



DRAFT DETERMINATION

Fair Work Act 2009

s.158—Application to vary a modern award if necessary to achieve modern awards objective

s.160—Application to vary a modern award to remove ambiguity or uncertainty or correct error

Application by the Australian Industry Group

(AM2023/28)

Application by Parkerville Children & Youth Care Incorporated

(AM2024/16)

Application by Australian Municipal, Administrative, Clerical and Services & Others

(AM2024/30)

SOCIAL, COMMUNITY, HOME CARE AND DISABILITY SERVICES INDUSTRY AWARD 2010

[MA000100]

Social, community, home care and disability services

VICE PRESIDENT GIBIAN
DEPUTY PRESIDENT DOBSON
COMMISSIONER PERICA

SYDNEY, XX MONTH 2026

Applications to vary the Social, Community, Home Care and Disability Services Industry Award 2010 – Award varied.

A. Further to the decision issued by the Full Bench on XX Month 2026 [[2026] FWCFB XX], the above award is varied as follows:

1. By deleting clause 25.1(b) and inserting the following:
 - (b) By agreement between the employer and employee, the ordinary hours in clause 25.1(a) may be worked up to 10 hours per shift (other than in circumstances in clause 25.1(c)).
2. By inserting clause 25.1(c) as follows:
 - (c) By agreement between the employer and employee, the ordinary hours in clause 25.1(a) may be worked up to 12 hours per shift in circumstances in which part of the shift is performed immediately before and part of the shift immediately

after a sleepover period in accordance with clause 25.7 provided that the separate period of work before or after the sleepover shall be up to a maximum of eight hours.

3. By deleting clause 25.4 and inserting the following:

25.4 Rest breaks between rostered work

- (a) An employee will be allowed a break of not less than 10 hours between the end of one shift or period of work and the start of another.
- (b) Notwithstanding the provisions of clause 25.4(a), by agreement between the employee and employer, the break between:
 - (i) the end of a shift and the commencement of a shift directly preceding a sleepover; or
 - (ii) a shift commencing after the end of a shift directly following a sleepover may not be less than 8 hours.
- (c) A period of sleepover in accordance with clause 25.7 does not constitute a break within the meaning of this clause and a period of work performed immediately before and immediately after a sleepover period shall be treated as part of the same shift.

4. By inserting the words 'or shift' after the word 'day' in the first sentence of clause 28.1(a).

5. By inserting the words 'or shift' after the word 'day' in the first sentence of clause 28.1(b)(ii).

6. By deleting clause 28.1(b)(iii) and inserting the following:

- (iii) Despite clause 28.1(b)(ii), where part of a shift is performed immediately before and part of the shift immediately after a sleepover period, all time worked by part-time or casual employees which exceeds 12 hours per day or shift will be paid at the rate of time and a half for the first 2 hours and double time thereafter, except on Sundays when overtime will be paid at the rate of double time, and on public holidays at the rate of double time and a half.

7. By deleting clause 28.1(b)(iv) and inserting the following:

- (iv) Clause 28.1(b)(iii) applies only if the employee and the employer have agreed that the employee will perform a 12 hour shift with part of a shift performed immediately before and part of the shift immediately after a sleepover period and the separate period of work before or after the sleepover is not more than eight hours in duration.

8. By deleting clause 28.1(b)(v) and inserting the following:

- (v) Time worked up to the hours prescribed in clause 28.1(b)(ii) or clause 28.1(b)(iii) will, subject to clause 28.1(b)(i), not be regarded as overtime and will be paid for at the ordinary rate of pay (including the casual loading in the case of casual employees).

9. By inserting clause 28.1(b)(vi) as follows:

- (vi) All time worked outside the span of hours by part-time and casual day workers will be paid for at the rate of time and a half for the first two hours and double time thereafter, except that on Sundays such overtime will be paid for at the rate of double time and on public holidays at the rate of double time and a half.

10. By inserting clause 28.1(b)(vii) as follows:

- (vii) Overtime rates payable under clause 28.1(b) will be in substitution for and not cumulative upon the shift premiums prescribed in clause 29—Shiftwork and are not applicable to ordinary hours worked on a Saturday or Sunday.

11. By inserting clause 29.3(d) as follows:

- (d) Where an employee is rostered to perform work immediately before and immediately after a sleepover period in accordance with clause 25.7, the portion of work prior to and following the sleepover will be treated separately for the purposes of determining the loading to be paid under clauses 29.3(a), (b) or (c).

12. By updating the cross-references accordingly.

B. This determination comes into operation on XX Month 2026. In accordance with s 165(3) of the *Fair Work Act 2009* (Cth) this determination does not take effect in relation to a particular employee until the start of the employee's first full pay period that starts on or after XX Month 2026.

VICE PRESIDENT