



IN THE FAIR WORK COMMISSION

Matter No.: AM2014/285

**S 156 – Four Yearly Review of Modern Awards - Social,
Community, Home Care and Disability Services Industry
Award 2010**

SUBMISSION OF THE AUSTRALIAN SERVICES UNION

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- [Augustino Encabo](#)
- [Richard Rathbone](#)
- [Olav Muurlink](#)
- [Ruchita](#)
- [Nadia Saleh](#)
- [Lou Bacchiela](#)
- [Natalie Lang](#)

[NDIS Costs Productivity Commission Paper June 2017](#)

[UNSW Workforce Issues in the NSW Community Services Sector April 2017](#)

[Australian Institute of Health and Welfare - Australia's Welfare 2017](#)

1. This submission regards the substantive claims pursued by the Australian Services Union ('**ASU**') in the Four yearly review ('**the Review**') of the *Social, Community, Home Care and Disability Services Industry Award 2010* ('**SCHDS Award**'). It is made pursuant to the Directions issued by the Fair Work Commission ('**Commission**') on 9 November 2018.
2. The ASU filed draft determinations for each of its claims on 7 November 2018. These include:
 - a. a variation to clause 25.6 to provide a loading to be paid to employees who work broken shifts;
 - b. a new clause providing an allowance to employees who use community language skills to provide services to speakers of languages other than English or to provide signing services to those with hearing difficulties; and
 - c. a variation to clause 4.2 of the SCHDS Award to ensure that health professionals employed in the Social and Community Sector are not excluded from coverage of the SCHDS Award.
3. The proposed variation to clause 4.2 is withdrawn.
4. The ASU notes that conciliations occurred in January regarding the Draft Consent Determinations filed by the parties in February 2017. Discussions may continue in the lead up to the hearing. We reserve our right to propose additional variations in the Four yearly review of modern awards.

JURISDICTIONAL ISSUES

5. The Commission's task in the Review is to 'decide if a particular modern award achieves the modern awards objective'.¹ If the modern award does not meet the modern awards objective it must be varied. However variations must be 'necessary to achieve the modern awards objective' not merely desirable because modern awards must only include terms that are 'necessary to achieve the modern awards objective' (s 138). Any case for change must be accompanied by probative evidence properly directed to demonstrating the facts supporting the proposed variation.²
6. The modern awards objective, in s 134(1), requires the Commission to ensure that modern awards, together with the National Employment Standards (NES) provide a fair and relevant minimum safety net of terms and conditions'. As noted by the Full Bench in the *Penalty Rates Decision*: 'The word

¹ *Four yearly review of modern awards – Penalty Rates* [2017] FWCFB 1001, [36].

² *Re Four Yearly Review of Modern Awards – Preliminary Jurisdictional Issues* [2014] FWCFB 1788, (2014) 241 IR 189 ('**Jurisdictional Issues Decision**').

'relevant', in the context of s.134(1), is intended to convey that a modern award should be suited to contemporary circumstances.³ 'Fairness' means fairness to both employees and employers.

7. Paragraphs 134(1)(a) through (h) set out a number of considerations that the Fair Work Commission must take into account. The obligation to take into account the matters set out in paragraphs 134(1)(a) to (h) means that each of the matters set out must be treated as a matter of significance in the decision making process.⁴ However, no particular weight should be given to any one consideration over another; and not all considerations will be relevant to a particular proposed variation.⁵ The Commission's task is to balance the considerations to ensure that the modern awards meet the modern awards objective.⁶

THE AUSTRALIAN SERVICES UNION

8. The ASU's interest in the SCHDS Award comes from our coverage of the social and community services sector. The ASU is the largest union of workers in the social and community services sector. Our members predominantly work in non-government, not-for-profit organisations that support people experiencing or at the risk of experiencing crisis, disadvantage, social dislocation or marginalisation.
9. ASU members in the community and disability sector work to protect vulnerable women, babies, children, young people, men and families in their own homes, in out-of-home care, in refuges and in after care. Our members also work to support and protect those same people when they are living with violence, homeless, living in cars, on the streets, 'couch surfing', and in other dangerous circumstances. Our members provide case work, crisis intervention, referral, financial and other support for individuals of all ages and families experiencing poverty, isolation and homelessness, gambling, drug and alcohol addictions, disabilities, mental health issues, overwhelming legal and financial problems, very young parents and those who are refugees or have other settlement issues. They work with women, children, young people and men who are experiencing or escaping violence and those who are living with physical, intellectual and other disabilities and mental health issues.

THE SOCIAL AND COMMUNITY SECTOR

10. The social and community services sector is highly diverse sector. It covers a range of workers from:

³ *Penalty Rates Case*, [1948].

⁴ *Jurisdictional Issues Decision*, [31].

⁵ *Four Yearly Review of Modern Awards – Annual Leave* [2015] FWCF 3406, [19], [20] ('**Annual Leave Decision**').

⁶ *Annual Leave Decision*, [20].

- a. crisis accommodation for women, children, families, young people and men;
- b. sexual assault, domestic and family violence services;
- c. women's domestic violence court advocacy services;
- d. youth and child protection services;
- e. out of home care for children and young people at risk;
- f. homelessness, housing and tenancy services;
- g. family support services;
- h. disability services, including residential care;
- i. health and mental health services;
- j. alcohol, gambling and other drugs of addiction and rehabilitation services;
- k. aged care services;
- l. first nation people's services;
- m. migrant and settlement services;
- n. prisoner rehabilitation;
- o. community legal services;
- p. community and neighbourhood services;
- q. policy, research and advocacy services; and
- r. community transport.

11. These workers are almost entirely covered by the classifications in Schedule B – Classification Definitions – Social and Community Services Employees and Schedule C – Classification Definitions – Crisis Accommodation Employees of the SCHDS Award.

12. The size of the social and community services workforce is hard to measure but it is very large. Disability services, providing supports to the 4.3 million Australians with a disability,⁷ is the largest area of growth. Spurred by the introduction of the National Disability Insurance Scheme, one in five new jobs created in Australia will be in disability services during the transition to the NDIS.⁸ In 2017, the Productivity Commission found that the disability services workforce was growing quickly, but not fast enough to meet the overall growth target.⁹

⁷ ABS 2016a. Disability, ageing and carers, Australia: first results, 2015. ABS cat. no. 4430.0.10.001. Canberra: ABS.

⁸ Productivity Commission 2017. National Disability Insurance Scheme (NDIS) Costs, 2017. Canberra: Productivity Commission. ('**Productivity Commission Report**').

⁹ Productivity Commission Report, p 36.

