



DETERMINATION

Fair Work Act 2009

s.156—4 yearly review of modern awards

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

BROADCASTING, RECORDED ENTERTAINMENT AND CINEMAS AWARD 2020 [MA000091]

Broadcasting and recorded entertainment industry

VICE PRESIDENT HATCHER
VICE PRESIDENT CATANZARITI
DEPUTY PRESIDENT BULL

SYDNEY, 30 OCTOBER 2020

4 yearly review of modern awards – common issue – overtime for casuals – Broadcasting, Recorded Entertainment and Cinemas Award 2020.

A. Further to the decisions issued by the Full Bench of the Fair Work Commission on 18 August 2020 [[\[2020\] FWCFB 4350](#)] and 30 October 2020 [[\[2020\] FWCFB 5636](#)] the above award is varied as follows:

1. By renumbering clauses 11.3 to 11.5 as clauses 11.4 to 11.6.
2. By inserting a new clause 11.3 as follows:

11.3 When a casual employee works overtime, they must be paid the overtime rates in clauses 31, 42, 43, 55, 61, 68, 75 and 80.

3. By inserting the following note as a paragraph below the heading in clause 31:

NOTE: The overtime rates for casual employees in clause 31 have been calculated by adding the casual loading prescribed by clause 11.2 to the ordinary hourly rate before applying the overtime rates prescribed for full-time and part-time employees.

4. By deleting clause 31.2 and inserting the following:

31.2 All time worked in excess of the ordinary hours is overtime and must be paid for as follows:

(a) Full-time and part-time employees

- (i)** Monday to Friday—**150%** of the ordinary hourly rate for the first 2 hours and **200%** of the ordinary hourly rate after 2 hours;
- (ii)** Saturday—**175%** of the ordinary hourly rate for the first 2 hours and **200%** of the ordinary hourly rate after 2 hours;
- (iii)** Sunday—**200%** of the ordinary hourly rate; and
- (iv)** Public holiday—**250%** of the ordinary hourly rate.

(b) Casual employees

- (i)** Monday to Friday—**187.5%** of the ordinary hourly rate for the first 2 hours and **250%** of the ordinary hourly rate after 2 hours;
- (ii)** Saturday—**218.75%** of the ordinary hourly rate for the first 2 hours and **250%** of the ordinary hourly rate after 2 hours;
- (iii)** Sunday—**250%** of the ordinary hourly rate; and
- (iv)** Public holiday—**312.5%** of the ordinary hourly rate.

5. By deleting clause 31.6 and inserting the following:

31.6 Except in the case of overtime worked under clause 31.5, where an employee having completed work and having left the place of work is recalled for work, not continuous with the next rostered shift, the employee must be paid overtime at the following rates with a minimum of 2 hours' payment:

- (a)** for a full-time or part-time employee—**200%** of the ordinary hourly rate; or
- (b)** for a casual employee—**250%** of the ordinary hourly rate.

6. By deleting clause 31.8 and inserting the following:

31.8 An employee is entitled to a minimum break of 10 hours between the finish of work on one day and the start of work on the next day. If the employer requires an employee to resume work without such a break, the employee must be paid at the following rates for all time worked until they have had a break of at least 10 hours:

- (a)** for a full-time or part-time employee—**200%** of the ordinary hourly rate; or
- (b)** for a casual employee—**250%** of the ordinary hourly rate.

7. By inserting the following note as a paragraph below the heading in clause 42:

NOTE: The overtime rates for casual employees in clause 42 have been calculated by adding the casual loading prescribed by clause 11.2 to the minimum hourly rate before applying the overtime rates prescribed for full-time and part-time employees.

8. By deleting clause 42.1 and inserting the following:

42.1 All time worked in excess of the rostered daily hours by full-time, part-time and casual announcers and broadcaster/journalists is overtime and is to be paid at the following rates:

- (a) for a full-time or part-time employee—**150%** of the minimum hourly rate for the first 2 hours and **200%** of the minimum hourly rate after 2 hours; and
- (b) for a casual employee—**187.5%** of the minimum hourly rate for the first 2 hours and **250%** of the minimum hourly rate after 2 hours.

