

**AM2016/31 MIERG Part 1 – Requests and Reasons**  
**– Revised 12 February 2018**  
**– Reasons paras Numbered 21 February 2018**

<b>Filed on behalf of</b>	Medical Imaging Employment Relations Group (MIERG)
<b>Filed by</b>	Tim McCarthy MIERG co-Facilitator m 0435 013 733
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Title of Matter: **Four yearly review of modern awards**

Section: **s.156 - 4 yearly review of modern awards**

Subject: **Health Professionals and Support Services Award 2010**  
**- substantive issues**

Matter Number: AM2016/31

**Health Professionals and Support Services Award 2010 MA000027**  
(Health Professionals Award)

**4 yearly award review Sub-group 2B**

**Submission by Medical Imaging Employment Relations Group (MIERG)**  
**for changes to Health Professionals Award in Draft Determination herewith**

**21 February 2018#**

**12 February 2018\***

**\*Suspends MIERG Submission of 6 June 2017 for the time being and Revises:**  
**Parts:**

**1 MIERG Requests and Reasons – Revised 12 February 2018**

**# – Reasons paras Numbered 21 February 2018**

**2 MIERG Draft Determination Application – Revised 12 February 2018**

**Appendix 1–The Deloitte Access Economics evaluation of the broad  
commercial environment of the diagnostic imaging sector updated 17 August  
2017**

<http://www.health.gov.au/internet/main/publishing.nsf/Content/foi-304-1617>

**MIERG Reserves** the right to amend its Submission and Draft Determination Application and the conduct of its case in the light of other parties' Submissions and developments in the proceedings during this 4-yearly review.

**MIERG Requests** the Fair Work Commission in 4 yearly award review Matter Number AM2016/31 to vary the Health Professionals Award by the variations set out in AM2016/31 MIERG Part 2 – Draft Determination Application– Revised 12 February 2018 of this Submission in accordance with the directions issued by Vice President Catanzariti 21 December 2017.

This Submission is to clarify MIERG's position on Span of hours, associated Penalty rates and Additional leave for certain shiftworkers listed in AM2016/31 – Summary of Submissions – Substantive Issues 27 November 2017

**MIERG is seeking**

- [1]** to retain the terms of the provisions of existing clauses 8.2(d); and
- [2]** 18.2 for private medical imaging – seven day practices in matter AM2014/204 Exposure Draft of 10 November 2017 and restructure Saturday and Sunday penalty rates for casuals to extend those provisions to all private medical imaging practices and to all other private medical, dental, pathology and other private health practices
- [3]** to clarify 20.2 Addition leave for certain shift workers

**MIERG's Reasons** for the changes requested are:

**– Reasons paras Numbered 21 February 2018**

- 1.** To support workplace centred diversity for mutually beneficial family friendly arrangements to mitigate '*work life angst*' by co-working and negotiating options and flexible working conditions to meet employees' their families' and their private medical imaging practice's needs by exercising the art of leadership for which private medical imaging group members are renowned.
- 2.** Collaboratively optimising workplace adaptability along a spectrum of options for employees to meet employees', their families' and the practices' needs by co-working creatively and innovatively, including for example, arranging for flexible work days and hours as and when needed along a spectrum of short to long hours in long to short weeks in a culture of ongoing harmonious relationships, innovative changes and productivity improvements to meet ever changing circumstances is a typical characteristic of the culture of private medical imaging practices.

**3.** Private medical imaging through its employment relations principles and practices has a history of making consent awards by agreement with the HSU since the making of the first NSW / ACT Federal private medical imaging award.

**4.** MIERG supports the rationalisation of the span of normal hours. However, rationalisation to the single span proposed by the HSU in its submission 17 March 2017 does not take into account the unique nature of the private medical imaging practices operating environment.

**5.** More generally, the modern health workplace has moved away from once traditional hours of Monday to Friday as a way, not only to better service the requirements of the general population, but also to cater to the flexible requirements of the workforce who need a variety of work life balance arrangements at different stages of their life.

**6.** Restricting the standard hours to Monday to Friday will have a detrimental effect on the ability of private medical imaging practices to service the needs of patients.

**7.** MIERG submits that clauses 8.2 (c) Private medical imaging practices—five and a half day practices and (d) Private medical imaging practices—seven-day practices have been maintained in the award in recognition of the nature of private medical imaging practices.

