

Title of Matter: **Four yearly review of modern awards**

Section: **s.156 - 4 yearly review of modern awards**

Subject: **Health Professionals and Support Services Award 2010 - substantive issues**

Matter Number: **AM2016/31**

Health Professionals and Support Services Award 2010 MA000027
(Health Professionals Award)

4 yearly award review Sub-group 2B

**Submission by Medical Imaging Employment Relations Group (MIERG)
for changes to Health Professionals Award in Draft Determination herewith**

17 March 2017

Requests

MIERG Requests the Fair Work Commission in 4 yearly award review Matter Number AM2016/31 to change the Health Professionals Award by adding a new Schedule to the award, Schedule M—Medical Imaging and making necessary consequential changes to the award as set out in the Draft Determination Application herewith.

Summary

MIERG Requests made earlier in matter AM2014/204 now revived and revised in matter AM2016/31 in summary are for:

- 1. Retention of existing specific Medical Imaging provisions in the Health Professional Award (the award) with refinements to some provisions and**
- 2. Reinstatement of relevant Medical Imaging Employment Relations Group and Health Services Union of Australia Consent Award provisions. [1]**
- 3. MIERG's proposed Schedule M—Medical Imaging gives effect to the specific medical imaging changes requested by MIERG.**

Filed on behalf of	Medical Imaging Employment Relations Group (MIERG)
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Reasons

MIERG's Reasons for the changes requested are to support workplace centred mutually beneficial family friendly work/life balance options and flexible working conditions to meet an employee's and their private medical imaging practice's needs to work collaboratively to optimise workplace adaptability along a spectrum of options for employees to meet theirs and their families' needs by working creatively long days in short to short days in long weeks in a culture of ongoing harmonious relationships, innovation and productivity improvements.

Right reserved

MIERG reserve the right to amend its Submission and Draft Determination and the conduct of its case in the light of other parties' Submissions and developments in the proceedings during this 4 year review.

Reference [1] Medical Imaging Employment Relations Group (MIERG) and Health Services Union of Australia (HSU) (C2004/7069) AW839843 PR957574 Private Medical Imaging Consent Award known as Health Services Union of Australia (NSW/ACT Private Medical Imaging) Award 2004 which took effect from 9 February 2005 superseding the Health Services Union of Australia of Australia (NSW/ACT Private Medical Imaging and Radiation Technology) Award 2001[AW811374 PR910491].

**Medical Imaging Employment Relations Group (MIERG)
Health Professionals Award Draft Determination
is set out commencing on page 3, following this page**

Fair Work Commission

Fair Work Act 2009 s.156

Draft Determination Application

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

Health Professionals and Support Services Award 2010 MA000027

(Health Professionals Award)

(AM2016/31) MA000027

Health and Welfare

A. The above award is varied

1. Add a new Schedule to the Health Professionals Award (the award),

Schedule M—Medical Imaging

NOTE: A Schedule M clause or sub-clause, Title or Schedule letter and clause number replaces the award clause or sub-clause, with the same clause number, Title or Schedule letter and clause number in whole or in part as set out in Schedule M.

Schedule M—Medical Imaging provides medical imaging specific employment terms and conditions of employees in a private medical imaging practice (as defined in the award in Schedule I—Definitions).

Schedule M covers:

(a) medical imaging (as defined in the award in Schedule I—Definitions) employers throughout Australia and their employees in the classifications listed in Schedule A—Classification Definitions of the award to the exclusion of any other modern award.

(b) Neither the making or the operation of Schedule M is intended to result in an immediate reduction in the take-home pay of a private medical imaging practice employee who works a five-and-a-half-day week at the date of operation of Schedule M.

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M—Schedule M—Medical Imaging

M—Part 1—Application and Operation

M.1 Title and Commencement

NOTE: Schedule M—Medical Imaging which covers private medical imaging (as defined in the award M—Schedule I—Definitions) practice employers throughout Australia and their employees in the classifications listed in M—Schedule A—Classification Definitions and M—Schedule I—Definitions to the exclusion of any other modern award.

M.3 Coverage

NOTE: The award applies to medical imaging except for the following provisions in Schedule M—Medical Imaging.

