where agreement has been reached in accordance with clauses 6.3(c); and/or
  - (ii) works in excess of 10 ordinary hours per shift; and/or
  - (iii) works in excess of an average of 38 hours per week, or 76 ordinary hours in a fortnight or 152 ordinary hours in a four week period.
- (c) Where a casual employee:
  - (i) works in excess of 10 ordinary hours per shift; and/or
  - (ii) works in excess of 38 ordinary hours per week.

**19.2 An employee who works overtime shall be paid the following rates based on the minimum hourly rate for their employment classification:**

- (a) Monday to Saturday - 150% for the first two hours and 200% thereafter;
- (b) Sunday - 200%;
- (c) Public Holidays - 250%;
- (d) Overtime rates under this clause will be in substitution for and not cumulative upon the penalties and loadings prescribed in clause 18 – Penalty rates and shiftwork and the casual loading in clause 6.4(e).
- (e) Each day or shift (as relevant) stands alone

**19.3 Rest period after overtime**



- (a) An employee working overtime is entitled to 10 consecutive hours off duty between the termination of work on one day and the commencement of work on the next day, without loss of pay for ordinary hours.
- (b) If, on the instructions of the employer, an employee referred to in clause 19.3(a) does not receive 10 consecutive hours off duty, the employee is entitled:
  - (i) to be paid at a rate of 200% of the minimum hourly rate applicable to their classification and pay point until being released from duty; and
  - (ii) upon being released from duty, to be absent until they have had at least 10 consecutive hours off duty, without loss of pay for ordinary working time occurring during their absence.

**19.4 Time off instead of payment for overtime**

- (a) An employee may elect, with the consent of the employer, to take time off instead of payment for overtime at a time agreed with the employer.
- (b) Overtime taken as time off during ordinary hours will be taken at the ordinary time rate, that is, an hour for each hour worked.

**19.5 Recall to work overtime**

An employee who is recalled to work overtime after leaving the employer’s premises will be paid for a minimum of two hours’ work at the appropriate overtime rate.

**19.6 Paid rest break during overtime**

An employee working overtime will take a paid rest break of 20 minutes after each four hours of overtime worked if required to continue work after the break.

[5] **Delete clause 20.1 Annual leave and 20.2 and insert the following:**

**20.1 Annual Leave**

Annual leave is provided for in the NES. This clause contains additional provisions.

**20.2 Additional leave for shiftworkers**

The NES provides that an employee who is defined as a shiftworker under this clause is entitled to an additional weeks’ annual leave on the same terms and conditions.

- a) For the purposes of the NES a shiftworker is an employee who is rostered to work four hours or more on 10 or more weekends and/or public holidays

An employee who is engaged for part of the yearly period as a shiftworker, is entitled to have the period of four weeks’ annual leave increased by half a day for each month the employee is engaged on shiftwork, up to a maximum of 5 days additional leave.

[6] **Delete clause 25 Ceremonial leave and replace with the following:**



**25 Ceremonial leave**

An employee who is legitimately required by Aboriginal or Torres Strait Islander tradition to be absent from work for traditional ceremonial purposes will be entitled to up to 10 working days unpaid leave in any one year, with the approval of the employer.

**[7] Delete A.2 Health Professional employees – definitions**

A list of common health professionals which are covered by the definitions is contained in Schedule B - List of Common Health Professionals.

And insert:

**A.2 Health Professional employees – definitions**

An indicative list of common health professionals which are covered by the definitions is contained in Schedule B – Indicative List of Common Practice Areas and Titles.

**[8] At A.2.1 insert a new A.2.1 (c)**

(c) This level is the entry level for employees who are undertaking an internship.

B. The determination shall operate on and from <<date>>