

ATTACHMENT A

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FAIR WORK COMMISSION

AMENDED DRAFT DETERMINATION OF HSU

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:

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 10.4(b)

[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 no more than one break (other than a meal break) and where the span of hours is not more than 12 hours.*

(c) *A broken shift may only be worked where there is mutual agreement between*

the employer and employee.

- (d) *Where an employee works a broken shift, they shall be paid at the appropriate rate for the reasonable time of travel from the location of their last client before the break to their first client after the break, and such time shall be treated as time worked. The travel allowance in clause 20.5 also applies.*
- (e) *The minimum period of engagement specified in clause 10.6 shall apply to each period of work in a broken shift.*
- (f) *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.*
- (g) *Shift allowances will be determined by the starting or finishing time of the broken shift, whichever allowance is higher. The allowance will apply across both parts of the shift.*
- (h) *All work performed beyond the maximum span of 12 hours for a broken shift will be paid at 200% of the minimum hourly rate.*
- (i) *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), upon provision of proof of the damage, employees shall be compensated at the reasonable replacement value of the damaged or soiled item of clothing.*
- (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

20.7 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 20.5(c):

First aid refresher

- (i) *Where an employee is required to maintain first aid certification, the employer will pay the full cost of the employee updating their first aid certification by:*
 - a. *reimbursing the employee’s registration and attendance expenses; or*
 - b. *paying the registration and attendance costs.*
- (ii) *Attendance at first aid refresher courses will be work time and paid as such.*

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

28.1(b)(ii) All time worked by part-time or casual employees which exceeds 8 hours per day, will be 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.

[12] 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.

[13] By deleting the words “by 5.00 pm the day prior” in clause 25.5(f)(i) and replacing them with the words “at least 48 hours in advance”.

[14] By deleting the words “minimum specified hours” in clause 25.5(f)(ii) and replacing them with the words “rostered hours for that visit”.

[15] By renumbering the text appearing below the heading of clause 28.4 with “(a)”.

[16] By inserting the following after clause 28.4(a):

b. *Where an employee is required to perform work from home after leaving the employer's or client's premises, including:*

- i. *Responding to phone calls, message or emails;*
- ii. *Providing advice ("phone fixes")*
- iii. *Arranging call out/rosters of other employees; and*
- iv. *Remotely monitoring and/or addressing issues by remote telephone and/or computer access;*

the employee will be paid for a minimum of one hours' work at the overtime rate for each time recalled.

[17] By replacing clause 25.7(c) with the following:

(c) *The span for a sleepover will be a continuous period of eight hours. Employees will be provided with:*

- (i) *a separate and securely lockable room with a peephole or similar in the door, a bed and a telephone connection in the room; and*
- (ii) *suitable sleeping requirements such as a lamp and clean linen;*
- (iii) *use of appropriate facilities (including staff facilities where these exist), and*
- (iii) *free board and lodging for each night when the employee sleeps over.*

[18] By inserting, at the end of clause 20.5(a) the following:

Disability support workers and home care workers shall be entitled to be so reimbursed in respect of all travel:

- (a) *from their place of residence to the location of any client appointment;*
- (b) *to their place of residence from the location of any client appointment;*
- (c) *between the locations of any client appointments on the basis of the most direct available route.*

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