



Fair Work Commission

Award Review 2014

AM2014/209

Submission - SDA claim regarding Full-time employment in the Pharmacy Industry Award

Date: 17 February, 2017

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1. The Shop Distributive and Allied Employees' Association (SDA) makes this submission in accordance with the Directions issued by the Full Bench on 24 November 2016¹.
2. The SDA seeks to vary the Pharmacy Industry Award 2010 (the Award) to insert a minimum 4 hour shift and terms of engagement for full-time employees.

Context of the Review

3. The FWC considered the conduct of the Four Yearly Review and on 17 March 2014 issued a statement² (The Preliminary Jurisdictional decision) outlining some observations including various considerations of the relevant legislation.
4. As part of the statement a useful summary of considerations on the conduct of the Review was included:

Summary

[60] On the basis of the foregoing we would make the following general observations about the Review:

1. *Section 156 sets out the requirement to conduct 4 yearly reviews of modern awards and what may be done in such reviews. The discretion in s.156 (2) to make determinations varying modern awards and to make or revoke modern awards in a Review, is expressed in general terms. The scope of the discretion in s.156 (2) is limited by other provisions of the FW Act. In exercising its powers in a Review the Commission is exercising 'modern award powers' (s.134 (2)(a)) and this has important implications for the matters which the Commission must take into account and for any determination arising from a Review. **In particular, the modern awards objective in s.134 applies to the Review.***
2. *The Commission must be constituted by a Full Bench to conduct a Review and to make determinations and modern awards in a Review. Section 582 provides that the President may give directions about the conduct of a Review. The general provisions relating to the performance of the*

¹ <https://www.fwc.gov.au/documents/sites/awardsmodernfouryr/am201628-dir-241116.pdf>

² [2014] FWCFB 1788

Commission's functions apply to the Review. Sections 577 and 578 are particularly relevant in this regard. In conducting the Review the Commission is able to exercise its usual procedural powers, contained in Division 3 of Part 5-1 of the FW Act. Importantly, the Commission may inform itself in relation to the Review in such manner as it considers appropriate (s.590).

3. *The Review is broader in scope than the Transitional Review of modern awards completed in 2013. **The Commission is obliged to ensure that modern awards, together with the NES, provide a fair and relevant minimum safety net taking** into account, among other things, the need to ensure a 'stable' modern award system (s.134(1)(g)). The need for a 'stable' modern award system suggests that a party **seeking to vary** a modern award in the context of the Review must **advance a merit argument** in support of the proposed variation. The extent of such an argument will depend on the circumstances. Some proposed changes may be self evident and can be determined with little formality. However, where a significant change is proposed it must be supported by a submission which addresses the relevant legislative provisions and be accompanied by probative evidence properly directed to demonstrating the facts supporting the proposed variation. In conducting the Review the Commission will also have regard to the historical context applicable to each modern award and will take into account previous decisions relevant to any contested issue. The particular context in which those decisions were made will also need to be considered. Previous Full Bench decisions should generally be followed, in the absence of cogent reasons for not doing so. The Commission will proceed on the basis that prima facie the modern award being reviewed achieved the modern awards objective at the time that it was made.*

4. ***The modern awards objective applies to the Review. The objective is very broadly expressed and is directed at ensuring that modern awards, together with the NES, provide a 'fair and relevant minimum safety net of terms and conditions'.***

5. *In the Review the proponent of a variation to a modern award must demonstrate that if the modern award is varied in the manner proposed then it would only include terms to the extent necessary to achieve the modern awards objective (see s.138). What is ‘necessary’ in a particular case is a value judgment based on an assessment of the considerations in s.134(1)(a) to (h), having regard to the submissions and evidence directed to those considerations.*

(emphasis added)

5. In conducting the 4 yearly review of modern awards pursuant to s.156 of the Fair Work Act 2009 (the **Act**), the Commission must review each modern award³ against the modern awards objective so as to ensure that modern awards, together with the National Employment Standards (**NES**), “provide a fair and relevant minimum safety net of terms and conditions”, taking into account the considerations set out in s 134(1)(a)-(h) of the Act.

6. Section 134 (1) of the Act states:

(1) The FWC must ensure that modern awards, together with the National Employment Standards, provide a fair and relevant minimum safety net of terms and conditions, taking into account:

- (a) relative living standards and the needs of the low paid; and*
- (b) the need to encourage collective bargaining; and*
- (c) the need to promote social inclusion through increased workforce participation; and*
- (d) the need to promote flexible modern work practices and the efficient and productive performance of work; and (da) the need to provide additional remuneration for:*
 - (i) employees working overtime; or*
 - (ii) employees working unsocial, irregular or unpredictable hours;*
or
 - (iii) employees working on weekends or public holidays; or*
 - (iv) employees working shifts; and*
- (e) the principle of equal remuneration for work of equal or comparable value; and*

³ Section 156(5) of the Act.

