

4 yearly review of modern awards — Social, Community, Home Care and Disability Services Industry Award 2010

AM2018/26 and AM2020/100

Matters arising from [\[2021\] FWCFB 2383](#)

Claims granted and provisional views

1. Broken shifts and minimum engagements

[1] The Full Bench decided to make the following variations to the SCHADS Award:

1. Introduce a minimum payment period for part-time employees by deleting clause 10.4(c) and inserting a new clause 10.5 to provide the following minimum payment periods for part-time and casual employees:

- social and community service employees (except when undertaking disability work) – 3 hours’ pay, and
- all other employees – 2 hours’ pay.

2. Vary clause 25.6 to:

- define a broken shift as a shift consisting of 2 separate periods of work with a single unpaid ‘break’ (other than a meal break)
- clarify how this interacts with the new minimum payment clause, and
- to accommodate the occasional need for a broken shift to involve more than 1 break subject to:
 - a maximum of 2 unpaid ‘breaks’ in the shift
 - the agreement of the employee, and
 - an additional payment.

[2] The Full Bench expressed the following *provisional* views:

1. The additional remuneration for working a broken shift under clause 25.6 of the SCHADS Award should be an allowance calculated as a percentage of the standard weekly rate.
2. An employee working a ‘1 break’ broken shift under clause 25.6 should receive a broken shift allowance of 1.7% of the standard rate, per broken shift (\$17.10 per broken shift).

3. The broken shift allowance payable for a '2 break' broken shift should be set at 2.5% of the standard rate (\$25.15 per broken shift), and
4. An employee who is a day worker performing work outside of the ordinary span of hours (including as part of a period of work in a broken shift) is entitled to overtime for such work.

[3] The Full Bench provided ABI (and any other interested party) an opportunity to present further arguments and evidence in support of its proposal for a 1 hour minimum engagement for staff meetings and training or professional development.

2. Roster changes

[4] The Full Bench expressed the view that there is merit in varying clause 25.5(d) to permit the variation of a roster by mutual agreement in circumstances where the variation is proposed by an employee to accommodate an agreed shift swap with another employee.

3. Remote response/recall to work

[5] The Full Bench concluded that it is necessary to introduce an award term dealing with remote response work and made the following general observations about such a term:

1. A shorter minimum payment should apply in circumstances where the employee is being paid an 'on call' allowance.
2. There is merit in ensuring that each discrete activity (such as a phone call) does not automatically trigger a separate minimum payment.
3. A definition of 'remote response work' or 'remote response duties' should be inserted into the Award. We note that ABI proposes the following definition:

'In this award, remote response duties means the performance of the following activities:

- (a) Responding to phone calls, messages or emails;
 - (b) Providing advice ("phone fixes");
 - (c) Arranging call out/rosters of other employees; and
 - (d) Remotely monitoring and/or addressing issues by remote telephone and/or computer access.'¹
4. The clause should include a mechanism for ensuring that the time spent by an employee working remotely is recorded and communicated to their employer.

¹ [ABI Submission](#), 10 February 2020, p 58.

[6] The Full Bench expressed the *provisional* view that the minimum payment for remote response work performed between 6.00am and 10.00pm should be 30 minutes and the minimum payment between 10.00pm and 6.00am should be 1 hour. However, they noted that there is an inter-relationship between the minimum payment period and the rate of payment.

4. Overtime for part-time workers

[7] Having reviewed the part-time employment terms in the SCHADS Award and having regard to the evidence and submissions, the Full Bench expressed the *provisional* view that the SCHADS Award should be varied in 2 respects:

- to make it clear that working additional hours is voluntary, and
- to introduce a mechanism whereby a part-time employee who regularly works additional hours may request that their guaranteed hours be reviewed and increased, and their employer cannot unreasonably refuse such a request.

5. Matters arising from the conference held on 27 May 2021

6. Operative date of the variation determination