



REVISED DRAFT DETERMINATION

Fair Work Act 2009

s.157 – Application to vary a modern award to achieve the modern awards objective

Hospitality Industry (General) Award 2010

(AM2020/_____)

PRESIDENT ROSS

XXXXX

XXXXX

_____ 2020

Award schedule – COVID-19 pandemic

A. Further to the decision [_____] issued by the Full Bench of the Fair Work Commission on _____ 2020, the above award is varied as follows:

1. ~~By inserting Schedule L as follows: In the Table of Contents add a new Schedule L – Award flexibility during the COVID-19 Pandemic.~~
2. ~~Add the following Schedule L to the award:~~

Schedule L – Award flexibility during the COVID-19 Pandemic

L.1 ~~This Schedule L operates from 24³ March 2020 until 30 June 2020. The period of operation can be extended on application. The operation of this Schedule may be extended by a further period of up to 3 months subject to the consent of the Australian Hotels Association and the United Workers Union.~~

L.2 During the operation of ~~this~~ Schedule L, the following provisions ~~will~~ apply:

L.2.1 Classifications and ~~D~~uties

(a) ~~(a)~~ ~~As directed by their employer, where necessary~~ Employees will perform ~~all any~~ duties that are within their skill and competency regardless of their classification under clause 19 ~~Classification~~ and Schedule D ~~Classification Definitions~~, provided that the duties are safe and the employee is licensed and qualified to perform them, ~~where necessary~~.

~~(a)~~(b) Clause 25 ~~Higher~~ duties – will apply to employees engaged on duties carrying a higher rate than their ordinary classification.

L.2.2 Hours of Work - Full-time and Part-time Employees

- (a**b**) Subject to ~~sub~~-clause L.2.2(d), and ~~despite notwithstanding~~-clause 11-Full-time employment and requirements for notice in clause 30.2-Rostering, an employer may direct a full-time employee may to work an average of between 22.8 and 38 ordinary hours per week. ~~The employee will be paid on a pro-rata basis. The arrangements for working ordinary hours in clause 29 will apply on a pro-rata basis. as directed by their employer.~~
- ~~(b)~~ Subject to ~~sub~~-clause L.2.2(c)(d), and ~~notwithstanding despite~~ clause 12.3(a)-Part-time employment, and the requirements for notice in clause 30.2-Rostering, an employer may direct a part-time employee may to work an average of between 60% and 100% of their guaranteed hours per week, or an average of between 60% and 100% of the guaranteed hours per week over the roster cycle. ~~as directed by their employer.~~
- (c) Prior to any employer issuing any direction under ~~sub~~-clause L.2.2(a)(b) or ~~sub~~-clause L.2.2(b)(e), an employer must:
- (i) ~~C~~consult with the ~~relevant affected~~ employee/s in accordance with clause 8A – Consultation about changes to rosters or hours of work and provide as much notice as practicable; and
 - (ii) ~~I~~f the affected employee/s are members of the United Workers Union, notify the United Workers Union of its intention to implement these arrangements. ~~and~~
- ~~(c)~~ ~~An employee given a direction under clause L.2.2(a) or (b) will C~~continue to accrue annual leave and personal leave, and any other applicable accruals under this Award, based on each full-time or part-time employee's ordinary hours of work prior to the commencement of ~~this~~ Schedule L.
- ~~(e)~~ If an employee given a direction under clause L.2.2(a) or (b) takes a period of paid annual leave or personal leave, the payment for that leave will be based on the full-time or part-time employee's ordinary hours of work prior to the commencement of Schedule L.

L.2.3 Annual leave

- (a) Despite clauses 34.3, 34.7, 34.8 and 34.9 (Annual leave), an employer may, subject to considering an employees' personal circumstances, direct ~~thean~~ employee to take annual leave upon with 24 hours' notice.
- ~~(a)(b)~~ Clause L.2.3(a) ~~This~~ does not prevent an employer and an employee agreeing to the employee taking annual leave at any time.

~~(b)(c) During the period of operation of Schedule L an employer and an employee may agree to the employee taking twice as much annual leave at half the rate of pay for all or part of any period of annual leave instead of taking paid annual leave at the rate of pay required by s.90 of the Fair Work Act 1996 (Cth). For the avoidance of doubt, during the period of the operation of this Schedule, any employer and employee may agree to the taking of 'twice as much annual leave at half the rate of pay' as noted in s.55(4) of the Fair Work Act 2009, for all or part of any period of annual leave.~~

L2.4 Dispute Resolution

Any dispute regarding the operation of ~~this~~ Schedule L may be referred to the Fair Work Commission in accordance with Clause 9-Dispute Resolution.

B. This determination comes into effect on ~~24~~²³ March 2020.

PRESIDENT