M—Part 2—Types of Employment and Classifications

M.6 Types of employment

[*Note* This clause applies to medical imaging and replaces clause 6. Types of employment in the award]

M.6.1 Employment categories

(a) Employees under this award covered by Schedule M will be employed in one of the following categories:

- (i) full-time;
 - (ii) part-time; job share; or
 - (iii) casual.
- (b) At the time of engagement an employer will inform each employee whether they are employed on a full-time, part-time; job share; or casual basis.
- (c) An employer may direct an employee to carry out such duties that are within the limits of the employee's skill, competence and training, consistent with their respective classification.

M.6.2 Full-time employment

- (a) The ordinary working hours, exclusive of meal times, will not exceed an average of 152 hours per four-week period.
- (b) Hours of work will be rostered to establish nominal starting and finishing times for employees. [*Note refer to M.8.3*]

M.6.3.1 Part-time employment

- (a) A part-time employee
- (i) is engaged as such to work less than an average of 152 ordinary hours per four-week period with a minimum start of two hours per rostered day; and
 - (ii) the employer and employee will agree in writing on the pattern of work which may be varied by agreement at any time.
- (b) A part-time employee has full-time employee entitlements on a pro rata basis

M.6.3.2 Job share employment

- (a) A job share employee's ordinary hours of work are the ordinary hours in clause M.6.2 for the full-time position shared and in accordance with clause M.8.
- (b)(i) The responsibility for organising the job share employee's ordinary hours and rostering to ensure coverage of the work of the position shared is, in the first instance, the primary responsibility of the employees' sharing the job to roster themselves so that they adequately cover the entire span of hours of the full-time position they share.
- (ii) Where this is not possible because of ill health or other unexpected event or other emergency, the employer must be notified as soon as possible of the inability of the job share employees to cover their entire span of hours of the full-time position they share.
- (c) Job share employees have full-time employee entitlements on a pro rata basis.

(d) The job share employees will agree in writing on the pattern of their work which may be varied by agreement at any time.

M.6.4 Casual employment

(a) A casual employee is an employee engaged on an hourly basis, other than as a part-time, job share, full-time or fixed-term employee.

(b) A casual employee can be engaged to work up to and including 38 ordinary hours per week or 76 hours in a fortnight.

(c) Subject to clause M.6.4(e) the minimum period of engagement of a casual employee is two hours for each start.

(d) The minimum period of engagement of cleaners employed in private medical practices is two hours.

FWC Request *Parties are asked to clarify whether the minimum engagements are daily minimums which can be worked in two or more occasions (i.e. in split shifts) or if these hours must be worked consecutively.*

(e) Casual employees may be engaged by agreement on two or more starts per day.

(f) Casual loading

(i) For each hour worked, a casual employee must be paid:

*the minimum hourly rate; and

*a loading of 25% of the minimum hourly rate, applicable to the classification and pay point for the classification which they are employed.

(ii) The casual loading is paid instead of the paid leave entitlements of full-time employees.

FWC Request *Parties are asked to provide a list of provisions that do not apply to casual employees.*

(iii) *The following provisions of this award do not apply to casual employees:*

NOTE: MIERG to supply details on FWC Request on or before 27 November 2017

M.6.5 Probationary employment

(a) Notwithstanding anything elsewhere contained in this award, an employer may employ an employee on a probationary basis.

(b) The period of probation will be for an initial period of not more than three months. However, where considered by the employer to be justified before the completion of the initial period, the probationary period may be extended by a further probationary period of not more than three months. An employee

may not be employed on a probationary basis for a period exceeding six months.

(c) Notwithstanding any provision contained elsewhere in this award, the employment of a probationary employee may be terminated by the employer or the employee upon the giving of one week's notice or the payment or forfeiture of one week's salary where such notice is not given.

M—Part 3—Hours of Work

M.8 Ordinary hours of work and rostering

NOTE: Clause M.8 Ordinary hours of work and rostering applies to medical imaging and replaces award clause 8. Ordinary hours of work and rostering.

M.8.1 Ordinary hours

(a)(i) The ordinary working hours, exclusive of meal times, for employees other than casuals, will not exceed an average of 152 hours per four week period.

(ii) The ordinary working hours, exclusive of meal times, for casuals, will not exceed an average of 38 hours per week or 76 hours per fortnight in accordance with the employer's pay period. [ref award 19.1(c)(ii)]

(iii) Consultation is to occur on the method of implementation of the ordinary working hours. However, the final choice as to the method of implementation rests with the employer. Circumstances may arise where different methods of implementation of the ordinary working hours may apply to individual employees or various groups or sections of employees in the medical imaging practice's locations.

