



## **Mediation and Employment Relations Service**

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### **JUNE 2018 IR NEWS**

By CHAS CINI

The Fair Commission has handed down its Annual National Wage decision which comes into effect on 1<sup>st</sup> July 2018. It has resulted in a 3.5% increase to the award rates which appear in the Attachment. Allowances have also been adjusted and the new rates also are provided below.

If you have an Individual Flexibility Arrangement Agreement as per Clause 7 of the Award you should increase the rate of pay by 3.5% and check to ensure that the rate meets the Better Off Overall Test (“BOOT”).

If you are paying above award rates you may absorb this increase but be sure that the correct payment for overtime is also considered. Under payment of wages claims can be lodged up to six years after the employment ceases.

The new rates appear in the attachment to this update. Other information is provided but you can access the Award at

[https://www.fwc.gov.au/documents/documents/modern\\_awards/award/ma000035/default.htm](https://www.fwc.gov.au/documents/documents/modern_awards/award/ma000035/default.htm)

Allowances have also been increased and the more common ones appear in the summary below.

#### **17.2 Expense-related allowances**

##### **(a) Tool and equipment allowance**

(i) Where the employer requires employees to supply their own tools and equipment, the employer must reimburse the employees for the cost of supplying such tools and equipment.

(ii) The provisions of this clause do not apply where the tools and equipment are paid for by the employer.

##### **(b) Use of vehicle allowance**

Where an employer instructs employees to use their own vehicle during working hours to relocate materials, equipment, or personnel either within the normal work location or on public thoroughfares, the employees will be paid an allowance of 78 cents per kilometre.



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### (c) Meal allowance

(i) If an employee is required to work overtime after working ordinary hours (except where the period of overtime is fewer than one and a half hours), the employee will be paid \$13.34 for the first and any subsequent meals. Alternatively, the employer may supply the employee with a meal.

(ii) An employee required to work overtime for more than two hours after the employee's ordinary ceasing time without having been notified before leaving work on the previous day that the employee will be required to work overtime, will be provided free of cost with a suitable meal, and if the work extends into a second meal break, another meal, provided that in the event of the meal not being supplied the employee is entitled to a payment of \$13.34 for each meal not supplied.

### 17.3 Reimbursement of expenses

Where an employer authorises an employee to incur expenses in the course of the employee's employment, the expense will be reimbursed by the employer upon provision by the employee of a tax invoice and receipt.

### 17.4 All-purpose allowances

The following allowances apply for all purposes of this award:

#### (a) Leading hands

A leading hand in charge of two or more people must be paid as follows:

In charge of	% of the <a href="#">standard rate</a>
2–6 employees	115% per week extra
7–10 employees	134% per week extra
11–20 employees	191% per week extra
More than 20 employees	240% per week extra

#### (b) First aid allowance

An employee designated by the employer to render first aid in addition to his or her usual duties and who is the current holder of a recognised first aid qualification, such as one from St John Ambulance or a similar body, must be paid a daily allowance of 14% of the standard rate to carry out such work.



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### **(c) Travelling allowance**

- (i)** Where an employee is required to travel from one place to another for the purpose of work, the time occupied in travelling will be counted as time worked and paid for as such.
- (ii)** Time spent by an employee travelling from the employee's home to the principal place of employment and return will not be regarded as time worked.
- (iii)** Where an employee is compelled by their duties to spend the night away from home or the property at which the employee is employed (whichever is the employee's normal place of sleeping during employment), the employer will reimburse the employee for the demonstrable cost of suitable accommodation.
- (iv)** The provisions of this clause will not apply where the employer provides the employee with suitable accommodation free of charge.

### **17.5 Protective clothing**

#### **(a) Wet weather clothing and footwear**

- (i)** An employee who is required to work in a wet place must be provided with protective clothing and footwear by the employer. If the employee is not provided with such clothing and footwear, the employer will reimburse the employee for the reasonable cost of providing such clothing and footwear.
- (ii)** Where the clothing and footwear is provided and paid for by the employer, it will remain the property of the employer.
- (iii)** 'wet place' is defined in clause [3.1](#) of this award.

