

**SUBMISSION TO  
FAIR WORK COMMISSION**

**Matter No:**

**AM2019/17**

***4 YEARLY REVIEW OF MODERN AWARDS***

***FINALISATION OF EXPOSURE DRAFTS – TRANCHE 3 AWARDS***

***HEALTH PROFESSIONALS AND SUPPORT SERVICES AWARD  
(AM2014/204)***

***MARCH 2020***

**SUBMISSION IN RESPONSE TO  
EXPOSURE DRAFT REPUBLISHED ON 29 JANUARY 2020**

**SUBMISSION BY  
PRIVATE HOSPITAL INDUSTRY EMPLOYER ASSOCIATIONS**

**Australian Private Hospitals Association  
Australian Private Hospitals Association – South Australia  
Australian Private Hospitals Association – Tasmania  
Australian Private Hospitals Association – Western Australia  
Australian Private Hospitals Association – Victoria  
Day Hospitals Australia  
Private Hospitals Association of Queensland  
Private Hospitals Association of New South Wales**

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This brief submission is being lodged in response to the republished Exposure Draft – Health Professionals and Support Services Award issued on 29 January 2020 and is confined to Clause 11 – Casual Employees and specifically clause 11.5 (a).

It is noted in the latest Exposure Draft that an administrative change has been made to clause 11.5 (a) by the Modern Awards Team. With respect, PHIEA is of the view that this ‘administrative change’ is a significant variation to the current award wording noted below .

### **Health Professionals and Support Services Award 2010**

#### **10.4 Casual employment**

(a) A casual employee is an employee engaged as such on an hourly basis, other than as a part time, full time or fixed term employee, to work up to and including 38 ordinary hours per week.

(b) A casual employee will be paid per hour calculated at the rate of 1/38<sup>th</sup> of the weekly rate appropriate to the employee’s classification. In addition, a loading of 25% of that rate will be paid instead of the paid leave entitlements of full time employees.

(c) The minimum period of engagement of a casual employee is three hours with the exception of cleaners employed in private medical practices who will be engaged for a minimum of two hours.

### **HP&SS Exposure Draft**

## **11 Casual employees**

A Full Bench has been constituted in [AM2017/51](#) to deal with the issue of overtime for casuals.

Administrative change to clause 11.5 (a) by Modern Awards team.

**11.1** A casual employee is an employee engaged on an hourly basis other than as a part-time, full-time or fixed-term employee.

**11.2** A casual employee can be engaged to work up to and including 38 ordinary hours per week

**11.3** Subject to clause 11.4 the minimum period of engagement of a casual employee is 3 hours.

**11.4** The minimum period of engagement of cleaners employed in private medical practices is 2 hours.

### **11.5 Casual loading**

(a) For each ~~ordinary~~ hour worked, a casual employee must be paid

- (i) the minimum hourly rate and
- (ii) a loading of 25% of the minimum hourly rate, applicable to the classification and pay point in which they are employed

(b) The casual loading is paid instead of the paid leave entitlements of full time employees

As noted, a Full Bench has been constituted in AM2017/51 to deal with the issue of overtime for casuals and submissions have been lodged in respect of the Health Professionals & Support Services Award in this regard.

As noted, the Exposure Draft *has been prepared to address some structural issues identified in modern awards and to apply plain language drafting principles and techniques and does not seek to amend any entitlements under the Health Professionals and Support Services Award.*

In applying plain language drafting, PHIEA is of the view that clause 11.5 (a) has amended the entitlements for casuals and would respectfully suggest that until such time as this issue has been determined by the Full Bench constituted in AM2107/51 no administrative change should be made in the Exposure Draft to the wording of clause 11.5 (a) – casual loading.

**[END OF SUBMISSION]**