13. 80 percent of people who work in the social and community sector are women. The Fair Work Commission recognised the gendered undervaluation of work performed in this sector when it made the ERO. The case, which was successfully lead by the ASU, argued that people in the social and community sector carry out work that was identical to that carried out by employees of state and federal government, but was not equally remunerated, in large part because of the gendered nature of the community sector and also because historically workers in the community sector had not been recognised for their skills and qualifications or for the professionalism of their work.

INDUSTRIAL REGULATION OF THE SOCIAL AND COMMUNITY SECTOR

14. The social and community sector is largely award reliant. Rates of pay in the sector are almost always set by the 2012 Equal Remuneration Order ('**ERO**').¹⁰

15. The industry is award reliant because of the structural impediments to bargaining in an industry that is reliant on government funding. Even where cooperation and industrial power exists in organisations, employees' ability to bargain is stymied by the nature of the industry. Community sector employers are constrained by the funding arrangements that are dictated to them by governments and funding bodies. They are forced to engage in competitive tendering processes to 'win' funding contracts to continue to deliver vital services on behalf of governments, yet governments do not participate in negotiating and setting the wages and conditions of the workforce who are employed to deliver these services. While the 'employer' is the not-for-profit organisation, the effective decision maker is whichever level of government funds the organisation. This also means that employers are unable to tailor industrial conditions to their needs through bargaining.

16. The effect of the transition of the Modern Award system has been to increase the 'distance' between the social and community sector employees and their ultimate economic employer in government. Under previous industrial relations regimes, it was easier to negotiate with government funders in their respective industrial relations system. However, the Act provides that the modern award system must provide a minimum safety net for all employees in Australia with no state-based differences.¹¹ Since then, state and federal governments have largely accepted the rates of pay and conditions set by the Commission and set their funding accordingly.

¹⁰ PR525485.

¹¹ The Act, s 154.

17. This means that the safety net is 'higher' for the social and community sector than for other industries. The SCHDS Award must include terms and conditions that would normally be dealt with through bargaining, for instance clause 25.7 – Sleepovers or clause 25.5(f) Client Cancellation, to ensure that it provides a fair and relevant safety net.

BROKEN SHIFTS

18. The ASU is seeking a variation to clause 25.6 of the SCHDS Award to provide for a 15 percent loading to be paid to employees who work broken shifts. The purpose of this allowance is to compensate employees for the disutility associated with working unusual broken shift arrangements of the Award.

The ASU's proposed variation

19. Clause 25.6 currently provides that the ordinary hours of work of social and community services employees undertaking disability services work and home care employees do not need to be worked continuously. It states:

25.6 Broken Shifts

This clause only applies to social and community services employees when undertaking disability services work and home care employees.

(a) A broken shift means a shift worked by an employee that includes one or more breaks (other than a meal break) and where the span of hours is not more than 12 hours.

(b) Payment for a broken shift will be at ordinary pay with penalty rates and shift allowances in accordance with clause 29—Shiftwork, with shift allowances being determined by the finishing time of the broken shift.

(c) All work performed beyond the maximum span of 12 hours for a broken shift will be paid at double time.

(d) An employee must receive a minimum break of 10 hours between broken shifts rostered on successive days.

20. The ASU proposes to vary clause 25.6 by deleting clause 25.6(b) and inserting a new subclause providing for a 15 per cent loading to be paid on the employees ordinary rates of pay, as follows:

25.6 Broken shifts

This clause only applies to social and community services employees when undertaking disability services work and home care employees.

(a) *A broken shift means a shift worked by an employee that includes one or more breaks (other than a meal break) and where the span of hours is not more than 12 hours.*

(b) *An employee who works a broken shift will receive:*

(i) Ordinary pay plus a loading of 15% of their ordinary rate of pay for each hour from the commencement of the shift to the conclusion of the shift inclusive of all breaks; and

(ii) penalty rates and shift allowances in accordance with clause 29—Shiftwork, with shift allowances being determined by the finishing time of the broken shift.

(c) *All work performed beyond the maximum span of 12 hours for a broken shift will be paid at double time.*

(d) *An employee must receive a minimum break of 10 hours between broken shifts rostered on successive days.*

21. Clause 25.6 does not provide a fair and relevant safety net of minimum terms and conditions. The clause offers an employer exceptional flexibility to roster a disability services or home care employee in broken engagements, without significant restriction or any compensation. Under clause 25.6:

- a. ordinary hours do not need to be worked continuously;
- b. there are no restrictions on the number of breaks in work;
- c. there is no minimum engagement;
- d. there is no requirement for the employee to agree to work broken shifts, so broken shifts may be rostered at the discretion of the employer;
- e. shift allowances are determined by the finishing time of the broken shift; and

- f. no allowance is paid to compensate for the disability associated with working a broken shift.
22. Employees do not receive any additional remuneration to compensate for this extreme variability in rostering.
23. Further, the SCHDS Award has the following unique features which provide employers with significant flexibility:
- a. the roster of part-time employees may be changed at any time under clause 25.5 (d) (iii) which provides that the restrictions on changing the roster do not apply to mutually agreed additional hours worked by part-time employees;
 - b. part-time employees are not paid overtime until they work 10 hours in a day or 38 hours in a week or 79 hours in a fortnight;¹²
 - c. there is no minimum engagement for part-time or full-time employees;
 - d. employers are not required to roster meal breaks if they require an employee to have a meal with a client or clients;¹³
 - e. casual disability services employees are only entitled to a 2 hour minimum engagement;¹⁴
 - f. casual home care employees are only entitled to a 1 hour minimum engagement;¹⁵ and
 - g. if a client cancels an appointment, a home care employee's roster can be changed if the client is notified that their roster is being changed because of a client cancellation before 5.00 PM the day before, they will not be paid for the shift if they are notified about the client cancellation after that time, they will only be paid for the minimum specified hours, an employee can also be directed to work make up time sometime in that roster period or the next;¹⁶
24. The combined effect of clause 25.6 and the other unique features of the SCHDS Award is that an employee may be rostered to work broken shifts with little restriction on how those hours may be worked. This permits employers to roster employees in highly irregular and unsociable patterns of work.

¹² SCHDS Award, Cl 28.1(b).

¹³ SCHDS Award, Cl 27.1(c).

¹⁴ SCHDS Award, Cl 10.4(c)(iii).

¹⁵ SCHDS Award, Cl 10.4(c)(ii).

¹⁶ SCHDS Award, cl 25.5(f).

