

From: Melinda Bolton [<mailto:Melinda.Bolton@unitedvoice.org.au>]
Sent: Monday, 29 April 2019 5:16 PM
To: AMOD; Chambers - Gostencnik DP
Subject: AM2018/22 Food, Beverage and Tobacco Manufacturing Award - Draft determinations

Dear Associate

We refer to the Directions made by Commissioner Gostencnik on 5 April 2019.

Please find attached the draft determination of United Voice.

Kind regards

Melinda Bolton
National Industrial Officer
United Voice



T: 02 8204 3040
E: melinda.bolton@unitedvoice.org.au
W: unitedvoice.org.au

DRAFT DETERMINATION

Fair Work Act 2009

s.156 – 4 yearly reviews of modern awards

4 yearly review of modern awards – Award Stage

(AM2018/22)

Food, Beverage and Tobacco Manufacturing Industry Award 2010

(MA0000073)

[FULL BENCH]

SYDNEY, XX Month 2019

4 yearly review of modern awards

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 *Food, Beverage and Tobacco Manufacturing Industry Award 2010* be varied as follows.

[1] At clause 3.1, at the definition of ‘*food, beverage and tobacco manufacturing award*’ insert new subclauses (d) and (e) as follows:

‘(d) patrolling, protecting, screening, watching or guarding any people and/or property, including cash or other valuables, by physical means (which may involve the use of patrol dogs or the possession or use of a firearm) or by electronic means and the operation of a security control room or monitoring centre; and

(e) cleaning (including event cleaning, trolley collection and hygiene and pollution control and minor property maintenance which is incidental or peripheral to cleaning).’

[2] Delete subclause 26.3 (c) and insert new clause 26.3 (c) as follows:

‘(c) Hot places

- (i) *An employee who works for more than 30 minutes in the shade where the temperature is raised by artificial means must be paid the following percentage of the ordinary hourly rate for the employee’s classification for each hours work or part thereof:*

<i>Temperature</i>	<i>Penalty</i>
<i>Between 46 and 54 degrees Celsius</i>	<i>200%</i>
<i>In excess of 54 degrees Celsius</i>	<i>300%</i>

- (ii) *In addition, where work continues for more than two hours in temperatures exceeding 54 degree Celsius, the employee is entitled to 1 hours rest after every two hours work without loss of pay.*
- (iii) *The temperature will be agreed between the supervisor and the employee who claims the extra rate for the given period.*

[3] Delete clause 32.5 and insert a new clause 32.5 as follows:

‘Except as otherwise provided in clause 32 – the rate of 150% must be paid for all work done during meal hours and thereafter until a meal break is taken.’

[4] Delete clause 33.1(a) and insert a new clause 33.1(a) as follows:

‘(a) Except as provided for in clauses 33.12, 33.1(d), 33.7 and 33.8, for all work done outside ordinary hours on any day or shift, as defined in clauses 30.2, 30.3 and 30.4, the overtime rate is 150% for the first two hours and 200% thereafter until the completion of the overtime work. For a continuous shiftworker the rate for working overtime is 200%.’

[5] Delete clause 33.6 and insert a new clause 33.6 as follows:

‘A day worker required to work overtime on a Saturday must be afforded at least four hours work or be paid for four hours at the rate of 150% for the first two hours and 200% thereafter, except where overtime is continuous with overtime commenced on the previous day.’

[6] Delete clause 33.7 and insert a new clause 33.7 as follows:

‘An employee required to work overtime on a Sunday must be paid for a minimum of two hours work at the rate of 200%. The 200% is to be paid until the employee is relieved from duty.’

[7] Delete clause 33.8 and insert a new clause 33.8 as follows:

‘Public holiday work

(a) A day worker required to work overtime on a public holiday must be paid for a minimum of two hours work at the rate of 250%. The 250% is to be paid until the employee is relieved from duty.

(b) A continuous shiftworker required to work overtime on a public holiday must be paid for a minimum of two hours work at the rate of 200%.

(c) A non-continuous shiftworker required to work overtime on a public holiday must be paid for a minimum of two hours work at the rate of 250%. The 250% is to be paid until the employee is relieved from duty.’

[8] Delete clause 34.3(a) and insert new clause 34.3(a) as follows:

'(a) For the purpose of the additional week of annual leave provided for in s.87(1)(b) of the Act, a shiftworker is a seven day shiftworker who is regularly rostered to work on weekends and public holidays.'

B. The determination comes into operation from XX Month 2019. In accordance with s.165(3) of the *Fair Work Act 2009* this determination does not take effect until the start of the first full pay period that starts on or after XX Month 2019.

PRESIDENT