



# DETERMINATION

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

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

### **CLERKS—PRIVATE SECTOR AWARD 2020** [MA000002]

Clerical 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 – Clerks—Private Sector 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 clause 21.4 and clause 28.1.

3. By deleting clause 21.4 and inserting the following:

#### **21.4 Payment for working overtime**

- (a) The overtime rate in clause 21.1 is the relevant percentage specified in column 2 for full-time and part-time employees and column 3 for casual employees of **Table 5—Overtime rates for employees other than shiftworkers** (depending on when the overtime was worked as specified in column 1), calculated daily.

**Table 5—Overtime rates for employees other than shiftworkers**

| <b>Column 1</b><br><b>Hours of overtime</b> | <b>Column 2</b><br><b>Overtime rate</b> | <b>Column 3</b><br><b>Overtime rate</b> |
|---|---|---|
|---|---|---|

| <b>worked per day</b>            | <b>Full-time and part-time employees</b> | <b>Casual employees</b>         |
|----------------------------------|--|---------------------------------|
|                                  | <b>% of minimum hourly rate</b>          | <b>% of minimum hourly rate</b> |
| Monday to Saturday—first 2 hours | 150                                      | 175%                            |
| Monday to Saturday—after 2 hours | 200                                      | 225%                            |
| Sunday—all day                   | 200                                      | 225%                            |
| Public holiday—all day           | 250                                      | 275%                            |

NOTE 1: Schedule B—Summary of Hourly Rates of Pay sets out the hourly overtime rate for all employee classifications according to when overtime is worked.

NOTE 2: The overtime rates for casual employees have been calculated by adding the casual loading prescribed by clause 11.2 to the overtime rates for full-time and part-time employees prescribed by clause 21.4(a).

4. By deleting clause 28.1 and inserting the following:

**28.1** An employer must pay an employee on shiftwork overtime rates at the relevant percentage specified in column 2 for full-time and part-time shiftworkers and column 3 for casual shiftworkers of **Table 6—Overtime rates for shiftwork** (depending on when the overtime was worked as specified in column 1) as follows:

**Table 6—Overtime rates for shiftwork**

| <b>Column 1<br/>For all time worked:</b>                               | <b>Column 2<br/>Overtime rate<br/>Full-time and part-time employees</b> | <b>Column 3<br/>Overtime rate<br/>Casual employees</b> |
|--|---|--|
|  | <b>% of minimum hourly rate</b>   | <b>% of minimum hourly rate</b>                        |
| In excess of the ordinary weekly hours fixed in clause 26.1            |   |  |
| first 3 hours  | 150   | 175  |
| after 3 hours  | 200   | 225  |
| In excess of ordinary daily hours on an ordinary shift                 |   |  |
| first 2 hours  | 150   | 175  |
| after 2 hours  | 200   | 225  |
| Saturday, Sunday or public holiday that is not an ordinary working day | 200   | 225  |

NOTE 1: Schedule B—Summary of Hourly Rates of Pay sets out the hourly overtime rate for all employee classifications according to when overtime is worked.

NOTE 2: The overtime rates for casual employees have been calculated by adding the casual loading prescribed by clause 11.2 to the overtime rates for full-time and part-time employees prescribed by in clause 28.1.

5. By updating the 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

Printed by authority of the Commonwealth Government Printer