Lay evidence

25. The ASU's lay witness evidence will show that employees working broken shifts experience a wide range of disabilities. The ASU's members report a variety of disabilities associated with working broken shifts under clause 25.6. The evidence of Augustino Encabo and Richard Rathbone will show that working broken shifts spreads their working day over a long period of time, causing fatigue and interfering with family, social and community engagement. The witnesses report both relatively short and relatively long unpaid periods between engagements. Both cause significant disutility.
26. Further, short breaks between engagements are often rostered to avoid paying for time spent travelling between clients at different locations by engaging employees only for the period of time spent directly servicing a client. Each witness explains that these shift patterns cause them significant disutility. Both employees report that they are required to eat meals with their clients and are not rostered for meal breaks.
27. Each witness will also show that low paid social and community sector employees need to maximise their incomes by working additional hours and at times that attract a penalty. Further, the witness evidence will show that disability services employees do not refuse additional hours, even when this is inconvenient to them, because they require the additional income and are worried that additional hours will not be offered to them in the future if they refuse.
28. Each witness explains that the low pay and irregular working hours in the industry have caused them to consider leaving the disability services industry. This is undesirable when the disability workforce is growing so rapidly and struggling to attract staff.

Expert evidence

29. We also rely on the Report of Olav Muurlink entitled '*Predictability and control in working schedules*' filed in the Part-time Work Common Issue on 14 July 2016.¹⁷ We also rely on paragraphs 59 top 71 of the joint submissions ASU, Health Services Union ('**HSU**') and United Voice filed in the Part-Time Work Common Issue on 11 November 2016.
30. Dr Muurlink's evidence will demonstrate that working irregular and unsystematic hours, as is permitted by clause 25.6, has a negative effect on the physical and psychological health, and on the social life, of workers and their families and the people they care for.

¹⁷ AM2014/196

Regulation of continuous work in other modern awards

31. The disutility of working broken shifts is recognised by the modern award system generally. The majority of modern awards do not permit broken shifts. It appears that the general position is that ordinary hours of work are worked continuously. Only 18 modern awards provide permit employers to engage employees on 'broken' or 'split' shifts.
32. The SCHDS Award provisions are unique in the flexibility they offer the employer almost complete freedom to roster broken engagements, they do not provide the employee any right to refuse broken shifts, and they do not provide any additional remuneration. Attached at **Annexure A** is a summary of the broken shift provisions in other modern awards.
33. The ASU's variation would ensure that employees are properly compensated for the disability associated with working a broken shift under clause 25.6 without limiting any flexibility for the employer. This will preserve the employer's business models, but will also increase the incentive to work in the disability services. This approach consistent with the decision of the Commission in the *Penalty Rates Decision*, which found that deterrence was not a relevant consideration in setting a penalty rate. Instead, penalties should be set at a rate that compensates for the disutility associated with the work.
34. The ASU notes that the HSU and United Voice have also proposed variations to clause 25.6. The other unions' claims deal with the same problems addressed by the ASU claim but seek to fix the problem in different ways. Rather than providing a loading to compensate for the disability arising from the clause, they seek to impose restrictions on how broken shifts may be worked. If the Commission is not minded to make the variations proposed by the ASU, we would support either one of the variations proposed by the other unions. The other union's proposals would bring the SCHDS Award into line with the standard set by most other modern awards.

COMMUNITY LANGUAGE ALLOWANCE

35. The ASU has proposed a variation to the SCHDS Award to provide a community language allowance Culturally and Linguistically Appropriate Services ('**CLA**') to remunerate employees when they use a language other than English in the course of their duties.

The proposed variation

36. This variation would:

- a. Recognise and endorse the fundamental principles of the ERO which recognise equal pay for equal work in the social and community services sector
 - b. Better position community sector organisations to meet the policy challenge of ensuring access and equity for Australia's culturally and linguistically diverse population
 - c. Assist in the provision of the highest standard of effective professional communication, programmes and services that are responsive to the needs of all Australians
 - d. Be an efficient and effective use of limited resources in the community sector, allowing less reliance upon external translators and interpreters
 - e. Be capacity building for the community sector workforce, which is currently the fastest growing sector in the country.
37. Australia is one of the most diverse societies in the world. Almost one in four Australian residents were born outside of Australia and many more are first or second generation Australians, the children and grandchildren of recently arrived migrants and refugees. These wide varieties of backgrounds, together with the culture of Indigenous Australia, have helped create a uniquely Australian identity. Many people in our society speak one or more languages other than English and use those languages in their working lives.
38. The ASU's proposed variation promotes flexible modern work practises and the efficient and productive performance of work, by attracting skilled staff to the social and community sector and thus reducing the costs associated with the sector's reliance on interpreters. It addresses the needs of the low paid by providing additional remuneration to low paid workers and promotes equal remuneration for work of equal value. Unless the award is varied in the manner proposed by the ASU, it will not provide a fair and relevant safety net.

Language skills are vital to the industry, but are not remunerated

39. The ability to communicate in more than one language is a skill that is highly sought after in potential employees in the social and community sector. This skill is often enhanced by a deep understanding of cultural issues associated with the language(s) in which the employee is proficient. Because of the nature of the work that is done by employees in the community sector, it is therefore very common for organisations to seek to employ people who are bilingual, even if the advertised position description to be filled does not specify a requirement for this skill. The use of language skills is not contemplated

by the classifications of the award. It is therefore not compensated for in the base rates of pay provided by the Award and ERO.

40. The evidence of Ruchita and Nadia Saleh will describe the important of using community languages in the social and community sector.

Bilingual workers are valued by employers

41. Employers in the social and community sector actively seek out bi-lingual workers to ensure that they can service their diverse communities. Engaging bilingual workers is more efficient and cost-effective than using translation services or fee-for-service interpreters. However, these valuable skills are not rewarded by employers who are constrained by their funding arrangements. These funding arrangements are set by reference to the modern award.
42. The value of bilingual workers in the community sector is recognised as providing a superior professional service to clients and the community, particularly where a community organisation works with complex and traumatised clients and communities. In these instances, the establishment of a professional counselling and/or trusting relationship is essential. Particular issues arise in regional and remote communities and in small or isolated communities where clients and the community may not trust 'outsiders' or there may be political or other cultural issues that mean an interpreter will be rejected by the client.
43. Community organisations make extensive use of professional interpreters and translators to assist people who find themselves unable to communicate effectively with essential community services. These interpreters and translators are professionally qualified and adhere to professional standards and guidelines. Most community organisation access interpreters through external interpreting services or by engaging individual interpreters on a fee for service or casual basis.
44. The evidence of Nadia Saleh and Lou Bacchiola will show that bilingual workers are sought after by social and community sector employers because they are the most efficient way to deliver services to culturally and linguistically diverse communities.

Alternatives to using bilingual workers

45. While there are times where professional interpreters and translators must be used, it is a far more efficient for social and community sector organisations to utilise bilingual staff for much of their work. Interpreters are expensive. The availability of appropriate bilingual workers in an organisation means

that funds used to pay for interpreters could be directed towards the delivery of programs to the community. Further, it is often time consuming, or even impossible, to arrange a professional interpreter for a meeting or appointment.

