



IN THE FAIR WORK COMMISSION

AM2014/285

S 156 - Four Yearly Review of Modern Awards - Group 4 Awards

Social, Community, Home Care and Disability Services Industry Award 2010

**SUBMISSION OF THE HEALTH SERVICES UNION
9 NOVEMBER 2018**

1. The Health Services Union (HSU) make these submissions in response to the Report of Justice Ross, dated 30 October 2018 ('the Report').
2. We provide draft variation determinations in Attachment A below.

Health Services Union

ATTACHMENT A

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FAIR WORK COMMISSION

DRAFT DETERMINATION

Fair Work Act 2009

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

Social, Community, Home Care and Disability Services Industry Award 2010

(ODN AM2014/285) MA000100

Health and Welfare

<<PLACE, MONTH, YEAR>>

Review of modern awards to be conducted.

A. Further to the Full Bench decision issued by the Fair Work Commission on DD MM YYYY, the above award is varied

[1] By deleting clause 10.4 (c), and inserting a new clause 10.6:

8.2 The minimum engagement for employees under this award will be 3 hours

[2] By amending the current clause 26 by deleting the following words:

*and the casual loading prescribed in clause **Error! Reference source not found.***

[3] By deleting the current clause 25.6 and replacing it with the following:

25.6 Broken Shifts

- (a) This clause only applies to:
 - (i) social and community services employees when undertaking disability services work; and
 - (ii) home care employees.
- (b) For the purposes of this clause, broken shift means a shift worked by a casual or 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.
- (c) A broken shift may be worked where there is mutual agreement between the employer and employee.

- (d) Payment of a broken shift will be at ordinary pay with an additional loading of 15% for all hours worked.
- (e) In addition to the rates at 14.4(d) penalty rates and shift allowances in accordance with clause 20.2 – Shiftwork and clause 19 – Overtime apply.
- (f) Shift allowances will be determined by the finishing time of the broken shift.
- (g) All work performed beyond the maximum span of 12 hours for a broken shift will be paid at 200% of the minimum hourly rate.
- (h) An employee must receive a minimum break of 10 hours between broken shifts rostered on successive days.

[4] By deleting clause 25.8 – 24 hour care and renumbering clause 25.9 as clause 25.8

[5] By deleting the words ‘a 24 hour care shift pursuant to clause 25.8 or’ in clause 25.7.

[6] By inserting a new provision at clause 20.3 and renumbering the current 20.3-20.9 accordingly

20.3 Damaged clothing allowance

- (i) *Where an employee, in the course of their employment suffers any damage to or soiling of clothing or other personal effects (excluding hosiery), the employer will be liable for the replacement, repair or cleaning of such clothing or personal effects provided immediate notification is given of such damage or soiling.*
- (ii) *This clause will not apply where the damage or soiling is caused by the negligence of the employee.*

[7] By deleting the current clause 20.6 and replacing it with

20.6 Telephone allowance

Where the employer requires an employee to use a mobile phone for any work related purpose, the employer will either:

- (a) provide a mobile phone fit for purpose and cover the cost of any subsequent charges; or
- (b) refund the cost of purchase and subsequent usage charges on production of receipts

[8] By inserting a new clause 26.1:

Saturday and Sunday work

- (a) *Casual employees will receive their casual loading in addition to the Saturday and Sunday rates at clause 26*
- (b) *The rates are:*
 - (i) *in substitution for and not cumulative upon the shift premiums prescribed in clause 29 —Shiftwork; and*
 - (ii) *not applicable to overtime worked on a Saturday or a Sunday.*

[9] By inserting a new clause 34.2(c):

(c) A casual employee will be paid the casual loading under clause 10.4(b) in addition to the public holiday penalty rate at clause 34.2(a)

[10] By inserting a new clause 20.4(c):

First aid refresher

(a) Where an employee is required to maintain first aid certification, the employer will pay full cost of the employee updating their first aid certification by:

- (i) reimbursing the employee's registration and attendance expenses; or
- (ii) paying the registration and attendance costs.

(b) Attendance at first aid refresher courses will be work time and paid as such.

[11] By deleting clause 28.1(b)(iii), and replacing it with the following:

28.1(b)(iii) All time worked by part-time employees which exceeds the hours agreed in clause 10.3(c) will be treated as overtime and paid at the rate of time and a half for the first two hours and double time thereafter, except on Sundays when overtime will be paid for at the rate of double time, and on public holidays at the rate of double time and a half.

B. This determination will come into operation from DD MM YYYY.