9. By deleting clause 42.2 and inserting the following:

42.2 All time worked in excess of 7 hours by an announcer and broadcaster/journalist on a midnight to dawn shift is overtime and is to be paid at the following rates:

- (a) for a full-time or part-time employee—**150%** of the minimum hourly rate for the first 2 hours on any one day and **200%** of the minimum hourly rate after 2 hours on that day.
- (b) for a casual employee—**187.5%** of the minimum hourly rate for the first 2 hours on any one day and **250%** of the minimum hourly rate after 2 hours on that day.

10. By deleting clause 42.4 and inserting the following:

42.4 Work in excess of 10 days

An announcer and broadcaster/journalist required to work on more than 10 days in any 2 week period is to be paid at the following rates for each day in excess of 10:

- (a) for a full-time or part-time employee—**200%** of the minimum hourly rate; and
- (b) for a casual employee—**250%** of the minimum hourly rate.

11. By deleting clause 42.5 and inserting the following:

42.5 On-air hours

All time worked by an announcer and broadcaster/journalist on air in excess of the consecutive hours specified in clause 35—Hours of work—Announcers and Broadcaster/Journalists is overtime and must be paid for at the following rates with a minimum payment of one hour:

- (a) for a full-time or part-time employee—**150%** of the minimum hourly rate; and
- (b) for a casual employee—**187.5%** of the minimum hourly rate.

12. By deleting clause 43.1 and inserting the following:

43.1 Overtime rates—full-time and part-time employees

Full-time and part-time technical staff are to be paid for overtime at the following rates:

- (a) Monday to Friday—**150%** of the minimum hourly rate for the first 2 hours and **200%** of the minimum hourly rate after 2 hours.
- (b) Saturday—**175%** of the minimum hourly rate for the first 2 hours and **200%** of the minimum hourly rate after 2 hours.
- (c) Sunday—**200%** of the minimum hourly rate.
- (d) Public holidays—**250%** of the minimum hourly rate.

13. By renumbering clauses 43.2 and 43.3 as 43.3 and 43.4.

14. By inserting a new clause 43.2 as follows:

43.2 Overtime rates—casual employees

Casual technical staff are to be paid for overtime at the following rates:

- (a) Monday to Friday—**187.5%** of the minimum hourly rate for the first 2 hours and **250%** of the minimum hourly rate after 2 hours.
- (b) Saturday—**218.75%** of the minimum hourly rate for the first 2 hours and **250%** of the minimum hourly rate after 2 hours.
- (c) Sunday—**250%** of the minimum hourly rate.
- (d) Public holidays—**312.5%** of the minimum hourly rate.

NOTE: The overtime rates for casual employees have been calculated by adding the casual loading prescribed by clause 11.2 to the minimum hourly rate before applying the overtime rates for full-time and part-time employees prescribed by clause 43.1.

15. By inserting the following note as a paragraph below the heading in clause 55:

NOTE: The overtime rates for casual employees in clause 55 have been calculated by adding the casual loading prescribed by clause 11.2 to the minimum hourly rate before applying the overtime rates prescribed for full-time and part-time employees.

16. By renumbering clause 55.1(a) as a paragraph in clause 55.1.

17. By deleting clause 55.1(b).

18. By renumbering clauses 55.2 to 55.4 as clauses 55.3 to 55.5.

19. By inserting a new clause 55.2 as follows:

55.2 Daily overtime will be compensated for in the following manner.

- (a) Overtime will be paid for at the following rates:

