



7 December 2018

Vice President Catanzariti

Fair Work Commission

By email: [chambers.catanzariti.vp@fwc.gov.au](mailto:chambers.catanzariti.vp@fwc.gov.au)

Dear Vice President

**AM2016/31: 4 yearly review of modern awards – Nurses Award 2010**

The ANMF refers to the Decision of the Fair Work Commission dated 3 December 2018 ('Decision') regarding the *Nurses Award 2010*, in particular to the invitation to comment on proposed wording of amended clauses.

The ANMF provides the following comments.

*Telephone and other remote recall*

The ANMF notes the proposed wording of revised clauses 28.5 and 28.6 contained in paragraphs [72] and [73] of the Decision.

We suggest a minor amendment to proposed clauses 28.5(b) and 28.6(b) to make clear that 'electronic communication' includes telephone calls.

Paragraph [67] indicates that the phrase is intended to include 'telephone and other electronic communications' hence for greater clarity for employers and employees the ANMF submits that specific reference to telephone calls should also be included.

A suggested draft determination relating to recall to work is enclosed, with amendments highlighted in red.

*Free from duty and on call*

The ANMF supports the wording of proposed revised clause 21.4 contained in paragraph [99] of the Decision.

*Rest breaks between rostered work*

The ANMF supports the wording of proposed revised clause 23 (including 23.1, 23.2 and 23.3) contained in paragraph [115] of the Decision.

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**ANMF Journals**

Australian Nursing and  
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ABN 41 816 898 298



### *Meal breaks*

The ANMF notes the proposed wording of revised clause 27.1 (comprising paragraphs (a), (b) and (c)) contained in paragraph [144] of the Decision.

We submit that a minor amendment needs to be made to proposed clause 27.1(c). The words 'is taken' should be added to the end of the paragraph so that paragraph 27.1(c) reads:

Where an employee is required by the employer to remain available during a meal break, but is free from duty, the employee will be paid at ordinary rates for a 30 minute meal break. if the employee is recalled to perform duty during this period the employee will be paid overtime for all time worked until the balance of the meal break is taken.

This change to the proposed wording would be consistent with the wording of proposed 27.1(b), which ends 'until the meal break is taken'.

A suggested draft determination relating to meal breaks is enclosed, with amendments highlighted in red.

### *Rostering*

The ANMF supports the wording of proposed revised clause 25.4 contained in paragraph [160] of the Decision.

### *Other*

We have not provided draft determinations regarding proposed clauses where we have not suggested changes.

The ANMF also notes that the Decision does not include reference to the ANMF's representative in paragraph [4] and in the Appearances section.

Yours sincerely

A handwritten signature in black ink that reads "AMCarthy". The signature is written in a cursive style and is positioned over a light grey rectangular background.

Andrew McCarthy

A/g Senior Federal Industrial Officer



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**FAIR WORK COMMISSION**

# **DETERMINATION**

*Fair Work Act 2009*

s.156 - 4 yearly review of modern awards

**4 yearly review of modern awards – Nurses Award 2010**  
(AM2016/31)

Health and welfare services

VICE PRESIDENT CATANZARITI

DEPUTY PRESIDENT BOOTH  
COMMISSIONER CRIBB

SYDNEY, [DATE] [MONTH] 2018

*4 yearly review of modern awards – Nurses Award 2010 – recall to work.*

A. Further to the Full Bench decision issued on 3 December 2018 [[\[2018\] FWCFB 7347](#)], the above award is varied as follows:

1. By deleting clause 28.5 and inserting the following:

## **28.5 Recall to work when on call**

(a) An employee who is required to be on call and who is recalled to work at the workplace will be paid a minimum of three hours work at the appropriate overtime rate.

(b) An employee who is required to be on call and who is required to perform work via **telephone or other** electronic communication away from the workplace will be paid a minimum of one hours work at the appropriate overtime rate. An employee who is required to perform work for longer than one hour will be paid for the time worked rounded to the nearest 15 minutes at the appropriate overtime rate.

2. By deleting clause 28.6 and inserting the following:

## **28.6 Recall to work when not on call**



(a) An employee who is not required to be on call and who is recalled to work at the workplace after leaving the employer's premises will be paid a minimum of three hours work at the appropriate overtime rate.

(b) An employee who is not required to be on call and who is required to perform work via **telephone or other** electronic communication away from the workplace will be paid a minimum of one hours work at the appropriate overtime rate. An employee who is required to perform work for longer than one hour will be paid for the time worked rounded to the nearest 15 minutes at the appropriate overtime rate.

B. This determination comes into operation from xxx.

PRESIDENT

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**FAIR WORK COMMISSION**

# **DETERMINATION**

*Fair Work Act 2009*

s.156 - 4 yearly review of modern awards

**4 yearly review of modern awards – Nurses Award 2010**  
(AM2016/31)

Health and welfare services

VICE PRESIDENT CATANZARITI

DEPUTY PRESIDENT BOOTH

COMMISSIONER CRIBB

SYDNEY, [DATE] [MONTH] 2018

*4 yearly review of modern awards – Nurses Award 2010 – meal breaks.*

A. Further to the Full Bench decision issued on 3 December 2018 [[\[2018\] FWCFB 7347](#)], the above award is varied as follows:

1. By deleting clause 27.1 and inserting the following:

## **27.1 Meal breaks**

(a) An employee who works in excess of five hours will be entitled to an unpaid meal break of not less than 30 minutes and not more than 60 minutes. Such meal breaks will be taken between the fourth and the sixth hour after beginning work, where reasonably practicable. Provided that by agreement of an individual employee, an employee who work shifts of six hours or less may forfeit the meal break.

(b) Where an employee is required to be on duty during a meal break, the employee will be paid overtime for all time worked until the meal break is taken.

(c) Where an employee is required by the employer to remain available during a meal break, but is free from duty, the employee will be paid at ordinary rates for a 30 minute meal break. If the employee is recalled to perform duty during this period the employee will be paid overtime for all time worked until the balance of the meal break **is taken**.

B. This determination comes into operation from xxx.



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Federation

PRESIDENT

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