#### **(b) Protective clothing**

- (i)** Where the employer requires an employee to supply his or her own protective clothing, the employer must reimburse the employee for the cost of supplying such protective clothing.
- (ii)** The provisions of this clause do not apply where the protective clothing is paid for by the employer.
- (iii)** Any protective clothing that is paid for by the employer remains the property of the employer.



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### **17.6 Charges for accommodation, meat, goods, and services**

(a) Where the employer provides an employee with living premises for the use of a “without keep” employee and the employee’s household, the employer may make a charge of an amount agreed between them in writing for the use of the premises and/or power supplied to such premises.

(b) The employer may charge to an employee:

- the cost of goods or services supplied to the employee at the employee’s request and paid for by the employer; and
- the cost of goods purchased by the employer for the employee at the employee’s request.

(c) Where the employer supplies an employee with meat, the employer may charge the employee an amount mutually agreed upon.

(d) Where the employer sells groceries or stores to the employee, the prices charged must not exceed the cost price with carriage added.

### **35. Ordinary hours of work and rostering**

**35.1** Ordinary hours for Piggery attendants will not exceed 152 in any four-week period. If an employee works less than 38 hours in one week of any four-week period then the employer will use its best endeavours to ensure that the employee is paid for 38 hours work during any such week. Unless otherwise agreed by an employer and an affected employee the spread of ordinary hours will not exceed eight per day between 6.00 am and 6.00 pm Monday to Friday. No employee will be required to work more than 12 ordinary hours per day.

**35.2** Agreement may be reached between an employer and the majority of employees at a workplace about the method of implementing a 38-hour week at the workplace.

#### **35.3 Shift work definitions**

(a) **Afternoon shift** means any shift finishing after 6.00 pm and at or before midnight.

(b) **Continuous work** means work carried on with consecutive shifts of employees throughout the 24 hours of each day, of at least six consecutive days without interruption except during breakdowns or meal breaks or due to unavoidable causes beyond the control of the employers.

(c) **Night shift** means any shift finishing subsequent to midnight and at or before 8.00 am.



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**(d) Rostered shift** means a shift of which the employee concerned has had at least 48 hours' notice.

**35.4** By agreement between the employer and the majority of employees concerned, the span of hours over which shifts may be worked may be altered by up to one hour at either end of the span.

### **35.5 Continuous work hours**

**(a)** This subclause will apply to shift workers on continuous work as defined in clause [35.3\(b\)](#). The ordinary hours of shift workers will average 38 per week inclusive of crib time and must not exceed 152 hours in 28 consecutive days. Provided that, where the employer and the majority of employees concerned agree, a roster system may operate on the basis that the weekly average of 38 ordinary hours is achieved over a period which exceeds 28 consecutive days but does not exceed a maximum of 26 weeks.

**(b)** Subject to the following conditions, such shift workers will work at such times as the employer may require.

**(c)** A shift will consist of not more than 10 hours inclusive of crib time. Provided that:

**(i)** in any arrangement of ordinary working hours where the ordinary working hours are to exceed eight on any shift will be by agreement between the employer and the majority of employees in the plant or work section or sections concerned;

**(ii)** by agreement between the employer, the majority of employees in the work section or sections concerned and where an employee or employees nominate, ordinary hours not exceeding 12 on any day may be worked.

**(iii)** except at the regular changeover of shifts an employee must not be required to work more than one shift in each 24 hours; and

**(iv)** 20 minutes will be allowed to shiftworkers each shift for crib, which will be counted as time worked.

### **35.6 Other than continuous work hours**

**(a)** This subclause will apply to shiftworkers not upon continuous work as defined in clause [35.3\(b\)](#). The ordinary hours of shiftworkers will average 38 per week inclusive of crib time and must not exceed 152 hours in 28 consecutive days.

Provided that, where the employer and the majority of employees concerned agree, a roster system may operate on the basis that the weekly average of 38 ordinary



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hours is achieved over a period which exceeds 28 consecutive days but does not exceed a maximum of 26 weeks.

(b) The ordinary hours will be worked continuously except for meal breaks at the discretion of the employer. An employee must not be required to work for more than five hours without a break for a meal. Except at regular changeover of shifts an employee must not be required to work more than one shift in each 24 hours.