- (f) *the likely impact of any exercise of modern award powers on business, including on productivity, employment costs and the regulatory burden; and*
- (g) *the need to ensure a simple, easy to understand, stable and sustainable modern award system for Australia that avoids unnecessary overlap of modern awards; and*
- (h) *the likely impact of any exercise of modern award powers on employment growth, inflation and the sustainability, performance and competitiveness of the national economy.*
*This is the **modern awards objective**.*

7. These criteria are “broad considerations which the Commission must take into account in considering whether a modern award meets the objective set by s 134(1)”.⁴ No particular weight should be attached to any one consideration over another; and not all of the matters identified in s. 134(1) will necessarily be relevant to a particular proposal to vary a modern award.⁵ To the extent there is any tension between some of the considerations in section 134(1), “the Commission’s task is to balance the various considerations and ensure that modern awards, together with the NES, provide a fair and relevant minimum safety net of terms and conditions.”⁶

General approach

8. The Preliminary Jurisdictional decision provided detailed guidance about the conduct of the 4 yearly review and related jurisdictional issues. At [23] the Full Bench stated (emphasis added):⁵

The Commission is obliged to ensure that modern awards, together with the NES, provide a fair and relevant minimum safety net taking into account, among other things, the need to ensure a 'stable' modern award system (s.134(1)(g)). The need for a 'stable' modern award system suggests that a party seeking to vary a modern award in the context of the Review must advance a merit argument in support of the proposed variation. The extent of such an argument will depend on the circumstances. We agree with ABI's submission that some proposed changes may be self evident and can be determined with little formality. However, where a significant

⁴ *National Retailers Association v Fair Work Commission* (2014) 225 FCR 154, [109] (Collier, Bromberg, Katzman JJ).

⁵ *Four Yearly Review of Modern Awards – Annual Leave* [2015] FWCFB 3406, [19], [20] (the **Annual Leave decision**).

⁶ [2014] FWCFB 1788 at [23], [24], [27], footnotes omitted

change is proposed it must be supported by a submission which addresses the relevant legislative provisions and be accompanied by probative evidence properly directed to demonstrating the facts supporting the proposed variation.

9. The proposed changes the SDA seeks to make to the Pharmacy Industry Award in this matter are underpinned by a cogent merit argument supporting the proposed variations.

The SDA's Claim

10. The current Full-time Employee provision, clause 11, in the Award simply states:

Full-time Employees

A full-time employee is an employee who is engaged to work an average of 38 hours per week.

11. The SDA is seeking to vary Clause 11 Full-time employees, to include a minimum four hour shift and a requirement for agreement in writing at the time of engagement to a regular pattern of work and how that regular pattern of work may be varied.
12. The current Award contains a minimum shift for part-time and casual employees.
13. The Award also provides a requirement for agreement in writing at the time of engagement to a regular pattern of work and how that regular pattern of work may be varied for part-time employees.
14. This variation seeks to ensure that all employees are afforded the same protections regarding minimum shifts and that all permanent employees are provided with a regular pattern of work.
15. The SDA submits that consideration of this was not given in the making of the Award; that there is a history of these provisions in pre-reform awards; and that this variation would ensure that the Award provides a fair and relevant safety net for full-time employees in the community pharmacy industry.
16. The Draft Determination in relation to this claim is provided at Attachment A. The Draft Determination is based on the Plain Language Draft of the Pharmacy Industry Award published by the FWC on 20 January 2017.

17. The SDA submits that the variations sought are uncontroversial and self-evident, and achieve the modern awards objective of providing a fair and relevant minimum safety net of terms and conditions, taking into account:
- (a) relative living standards and the needs of the low paid; and
 - (b) the need to ensure a simple, easy to understand, stable and sustainable modern award system....
 - (c) the need to promote social inclusion through increased workforce participation
18. As such, the SDA does not file any witness statements in support of these submissions.

