



Changes to Shift Work provisions in the Tasmanian State Service Award

Background

The Shift Work provisions within the Tasmanian State Service Award (the Award) have been substantially updated through a variation to the Award in the Tasmanian Industrial Commission. The variations provide a clearer and more detailed scheme than that which existed previously within the Award.

Much of the changes are self-explanatory, however to assist with the changes, this fact sheet will provide further detail as to the variations made.

Changes to the Award

Updated definitions

Each shift has been defined, including when morning, day, afternoon and night shift commences and ends. The definitions ensure that all work carried out as shift work across the 24 hours falls within a defined shift, with the relevant loadings attached, as follows:

- **Morning Shift** is defined as a shift commencing at or after 4.00am but before 7.00am. The penalty rate for a morning shift is 15%
- **Day Shift** is defined as a shift commencing at or after 7.00am and finishing at or before 7.00pm
- **Afternoon Shift** is defined as a shift finishing after 7.00pm and at or before midnight. The penalty rate for an afternoon shift is 15%.
- **Night Shift** is defined as a shift finishing after midnight and at or before 8.00am or a shift commencing between midnight and before 4.00am. The penalty rate for a Night shift is 27.5%

Definitions have been updated and/or introduced for shift worker, shift work, seven-day shift roster and seven-day shift worker to provide clarity of the interpretation of those terms which are used within the Clause.

Ordinary Hours of Work for Shift Workers

The ordinary hours of work were not previously defined within the shift work provisions within the Award. The variations now clearly define the ordinary hours of



work for shift workers as 36.75 hours per week subject to there not being an industrial agreement which provides for the ordinary hours being 38 hours per week.

For example, the *Parks and Wildlife Agreement* provides for ordinary hours of 38 per week.

The clause further clarifies the treatment of part time shift workers relevant to the ordinary hours.

Accrued Days Off

This is a new provision relating to accrued days off for shift workers. The provision clarifies the use of accrued days off and its interaction with the ordinary hours of work.

The provision clarifies that to enable an accrued day off within a 4-week rostered shift cycle:

- A shift worker whose ordinary hours of work are 36.75 per week can by agreement, work up to 154.35 rostered hours per rostered shift cycle of 28 calendar days (which is an additional 7.21 hours).
- A shift worker whose ordinary hours of work are 38 per week, can by agreement, work up to 160 hours per rostered shift cycle of 28 calendar days (which is an additional 8 hours).

While it is anticipated that accrued days off are utilised within the rostered shift cycle, a maximum of five accrued days off can be accrued at any time and not taken unless otherwise agreed with your manager.

The provision provides that accrual towards an accrued day off does not occur when an employee is on any form of leave with the exception of paid recreation leave, personal leave, family violence leave, and compassionate and bereavement leave. Any of these prescribed leave types taken by an employee are to be regarded as a shift worked for the purpose of calculating accrual towards an accrued day off. As an example, Long Service Leave, any leave without pay, or parental leave does not count as a shift worked for the purpose of accrual towards an accrued day off.

Meal Breaks

This clause clarifies within the shift work provision that a shift worker will not be required to work more than five continuous hours without an unpaid meal break of at least 30 minutes duration. The standard exception is included for agreement to work up to six hours.



Shift Rosters

This is a new provision that provides the requirements for shift rostering, including:

- A rostered shift cycle of at least 28 calendar day that stipulates the commencing and finishing times.
- Includes at least 8 rostered days off (RDOs) over the roster period.
- Provides for a minimum of 2 consecutive days off duty, except whereby mutual agreement between employer and employee, another arrangement is agreed.
- This is to ensure that as part of RDOs an employee is to have these days off consecutively.
- Where applicable includes an Accrued Day Off (ADO).
- Where the roster provides for more than one type of shift ie morning, afternoon and night, ensure that employees are rotated through the shift types, except where by mutual agreement between the employer and employee another arrangement is agreed.
- Stipulates that the roster is to be notified to employees at least 14 days prior to the start of the rostered shift cycle.
- A requirement for 7 days' notice for shift changes, failure to provide the required notice of 7 days will result in payment of the relevant overtime rate being paid for that shift unless otherwise agreed between the employer and the relevant employee and then no penalty payable.
- Provisions for a maximum number of consecutive shifts (8 shifts in any 9 days).
- Provisions for minimum and maximum continuous shift length with a minimum of 3 hours and a maximum of 8 hours.
- Maximum number of consecutive night shifts. Employees are to be allocated two consecutive rostered days off after four consecutive nights shifts. An employee who resumes work without having had the two consecutive days off is to be paid at the appropriate overtime rate until they are released from duty for two consecutive days.
- Requires a minimum 8-hour break period between rostered shifts.