Provided that:

(i) the ordinary hours of work prescribed must not exceed 10 hours on any day;

(ii) in any arrangement of ordinary working hours where the ordinary working hours are to exceed eight on any shift, the arrangement of hours will be subject to agreement between the employer and the majority of employees in the plant or work section or sections concerned; and

(iii) by agreement between the employer, the majority of employees on the site, work section or sections concerned and where an employee or employees nominates, ordinary hours not exceeding 12 on any day may be worked.

### 35.7 Rosters

Shift rosters will specify the commencing and finishing times of ordinary working hours of the respective shifts.

### 35.8 Variation by agreement

(a) Subject to clause [35.3](#) the method of working shifts may in any case be varied by agreement between the employer and the majority of employees concerned.

(b) The time of commencing and finishing shifts once having been determined may be varied by agreement between the employer and the majority of employees concerned to suit the circumstances of the establishment or in the absence of agreement by five days' notice of alteration given by the employer to the employees.

### 35.9 Afternoon or night shift allowances

(a) A shiftworker while on afternoon or night shift must be paid for such shift 15% more than the ordinary rate.

(b) A shiftworker who works on an afternoon or night shift which does not continue:

(i) for at least five successive afternoons or nights on a five-day site or six successive afternoons or nights on a six day site; or



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(ii) for at least the number of ordinary hours prescribed by one of the alternative arrangements in clauses [35.9\(c\)\(ii\)](#) or [\(iii\)](#) of this award;

must be paid for each such shift at the rate of time and a half for the first three hours and double time after that.

(c) An employee who:

(i) during a period of engagement on shift, works night shift only; or

(ii) remains on night shift for a longer period than four consecutive weeks; or

(iii) works on a night shift which does not rotate or alternate with another shift or with day work so as to give them at least one third of their working time off night shift in each shift cycle;

must during such engagement period or cycle be paid 30% more than the ordinary rate for all time worked during ordinary working hours on such night shift.

**35.10** A shiftworker required to work on Saturdays, Sundays or public holidays must not receive the shift penalty in clause [35.9](#) on those days. The provisions of clauses [37—Saturdays and Sundays](#) and [38—Payment for public holidays](#) will apply instead.

### **36. Overtime and penalty rates**

**36.1** All time worked by Piggery attendants before the ordinary commencing time or after the ordinary ceasing time or in excess of ordinary hours of work in any one day or in any one week will be regarded as overtime and will be paid for at the rate of time and a half for the first two hours and double time after that.

**36.2** All overtime worked on Saturday will be paid for at the rate of time and a half for the first two hours and double time after that.

**36.3** In computing overtime each day's work will stand alone.

**36.4** An employee recalled to work overtime after leaving the employer's business premises (whether notified before or after leaving the premises) must be paid for a minimum of four hours work at the appropriate rate for each time the employee is so recalled; provided that the employee must not be required to work the full four hours if the job they were recalled to perform is completed within a shorter period.

**36.5** If an employee is required to work overtime after working ordinary hours on Monday to Friday (except where the period of overtime is less than one hour and a half) the employee will be paid \$13.34 for the first and any subsequent meals. Alternatively, the employer may supply the employee with a meal.



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**36.6** Before starting such overtime an employee will be allowed a meal break of 30 minutes which will be paid for at ordinary rates.

**36.7** An employee working such overtime will be allowed a crib time of 20 minutes without deduction of pay after each four hours of work.

**36.8** Employees will work reasonable overtime to meet the needs of the enterprise.

**36.9** No employer or employee will be party to payment for overtime where such overtime is not actually worked. The assignment of overtime by an employer will be based on specific work requirements and the practice of 'one in all in' overtime must not apply.

**36.10** Where overtime is unplanned and not notified the day or days beforehand, a payment will be made of \$13.34 after two hours of overtime if work will continue beyond the meal break.

Alternatively, the employer may supply the employee with a meal.

**36.11** An employee notified the day or days prior to an overtime day must not be paid a meal allowance unless the overtime is cancelled. Should cancellation occur the employee will be paid a meal allowance for the meal prepared if notice of cancellation is not given at least the day before the planned overtime.