Award History

19. The SDA has provided the provisions which were contained in 11 pre-reform Awards in order to demonstrate the Award history in the Community Pharmacy Industry. A list of the full-time minimum shift provisions is provided at Attachment B.
20. The full-time provisions which set out what happens on engagement regarding the establishment of a regular pattern of work or rosters and variations to that are contained in Attachment C.
21. Of the 11 pre-reform Awards, six Awards provided a minimum shift provision for full-time employees. This has been a common standard in these Awards.
22. Every pre-reform Award, except for one, contained provisions regarding the establishment of working hours or a roster for full-time employees and/or terms for varying hours/roster to be worked by a full-time employee. All Awards, except two, provided arrangements on engagement or the establishment of the roster to be worked for a full-time/weekly employee. One provides only provisions for varying a roster but does not prescribe how the roster is established.

23. The Award history demonstrates that provisions prescribing the arrangement of hours/rosters for a full-time employee on engagement and how these terms can be varied was a standard provision in pre-reform Awards.
24. There are no provisions for establishing a regular pattern of hours on engagement and no provisions for how these hours can be varied for full-time employees in the modern Pharmacy Industry Award 2010. The SDA submits that this was not fully considered in the award modernisation process as no submissions went to the issue.

Submissions

Minimum Shift

25. The Award currently contains a 3-hour minimum shift provision for part-time and casual employees. It is incongruous that the Award would afford minimum shift protections for 2 categories of employees and that the minimum shift provisions for part-time and casual employees meets the modern awards objective, but not provide those same protections to full-time employees.
26. The absence of a minimum shift provision could allow a full-time employee to be rostered for an inappropriately short shift, 30 minutes or 1.5 hours. Rostering a full-time employee in this manner does not provide a fair and relevant safety net. This would also be at odds with meeting other rostering provisions contained at Clause 25 of the Award.
27. The SDA submits that the case for inserting a 4-hour minimum engagement period is self-evident and straightforward and should be determined with little formality.
28. The most basic principle of a fair safety net is that employees are paid appropriately for work undertaken. To ensure that an employee receives appropriate compensation in order to achieve a fair and relevant safety net, other matters such as the cost and time it takes to attend work should be considered relative to the compensation.
29. Many factors contribute to the cost of attending work including transport, laundry and childcare which are relatively fixed costs. The net financial benefit of attending work decreases as the minimum period of engagement decreases and the remuneration for the entire shift is reduced.

30. To comply with the principles of a fair and relevant safety net there must be a prescribed minimum number of hours an employee can be rostered to work. This ensures that the employee is fairly compensated for the work performed and the costs involved to attend work. This must include a minimum shift provision for full-time employees.
31. In the ACTU submission to the part-time and casual Full Bench regarding their claim for a minimum 4 hour shift they determined that ‘the appropriate minimum safety net entitlement is that an employee should, after accounting for travel, childcare and other costs, earn at least one-fifth of the Newstart weekly amount being \$56.33 per day’⁶.
32. A full-time Pharmacy Assistant Level 1 under the Pharmacy Industry Award needs to work at least 3 hours to earn this amount. In order to provide a fair and relevant safety net for full-time employees a shift should be for a duration which represents greater compensation than if they did not work that shift. Therefore, we submit that the appropriate minimum shift provision for a full-time employee should be 4 hours.
33. An inappropriately short shift also impacts an employee’s ability to enjoy non-working time. A short shift interrupts the non-working time and can impact on an employee’s ability to undertake caring responsibilities, see to other necessary tasks such as health care appointments and enjoy recreation time outside of work.
34. The inclusion of a minimum shift provision for full-time employees achieves the modern awards objective of providing a fair and relevant minimum safety net of terms and conditions, taking into account:
- (d) relative living standards and the needs of the low paid; and
 - (e) the need to ensure a simple, easy to understand, stable and sustainable modern award system....; and
 - (f) the need to promote social inclusion through increased workforce participation

Terms of engagement and roster variations

35. The SDA is also seeking to vary Clause 11 Full-time employees, to include a requirement for agreement in writing at the time of engagement to a regular pattern of work and how that regular pattern of work may be varied.

⁶ M2014/196 and AM2014/197 Fair Work Act 2009 s.156 – 4 yearly review of modern awards 4 yearly review of modern awards – Common issue – Casual and Part-time employment, ACTU Final Submission, 20 June 2016

