



REPORT

Fair Work Act 2009

s.156 – 4 yearly review of modern awards

4 yearly review of modern awards–Award stage–Group 4 awards–

Substantive Issues

(AM2018/13)

AGED CARE AWARD 2010

[MA000018]

JUSTICE ROSS, PRESIDENT

MELBOURNE, 30 OCTOBER 2018

*4 yearly review of modern awards – award stage – group 4 awards – substantive issues –
Aged Care Award 2010*

[1] This report deals with the outcome of a Mention held on Monday 22 October 2018 to deal with the programming of a number of substantive claims to vary the *Aged Care Award 2010*. A transcript of the Mention proceedings is available on the Commission’s website – [Mention](#).

[2] The following organisations were represented at the Mention:

- United Voice
- ABI and NSWBC
- Aged Care Employers
- Leading Age Services
- Aged & Community Services Australia
- AFEI
- Health Services Union
- Australian Nursing and Midwifery Federation

[3] The parties provided further clarification as to the substantive claims they intend to pursue. A revised list of substantive claims is attached to this report (**Attachment A**).

[4] The Unions indicated that they are likely to file 2-3 witness statements in support of their claims and the hearing is expected to take two days. Draft directions are attached (**Attachment B**). Parties seeking to vary the award are to file draft variation determinations by no later than **4.00pm Wednesday 7 November 2018**. A further Mention in respect of the substantive claims in this award will be held on **Friday 9 November at 11am** in Sydney. At the Mention the parties will be asked to confirm that the list of substantive claims at

Attachment A is accurate. Parties will also be invited to comment on the draft directions. Interested parties are encouraged to confer prior to the Mention.

PRESIDENT

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ATTACHMENT A – List of substantive claims in the *Aged Care Award 2010*

United Voice seeks to vary the award by:

- introducing a Telephone allowance;
- amending the Sleepovers clause to allow for a continuous sleepover span of eight hours and amending the Payment for time worked subclause to allow any employee to be paid for all time worked during a sleepover at the prescribed overtime rate with a minimum payment of one hour; and
- amending the Classification Definition (Personal care worker) to replace “is required to hold a relevant Certificate III” with “holds a relevant Certificate III”.

The Health Services Union seeks to vary the award by:

- ensuring that the casual loading, payable in lieu of the paid leave entitlements of ongoing employees, is paid in addition to weekend and public holiday rates;
- ensuring shift allowances are paid when employees are working afternoon or night duty regardless of the day of the week;
- introducing the following allowances: a Telephone allowance; On call/recall allowances; a Reimbursement of costs associated with first aid certificate renewal allowance; a Damaged clothing allowance; and an allowance for employees who are the subject of a unilateral employer-imposed roster change;
- deleting or amending the Broken shift clause to include a minimum engagement period; a new broken shift allowance; and payment of overtime where the broken shift finish time is greater than the daily maximum shift length of 10 hours; and
- increasing the minimum engagement period to 4 hours for part-time and casual employees



DRAFT DIRECTIONS

Fair Work Act 2009

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(AM2018/13)

JUSTICE ROSS, PRESIDENT

SYDNEY, 9 NOVEMBER 2018

*4 yearly review of modern awards – award stage – group 4 awards – substantive issues –
Aged Care Award 2010*

It is directed that:

1. Interested parties are to file in the Commission evidence and submissions in support of their claims on or before **4.00 pm on Friday 18 January 2019**.
2. Interested parties are to file in the Commission evidence and submissions in reply on or before **4.00pm on Friday 15 March 2019**.
3. All submissions must be sent to AMOD@fwc.gov.au.
4. The matter will be heard on 10 and 11 April 2019, in Sydney.

PRESIDENT