- (i) for a full-time or part-time employee—**150%** of the minimum hourly rate for the first 2 hours and **200%** of the minimum hourly rate after 2 hours; or
 - (ii) for a casual employee—**187.5%** of the minimum hourly rate for the first 2 hours and **250%** of the minimum hourly rate after 2 hours.
 - (b) When an employee is not given the days or nights off duty as provided for in clause 48—Hours of work the employee will be paid at the following rates for all work done on any such day or days with a minimum payment for 4 hours:
 - (i) for a full-time or part-time employee—**200%** of the minimum hourly rate; or
 - (ii) for a casual employee—**250%** of the minimum hourly rate.
20. By renumbering clauses 55.4 and 55.5 as clauses 55.6 and 55.7.
21. By renumbering clause 55.3(c) as new clause 55.5.
22. By deleting clause 55.3(b) and inserting a new clause 55.4 as follows:
- 55.4** If an employee is called upon to resume duty within 12 hours of completion of a distant engagement, overtime will be paid at the following rates for all work done before the expiration of the 12 hour break:
- (a) for a full-time or part-time employee—**150%** of the minimum hourly rate; or
 - (b) for a casual employee—**187.5%** of the minimum hourly rate.
23. By deleting clause 55.3(a) and inserting the following:
- Insufficient break represents all time worked before the expiration of 12 hours from the completion of duty on one day and the resumption of duty, except during distant engagements, and will be compensated as follows:
- (a) if the break is less than 8 hours, overtime will be paid for at the following rates for all work done before the expiration of the 12 hour break:
 - (i) for a full-time or part-time employee—**200%** of the minimum hourly rate,
 - (ii) for a casual employee—**250%** of the minimum hourly rate; or
 - (b) if the break is 8 hours or more, overtime will be paid for at the following rates for all work done before the expiration of the 12 hour break:
 - (i) for a full-time or part-time employee—**150%** of the minimum hourly rate,
 - (ii) for a casual employee—**187.5%** of the minimum hourly rate.
24. By renumbering clauses 57.4(c) and 57.4(d) as 57.4(d) and 57.4(e).

25. By inserting a new clause 57.4(c) as follows:

- (c) When a casual employee works overtime, they must be paid the overtime rates in clause 61—Overtime and penalty rates.

26. By inserting the following note as a paragraph below the heading in clause 61:

NOTE: The overtime rates for casual employees in clause 61 have been calculated by adding the casual loading prescribed by clause 57.4(b) to the minimum hourly rate before applying the overtime rates prescribed for full-time and part-time employees.

27. By deleting the words “after that” appearing in clause 61.1(b) and inserting “after 2 hours”.

28. By deleting the percentages “**150%**” and “**200%**” appearing in clause 61.2(a) and inserting “**187.5%**” and “**250%**” respectively.

29. By deleting the words “after that” appearing in clause 61.2(a) and inserting “after 2 hours”.

30. By inserting the words “for a full-time or part-time employee and **250%** of the minimum hourly rate for a casual employee,” after the words “minimum hourly rate” appearing in clause 61.3(b).

31. By inserting the following note as a paragraph below the heading in clause 68:

NOTE: The overtime rates for casual employees in clause 68 have been calculated by adding the casual loading prescribed by clause 11.2 to the hourly rate before applying the overtime rates prescribed for full-time and part-time employees.

32. By deleting clause 68.3(a) and inserting the following:

- (a) For all time worked in excess of 8 hours per day other than on Sunday or public holidays, payment will be made at the following rates:
 - (i) for a full-time or part-time employee—**150%** for the first 2 hours and **200%** after 2 hours;
 - (ii) for a casual employee—**187.5%** for the first 2 hours and **250%** after 2 hours.

33. By deleting clause 68.4(a) and inserting the following:

- (a) For all time worked in excess of 8 hours per day on Monday to Friday or 38 hours per week, payment will be made at the following rates:
 - (i) for a full-time or part-time employee—**150%** for the first 3 hours and **200%** after 3 hours;
 - (ii) for a casual employee—**187.5%** for the first 3 hours and **250%** after 3 hours.