36. The SDA submits that a provision prescribing that an agreement must be reached at the time a full-time employee is engaged as to the regular pattern of work and how this may be varied is essential to meeting:
- the requirements of the Act;
 - other provisions contained in the Award; and
 - in order to meet the modern awards objective to provide a fair and relevant safety net.
37. As demonstrated by Attachment C, almost all pre-reform Awards in the Community Pharmacy Industry contained provisions which set out how the regular pattern of work or rosters was established for full-time employees and how the regular pattern of work or roster can be varied.
38. Establishing a regular pattern of work for full-time employees was a standard term of pre-reform Awards, however, in the Award modernization process this standard was only included for part-time employees. This issue was not subject to submissions or consideration during the Award modernisation process.
39. There are a number of established factors which determine whether an employment relationship is permanent or casual. These factors include the number of hours worked each week, the expectation of continuity of employment, the requirement to provide notice if an employee is absent or on leave and whether there is a reasonable expectation that work will be available. Other key factors include whether the employment pattern is regular, whether a roster system is published in advance and whether you work to consistent starting and finishing times.
40. The SDA submits that without a regular pattern of work a full-time employee under the Award can, in effect, be treated like a casual employee with a minimum of 38 hours per week or 76 hours averaged over 2 weeks. The SDA submits that this should not be the intention of the Award and this would not meet the modern awards objective of providing a fair and relevant safety net for full-time employees.
41. Subdivision C of the Fair Work Act 2009 prescribes the terms that must be included in modern awards. Section 145A of Subdivision C requires that:

145A Consultation about changes to rosters or hours of work

- (1) Without limiting paragraph 139(1)(j), a modern award must include a term that:

(a) requires the employer to consult employees about a change to their regular roster or ordinary hours of work; and

(b) allows for the representation of those employees for the purposes of that consultation.

(2) The term must require the employer:

(a) to provide information to the employees about the change; and

(b) to invite the employees to give their views about the impact of the change (including any impact in relation to their family or caring responsibilities); and

(c) to consider any views about the impact of the change that are given by the employees.

42. Clause 8.2 of the current Award gives effect to Section 145A of the Fair Work Act 2009:

8.2 Consultation about changes to rosters or hours of work

(a) Where an employer proposes to change an employee's regular roster or ordinary hours of work, the employer must consult with the employee or employees affected and their representatives, if any, about the proposed change.

(b) The employer must:

(i) provide to the employee or employees affected and their representatives, if any, information about the proposed change (for example, information about the nature of the change to the employee's regular roster or ordinary hours of work and when that change is proposed to commence);

(ii) invite the employee or employees affected and their representatives, if any, to give their views about the impact of the proposed change (including any impact in relation to their family or caring responsibilities); and

(iii) give consideration to any views about the impact of the proposed change that are given by the employee or employees concerned and/or their representatives.

(c) The requirement to consult under this clause does not apply where an employee has irregular, sporadic or unpredictable working hours.

(d) These provisions are to be read in conjunction with other award provisions concerning the scheduling of work and notice requirements.

43. The SDA submits that the absence of a provision for agreement between an employer and employee regarding working hours and a roster at the time of engagement and the terms on which the agreement can be varied contradicts the requirements set out in Clause 8.2 Consultation about changes to rosters or hours of work.

44. In order to meet the obligations prescribed in Section 145A of the Fair Work Act 2009 (Act) and Clause 8.2 of the Award, a full-time employee's working arrangements and roster need to be agreed and recorded, and we submit that this must be done at the time of engagement. The Award must also set out how the agreed regular pattern of work can be varied.

45. The *Fair Work Amendment Act 2013* amended the *Fair Work Act 2009* to include *S145A Consultation about changes to rosters or hours of work*. This amendment took effect from 1 January 2014.

46. Following the amendment to the Act, the Fair Work Commission, in its Determination⁷ on 24 December 2013 varied the Pharmacy Industry Award 2010 to include Clause 8.2.

47. This has resulted in a significant change to the requirements regarding roster changes under the Award. Consideration was not given by the FWC about the impact inserting clause 8.2 would have on existing terms in the Award, such as the presence or absence of terms prescribing how rosters and ordinary hours are set and/or varied.

48. The SDA submits that this consideration is necessary in order to ensure the Award is meeting the requirements of the Act and the Award, and that it meets the modern awards objective of the need to ensure a simple, easy to understand, stable and sustainable modern award system.

49. In order to give effect to clause 8.2 and ensure the Award is simple and easy to understand, a mechanism needs to be inserted in the Award to give effect to clause 8.2. That is, the inclusion of terms in the award which set out the requirement for an agreement between an employer and

⁷ PR546288, Fair Work Commission Determination, 24 December 2013

full-time employee on a regular pattern of work at the time of engagement and how this agreement may be varied.

50. This would provide employers and employees with clear rights and obligations regarding how working hours and rosters are determined at the time of engagement and how they may be varied.