46. In many circumstances it is undesirable to use an interpreter, because they are not usually specially trained social and community workers. They often lack the qualifications and experience required for social and community sector work. Sometimes this also means that interpreters often lack the commitment to the values and principles of all the organisations that employ them. Bilingual social and community service workers will hold appropriate qualifications and have an understanding and commitment to the values of their organisation.
47. Further, while interpreters are well trained and qualified in their own profession, they cannot reasonably be expected to have the same qualifications and experience as professional counsellors and others who often work with highly complex and traumatised clients. Greater use of bilingual professional community workers would mean that professional interpreters and translators would not be forced to deal with the high level of traumatic work that is currently undertaken, for which they are unsuited.
48. Nadlia Saleh and Lou Bacchiella report that the alternative to bilingual workers is to use fee for service interpreters or translating services. While they are suitable in some circumstances, interpreters are poorly suited to casework. The costs of interpreters are significant and that government puts the burden of funding interpreters on the service.
49. In the community sector, it is also very common for organisations to find ways to work around the inconvenience and expense of using interpreters. This is often because it is time consuming, inconvenient and expensive to book and pay for a professional person to assist. It may also be because the client declines or refuses to utilise an interpreter. This could be for many reasons, including perceived political or confidentiality issues which often arise in some communities.
50. It is common for family and other community members to be asked to assist clients. Sometimes, unqualified employees who speak a required language, such as administrative staff, are asked to interpret. These arrangements, where untrained and unqualified people are asked to interpret for clients who may be experiencing serious trauma or other very personal and sensitive issues can be very traumatic for both the client and the worker concerned. This is an entirely inappropriate arrangement, which has negative outcomes for both clients and their informal translators.

51. Nadiah Saleh and Ruchita will give evidence regarding the issues with using community and family members as translators. Lou Bacchiella will give evidence about his attempts to limit use of unqualified staff for casework.

Capacity building in the Social and community sector

52. Employers in the social and community sector report difficult finding adequately skilled staff. The evidence of Lou Bacchiella will show that employers require qualified staff with the relevant community language skills for the efficient running of their organisation.

53. The community sector, which includes aged care services and disability services, is the fastest growing sector in the Australian workforce. Providing a CLAS system in the community sector equal to that paid to government employees would enhance opportunities for the sector to attract the best possible employees as potential employees make a decision whether to work in the community sector or for government. Payment of a CLAS would also be capacity building for the community sector as current and potential bilingual employees undertake additional training and skills development that would enable them to be eligible for payment of the community languages allowance.

54. Lou Bacchiella will give evidence that he has trouble recruiting and retaining staff because of competition with government. Government can offer better pay and conditions, including a community language allowance. Lou Bacchiella will also give evidence that the reason he cannot offer his staff additional remuneration for using their community language skills because he is not funded to offer anything other than the modern award pay and conditions. He also gives evidence that if the SCHDS Award were varied, his funders would be obliged to adjust their funding to reflect the change.

55. Being Culturally and Linguistically Diverse is a barrier to accessing essential services as the evidence of Lou Bachiella demonstrates. One such service is the National Disability Insurance Scheme ("NDIS"). Workers in the NDIS are covered by the SCHDS Award. A report commissioned by Family and Community Services ("FACS") and Aging Disability and Home Care ("ADHC") and completed by Settlement Services International makes clear that the lives of people with a disability would be improved if there more access to community language speakers in the NDIS, both at the assessment stage and support stage. It is acknowledged in the report that there is a lack of cultural competency within organisations that provide support under the NDIS (at 4.2 pg 36). Lou Bachiella's evidence confirms that attracting suitably qualified staff would be easier if there was financial enticement for workers with this skill set see **Annexure B**.

CONCLUSION

56. The ASU's proposed variation is necessary for the SCHDS Award to achieve the modern awards objective. Community language skills are essential to the function of the industry. However, qualified and skilled workers are not attracted to the industry because of the unfavourable conditions and low pay. The majority of the industry relies on the SCHDS Award to set their pay and conditions. Employers cannot offer this entitlement through bargaining or individual contracts, because the labour cost component of their funding is calculated based on the conditions of the SCHDS Award.

ANNEXURE A

	Award	General Position	Notes
1.	AGED CARE	Clause 59	<ul style="list-style-type: none"> • Only where agreed • Only for part time and casual workers • Overtime and penalties may be payable : <ul style="list-style-type: none"> • not <i>because</i> its a broken shift, only because of the hours that might be worked as part of it; and, separately • if the span of hours over the broken shift is more than 12 • If there are broken shifts 2 days in a row, there must be 10 hours between the end of one and the start of the next
2.	SECURITY SERVICES	Clause 64 defines and permits it, clauses 33 & 39 provide an allowance	<ul style="list-style-type: none"> • Can only be broken in two • Must be at least 3 working hours on <i>each</i> side of the break • An allowance is payable
3.	EDUCATIONAL SERVICES (SCHOOLS) GENERAL STAFF	Clause 68 defines, permits and prescribes entitlements. Clause 60, 66 & 69 create consequential exceptions to other entitlements/restrictions.	<ul style="list-style-type: none"> • Can only be broken in two • Employees (other than casuals) entitled to minimum pay of 2 hours on <i>each</i> side of the break • 15% penalty rate payable (but not for casuals)

	Award	General Position	Notes
			<ul style="list-style-type: none"> • Overtime is payable if the span of hours over the broken shift is more than 12
4.	CLEANING SERVICES	Clause 34 defines and creates an allowance. Clause 71 allocates tea breaks.	<ul style="list-style-type: none"> • Can only be broken in two • Break between periods of work must be at least an hour • (subject to the above) Spread of hours must be no more than 13 • allowance is payable • entitled to paid morning and afternoon tea breaks
5.	FITNESS INDUSTRY	Clause 51 defines and creates conditions. Some conditions repeated in clause 14. Clause 33 creates an allowance.	<ul style="list-style-type: none"> • Can only be broken in two • Total length must be at least three hours (e.g. 1.5 at the start and 1.5 at the end) • Span of hours must be 12 or less • An allowance is payable
6.	SOCIAL, COMMUNITY, HOME CARE & DISABILITY SERVICES	Clause 81 defines and creates conditions.	<ul style="list-style-type: none"> • Only applicable to some categories of workers covered by the award, and only when some are performing particular kinds of work • Unlimited number of breaks in the shift (e.g. can be more than 2 working periods) • Span of hours must be not more than 12, if it is then payable at double time

