DRAFT DETERMINATION

Fair Work Act 2009
s.156—4 yearly review of modern awards

4 yearly review of modern awards—Overtime for casuals
(AM2017/51)

ELECTRICAL, ELECTRONIC AND COMMUNICATIONS CONTRACTING AWARD 2020
[MA000025]

Electrical contracting industry

VICE PRESIDENT HATCHER
VICE PRESIDENT CATANZARITI
DEPUTY PRESIDENT BULL SYDNEY, XX MONTH 2021

4 yearly review of modern awards – Electrical, Electronic and Communications Contracting Award 2020 – overtime for casuals.

A. Further to the decision issued by the Full Bench of the Fair Work Commission on 28 October 2021 [[2021] FWCFB 5236], the above award is varied as follows:

1. By deleting clause 13.13(b) and inserting the following:

(b) An employee who works on an afternoon or night shift which does not continue for at least 5 successive afternoons or nights must be paid for such shift as follows:

(i) for a full-time or part-time employee, at **150%** of the ordinary hourly rate for the first 2 hours and **200%** of the ordinary hourly rate thereafter or

(ii) for a casual employee, at **187.5%** of the ordinary hourly rate for the first 2 hours and **250%** of the ordinary hourly rate thereafter.

NOTE: The shift allowances for a casual employee in clause 13.13(b)(ii) have been calculated by adding the casual loading prescribed by clause 11.2 to the ordinary hourly rate before applying the shift allowance for a full-time or part-time employee prescribed by clause 13.13(b)(i).

2. By deleting clause 13.14 and inserting the following:

13.14 Rate for working on Saturday shifts

(a) The minimum rate to be paid to a shiftworker for work performed between midnight on Friday and midnight on Saturday is as follows:

(i) for a full-time or part-time shiftworker, at **150%** of the ordinary hourly rate; and

(ii) for a casual shiftworker, at **187.5%** of the ordinary hourly rate.

(b) The extra rates in clause 13.14(a) are in substitution for and not cumulative upon the shift premiums prescribed in clause 13.13.

NOTE: The penalty rate for a casual employee in clause 13.14(a)(ii) has been calculated by adding the casual loading prescribed by clause 11.2 to the ordinary hourly rate before applying the penalty rate for a full-time or part-time employee prescribed by clause 13.14(a)(i).

3. By deleting clause 13.15(a) and inserting the following:

(a) The rate at which continuous shiftworkers are to be paid for work on a rostered shift, the major portion of which is performed on a Sunday or public holiday, is as follows:

(i) for full-time and part-time continuous shiftworkers, at **200%** of the ordinary hourly rate; and

(ii) for casual continuous shiftworkers, at **250%** of the ordinary hourly rate.

4. By deleting clause 13.15(b) and inserting the following:

(b) The rate at which shiftworkers on other than continuous work are to be paid for all time worked on a Sunday or public holiday is as follows:

(i) for full-time and part-time non-continuous shiftworkers on Sunday—**200%** of the ordinary hourly rate;

(ii) for casual non-continuous shiftworkers on Sunday—**250%** of the ordinary hourly rate;

(iii) for full-time and part-time non-continuous shiftworkers on public holidays—**250%** of the ordinary hourly rate; and

(iv) for casual non-continuous shiftworkers on public holidays—**312.5%** of the ordinary hourly rate.

5. By inserting the following at the end of clause 13.15:

NOTE: The penalty rates for casual employees in clauses 13.15(a)(ii), 13.15(b)(ii) and 13.15(b)(iv) have been calculated by adding the casual loading prescribed by clause 11.2 to the ordinary hourly rate before applying the penalty rates for full-time and part-time employees prescribed by clauses 13.15(a)(i), 13.15(b)(i) and 13.5(b)(iii), respectively.

6. By deleting clause 13.16 and inserting the following:

13.16 Overtime on shiftwork

(a) Subject to clause 13.16(c), for all time worked in excess of or outside the ordinary hours of work prescribed by this award or on a shift other than a rostered shift, a full-time or part-time shiftworker must be paid:

(i) if employed on continuous shiftwork—at the rate of **200%** of the ordinary hourly rate; or

(ii) if employed on other than continuous shiftwork—at the rate of **150%** of the ordinary hourly rate for the first 2 hours and **200%** of the ordinary hourly rate thereafter.