### **37. Saturdays and Sundays**

#### **37.1 Saturdays**

##### **(a) Day workers**

(i) The rate for ordinary time duty on Saturday will be time and a half.

(ii) The rate for overtime duty on a Saturday will be time and half for the first two hours and double time after that, with a minimum payment of three hours except for work which is continuous with ordinary duty.

##### **(b) Shiftworkers**

The minimum rate to be paid to a shiftworker for work performed will be time and a half. Such extra rate will be in substitution for and not cumulative upon the shift allowances prescribed in clause [35.9](#) in this award.

#### **37.2 Sundays**

(a) The rate for overtime duty on a Sunday will be double time with a minimum payment of three hours at such rate except for work which is continuous with ordinary duty.





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(b) Shiftworkers on continuous shifts for work on a rostered shift the major portion of which is performed on a Sunday will be paid at the rate of double time.

### **38. Payment for public holidays**

**38.1** A Piggery attendant who is a day worker required to work on a public holiday will be paid at the rate of double time and one half for a minimum of three hours and up to the usual rostered hours. For time worked in excess of the ordinary rostered hours overtime rates will apply.

**38.2** A shiftworker required to work on a public holiday will be paid at the rate of double time for a minimum of three hours and up to the usual rostered hours.

**38.3** By agreement between an employer and the employees, time off instead of payment for public holidays may be accrued for public holiday work. That is, the employee will receive ordinary time payment for the hours worked on the said holiday and accrue time to be taken at a mutually agreed time.

### **33. Classifications**

Please refer to clause 33 of the Award at

[https://www.fwc.gov.au/documents/documents/modern\\_awards/award/ma000035/default.htm](https://www.fwc.gov.au/documents/documents/modern_awards/award/ma000035/default.htm)

If you are unable to access, please do not hesitate to contact me.



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### **Superannuation**

The employer's current contribution of 9.5% remains unchanged until 1<sup>st</sup> July 2021 when it will increase to 10%.

Superannuation contributions by employers must be made for employees as follows if the employee is:

- over 18 and earns more than \$450 before tax in a calendar month
- under 18 and work more than 30 hours a week (and still earn more than \$450 in the calendar month)

**Please note that this contribution is only payable on ordinary time earnings and not overtime. If unsure please do not hesitate to contact me.**

The increase schedule is as follows:

Financial Year	Rate (%)
2018/2019	9.5
2019/2020	9.5
2020/2021	9.5
2021/2022	10.0
2022/2023	10.5
2023/2024	11.0
2024/2025	11.5
2025 and onwards	12.0



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Classification	Weekly award rate	Hourly rate	Hourly rate	Overtime Fulltime			Overtime Casuals		
	FullTime	FullTime	Casual	150%	200%	250%	150%	200%	250%
	\$	\$	\$	\$	\$	\$	\$	\$	\$
PA1	719.20	18.93	23.66	28.40	37.86	47.33	33.13	43.78	52.06
PA2	739.40	19.46	24.33	29.19	38.92	48.65	34.06	45.00	53.52
PA3	768.30	20.22	25.28	30.33	40.44	50.55	35.39	46.76	55.61
PA4	794.80	20.92	26.15	31.38	41.84	52.30	36.61	48.38	57.53
PA5	815.40	21.46	26.83	32.19	42.92	53.65	37.56	49.63	59.02
PA6	837.40	22.04	27.55	33.06	44.08	55.10	38.57	50.97	60.61
PA7	863.60	22.73	28.41	34.10	45.46	56.83	39.78	52.56	62.51

### 34.2 Junior wages

Age of employee	% of relevant adult rate
Under 16 years of age	50
16 years of age	60
17 years of age	70
18 years of age	80
19 years of age	90
20 years of age	100

### Overtime Summary.

Overtime payments occur when an employee works

- a) more than eight hours per day
- b) no employee will be required to work more than 12 ordinary hours per day.
- c) outside of 6.00 am and 6.00 pm Monday to Friday.
- d) more than 152 in any four week period.
- e) on Saturday is at the rate of time and a half for the first two hours and double time after that.
- f) Public Holidays a minimum payment of 3 hours at double time and a half.