	Award	General Position	Notes
			<ul style="list-style-type: none"> • Other penalties & overtime might be available, not <i>because</i> it is broken shift but because of when the hours are worked. • 10 hours break between broken shifts on successive days
7.	CHILDREN'S SERVICES	Clause 35 vaguely defines and creates an allowance	<ul style="list-style-type: none"> • Allowance is payable “where an employee works two separate shifts in a day” • Note the concept of working two separate shifts in a day is at odds with the description of ordinary hours given in clause 53.1
8.	ABORIGINAL COMMUNITY CONTROLLED HEALTH SERVICES	Undefined, but clause 57 provides some overtime for broken shifts and presumes they may be rostered.	<ul style="list-style-type: none"> • Time and half if the period extends beyond 9 hours • Double time if the period extends beyond 12 hours
9.	PASSENGER VEHICLE TRANSPORTATION	Defined in clause 3.1. Permitted in clause 51.4. Allowance for some employee in clause 51.5. Minimum engagement for some employees.	<ul style="list-style-type: none"> • Only two portions of work permitted • Unpaid break of more than 60 minutes is part of definition. • Definition interacts with spreads of hours permitted in State & Territory legislation. • Waiting time allowance for some employees • Appears that only casuals

	Award	General Position	Notes
			transporting schoolkids gets minimum engagement payment (2 hours) either side
10.	REGISTERED AND LICENSED CLUBS	Not defined. Allowance payable to some employees.	<ul style="list-style-type: none"> • Allowance payable (but not for casual employees, or some managerial employees on salaries)
11.	HOSPITALITY INDUSTRY GENERAL	Not defined. Allowance payable, overtime may be payable	<ul style="list-style-type: none"> • Allowance payable, depending on the length of the break between shifts • Casuals not entitled to the allowance • Spread of hours can be no greater than 12 (but these restrictions don't apply to casual employees) or else overtime is payable.
12.	MINING INDUSTRY	Not defined. Allowance available for some.	<ul style="list-style-type: none"> • Clause 43(ii) provides an allowance for some employees. • Note that shiftworkers must work "consecutive" hours, the word absent in the provision relating to non-shiftworkers.
13.	RESTAURANT INDUSTRY	Not defined. An allowance payable, but not to casual employees. Overtime entitlements might apply to Full Time workers as well, but this is unclear.	<ul style="list-style-type: none"> • No restriction on how many breaks in the work day • Unclear whether for full timers there is an outright prohibition on the spread of a broken shift being over 12 hours, or whether

	Award	General Position	Notes
			<p>this attracts overtime (interplay between 60 & 65(a)).</p> <ul style="list-style-type: none"> • Overtime might come from rest period prescriptions (but this happens whether or not there is a broken shift).
14.	ANIMAL CARE AND VETINARY SERVICES	Not defined. An allowance is payable	<ul style="list-style-type: none"> • Allowance contemplates shifts being broken into more than two, with allowance payable for all but the first shift. • Hours of work clause for dayworkers says that hours must be worked continuously. Shiftwork clause is silent on the issue. • Predecessor NSW NAPSA had a separate category of workers called “broken shift workers”.
15.	HIGHER EDUCATION INDUSTRY (GENERAL STAFF)	Not defined, but an allowance is payable to some employees. Rostering provisions very flexible, with only real restriction being the span of hours.	<ul style="list-style-type: none"> • Allowance is payable to the only categories of workers (outside of shiftwork who are permitted to be rostered for ordinary hours on weekends.
16.	BUILDING AND CONSTRUCTION INDUSTRY (GENERAL) ON SITE	Specific definition, appears to relate to an entirely different issue arising from shiftwork	<ul style="list-style-type: none"> • Penalty rates are payable for some shiftworkers in some sub-sectors, but seems to deal with situations where insufficient work is provided.
17.	SUGAR INDUSTRY	Not defined. For non-shiftworkers,	<ul style="list-style-type: none"> • Appears prohibited for non-

	Award	General Position	Notes
		ordinary hours are required to be worked continuously. Ordinary hours for shiftworkers prescribe only 1 in each 24 hours, else overtime is payable. Broken shifts prohibited for shiftwork during the “crushing season”. Silent re the “slack season”	<p>shiftworkers</p> <ul style="list-style-type: none"> • Attracts overtime for shiftworkers, but not permitted at all for shiftwork during the “crushing season”.
18.	MEDICAL PRACTITIONERS	Not defined. Prohibited for one class of employees, silent re others. No positive stipulation of “consecutive” or “continuous” hours for any class of employee.	<ul style="list-style-type: none"> • Prohibited in relation to doctors in training. • Otherwise silent

AGED CARE AWARD

59. Broken shifts

With respect to broken shifts:

(a) Broken shift for the purposes of this clause means a shift worked by a casual or permanent part-time employee that includes breaks (other than a meal break) totalling not more than four hours and where the span of hours is not more than 12 hours.

[22.8(b) varied by PR995161 ppc 23Mar10]

(b) A broken shift may be worked where there is mutual agreement between the employer and employee to work the broken shift.

[22.8(c) varied by PR994419 from 01Jan10]

(c) Payment for a broken shift will be at ordinary pay with penalty rates and shift allowances in accordance with clauses 65—Overtime penalty rates and 73—Shiftwork, with shift allowances being determined by the commencing time of the broken shift.

(d) All work performed beyond the maximum span of 12 hours for a broken shift will be paid at double time.

(e) An employee must receive a minimum break of 10 hours between broken shifts rostered on successive days.

SECURITY SERVICES AWARD

33. Wage related Allowances

Allowance	Payable	% of standard rate
Broken Shift	Per broken shift	1.62

39. Broken shift allowance

A broken shift allowance is payable to an employee who is required to work a rostered shift in two periods of duty (excluding crib breaks).

64. Broken shifts broken

Employees may be rostered to work ordinary hours in up to two periods of duty, exclusive of crib breaks, per day, with a minimum payment of three hours for each period of duty.

EDUCATIONAL SERVICES (SCHOOLS) GENERAL STAFF

60. Breaks between periods of duty

(a) An employee will be entitled to a minimum break of 10 consecutive hours between the end of one period of duty and the beginning of the next. This applies in relation to both ordinary hours and where overtime is worked.

(b) Where an employer requires an employee to continue or resume work without having a 10-hour break off duty, the employee is entitled to be absent from duty without loss of pay until a 10-hour break has been taken, or be paid at 200% of the ordinary rate of pay until released from duty.

(c) The entitlements in clauses 60.1(a) and (b) do not apply to:

(i) a boarding supervision services employee, where the periods of duty are concurrent with a sleepover; [22.5(c)(ii) substituted by PR575283]

(ii) an employee who is provided with accommodation on the employer's premises or in the vicinity of the employer's premises at no cost to the employee;

(iii) an employee who is attending a school camp or excursion; or

(iv) an employee working a broken shift.