(b) Subject to clause 13.16(c), for all time worked in excess of or outside the ordinary hours of work prescribed by this award or on a shift other than a rostered shift, a casual shiftworker must be paid:

(i) if employed on continuous shiftwork—at the rate of **250%** of the ordinary hourly rate; or

(ii) if employed on other than continuous shiftwork—at the rate of **187.5%** of the ordinary hourly rate for the first 2 hours and **250%** of the ordinary hourly rate thereafter.

NOTE: The overtime rates for casual employees have been calculated by adding the casual loading prescribed by clause 11.2 to the ordinary hourly rate before applying the overtime rates for full-time and part-time employees prescribed by clause 13.16(a).

(c) Clauses 13.16(a) and 13.16(b) do not apply where the time is worked:

(i) by arrangement between the employees themselves;

(ii) for the purpose of effecting customary rotation on shifts; or

(iii) on a shift to which an employee is transferred on short notice as an alternative to standing the employee off in circumstances which would entitle the employer to deduct payment for a day in accordance with the Act. Provided that when less than 8 hours' notice has been given to the employer by a relief worker that the relief worker will be absent from work

and the employee whom the relief worker should relieve is not relieved and is required to continue to work on the employee's rostered day off, the unrelieved employee must be paid **200%** of the ordinary hourly rate.

(d) Such extra rates will be in substitution for and not cumulative upon the shift premiums.

7. By inserting the words "except on Sundays and public holidays," after the words "part-time employee," in clause 20.1(a).

8. By inserting the words "except on Sundays and public holidays," after the words "casual employee," in clause 20.1(b).

9. By deleting the table appearing in clause B.3.1 and inserting the following:

	Day	**Public holiday**
	% of ordinary hourly rate[1]	
	125%	**312.5%**
	$	**$**
Electrical worker grade 1	26.88	67.19
Electrical worker grade 2	27.80	69.50
Electrical worker grade 3	28.73	71.81
Electrical worker grade 4	29.66	74.16
Electrical worker grade 5	31.34	78.34
Electrical worker grade 6	32.28	80.69
Electrical worker grade 7	34.04	85.09
Electrical worker grade 8	35.68	89.19
Electrical worker grade 9	36.38	90.94
Electrical worker grade 10	39.16	97.91

10. By deleting the table appearing in clause B.3.2 and inserting the following:

	After-noon or night[1]	Non-successive afternoon or night[2]		Perma-nent night[3]	Satur-day	Sunday	Public holiday	
		First 2 hours	After 2 hours				Contin-uous shift-worker	Non-contin-uous shift-worker
	% of ordinary hourly rate[4]							
	140%	187.5%	250%	155%	187.5%	250%	250%	312.5%
	$	$	$	$	$	$	$	$
Electrical worker grade 1	30.10	40.31	53.75	33.33	40.31	53.75	53.75	67.19
Electrical worker grade 2	31.14	41.70	55.60	34.47	41.70	55.60	55.60	69.50
Electrical worker grade 3	32.17	43.09	57.45	35.62	43.09	57.45	57.45	71.81
Electrical worker grade 4	33.22	44.49	59.33	36.78	44.49	59.33	59.33	74.16
Electrical worker grade 5	35.10	47.01	62.68	38.86	47.01	62.68	62.68	78.34
Electrical worker grade 6	36.15	48.41	64.55	40.02	48.41	64.55	64.55	80.69
Electrical worker grade 7	38.12	51.06	68.08	42.21	51.06	68.08	68.08	85.09
Electrical worker grade 8	39.96	53.51	71.35	44.24	53.51	71.35	71.35	89.19
Electrical worker grade 9	40.74	54.56	72.75	45.11	54.56	72.75	72.75	90.94
Electrical worker grade 10	43.86	58.74	78.33	48.56	58.74	78.33	78.33	97.91

11. By updating the cross-references accordingly.

B. This determination comes into operation on XX MONTH 2021. In accordance with s.165(3) of the Fair Work Act 2009 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 2021.

VICE PRESIDENT