34. By deleting the second sentence in clause 68.4(c).
35. By renumbering clauses 68.4(d) to 68.4(f) as clauses 68.4(e) to 68.4(g).
36. By inserting a new clause 68.4(d) as follows:
- (d) Where overtime is worked on a Saturday following the working of ordinary hours of work the overtime will be paid at the following rates:
 - (i) for a full-time or part-time employee—**175%** for the first 3 hours and **200%** after 3 hours;
 - (ii) for a casual employee—**218.75%** for the first 3 hours and **250%** after 3 hours.
37. By deleting clause 68.4(e) and inserting the following:
- (e) Where overtime is worked on a Saturday which does not follow or is not continuous with the working of ordinary hours of work (i.e. where Saturday is a sixth or seventh day of the week) it will be paid for at the following rates:
 - (i) for a full-time or part-time employee—**150%** for the first 3 hours and **200%** after 3 hours;
 - (ii) for a casual employee—**187.5%** for the first 3 hours and **250%** after 3 hours.
38. By deleting clause 68.5(c) and inserting the following:
- (c) For all time worked in excess of 8 hours per day on Monday to Friday or 38 hours per week, payment will be made at the following rates:
 - (i) for a full-time or part-time employee—**150%** for the first 3 hours and **200%** after 3 hours;
 - (ii) for a casual employee—**187.5%** for the first 3 hours and **250%** after 3 hours.
39. By deleting clause 68.5(f) and inserting the following:
- (f) Where overtime is worked on a Saturday following the working of ordinary hours of work the rate of payment of this overtime will be as follows:
 - (i) for a full-time or part-time employee—**175%** for the first 3 hours and **200%** after 3 hours;
 - (ii) for a casual employee—**218.75%** for the first 3 hours and **250%** after 3 hours.
40. By deleting clause 68.5(g) and inserting the following:

- (g) Where overtime is worked on a Saturday which does not follow or is not continuous with the working of ordinary hours of work (i.e. where Saturday is a sixth or seventh day of the week) it will be paid for at the following rates:
 - (i) for a full-time or and part-time employee—**150%** for the first 3 hours and **200%** after 3 hours;
 - (ii) for a casual employee—**187.5%** for the first 3 hours and **250%** after 3 hours.

41. By deleting clause 75 and inserting the following:

75. Overtime

NOTE: The overtime rates for casual employees in clause 75 have been calculated by adding the casual loading prescribed by clause 11.2 to the minimum hourly rate before applying the overtime rates prescribed for full-time and part-time employees.

75.1 Any time worked in excess of an initial 3-hour call will be paid at the following rates and will be calculated in segments of 15 minutes:

- (a) for a full-time or part-time employee—**150%** of the minimum hourly rate for 2 hours and **200%** of the minimum hourly rate after 2 hours;
- (b) for a casual employee—**187.5%** of the minimum hourly rate for 2 hours and **250%** of the minimum hourly rate after 2 hours.

75.2 Any time worked in excess of the initial 3-hour call for purpose of recording material in excess of 21 minutes will be paid at the following rates with a minimum payment as for one hour:

- (a) for a full-time or part-time employee—**150%** of the minimum hourly rate;
- (b) for a casual employee—**187.5%** of the minimum hourly rate.

75.3 All time worked in excess of the ordinary hours of an engagement on any one day will be paid at the following rates to be calculated to the nearest quarter of an hour:

- (a) for a full-time or part-time employee—**150%** of the minimum hourly rate for the first 4 hours and **200%** of the minimum hourly rate after 4 hours;
- (b) for a casual employee—**187.5%** of the minimum hourly rate for the first 4 hours and **250%** of the minimum hourly rate after 4 hours.

42. By deleting clause 80.4 and inserting the following:

80.4 Subject to other penalties prescribed in this award, full-time and part-time employees will be paid for all overtime worked as follows:

- (a) Monday to Saturday—**150%** of the minimum hourly rate for the first 2 hours and **200%** of the minimum hourly rate after 2 hours;

- (b) Sunday—**200%** of the minimum hourly rate; and
- (c) any time worked on any day in excess of 12 hours—**300%** of the minimum hourly rate.

43. By renumbering clauses 80.5 and 80.6 as clauses 80.6 and 80.7.

44. By inserting a new clause 80.5 as follows:

80.5 Subject to other penalties prescribed in this award, casual employees will be paid for all overtime worked as follows:

- (a) Monday to Saturday—**187.5%** of the minimum hourly rate for the first 2 hours and **250%** of the minimum hourly rate after 2 hours;
- (b) Sunday—**250%** of the minimum hourly rate; and
- (c) any time worked on any day in excess of 12 hours—**375%** of the minimum hourly rate.

NOTE: The overtime rates for casual employees have been calculated by adding the casual loading prescribed by clause 11.2 to the minimum hourly rate before applying the overtime rates for full-time and part-time employees prescribed by clause 80.4.

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

B. This determination comes into operation on 20 November 2020. 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 20 November 2020.

VICE PRESIDENT

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