



DRAFT DETERMINATION

Fair Work Act 2009

s.156—4 yearly review of modern awards

4 yearly review of modern awards—Award flexibility

(AM2014/300)

JOURNALISTS PUBLISHED MEDIA AWARD 2010

[MA000067]

Journalism

JUSTICE ROSS, PRESIDENT
DEPUTY PRESIDENT KOVACIC
COMMISSIONER LEE

MELBOURNE, XX XXXX 2018

4 yearly review of modern awards - award flexibility - time off in lieu of payment for overtime.

A. Further to the Full Bench Statement issued by the Fair Work Commission on 6 February 2018¹ the above award is varied as follows:

1. By renaming clause “22—Overtime and penalties” as clause “22—Overtime”.
2. By deleting the words “all time worked” appearing in clause 22.2 and inserting “all time necessary to be worked”.
3. By deleting clause 22.3(b) and inserting the following:
 - (b) time off instead of overtime will be taken as mutually agreed, or by the employer rostering accrued overtime as time off instead, by giving at least 14 days’ notice that the employee is required to take such accrued time off instead. An employee may, under section 65 of the Act, request to take time off at a time or times specified in the request;

Note: If an employee makes a request under section 65 of the Act for a change in working arrangements, the employer may only refuse that request on reasonable business grounds (see section 65(5) of the Act);

¹ [\[2018\] FWCFB 770](#); see also [\[2016\] FWCFB 6178](#), [\[2016\] FWCFB 4579](#), [\[2016\] FWCFB 2602](#), [\[2016\] FWCFB 6333](#), [\[2016\] FWCFB 6591](#) and [\[2016\] FWCFB 4258](#)

4. By deleting the words “at overtime rates” appearing in clause 22.3(c) and inserting “, in the next pay period following those four months, at the overtime rate applicable to the overtime when worked;”.

5. By renumbering clauses 22.4 to 22.6 as 22.6 to 22.8 respectively.

6. By inserting a new clause 22.4 as follows:

22.4 The employer must keep an accurate record of:

- (i) overtime worked and banked as time off in instead of overtime under clause 22.3(a);
- (ii) time taken off as time off instead of overtime under clause 22.3(b);
- (iii) time off instead of overtime that is paid out at overtime rates under clause 22.3(c); and
- (iv) time off instead of overtime that is paid out on termination of employment under clause 22.3(d).

7. By inserting a new clause 22.5 as follows:

22.5 For the purposes of clause 22.4, the records relating to individual employees:

- (a) must be maintained as an employee record; and
- (b) must be accessible (preferably via electronic means) at least upon request, so that the employee can readily confirm how much time off instead of overtime they have accrued, taken or received as payment.

8. By updating the table of contents and cross-references accordingly.

B. This determination comes into operation from XX Month 2018. In accordance with s.165(3) of the *Fair Work Act 2009* this determination does not take effect until the start of the first full pay period that starts on or after XX Month 2018.

PRESIDENT