51. The SDA submits that a change to the Full-time provisions in the Award to include terms which require agreement on engagement to a regular pattern of work in the same manner as the part-time provisions, which include days of the week to be worked, starting and finishing times, hours to be worked and when breaks are to be taken, and how this agreement can be varied is necessary to meet the requirements under the Act regarding consultation and the requirements in the Award at Clause 8.2.

52. The Explanatory Memorandum⁸ to the Fair Work Amendment Act 2013 states that:

The amendments made by Part 4 of Schedule 1 ensure that a person's family and caring responsibilities are taken into account by their employer when changes are made to their working arrangements. This accords with the obligations contained in the CRC and the CEDAW to render appropriate assistance to the parents and legal guardians in the performance of their child-rearing responsibilities. (p 6)

The intention of the amendments is to promote discussion between employers and employees who are covered by a modern award or who are party to an enterprise agreement about the likely impact of a change to an employee's regular roster or ordinary hours of work, particularly in relation to the employee's family and caring arrangements, by requiring employers to genuinely consult employees about such changes and consider the impact of the change in making such changes raised by employees.(p 19)

44. *'Regular roster' in new paragraph 145A(1)(a) is not defined. It is intended that the requirement to consult under new section 145A will not be triggered by a proposed change where an employee has irregular, sporadic or unpredictable working hours. Rather, regardless of whether an employee is permanent or casual, where that employee has an understanding of, and reliance on the fact that, their*

⁸ The Parliament Of The Commonwealth Of Australia, The House Of Representatives ,Fair Work Amendment Bill 2013,Explanatory Memorandum

working arrangements are regular and systematic, any change that would have an impact upon those arrangements will trigger the consultation requirement in accordance with the terms of the modern award. The employer will be required to inform employees about the proposed change to their regular roster or ordinary hours of work and invite employees to give their views on the impact of the proposed change (particularly any impact upon the employees' family and caring responsibilities), and consider those views.

45. The amendments will ensure that employers cannot unilaterally make changes that adversely impact upon their employees without consulting on the change and considering the impact of those changes on those employees' family and caring responsibilities.

53. The intention of the amendment was to ensure that an employee's family and caring responsibilities are taken into account by their employer when changes are made to their working arrangements. This amendment demonstrates that the intention of the Act is to provide modern awards which ensure that rostering and working hours are structured in such a way as to support working families to achieve the necessary arrangements in order to meet family and caring responsibilities.

54. Full-time employees, like part-time employees, need the certainty of regular and systematic hours, which are not subject to frequent change, in order to balance work and caring responsibilities. The SDA submits that the proposition that full-time employees should be entitled to agree with their employer to a regular pattern of work on engagement is a straightforward and necessary one.

55. The Fair Work Act 2009 permits the inclusion of such terms. Section 139 prescribes the terms that may be included in modern awards. Section 139(1)(b) and (c) provide that:

139 Terms that may be included in modern awards—general

(1) A modern award may include terms about any of the following matters:

(b) type of employment, such as full-time employment, casual employment, regular part-time employment and shift work, and the facilitation of flexible working arrangements, particularly for employees with family responsibilities;

(c) arrangements for when work is performed, including hours of work, rostering, notice periods, rest breaks and variations to working hours;

56. The SDA submits that the agreement to the regular pattern of work on engagement and variation to this should be inserted into the Award in the same terms as prescribed for part-time employees, currently contained in Clause 12. Clause 12 is currently subject to plain language drafting and the draft determination at Attachment A attempts to reflect this.
57. It is vital for employees that working hours are stable and not subject to frequent variation so that they are able to manage other commitments such as family and caring responsibilities.
58. Employees who have to combine caring responsibilities with working hours are severely impacted by changes in working arrangements and rosters. This can affect their ability to participate in work. An Award which does not consider this would be contrary to the modern Awards objective at Section 134(1)(c), to take into account the need to promote social inclusion through increased workforce participation.
59. The entitlement to a regular pattern of work is no less important to a full-time employee than it is to a part-time employee and this is a standard that should be available to all permanent employees.
60. The establishment of a regular pattern of work for full-time employees should already be current practice in the Pharmacy Industry and we would argue that it already is, so this would not demonstrate a significant change.
61. The inability of an employee to have some control over the pattern of hours of work impacts work-life balance, the ability to undertake caring responsibilities and undermines the foundation of regular and predictable hours which is a common feature of full-time employment.
62. Undermining the security of a regular and predictable pattern of employment which permanent employment should provide undermines the workforce participation of women, in particular, with family and caring responsibilities. Community Pharmacy, and in particular the role of Pharmacy Assistants, is a female dominated occupation. Therefore, the ability to agree on a regular pattern of work for full-time employees and how that agreement can be varied, is vital in the Community Pharmacy industry.

