

From: Karen Doak <Karen.Doak@aruma.com.au>
Sent: Monday, 6 April 2020 1:40 PM
To: Chambers - Ross J <Chambers.Ross.j@fwc.gov.au>
Subject: AM2020/12

Dear Commissioner Ross

Aruma supports the provisional views of the Fair Work Commission in relation to access to unpaid COVID-19 leave.

We would also like to request that consideration be made in relation to other relevant clauses in the SCHADS Award 2010 to enable us to manage our workforce and customer needs in response to COVID-19.

See attached document.

Regards

Karen Doak
Acting HR Director

karen.doak@aruma.com.au | +61 447 311 807

aruma.com.au   



Aruma is a child safe organisation. We would like to acknowledge the Traditional Custodians of the lands, seas, and communities in which we provide our services. We would also like to pay our respects to the Elders past, present and emerging, and the continuing cultural influence they have on Australia.

Proposed amendments to SCHADSI Award 2010

6 April 2020

A. Clause 25.5 Rosters

Proposal - lower the notice required to alter a roster from 7 days to 24/48 hours.

In the COVID-19 environment, we may need to isolate customers and/or employees quickly. We need flexibility with rostering practices.

25.5 Rosters

(a) The ordinary hours of work for each employee will be displayed on a fortnightly roster in a place conveniently accessible to employees. The roster will be posted at least two weeks before the commencement of the roster period.

[25.5(b) substituted by PR700681 ppc 01Oct18]

(b) Rostering arrangements and changes to rosters may be communicated by telephone, direct contact, mail, email, facsimile or any electronic means of communication.

(c) It is not obligatory for the employer to display any roster of the ordinary hours of work of casual or relieving staff.

(d) Change in roster

[25.5(d) substituted by PR531544 ppc 21Nov12]

(i) Seven days' notice will be given of a change in a roster.

(ii) However, a roster may be altered at any time to enable the service of the organisation to be carried on where another employee is absent from duty on account of illness, or in an emergency.

(iii) This clause will not apply where the only change to the roster of a part-time employee is the mutually agreed addition of extra hours to be worked such that the part-time employee still has four rostered days off in that fortnight or eight rostered days off in a 28 day roster cycle, as the case may be.

(e) Where practicable, accrued days off (ADOs) will be displayed on the roster.

B. Clause 7 Flexibility arrangements – can we add “Cashing out annual leave” and “Excessive leave accrual direction from employer” to the list of items where a flexibility arrangement can be developed.

Or change the following 2 clauses to allow for greater flexibility:

1. Clause 31.5 Cashing out annual leave

Proposal – allow employees to reduce remaining leave balance from 4 weeks to 2 weeks

allow employees to cash out **more** than 2 weeks within a 12 month period

31.5 Cashing out of annual leave

[31.5 inserted by PR583077 ppc 29Jul16]

- (a) Paid annual leave must not be cashed out except in accordance with an agreement under clause 31.5.
- (b) Each cashing out of a particular amount of paid annual leave must be the subject of a separate agreement under clause 31.5.
- (c) An employer and an employee may agree in writing to the cashing out of a particular amount of accrued paid annual leave by the employee.
- (d) An agreement under clause 31.5 must state:
 - (i) the amount of leave to be cashed out and the payment to be made to the employee for it;and
 - (ii) the date on which the payment is to be made.
- (e) An agreement under clause 31.5 must be signed by the employer and employee and,if the employee is under 18 years of age,by the employee's parent or guardian.
- (f) The payment must not be less than the amount that would have been payable had the employee taken the leave at the time the payment is made.
- (g) An agreement must not result in the employee's remaining accrued entitlement to paid annual leave being less than 4 weeks.
- (h) The maximum amount of accrued paid annual leave that may be cashed out in any period of 12 months is 2 weeks.
- (i) The employer must keep a copy of any agreement under clause 31.5 as an employee record.

2. 31.6 and 7 Excessive leave accruals

- Proposal - 31.6 (a) reduce excessive leave accrual definition from 8/10 weeks to 4 weeks
- 31.7 (b) (i) reduce remaining leave balance required from 6 weeks to 4 weeks
- 31.7 (b) (iii) reduce notice period to direct an employer to take leave from 8 weeks to 2 weeks

31.6 Excessive leave accruals: general provision

[31.6 inserted by PR583077 ppc 29Jul16]

Note: Clauses 31.6 to 31.8 contain provisions, additional to the National Employment Standards, about the taking of paid annual leave as a way of dealing with the accrual of excessive paid annual leave. See Part 2.2, Division 6 of the Fair Work Act.

- (a) An employee has an **excessive leave accrual** if the employee has accrued more than 8 weeks' paid annual leave (or 10 weeks' paid annual leave for a shiftworker), as defined by clause 31.2.
- (b) If an employee has an excessive leave accrual, the employer or the employee may seek to confer with the other and genuinely try to reach agreement on how to reduce or eliminate the excessive leave accrual.
- (c) Clause 31.7 sets out how an employer may direct an employee who has an excessive leave accrual to take paid annual leave.
- (d) Clause 31.8 sets out how an employee who has an excessive leave accrual may require an employer to grant paid annual leave requested by the employee.

31.7 Excessive leave accruals: direction by employer that leave be taken

[31.7 inserted by PR583077 ppc 29Jul16]

- (a) If an employer has genuinely tried to reach agreement with an employee under clause 31.6(b) but agreement is not reached (including because the employee refuses to confer), the employer may direct the employee in writing to take one or more periods of paid annual leave.
- (b) However, a direction by the employer under paragraph (a):
- (i) is of no effect if it would result at any time in the employee's remaining accrued entitlement to paid annual leave being less than 6 weeks when any other paid annual leave arrangements (whether made under clause 31.6, 31.7 or 31.8 or otherwise agreed by the employer and employee) are taken into account; and
 - (ii) must not require the employee to take any period of paid annual leave of less than one week; and
 - (iii) must not require the employee to take a period of paid annual leave beginning less than 8 weeks, or more than 12 months, after the direction is given; and
 - (iv) must not be inconsistent with any leave arrangement agreed by the employer and employee.

- (c) The employee must take paid annual leave in accordance with a direction under paragraph (a) that is in effect.
- (d) An employee to whom a direction has been given under paragraph (a) may request to take a period of paid annual leave as if the direction had not been given.

Note 1: Paid annual leave arising from a request mentioned in paragraph (d) may result in the direction ceasing to have effect. See clause 31.7(b)(i).

Note 2: Under section 88(2) of the Fair Work Act, the employer must not unreasonably refuse to agree to a request by the employee to take paid annual leave.