65. Shiftwork

66. Ordinary hours for shiftwork

The ordinary hours for shiftwork will:

(a) be worked continuously each shift (except for broken shifts and meal breaks);

(b) not exceed 10 hours, inclusive of a meal break in any single shift; and

(c) be rostered in accordance with clause 70.

68. Broken shifts

(a) An employee may be rostered to work ordinary hours in a broken shift, that is a rostered shift in two periods of duty, exclusive of breaks, per day, with a minimum payment (other than for a casual) of two hours for each period of duty.

(b) An employee, other than a casual, required to work a broken shift will be paid at the ordinary time rate plus a penalty of 15% of the ordinary time rate.

(c) The maximum spread between the start of the first period of duty and cease of the second period of duty for a broken shift is 12 hours. Any hours in excess of this 12 hour spread will be paid for as overtime.

69. The provisions of clause 68.1(c) do not apply to a boarding supervision services employee who is provided with reasonable accommodation including living quarters, fuel and light, and available to the employee for their exclusive use for 52 weeks of the year, at no cost to the employee.

CLEANING SERVICES

34. Broken shift allowance

[17.1 substituted by PR543432 ppc 21Oct13]

An employee who works a broken shift will be paid an allowance of 0.458% of the standard rate per day up to a maximum of 2.29% of the standard rate per week. For the purposes of this award a broken shift is a shift where an employee works in two separate periods of duty on any day within a maximum spread of thirteen 13 hours and where the break between periods exceeds one hour.

71. Non-shift workers

[26.2 replaced by PR502506 ppc 06Oct10]

Non-shift workers are entitled to an unpaid meal break of not less than 30 minutes, and not more than one hour. An employee will not be required to work for more than four and one half hours without a meal break, except in cases of emergency, when the time may be extended to five hours. All day workers and broken shift workers are entitled to a 10 minute paid morning tea break and a 10 minute paid afternoon tea break.

FITNESS INDUSTRY

14. Part-time employment

14.1 A part-time employee is an employee who:

- (a) works less than the full-time hours of 38 hours per week;
- (b) has reasonably predictable hours of work; and
- (c) receives, on a pro rata basis, equivalent pay and conditions to those of full-time employees who do the same kind of work.

14.2 At the time of engagement the employer and the part-time employee will agree in writing on a regular pattern of work, specifying at least the hours worked each day, which days of the week the employee will work and the actual starting and finishing times each day.

14.3 Any agreed variation to the hours of work will be recorded in writing.

14.4 An employer is required to roster a part-time employee for a minimum of three consecutive hours on a shift or a minimum of three hours, exclusive of meal breaks, on a broken shift.

14.5 An employee who does not meet the definition of a part-time employee and who is not a full-time employee will be paid as a casual employee in accordance with clause 15—Casual employment.

14.6 All time worked in excess of the hours as agreed under clause 14.2 or varied under clause 14.3 will be overtime and paid for at the rates prescribed in clause 57—Overtime and penalty rates.

14.7 A part-time employee employed under the provisions of this clause must be paid for ordinary hours worked at the rate of 1/38th of the weekly rate prescribed in clause 24—Minimum wages for the work performed.

33. Broken shift allowance

[18.4 varied by PR998115, PR523076, PR536879, PR551802 ppc 01Jul14]

An employee working a rostered broken shift must be paid per day 1.7% of the standard rate extra and for excess fares \$1.89 extra.

51. Ordinary hours of work and rostering

51.1 The ordinary hours of work for a full-time employee must not exceed an average of 38 hours per week over a period of four weeks. Such hours may be worked over any five days of the week, between the hours of:

- (a) 5.00 am and 11.00 pm, Monday to Friday; and
- (b) 6.00 am and 9.00 pm, Saturday and Sunday.

51.2 The ordinary hours of work for a full-time or part-time employee must not exceed 10 hours on any one day.

51.3 An employee may be rostered to work a broken shift on any day provided that:

- (a) the shift is not broken into more than two parts;
- (b) the total length of the shift is not less than three hours, exclusive of meal breaks; and
- (c) the span of hours from the start of the first part of the shift to the end of the second part of the shift is not more than 12 hours.

broken

SOCIAL, COMMUNITY, HOME CARE & DISABILITY SERVICES

81. Broken shifts

[25.6 varied by PR995399 ppc 26Mar10]

This clause only applies to social and community services employees when undertaking disability services work and home care employees.

(a) A broken shift means a shift worked by an employee that includes one or more breaks (other than a meal break) and where the span of hours is not more than 12 hours.

[25.6(b) substituted by PR531544 ppc 21Nov12]

- (b) Payment for a broken shift will be at ordinary pay with penalty rates and shift allowances in accordance with clause 99—Shiftwork, with shift allowances being determined by the finishing time of the broken shift.
- (c) All work performed beyond the maximum span of 12 hours for a broken shift will be paid at double time.
- (d) An employee must receive a minimum break of 10 hours between broken shifts rostered on successive days.

CHILDREN'S SERVICES

35. Broken shift allowance

Where an employee works two separate shifts in a day, they will be paid an allowance of 1.91% of the standard rate per day for each day on which a broken shift is worked.

ABORIGINAL COMMUNITY CONTROLLED HEALTH SERVICES

57. Overtime rates

57.1 The following overtime rates will be paid for all work done:

- (a) in excess of the number of hours fixed as a day's, a week's or a fortnight's work as the case may be—time and a half for the first two hours and double time thereafter;
- (b) outside the span of hours in clause 53.1—time and a half for the first two hours and double time thereafter;
- (c) outside a spread of nine hours from the time of commencing work by an employee rostered to work broken shifts—time and a half; and
- (d) outside a spread of 12 hours from the time of commencing work by an employee rostered to work broken shifts—double time.

PASSENGER VEHICLE TRANSPORTATION

3.1 In this award, unless the contrary intention appears:

...

broken shift means a shift with a spread of hours permitted under the relevant State or Territory driving hours legislation and with an unpaid break of greater than 60 minutes between the two portions of work

16. Casual employment

- (a) A casual employee is an employee engaged as such and paid by the hour.
- (b) An employer must wherever practicable notify a casual employee if their services are not required the next working day.
- (c) A casual employee while working ordinary hours must be paid on an hourly basis 1/38th of the appropriate weekly wage rate prescribed by the award, plus 25% of ordinary time earnings for the work performed.
[10.5(d) corrected by PR598965 ppc 01Jan18]
- (d) A casual employee is to be paid a minimum payment of three hours pay for each shift.
[10.5(e) inserted by PR598502 ppc 01Jan18]
- (e) A casual employee solely engaged for the purpose of transportation of school children to and from school may be rostered to perform one engagement or two separate engagements per day, with a minimum payment of two hours for each separate engagement.