63. The variation sought provides clarity, simplicity and certainty around an employee's regular pattern of work hours. We submit that this certainty provides a benefit for both the employer and employee. The variation provides certainty to employees so that they are able to make ongoing arrangements to accommodate responsibilities outside of work while employers also have the right to change an employee's roster with the provision of notice.
64. We submit that the variation proposed will not result in an unnecessary or increased burden on employers but will provide greater clarity and certainty for employers and employees.
65. This application to vary the Award is consistent with the modern awards objectives provided for at section 134 of the *Fair Work Act 2009* (Cth) (FW Act).
66. The inclusion of an obligation to agree to the terms of a regular pattern of employment on engagement and how that agreement may be varied for full-time employees achieves the modern awards objective of providing a fair and relevant minimum safety net of terms and conditions, taking into account:
- (g) relative living standards and the needs of the low paid; and
 - (h) the need to ensure a simple, easy to understand, stable and sustainable modern award system....; and
 - (i) the need to promote social inclusion through increased workforce participation

ATTACHMENT A

MA000012 PRXXXXXX

FAIR WORK COMMISSION

DRAFT DETERMINATION

Fair Work Act 2009

s156 – 4 Yearly reviews of modern awards

4 yearly review of modern awards

(AM2014/197)

PHARMACY INDUSTRY AWARD 2010

MA000012

Pharmacy operations

PRESIDENT ROSS

MELBOURNE, DD MM 2016

Review of modern awards to be conducted.

A. Further to the Decision and Reasons for Decision <<DecisionRef>> in <<FileNo>>, it is determined pursuant to section 156(2)(b)(i) of the *Fair Work Act 2009*, that the *Pharmacy Industry Award 2010* be varied as follows.

1. Delete Clause 9 of the Exposure Draft issued by the Commission on 20 January 2017 and insert in lieu thereof the following:

9 Full-time employment

- 9.1 An employee who is engaged to work 38 ordinary hours per week (or 76 ordinary hours over 2 consecutive weeks) is a full time employee.

9.2 At the time of engaging a full-time employee, the employer must agree in writing with the employee to all of the following:

- (a) the number of hours to be worked each day; and
- (b) the days of the week on which the employee will work; and
- (c) the times at which the employee will start and finish work each day;
and
- (d) when meal breaks may be taken and their duration.

9.3 An employer must roster a full-time employee on any shift for a minimum of 4 consecutive hours.

9.4 The employer must keep a copy of any agreement under clause 9.2 or variation of it, under clause 9.5 and give another copy to the employee.

9.5 The roster of a full-time employee may be varied:

- (a) by the employer giving the employee 7 days, or in an emergency 48 hours, written notice of the change; or
- (b) at any time by the employer and employee by mutual agreement.

9.6 The roster of a full-time employee must not be:

- (a) subject to frequent variation from pay period to pay period; or
- (b) varied so as to avoid any award entitlement.

B. This determination comes into force on and from DD MM 2017.

PRESIDING MEMBER

ATTACHMENT B – Full-time Minimum Shift

AP796289CRV - SDA Victorian Pharmacy Assistants Award 2000	AN170087 - Retail Pharmacy Award (Tasmania)	AP773671CRV - Community Pharmacy Award 1998	AN120152 - Community Pharmacy (State) Award 2001 (NSW)	AN120416 - Pharmacy Assistants (State) Award (NSW)	AN140207 - Pharmacy Assistants Award – State 2003 (QLD)
<p>23.5 A full-time employee shall be paid a minimum of three hours for each start, except for public holidays, when a minimum of two hours will apply.</p>	<p align="center">No</p>	<p>21.3 All employees shall be paid a minimum of three hours for each start.</p> <p>21.4 By agreement between an employer and employee the minimum number of hours for each start may be less than three in situations where</p> <p>21.4.1 the Pharmacy is open for business for less than three hours on a particular day or,</p> <p>21.4.2 where a pharmacist is employed to provide meal break relief for an existing pharmacist working as a sole pharmacist.</p>	<p>19.3 All employees shall be paid a minimum of three hours for each start.</p>	<p>No</p>	<p>6.1.1 (d) The minimum engagement that a Permanent Employee may be rostered to work ordinary hours on any day shall be 3 hours.</p>