(b) Not more than 12 ordinary hours of work (exclusive of meal breaks) are to be worked in any one day.

(c) Working hours will be rostered in M.8.3 to establish nominal starting and finishing times for employees.

M.8.2 Span of hours - day workers

(a) The ordinary hours of work of a day worker will be between 7.00 a.m. and 9.00 p.m. Monday to Sunday inclusive.

(b) Hours worked by a full-time, part-time or job share day worker outside these times will be paid at overtime rates in clause M.19 Overtime rates.

M.8.3 Rostering

Hours of work for a fortnight will be rostered to establish nominal starting and finishing times for employees and posted at least two weeks before the roster commences. Seven days notice will be given of a change to the roster.

However, by agreement or owing to another employee's absence because of illness or injury or in an emergency the roster may be changed at any time.

M.9 Breaks

NOTE: Clause M.9 Breaks applies to medical imaging and replaces award clause 9. Breaks.

M.9.1 Unpaid meal breaks

(a) An unpaid break of not less than 30 minutes and not more than one hour will be allowed for a meal within five hours of commencement.

This provision may be varied by agreement between the employer and an individual employee.

(b) Where work is required urgently the unpaid meal break may be deferred, and must be taken as soon as practicable.

M.9.2 Paid tea breaks

Up to two paid tea breaks each of up to 10 minutes duration may be allowed each day for full-time employees. The time of taking such break(s) is subject to the workload of the medical imaging practice location.

M—Part 4—Wages and Allowances

M.12 Payment of wages

NOTE: Clause M.12 Payment of wages applies to medical imaging and replaces award clause 12. Payment of wages.

M.12.1 Wages and other payments earned during the pay period will be paid not more than three working days from the end of the pay period.

An employer may pay in cash or cheque or electronic transfer or other arrangement by agreement with the employee.

M.12.2 Depending on the employer's pay period:

Full-time employee will be paid weekly, fortnightly, four weekly, or monthly.

Part-time, job-share or casual employees will be paid weekly or fortnightly.

NOTE: *Fair Work Act 2009 s536* and *Fair Work Regulations 2009* specify the employer's responsibilities in relation to pay slips.

M.15 Allowances

NOTE: Clause M.15 Allowances applies to medical imaging specific provisions and replaces award clause 15. Allowances for medical imaging practices.

M.15.2 Wage related allowances

NOTE: MIERG to supply \$ details on or before 27 November 2017.

(d) On call allowance

An employee on call for emergency recall under **19.5 Recall to work overtime** will be paid an on call allowance of \$_____ per 24 hour period when on call up to a maximum amount of \$___per week.

[The on call allowance is adjusted in accordance with National Wage Case adjustments.]

M.15.3 Expense related allowances

NOTE: MIERG to supply \$ details on or before 27 November 2017.

(e) Meal allowance

An employee who is required to work more than three hours after his or her rostered time finishes will be supplied with a meal or paid a meal allowance of \$_____.

A further meal will be supplied or allowance of \$_____ paid on the completion of each additional four hours' overtime worked.

[The meal allowance is adjusted in line with ABS CPI index for take away and fast foods sub-group.]

(h) Travel, transport and fares

NOTE: MIERG to supply \$ details on or before 27 November 2017.

(i) Motor vehicle allowance

NOTE: The motor vehicle allowance is adjusted in line with ATO changes

Where an employee, by arrangement with the employer, provides his or her own vehicle for use in connection with the work the employee will be paid an allowance in line with ATO requirements for kilometre travelled in connection with work of \$_____ per kilometre.

(iv) All reasonably incurred fares, meals and accommodation expenses as agreed prior to travel will be paid on receipted account(s) or other evidence acceptable to the employer.

M.16 Higher duties

NOTE: Sub-clause M.16.4 Learning applies to medical imaging in addition to award sub-clauses 16.1, 16.2 and 16.3.

M.16.4 Learning

Higher duties payment does not apply where an employee works in a higher paid classification position to learn to work competently in the higher paid position as preparation to qualify to apply for the position if it becomes vacant.

M—Part 5—Penalties and Overtime

M.18 Penalty rates

NOTE: Clause M.18 Penalty rates applies to medical imaging and replaces award clause 18. Penalty rates and shift work.