51.4 All known rostered duty, which may include broken shifts and days off, must be displayed at least seven days prior to the commencement of such duty. Changes to the roster, including alterations to days off, must be displayed at least 24 hours in advance and the employee must be notified. Any changes for which less than 24 hours' notice has been given must be agreed to by the employee.

[21.5 substituted by PR538349 ppc 01Aug13]

51.5 An employee who is engaged as a coach driver or a bus driver on a single day charter may have a rostered shift divided into two working periods with no requirement to return to the depot during a rostered shift. Such an employee will be paid waiting time at the rate of 50% of the ordinary rate of pay plus any

applicable penalty or loading, provided that the waiting time so paid for will not be taken into account in the computation of hours for overtime purposes.

REGISTERED AND LICENSED CLUBS

66. Allowance for disabilities associated with the performance of particular tasks or work in particular conditions or locations—broken periods of work

An employee (other than casual) who is required to work any of their ordinary hours on any day in more than one period of employment, other than for meal breaks as prescribed in accordance with the provisions of clause 77—Meal breaks, will be paid an allowance of 0.4% of the standard weekly rate per day, for such broken work period worked.

HOSPITALITY INDUSTRY GENERAL

63. Broken periods of work

[21.3(a) substituted by PR994455 from 01Jan10]

Employees other than casuals who have a broken work day must receive an additional allowance as follows: where the time between periods of work is two hours and up to three hours—an allowance per day equal to 0.33% of the standard weekly rate; or

where the time between periods of work is more than three hours—an allowance per day equal to 0.5% of the standard weekly rate.

98. Entitlement to overtime rates

(a) A full-time employee is paid at overtime rates for any work done outside of the hours set out in clause 80—Ordinary hours of work.

[33.2(b) substituted by PR598473 ppc 01Jan18]

(b) A part-time employee is paid at overtime rates in the circumstances specified in clause 15.8.

82. Part-time employees

[29.2 varied by PR598473 ppc 01Jan18]

A part-time employee's rostered hours of work under clause 15.5 must meet the following conditions:

(a) A minimum of three hours and a maximum of 11 and a half hours may be worked on any one day. The daily minimum and maximum hours are exclusive of meal break intervals.

(a) An employee cannot be rostered to work for more than 10 hours per day on more than three consecutive days without a break of at least 48 hours immediately following.

(b) No more than eight days of more than 10 hours may be worked in a four week period.

(c) Where broken shifts are worked the spread of hours can be no greater than 12 hours per day.

15. Part-time employment

...

15.8 All time worked in excess of:

(a) 38 hours per week or, where the employee works in accordance with a roster, an average of 38 hours per week over the roster cycle; or

(b) the maximum hours limitations specified in clause 82; or

(c) the employee's rostered hours;

will be overtime and paid for at the rates prescribed in clause 99—Overtime rates.

80. Ordinary hours of work (Full-time and part-time employees)

[29—Ordinary hours of work renamed as Ordinary hours of work (Full-time and part-time employees) and substituted by PR540249; corrected by PR540578; varied by PR598473]

81. Full-time employees

(a) The average of 38 hours per week is to be worked in one of the following ways:

a 19 day month, of eight hours per day;

four days of eight hours and one day of six hours;

four days of nine and a half hours per day;

five days of seven hours and 36 minutes per day;

152 hours each four week period with a minimum of eight days off each four week period;

160 hours each four week period with a minimum of eight days off each four week period plus a rostered day off;

any combination of the above.

(b) The arrangement for working the average of 38 hours per week is to be agreed between the employer and the employee from the alternatives in clause 81(a) and must meet the following conditions:

(i) A minimum of six hours and a maximum of 11 and a half hours may be worked on any one day. The daily minimum and maximum hours are exclusive of meal break intervals.

(ii) An employee cannot be rostered to work for more than 10 hours per day on more than three consecutive days without a break of at least 48 hours immediately following.

(iii) No more than eight days of more than 10 hours may be worked in a four week period.

(iv) Where broken shifts are worked the spread of hours can be no greater than 12 hours per day.

MINING INDUSTRY

43. Drilling, prospecting and exploration allowances

[14.3(d) renumbered as 14.3(c) by PR561478 ppc 05Mar15]

The following allowances apply only to employees who are required to perform drilling, prospecting and exploration duties.

....

- (i) Employees who are classified as cooks and cooks assistants will be paid an all purpose allowance of 1.07% of the standard rate per week, whilst they are required by their employer to work broken shifts.

55. Ordinary hours of work

[Varied by PR992071 from 01Jan10; 17 renumbered as 18 by PR545968 ppc 01Jan14]

55.1 A full-time employee's ordinary hours of work will be an average of 38 hours per week. The ordinary hours of part-time and casual employees will be in accordance with clause 14—Types of employment.

56. Employees other than shiftworkers

(a) Subject to clause 56.1(c) employees, other than shiftworkers, may be required to work up to 10 ordinary hours per day, between the hours of 6.00 am and 6.00 pm, Monday to Sunday.

(b) An employer may agree with a majority of affected employees to alter the spread of hours in clause 56.1(a) and/or to increase the ordinary hours per day to a maximum of 12.

(c) Where employees were required to work 12 hour shifts under roster and working hours arrangements which were in place before 1 January 2010 those arrangements may continue to operate in respect to both existing employees and new employees.

57. Shiftworkers

(a) Subject to clause 57.1(c) shiftworkers may be required to work a shift of up to 10 **consecutive** ordinary hours (including meal breaks). Shiftwork may be worked on any or all days of the week.

(b) An employer may agree with a majority of affected employees to alter the spread of hours in clause 57.1(a) and/or to increase the ordinary hours per day to a maximum of 12.

(c) Where employees were required to work 12 hour shifts under roster and working hours arrangements which were in place before 1 January 2010 those arrangements may continue to operate in respect to both existing employees and new employees.

RESTAURANT INDUSTRY

43. Split shift allowance

[24.2 substituted by PR994479 from 01Jan10]

Full-time and part-time employees who have a broken work day will receive an additional allowance of 0.5% of the weekly standard rate for each separate work period of two hours or more.

60. Spread of hours

Where broken shifts are worked the spread of hours can be no greater than 12 hours per day.

61. Minimum break between shift

The roster for all employees other than casuals will provide for a minimum 10 hour break between the finish of ordinary hours on one day and the commencement of ordinary hours on the following day. In the case of changeover of rosters, eight hours will be substituted for 10 hours.

59. Hours of work

59.1 The hours of work of a full-time employee are an average of 38 per week over a period of no more than four weeks.

59.2 The arrangement of ordinary hours must meet the following conditions:

...