ATTACHMENT B – Full-time Minimum Shift

<p>AN160277 – Retail Pharmacists' Award, 2004 (WA)</p>	<p>AP806529 - S.D.A Western Australian Community Pharmacy - Pharmacy Assistants Award 2000</p>	<p>AP772207CRA - Chemists (ACT) Award 2000</p>	<p>AP794741CRN - Retail, Wholesale and Distributive Employees (NT) Award</p>	<p>AN150131 - Retail Pharmaceutical Chemists Award (SA)</p>
<p>3.1.1(c) All employ shall be paid a minimum of three hours for each start.</p>	<p>20.4.1 A minimum of three hours and a maximum of ten hours may be worked on any one day. The daily minimum and maximum hours are exclusive of meal break intervals.</p>	<p>No</p>	<p>No Provision</p>	<p>No</p>

ATTACHMENT C – FULL-TIME ENGAGEMENT AND VARIATION PROVISIONS

AP796289CRV - SDA Victorian Pharmacy Assistants Award 2000	AN170087 - Retail Pharmacy Award (Tasmania)	AP773671CRV - Community Pharmacy Award 1998	AN120152 - Community Pharmacy (State) Award 2001 (NSW)	AN120416 - Pharmacy Assistants (State) Award (NSW)	AN140207 - Pharmacy Assistants Award – State 2003 (QLD)
<p>23.4.3 The employee shall be notified not less than one week in advance of any change in the roster.</p> <p>23.4.4 In the case of the emergencies or unforeseen circumstances notice of a change of roster may be 48 hours.</p>	<p>Rosters Pharmacy Assistants</p> <p>(1) Each employer shall display a roster showing the days and hours required for each employee. The roster shall include the start and finish times of each employee bound by the award and may only be varied by agreement or, failing agreement, by the giving of not less than 1 week’s notice by the employer.</p> <p>(2) (ii)Pharmacists The rostered ordinary hours of engagement for a pharmacist shall be established at engagement and may be</p>	<p>12.4 At the time of engagement the employer will document in writing the following details:</p> <p>12.4.1 the Commencement date of employment;</p> <p>12.4.2 the classification and wages of the employee;</p> <p>12.4.3 whether the employment is on a full-time, part time or casual basis;</p> <p>12.4.4 the arrangement for the payment of wages;</p> <p>12.4.5 the daily or weekly hours of work, including the hours worked each day, which</p>	<p>26.1 Within the hours fixed by this Award the employer shall fix the commencing and ceasing times of weekly and part-time employees and shall cause a roster showing such commencing and ceasing times to be posted in a prominent position in the shop.</p> <p>26.3 Except in the case of sickness or other emergency, an employee’s starting and finishing times and rostered day off in accordance with the said clause 20, shall only be changed on not less than seven days notice.</p> <p>26.4 Each roster shall bear the date on which it</p>	<p>6. ROSTERS FOR WEEKLY AND REGULAR PART-TIME EMPLOYEES</p> <p>(i) Within the hours fixed by this Award the employer shall fix the commencing and ceasing times of weekly and part-time employees and shall cause a roster showing such commencing and ceasing times to be posted in a prominent position in the shop.</p>	<p>6.1.1</p> <p>(j) Employees shall be provided with a regular roster which will not be subject to frequent variations from one cycle to another.</p> <p>(k) An employee's roster may not be changed with the intent of avoiding payment for public holidays. Should such circumstance arise, the employee shall be entitled to payment for the public holiday as if their roster had not been changed.</p> <p>(l) Each employer shall post 7 days in advance to the roster being posted and keep posted a roster showing, for the complete week Monday to Sunday, the following information:</p> <p>(i) the name of each employee covered by the Award;</p> <p>(ii) the days in each work cycle on which the employee shall work;</p> <p>(iii) the start and finish times of ordinary hours, any rostered overtime hours, and any meal break provided;</p> <p>(iv) rosters will clearly distinguish between ordinary hours and rostered overtime hours.</p>