M.18.2 Weekend work

(a) Work performed on a Saturday in accordance with clause M.8.2(d)(i) will be paid at the rate of 125% of the minimum hourly rate.

(b) Work performed on a Sunday in accordance with clause M.8.2(d)(i) will be paid at the rate of 150% of the minimum hourly rate.

(c) A casual employee who works on a Saturday or Sunday will be paid 125% of the minimum hourly rate for all time worked.

M.19 Overtime rates

NOTE: Clause M.19 Overtime rates applies to medical imaging and replaces award clause 19. Overtime rates.

M.19.1 Full-time

M.19.1.1 A full-time employee who on any given day works outside the ordinary rostered hours of his or her employment for a period of 30 minutes or less, will be entitled to an equivalent amount of time off work, at a time mutually convenient to the employee and the employer.

M.19.1.2 A full-time employee who on any given day works outside the ordinary rostered hours of his or her employment for period in excess of 30 minutes, will be entitled to receive overtime payment at the rate of time and a half for the first two hours and double time thereafter. In lieu of overtime payment an employee may elect to take time off work at a time mutually convenient to the employee and the employer. The single hourly rate for overtime will be calculated by dividing the weekly rate by 38.

M.19.2 Part-time

M.19.2.1 A part-time employee who on any given day works outside the ordinary rostered hours of full-time employees employed in a similar position for a period of 30 minutes or less, will be entitled to elect to take either an equivalent amount of time off work at a time mutually convenient to the employee and the employer or payment in accordance with M.19.2.3

M.19.2.2 A part-time employee who on any given day works outside the ordinary rostered hours of full-time employees employed in a similar position for a period in excess of 30 minutes, will be entitled to receive overtime payment at the rate of time and a half for the first two hours and double time thereafter. In lieu of overtime payment an employee may elect to take time off work at a time mutually convenient to the employee and the employer. The single hourly rate for overtime will be calculated by dividing the weekly rate by 38.

M.19.2.3 A part-time employee who by agreement with the employer works beyond his or her ordinary rostered hours, or on days on when he or she does not usually work will be paid at ordinary rates of pay subject to M.8.

M.19.3 Job share

A job share employee will not receive overtime payments for any time worked within the rostered ordinary hours for the shared job.

M.19.4 Casual

For work done by a casual employee in excess of an average of 38 hours in a week the rate of pay will be time and a half for the first two hours and double time thereafter. Overtime for such employee will be calculated on a pay period basis.

M.19.5 Recall

M.19.5.1 An employee who is recalled to work overtime after leaving the employer's premises will be paid at the rate of time and a half for the first two hours and double time thereafter for the time taken to perform the work required and for the time taken in travelling to and from the employer's premises subject to a maximum of 15 minutes travel each way.

M.19.5.2 An employee who is recalled to work overtime after leaving the employer's premises will be paid for a minimum of two hours' work including travelling time.

M.19.5.3 An employee who is recalled to work overtime after leaving the employer's premises will also be entitled to payment of reasonable travelling expenses incurred.

M.19.6 Reasonable hours

M.19.6.1 Subject to 19.6.2 an employer may require an employee to work reasonable overtime at overtime rates unless or as otherwise provided for under the award.

M.19.6.2 An employee may refuse to work overtime in circumstances where the working of such overtime would result in the employee working hours which are unreasonable.

M.19.6.3 For the purposes of 19.6.2 what is unreasonable or otherwise will be determined having regard to:

- (a) Any risk to employee health and safety.
- (b) The employee's personal circumstances including any family and carer responsibilities.
- (c) The needs of the workplace or enterprise.
- (d) The notice (if any) given by the employer of the overtime and by the employee of their intention to refuse it; and
- (e) Any other relevant matter.

M—Part 7—Consultation and Dispute Resolution

M.28 Consultation

NOTE: Clause M.28 Consultation applies to medical imaging and replaces award clause 28 Consultation.

The employer will consult with employee(s) on changes that affect employee(s).

M.29 Dispute Resolution

NOTE: Clause M. 29 Dispute Resolution applies to medical imaging and replaces award clause 29 Dispute Resolution.