(d) an employee must be given a minimum break of 10 hours between the finish of ordinary hours of work on one day and the commencement of ordinary hours of work on the next day. In the case of a changeover of rosters the minimum break must be eight hours;

64. Overtime

[Varied by PR585805, PR598487]

65. Requirement to pay overtime rates

[33.1 substituted by PR598487 ppc 01Jan18]

(a) Full-time employees shall be paid at overtime rates for any work done outside of the **spread of hours** or rostered hours set out in clause 59—Hours of work.

(b) Part-time employees shall be paid at overtime rates in the circumstances specified in clause 15.8.

(c) Casual employees shall be paid at overtime rates in the circumstances specified in clause 16.5.

15. Part-time employment

....

15.8 All time worked in excess of:

(a) 38 hours per week or, where the employee works in accordance with a roster, an average of 38 hours per week over the roster cycle; or

(b) the maximum hours limitations specified in clause 59.2; or

(c) the employee’s rostered hours;

will be overtime and paid for at the rates prescribed in clause 66—Overtime rates.

ANIMAL CARE AND VETINARY SERVICES

39. Broken shift allowance

[16.2(b) substituted by PR539252 ppc 22Jul13]

Where an employee is required to carry out their ordinary hours of duty in more than one shift, the employee will be paid 1.60% of the standard rate, per shift so worked. This is to be paid only once per 24 hour period.

62. Span of hours—day work

(a) The ordinary hours of work will be between 6.00 am and 9.00 pm Monday to Sunday.

(b) The ordinary hours of work are to be worked continuously, except for meal breaks, at the discretion of the employer. The spread of hours may be altered by agreement between the employer and the individual employee.

HIGHER EDUCATION INDUSTRY (GENERAL STAFF)

51. Ordinary hours and spread of ordinary hours

Ordinary hours may be worked in a manner agreed over a four week cycle.

Category of staff employees	Ordinary hours	Spread of hours (non shiftworkers)
...
Catering and retail staff	38	6.00 am – 7.30 pm Monday – Sunday
Security staff	38	6.00 am – 6.00 pm Monday – Sunday

Schedule K —Allowances

....

The following additional allowances apply to certain trades and services staff only as specified in the following table, subject to the terms in the table:

Allowance	Staff Category	Rate	Application
...
Broken shift	Catering and retail staff; and security staff	0.28% of SR per day to a maximum of 1.38% of SR per week	When an employee is required to work shift in two periods of duty

BUILDING AND CONSTRUCTION INDUSTRY (GENERAL) ON SITE

200. Shiftwork

[34.1(a) substituted by PR538792 ppc 15Jul13]

201. General building and construction and metal and engineering construction sectors

(a) Definitions

For the purposes of this clause:

afternoon shift means a shift commencing at or after 1.00 pm and before 3.00 pm

night shift means a shift commencing at or after 3.00 pm and before 11.00 pm

morning shift means a shift commencing at or after 4.30 am and before 6.00 am

early afternoon shift means a shift commencing on or after 11.00 am and before 1.00 pm.

[34.1(b) substituted by PR538792 ppc 15Jul13]

(b) When an employee is employed continuously (inclusive of public holidays) for five shifts Monday to Friday, the following rates will apply:

(i) afternoon and night shift— ordinary time hourly rate plus 50%;

(ii) morning and early afternoon shifts— ordinary time hourly rate plus 25%.

(c) Where a job finishes after proceeding on shiftwork for more than five consecutive days or the employer terminates the employee's services during the week, the employee must be paid at the rate specified in clause 201.1(b) for the time actually worked.

(d) In the case of broken shifts (i.e. less than 38 ordinary hours worked over five consecutive shifts Monday to Friday) the rates prescribed will be time and a half for the first two hours and double time thereafter.

[34.1(e) substituted by PR538792 ppc 15Jul13]

.....

SUGAR INDUSTRY

(in the section dealing with workers other than shiftworkers)

105. Altering spread of hours

The ordinary hours of work are to be worked continuously, except for meal breaks, at the discretion of the employer. The spread of hours may be altered by up to one hour at either end of the spread by agreement between an employer and the majority of employees concerned or, in appropriate circumstances, between the employer and an individual employee.

(in the section dealing with shift workers)

125. Nominal crushing season—shiftwork

[32.8(a) varied by PR542207 ppc 04Dec13]

(a) The ordinary working hours in the nominal crushing season must not exceed 40 in any one week or eight in any one day, which may be worked in accordance with a roster system as mutually agreed upon between the employer and the majority of employees directly affected, or as approved by the Fair Work Commission. Provided that with agreement between the employer and the majority of employees directly affected, shifts of more or less than eight hours may be worked. The working of broken shifts or six hour shifts in mills is prohibited.

(b) In mills where locomotive drivers, their assistants and weighbridge clerks are working two shifts, such shifts may be worked between 6.00 am and 2.00 pm and between 2.00 pm and 10.00 pm or such other roster as mutually agreed upon between the employer and the majority of employees directly affected.

126. Nominal slack season—shiftwork

The ordinary working hours for shiftworkers in the nominal slack season must not exceed 40 in any one week or eight in any one day, provided that with agreement between the employer and the majority of employees directly affected, shifts of more or less than eight hours may be worked.

- (a) For employees other than seasonals and also other than those deemed to be seasonals, the ordinary working hours must be worked in accordance with an agreed roster which will provide for nine ordinary working days or 72 ordinary working hours per fortnight. One day of such two week cycle must be an unpaid rostered day off.
- (b) For seasonal employees the ordinary working hours must be worked in accordance with an agreed roster which will provide for 19 working days or 152 ordinary working hours per four week cycle. One day of such four week cycle must be an unpaid rostered day off.
- (c) The agreed rosters provided for must provide for a rostered day off on a Monday, or if agreed between the employer and employees at a particular mill, on a Friday.
- (d) If a rostered day off falls on a public holiday, the rostered day off must be taken on the next ordinary working day.
- (e) Rostered days off may, by agreement between the employer and the majority of employees directly affected, be accrued up to a maximum of six rostered days off, which must be taken within 12 calendar months of the date on which the first rostered day off was accrued, at a time or times agreed between the employer and the employees directly affected.
- (f) Employees terminated prior to taking any banked rostered day(s) off must receive one fifth of average weekly pay over the previous six months multiplied by the number of banked substitute days.

MEDICAL PRACTITIONERS

72. Shift length—Doctors in training

- (a) No shift will be less than eight hours in length on a week day or less than four hours in length on Saturday, Sunday or a public holiday.
- (b) No broken or split shifts will be worked.
- (c) All time worked in excess of 10 hours in any one shift will be paid as overtime.