	<p>varied by agreement between the employer and employee.</p> <p>In the event no agreement can be reached the roster may be varied by the employer giving not less than the same period of notice required by Part II – Employment Relationship And Associated Matters, Clause 3 - Termination of the intended change.</p>	<p>days of the week the employee will work and the actual starting and finishing times each day;</p> <p>12.4.6 any agreement in relation to the taking of annual leave;</p> <p>12.4.7 a position description.</p> <p>12.5 An employee will confirm the terms of employment by signing the document. Both the employer and the employee will retain a copy of the document.</p> <p>12.6 Where agreement is reached to vary the regular pattern of work such variation shall be in writing.</p>	<p>commenced to operate and the date of any change made to it and shall be kept by the employer for 18 months after the last date recorded thereon and shall be made available to any authorised person requesting it.</p>		<p>(m) The particulars referred to in clause 6.1.1 (I) may be changed in either of the following circumstances:</p> <p>(i) by one week's notice in writing; or</p> <p>(ii) by mutual consent of the employee and the employer.</p>
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AN160277 – Retail Pharmacists' Award, 2004 (WA)	AP806529 - S.D.A Western Australian Community Pharmacy - Pharmacy Assistants Award 2000	AP772207CRA - Chemists (ACT) Award 2000	AP794741CRN - Retail, Wholesale and Distributive Employees (NT) Award	AN150131 - Retail Pharmaceutical Chemists Award (SA)
<p>2.2.5 At the time of engagement the employer will provide the employee with a written document containing the following details:</p> <p>(a) the commencement date of employment;</p> <p>(b) the classification and wages of the employee;</p> <p>(c) whether the employment is on a full-time, part-time or casual basis;</p> <p>(d) the arrangement for the payment of wages;</p> <p>(e) the daily or weekly hours of work, including the hours worked each day, which days of the week the employee will work and the</p>	<p>10.4 At the time of engagement the employer will document in writing the following details:</p> <p>10.4.1 the commencement date of employment;</p> <p>10.4.2 the classification and wages of the employee;</p> <p>10.4.3 whether the employment is on a full time, part-time or casual basis;</p> <p>10.4.4 the arrangement for the payment of wages;</p> <p>10.4.5 the daily or weekly hours of work, including the hours worked each day, which days of the week the employee will work and the actual starting and finishing times each day;</p> <p>10.4.6 any agreement in relation to the taking of annual leave;</p> <p>10.4.7 a position description.</p> <p>10.5 An employee will confirm the terms of employment by signing the document. Both the employer and the employee will retain a</p>	<p>18.12 Rosters</p> <p>18.12.1 Every employer shall, by a legible notice, which shall bear the date when it is affixed, exhibit and keep exhibited in a place accessible to the employees the starting and finishing time of each employee for each day of the week, and shall show thereon any change in the starting time and finishing time of any employee and the date on which the change was effected.</p> <p>18.12.2 Provided that such time shall not be altered without seven days' notice, unless by agreement with the employees or in the event of an emergency.</p>	<p>14.6 Subject to 14.5.1 and 14.5.2, the employer shall fix regular starting and finishing times for each day on which the employee is required to work, which times shall not be changed except upon not less than two days notice.</p> <p>28.9 Notice of change of rosters</p> <p>28.9.1 The rosters for full-time and part-time employees may be varied by the giving of one weeks notice or less by mutual agreement between the employer and the employee.</p>	<p>No Provisions for any employee</p>

<p>actual starting and finishing times each day;</p> <p>(f) any agreement in relation to the taking of annual leave; and</p> <p>(g) a position description.</p> <p>2.2.6 An employee will confirm within 7 days the terms of employment by signing the document. Both the employer and the employee will retain a copy of the document.</p> <p>2.2.7. Where agreement is reached to vary the regular pattern of work such variation shall be in writing.</p>	<p>copy of the document.</p> <p>10.6 Where agreement is reached to vary the regular pattern of work such variation will be in writing before the variation occurs.</p> <p>20.4 The agreed hours of work arrangement must meet the following conditions:</p> <p>20.4.1 A minimum of three hours and a maximum of ten hours may be worked on any one day. The daily minimum and maximum hours are exclusive of meal break intervals.</p> <p>21.1 Employees will be provided a roster on an ongoing basis.</p> <p>21.2 An employee's roster may not be changed with the intent of avoiding payment for public holidays. Should such circumstances arise, the employee will be entitled to payment for the public holiday as if their roster had not been changed.</p> <p>21.3 Each employer will post and keep posted a roster showing, for the complete week Monday to Sunday, the following information:</p>			
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	<p>21.3.1 the name of each employee bound by the award;</p> <p>21.3.2 the days in each work cycle on which the employee will work;</p> <p>21.3.3 the start and finish times of ordinary hours, any rostered overtime hours, and any meal break provided;</p> <p>21.3.4 rosters will clearly distinguish between ordinary hours and rostered overtime hours.</p> <p>21.4 The particulars referred to in 21.3 will be published two weeks in advance, and may be changed in either of the following circumstances:</p> <p>21.4.1 by one weeks notice in writing;</p> <p>21.4.2 by mutual consent of the employee and the employer.</p> <p>21.5 Notwithstanding 21.3, and employer may give to each employee an individual roster in writing containing the required information.</p>			
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