

MA000034 PR703715

The attached document replaces the document previously issued with the above code on 9 January 2019.

By replacing reference to clause “27.1(a)” in item 4 with clause “27.1”.

Modern Awards, Economics and Research Section
On behalf of the Associate to Vice President Catanzariti

10 January 2019



DETERMINATION

Fair Work Act 2009

s.156 - 4 yearly review of modern awards

4 yearly review of modern awards—Nurses Award 2010

(AM2016/31)

NURSES AWARD 2010

[MA000034]

Health and welfare services

VICE PRESIDENT CATANZARITI

DEPUTY PRESIDENT BOOTH

COMMISSIONER CRIBB

SYDNEY, 9 JANUARY 2019

4 yearly review of modern awards – Nurses Award 2010 – substantive issues.

A. Further to the Full Bench decision issued by the Fair Work Commission on 3 December 2018 [[\[2018\] FWCFB 7347](#)] and 9 January 2019 [[2019] FWCFB 121] the above award is varied as follows:

1. By deleting clause 21.4 and inserting the following:

21.4 Each employee must be free from duty for not less than two full days in each week or four full days in each fortnight or eight full days in each 28-day cycle. Where practicable, such days off must be consecutive. For the purposes of this sub-clause, duty includes time an employee is on call.

2. By deleting clause 23 rostered work and inserting the following:

23. Rest breaks between rostered work

23.1 An employee will be allowed a rest break of ten hours between the completion of one ordinary work period or shift and the commencement of another work period or shift.

23.2 By mutual agreement between the employer and employee, the ten hour rest break may be reduced to eight hours.

23.3 If, on the instruction of the employer, an employee resumes or continues to work without having had ten consecutive hours off duty, or eight hours as agreed, they will be paid at the rate of double time until released from duty for such period.

3. By deleting clause 25.4 and replacing it with the following:

25.4 Seven days' notice of a change of roster will be given by the employer to an employee. Except that, a roster may be altered at any time to enable the functions of the hospital or facility to be carried out where another employee is absent from work pursuant to clauses 33 – Ceremonial leave; 34 – Personal/carers' leave and compassionate leave and 36 – Leave to deal with Family and Domestic Violence, or in an emergency. Where any such alteration requires an employee working on a day which would otherwise have been the employee's day off, the day off instead will be as mutually arranged.

4. By deleting clause 27.1 and inserting the following:

27.1 Meal breaks

- (a) An employee who works in excess of five hours will be entitled to an unpaid meal break of not less than 30 minutes and not more than 60 minutes. Such meal break will be taken between the fourth and the sixth hour after beginning work, where reasonably practicable. Provided that, by agreement of an individual employee, an employee who works shifts of six hours or less may forfeit the meal break.
- (b) Where an employee is required to be on duty during a meal break, the employee will be paid overtime for all time worked until the meal break is taken.
- (c) Where an employee is required by the employer to remain available during a meal break, but is free from duty, the employee will be paid at ordinary rates for a 30 minute meal break. This period will not count as time worked when calculating ordinary hours for the purposes of overtime or penalties. If the employee is recalled to perform duty during this period the employee will be paid overtime for all time worked until the balance of the meal break is taken.

5. By deleting clause 28.5 and inserting the following:

28.5 Recall to work when on call

- (a) An employee who is required to be on call and who is recalled to work at the workplace will be paid a minimum of three hours work at the appropriate overtime rate.
- (b) An employee who is required to be on call and who is required to perform work by the employer via telephone or other electronic communication away from the workplace will be paid at the appropriate overtime rate for a minimum of one hours work. Multiple electronic requests made and concluded within the same hour shall be compensated within the same one hour's overtime payment. Time worked beyond one hour will be rounded to the nearest 15 minutes.

6. By deleting clause 28.6(a) and inserting the following:

- (a) An employee who is not required to be on call and who is recalled to work at the workplace after leaving the employer's premises will be paid a minimum of three hours work at the appropriate overtime rate.

7. By deleting clause 28.6(b) and inserting the following:

- (b) An employee who is not required to be on call and who is required to perform work by the employer via telephone or other electronic communication away from the workplace will be paid at the appropriate overtime rate for a minimum of one hours work. Multiple electronic requests made and concluded within the same hour shall be compensated within the same one hour's overtime payment. Time worked beyond one hour will be rounded to the nearest 15 minutes.

8. By updating the table of contents and cross-references accordingly.

B. This determination comes into operation from 9 January 2019. In accordance with s.165(3) of the *Fair Work Act 2009* (Cth) this determination does not take effect until the start of the first full pay period that starts on or after 9 January 2019.



VICE PRESIDENT

Printed by authority of the Commonwealth Government Printer