The employees and the employer will confer with a view to resolving all industrial disputes by direct negotiation and consultation. All industrial disputes will be dealt with in the following manner to ensure the orderly settlement of the matters in question:

M.29.1 Any industrial dispute which arises will, where possible, be settled by discussion on the job between the employees and the employees' immediate supervisor.

M.29.2 If the matter is not resolved, the matter will be further discussed between the affected employees, the employees' nominated representative (who may be a Union representative) and the supervisor or manager of the relevant section or department, and the assistance of the employer's industrial relations representative will be sought.

M.29.3 If no agreement is reached, the employee's nominated representative will discuss the matter with the employer's industrial relations representative.

M.29.4 In the interest of patient care work will continue normally. No party will be prejudiced as to the final settlement by the continuance of work in accordance with the procedures.

M.29.5 Should the matter still not be resolved it may be referred by the parties to the Fair Work Commissions for conciliation.

M—Schedule A—Classification Definitions

NOTE: The following definitions apply to medical imaging and replace Schedule A—Classification Definitions in the award on the same subject.]

Medical Imaging specific definitions

Medical Imaging Support (MIS) means a person appointed as such where the principal function of the employment, as determined by the employer is of a reception, medical typing, clerical, courier, administrative, accounting or book-keeping nature and who maintains their own CPD.

Medical Imaging Technologist (MIT) means a person appointed as such who meets the standards required by their recognised professional body's quality and accreditation program for the medical imaging modality for which they are employed and who maintains their own **CPD**. The principal function of their employment is as determined by the employer.

M—Schedule I—Definitions

NOTE The following definitions apply to medical imaging and replace Schedule I—Definitions in the award on the same subject.

Medical Imaging specific definitions

CPD means Continuing Professional Development, which is the responsibility of the employee and includes maintaining their own CPD and on-going career learning in consultation with their employer.

casual means an employee who is engaged on an hourly basis other than as a permanent part-time employee or full-time employee or job share employee.

full-time means an employee who is engaged as such and who is rostered to work an average of 152 ordinary hours per four week period.

job share means a part-time employee who shares a full-time position.

part-time means an employee who is engaged as such and who is required to work less than an average of 152 ordinary hours per four-week period with a minimum start of two hours per rostered day.

NOTE: Award Schedule I—Definitions includes

medical imaging means a **private medical imaging practice** where a medical Specialist supervises Medical Imaging Technologist (MIT) staff operating sophisticated medical imaging technology to visualise internal human body structures for diagnosis by a medical Specialist Radiologist or Nuclear Medicine Physician assisted by Medical Imaging Support staff.

medical imaging practice means the business entity and not the work locations.

B. The above award is varied

[1] Insert

In clause 1. Title and commencement Insert an additional paragraph
Neither the making or the operation of Schedule M—Medical Imaging is intended to result in a reduction in the take-home pay of a private medical imaging practice employee who works a five-and-a-half-day week at the date of operation of Schedule M.

[2] Insert new sub-clause

1.6 Schedule M—Medical Imaging sets out private medical imaging specific employment terms and conditions of employees in private medical imaging practices.

[3] Insert

In clause 3. Coverage

NOTE: The Health Professionals Award (the award) applies to private medical imaging practices except for specific provisions in Schedule M—Medical Imaging.

3.1(c) employees of private medical imaging practices have specific provisions in Schedule M—Medical Imaging. Where there is conflict between a provision in the award and Schedule M the provision in Schedule M applies.

[4] Amend

Schedule B—List of Common Health Professionals

Retain in List (and include abbreviations) as follows:

Medical Imaging Technologist (MIT) (including: Medical Radiographer (MR); Ultrasonographer (U); Magnetic Imaging (MI); Nuclear Medicine (NM); and Radiation Therapy (RT))

Delete from List

~~Nuclear Medicine Technologist (NMT)~~

~~Radiation Therapy Technologist (RTT)~~

~~Sonographer~~

Insert

NOTE: The list of modalities in Medical Imaging Technologist (MIT) in Schedule B is exhaustive.

[5] Insert

In **Schedule I—Definitions**

medical imaging means a private medical imaging practice where a medical Specialist supervises Medical Imaging Technologist (MIT) staff operating sophisticated medical imaging technology to visualise internal human body

structures for diagnosis by medical Specialist Radiologist or Nuclear Medicine Physician assisted by Medical Imaging Support (MIS) staff.

private medical imaging practice means the business entity and not the work locations.

E&OE