**8.** Traditionally medical imaging practices spanned a variety of workplace hours, to cater for the needs of suburban private practices operating on a five-day basis and a five and a half day roster and hospital or medical centre based private practices operating Monday to Sunday. Experience is that most traditions have been overturned in the *'modern-day world'*.

**9.** MIERG's Submission is informed by industry evidence from the Report in Appendix 1 of this submission.

**10.** The current inclusion of clauses 8.2(d) Private medical imaging – seven day practices and 18.2 Weekend work in private medical imaging seven day practices ensures the operation of these practices are sustainable and employment opportunities are maintained.

**11.** MIERG would submit that where rationalisation of the Span of Hours clauses is implemented, that the simplest and most effective method of doing this would be to maintain the provisions in the terms of 8.2(d) and 18.(2) and

provide that this span of hours and weekend penalties be broadly implemented as the standard normal hours for all medical and health practices.

**12.** This would ensure the modern needs of medical and health care workplaces can be catered for while maintaining a minimum safety net award provision.

**13.** The existing no disadvantage clause 1.5 could be maintained to ensure that employees on the current more favourable span of hours will not suffer a reduction in take home pay by the variations sought by MIERG in this submission.

**14.** This fulfils the requirements and objectives of the modern award process by ensuring simple, stable and sustainable modern award system. This also encourages workplace bargaining by maintaining a minimum safety net award provisions.

**15.** Maintaining the broader definition of the normal span of hours still enables the fair and reasonable penalty rates to be paid outside of these hours and provides for bargaining within those hours.

**16.** If the Commission determined to rationalise the span of hours clauses MIERG proposes to vary the award and simplify the span of hours as set out in the Draft Determination Application in Part 2 of this Submission.

#### [Shiftworkers and Weekend Penalties](#)

**17.** MIERG agrees that the clauses should be varied to include shift workers.

**18.** The HSU proposes to remove the private medical imaging practices specific weekend penalty rates. Private medical imaging practices are increasingly working normal hours beyond the 6am to 6pm period during the week and also on weekends. Changes to these penalty rates have the potential to significantly impact on practices.

**19.** Whilst it makes clear that each modern award review should be reviewed on its merits, The Fair Work Commissions summary of Decision 4 yearly review of modern awards - Penalty Rates AM2014/305 2017 states on page 8 that *“there is no case for common penalty rates across all industries”*. Whilst this applies in this instance to only the ‘HERCC’ industries in this decision, it can

reasonably be assumed that the Commission views would hold across other awards and justifies the inclusion of the industry specific clauses.

**20.** MIERG contends that the maintenance of the private medical imaging practices specific weekend rates should be retained.

**21.** Where the Commission determines that a variation to reduce the number of these clauses should be made, MIERG proposes that, given the commissions inferences to move towards reducing penalty rates, the new clause should reflect the private medical imaging practices weekend rates. This would be appropriate in setting the *minimum* safety net award provisions.

**22.** If the Commission determined to rationalise the Weekend Penalties clauses MIERG proposes the award be varied as set out in MIERG's Draft Determination Application in Part 2 of this Submission.

## Economic Position

### Business Specific Conditions in Support of the Maintaining Medical Imaging Specific Span of Hours

**23.** Removal of the award provision of normal hours for private medical imaging practices has the potential to have a significant detrimental financial effect on the practices and therefor the employment opportunities of the Medical Imaging Technologists and Support Services staff.

**24.** Business conditions in Private Medical Imaging have been under pressure for 20 years

### Business Revenue Pressures

**25.** Private medical imaging practices are funded predominantly through Medicare.

**26.** An independent evaluation of the Commercial Environment of Comprehensive Diagnostic Imaging Practices was commissioned by the Federal Department of Health and a draft report provided in April 2017.

**27.** Private Medical Imaging Practices are under significant revenue stress with the reliance on Federal Medicare Funding.

**28.** Medicare funding per episode has been frozen at 1998 levels and do not cover the cost of services **Refer Appendix 1** of this Submission.

### Business Cost Pressures

**29.** Medical Imaging is provided on expensive advanced technology equipment. This is a fixed capital cost that is required for the provision of high quality imaging. Installation of developments in new medical technology by Private Medical Imaging Practices is continuous.

