
CIRCULAR: GEN/074/NAT/074/19
DATE: Thursday 17 January 2019
SUBJECT: Modern Award Updates
ATTENTION: Chief Executive Officer

As part of the 4 yearly review of Modern Awards, The Fair Work Commission (FWC) have made determinations that give effect to a number of updates to Health Awards. These updates impact the *Health Professionals and Support Services Award 2010* and the *Nurses Award 2010*, as summarised below. Links to the full determinations at the end of this Circular.

Health Professionals and Support Services Award 2010 (the HPSS Award)

The amendments to the HPSS Award, include, among other matters, the following amendments.

Span of hours

Clause 24 which outlines shift hours was amended to include '*private medical, dental, pathology, physiotherapy, chiropractic and osteopathic practices*'. This is consistent with a related amendment that updated the definition of '*private medical, dental, pathology practice*' to '*private medical, dental, pathology, physiotherapy, chiropractic and osteopathic practice*'.

Shift work

The determination adds clarity to the shift payments for permanent (15%) and casual employees (40%, '*but will not be paid the casual loading of 25%*') performing shift work. The determination also clarifies the interaction between shift penalty rates and other penalty rates, specifically, that shift penalties will not be applicable to work performed on weekends and public holidays where other payments apply.

Change of roster

The determination includes an amendment to make it clear that a roster can be amended without 7 days' notice to enable functions to be carried on where another employee is absent from duty pursuant to:

- personal/carer's leave;
- compassionate leave;
- ceremonial leave; and
- family and domestic violence leave; or
- in an emergency.

The old provision was limited to where an employee was absent due to illness or in an emergency. Therefore, the determination expands the ability for an employer to change the roster without 7 days' notice.

Meal breaks

A determination was made to allow an employee to work up to six hours and forgo an unpaid meal break with the consent of the employer.

The determination comes into operation from 9 January 2019, except in relation to two particular amendments where the date of operation will be 9 July 2019 (see the link to the determination for further detail).

Nurses Award 2010

The amendments to the Nurses Award, include, among other matters, the following amendments.

- in relation to the requirement to 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, a determination has been made to include *'for the purposes of this sub-clause, duty includes time an employee is on call'*.
- increasing the rest break between the completion of one ordinary work period or shift and the commencement of another work period or shift from 8 hours to 10 hours, (however the determination also includes that by agreement between the employer and the employee there is provision to reduce the required rest break between shifts to 8 hours);
- amendments to the change of roster provision (see above regarding the HPSS Award);
- amendments to the meal break clause:
 - allowing an employee working shift of six hours or less to forfeit the unpaid meal break;
 - an employee required to be on duty during the meal break is to be paid overtime until the meal break is taken; and
 - an employee required to be available but is free from duty is to be paid at ordinary rate for a 30 minute meal break (however, this is not counted as 'time worked' when calculating ordinary hours for the purposes of overtime). If recalled to work, the employee is to receive overtime for all time worked until the balance of the meal break is taken.
- Amendment to the recall provision to account for the situation where an employee is recalled to perform work via telephone or other electronic communication away from the workplace. The minimum recall payment is one hours work. Time worked beyond one hour will be rounded to the nearest 15 minutes.

These determinations take effect from the first full pay period on or after 9 January 2019.

Links to the determinations of the relevant awards can be accessed at **Appendix 1**.

If you have any questions or if you require further information, please contact the SIAG National Advisory Service on 03 9644 1400 or 1300 (SIAG HR) / 1300 742 447.



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APPENDIX 1

Links to Draft Determinations

- *Health Professionals and Support Services Award 2010:*
<https://www.fwc.gov.au/documents/sites/awardsmodernfouryr/pr703713.pdf>
- *Nurses Award 2010:*
<https://www.fwc.gov.au/documents/sites/awardsmodernfouryr/pr703715.pdf>