### Impact of Changes in Medical Imaging Practices

**30.** Seven day practices in particular are potentially impacted by any change to the span of normal hours. Most seven day practices are either hospital or medical centre based.

**31.** Given the significantly constrained revenue position private medical imaging practices have an ongoing need to improve productivity by focusing on harmonious internal workplace relations in an environment where the award is kept to minimum rates and internal workplace negotiation delivers equitable sharing of cost savings and productivity improvements.

**AM2016/31 MIERG Part 2 – Draft Determination Application  
– Revised 12 February 2018**

<b>Filed on behalf of</b>	Medical Imaging Employment Relations Group (MIERG)
<b>Filed by</b>	Tim McCarthy MIERG co-Facilitator m 0435 013 733
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**Fair Work Commission**

*Fair Work Act 2009 s.156*

**Draft Determination Application**

Part 2-3, Div 4 – 4 Yearly reviews of modern awards

**Health Professionals and Support Services Award 2010 MA000027**

(Health Professionals Award)

(AM2016/31) MA000027

*Health and Welfare*

**Excerpt**

**Part 1—Application and Operation**

**1. Title and commencement**

**1.5.** Neither the making of this award nor the operation of any transitional arrangements is intended to result in a reduction in the take-home pay of employees covered by the award. On application by or on behalf of an employee who suffers a reduction in take-home pay as a result of the making of this award or the operation of any transitional arrangements, the Fair Work Commission may make any order it considers appropriate to remedy the situation.

**The above award is varied**

**[1] Part 3—Hours of Work**

**8. Ordinary hours of work and rostering**

**8.2 Span of hours - day workers**

**Delete 8.2(a) and insert in lieu,**

**8.2** The ordinary hours of work of a day worker will be between 7.00 a.m. and 9.00 p.m. Monday to Sunday inclusive.

Delete 8.2(b), ~~(b) Private medical, dental and pathology practice~~

Delete 8.2(c), ~~(c) Private medical imaging practices—five and a half day practices~~

Delete 8.2(d), ~~(d) Private medical imaging practices—seven day practices~~

Delete 8.2(e), ~~(e) Physiotherapy practices~~

## **[2] Part 5—Penalties and Overtime**

### **18 Penalty rates and shift work**

#### **18.1 Weekend penalties—day worker**

Delete 18.1(a) and (b) and insert in lieu,

(a) Work performed on a **Saturday** in accordance with clause 8.2 will be paid at the rate of **125%** of the minimum hourly rate applicable to their classification and pay point.

(b) Work performed on a **Sunday** in accordance with clause 8.2 will be paid at the rate of **150%** of the minimum hourly rate applicable to their classification and pay point.

#### **Insert new 18.1(c)**

(c) A casual employee who works on a Saturday will be paid **125%** or on a Sunday will be paid **150%** of the minimum hourly rate applicable to their classification and pay point for all time worked, but will not be paid the casual loading of 25%.

Delete 18.2 Weekend work in medical imaging seven-day practice

Re-number 18.3 Public holidays, 18.2 Public holidays

Delete 18.4 Shiftwork penalties and insert in lieu,  
**18.3 Shiftwork penalties**

Where the ordinary rostered hours of work of a shiftworker finish between 9.00 pm and 7.00 am or commence between 9.00 pm and 7.00 am, the



employee will be paid **115%** of the minimum hourly rate applicable to their classification and pay point.

**[3] Part 6—Leave, Public Holidays, termination of employment and Other NES Entitlements**

**20. Annual leave**

**20.2 Additional leave for certain shiftworkers**

**Delete 20.2(b) and insert in lieu**

**(b)** For the purpose of the NES a **shiftworker** is an employee who is regularly rostered to work on a shift roster system which operates 24 hours a day and the employee is regularly rostered to work Sundays and public holidays.

**Appendix 1—The Deloitte Access Economics evaluation of the broad commercial environment of the diagnostic imaging sector updated 17 August 2017**

**[Independent evaluation of commercial environment of comprehensive Diagnostic imaging practices Final Report**

**Link:** <http://www.health.gov.au/internet/main/publishing.nsf/Content/foi-304-1617>]

**E&OE**