- Other than a regular changeover of shift an employee is not to be rostered to work more than one shift in any 24-hour period.
- Overtime is not paid where an employee has less than 2 consecutive RDOs off after four consecutive night shifts because the employee elects to vary their roster, or there is an employee instigated swap, or an employee and employer agreement to a swap by mutual agreement.

Penalty Rates

The penalty rates that apply to the shifts have been updated as follows:

- Shift workers working a Morning or Afternoon shift will receive a penalty rate of 15% for the entire period of the shift.
- The penalty rate for night shifts has been increased from 15% to 27.5% in line with the standard in other Tasmanian State Service awards.
- The penalty rates for Saturday, Sunday and Holiday with Pay remain unchanged at one and one half, double and double and one half of the employee's normal salary rate respectively.
- The clause provides for the calculation of penalty rates to include any higher duties and more responsible duties allowance.

Overtime

The provisions for overtime have been expanded from what existed previously within the clause and are now aligned to the standard TSS overtime clauses and provide:

- The ability for the employer to request a shift worker work reasonable overtime.
- The ability for the employee to refuse to work such overtime that would result in employee working hours which are unreasonable.
- Rates of pay for overtime.
 - Overtime continuous with rostered shift – double the employees normal salary rate.
 - Overtime not continuous with rostered shift – Mon – Friday time and one half for the first three hours and double time thereafter at normal salary rate
 - For all work undertaken on an RDO, Saturday or Sunday and Holiday with Pay– double the employee normal salary rate.



- Minimum rest breaks after overtime of at least 8 hours unless otherwise agreed. Where a rostered shift is due to commence before an employee has had 8 hours break the employee will be released from duty without loss of pay until they have had their 8 hours break. Where the employer directs the employee to work during this period, they will be paid double their normal salary rate until they are released from duty for a continuous break of 8 hours.

Rostered Day Off which falls on a Holiday with Pay

This provision clarifies that a full-time shiftworker who is on an RDO when a Holiday with Pay falls (noting this is not good rostering practice and should not occur or be very rare) is to be paid the ordinary hours of work for that employee at their normal salary rate as they are entitled to the Holiday with Pay.

Daylight Saving

This is a standard clause across a number of TSS awards that provides certainty for the changeover for daylight saving.

Part-Time Shift Workers

In the Award there are a number of part-time shiftworkers, and this clause specifically confirms the arrangements that will apply as an exception to the rest of the clause and the interaction with the instrument of appointment.

The clause provides that a part-time shift worker is to be paid overtime for all time worked in excess of the ordinary hours of their rostered shift. For example, if their rostered shift is 8 hours and they work 9 hours, they are to be paid one hour of overtime.

Noting that clause 10(a)(ii) provides that where a part-time shiftworker agrees to work shifts other than their rostered shifts they will not be paid overtime unless the hours worked in a rostered shift cycle exceeds the ordinary hours of work for a fulltime shiftworker in that rostered shift cycle or the hours worked in the rostered shift cycle exceed the number of additional hours that employee can work at ordinary hours according to the instrument of appointment. The instrument of appointment for a part-time shiftworker will determine if the employee has agreed to work additional ordinary hours up to the equivalent of a full-time employee in a rostered shift cycle.

The clause further clarifies that where a part-time shiftworker and employer agrees to swap a shift by mutual agreement then overtime will not apply unless the hours worked in the rostered shift cycle exceeded the ordinary hours of a full-time shift worker in that rostered shift cycle.



With respect to Rostered Days Off which fall on a Holiday with Pay under this clause, it is clarified that where a part-time shiftworker who, by their normal work arrangements was available to have worked on a day that is a Holiday with Pay but is not rostered to work, they are to be paid for the day at the employee's normal salary rate for the hours they would have normally worked on that day. This is generally going to apply in the cases where part-time shiftworkers are rotating their days through a roster that necessitates rostered days off. In most cases part-time shiftworkers are more likely to be regular and rostered days off would not be available

Part VIII – Leave and Holidays with Pay

Recreation Leave

The application amends Part VIII – Leave and Holidays with Pay, clause 5(a)(iii) of the Award to provide additional clarification as to when a full time seven-day shift worker is entitled to the additional week of recreation leave. The sub provision now includes a requirement / qualifier for a full time seven-day shift worker to have worked no less than 20 weekend shifts per year. It is noted that each weekend shift stands alone to the 20-shift requirement. For example, a fulltime shiftworker who works both a Saturday and Sunday in the same weekend will have added 2/20 to their count.

As per the recreation leave clause itself this subclause applies pro rata to part-time shiftworkers by virtue of clause 5(a)(v). Recreation Leave for part-time employees accrues on a pro rata basis in proportion to the hours worked compared to full time employees rate of accrual as specified in (a)(i), (ii), (iii) and (iv).

This means a part-time seven-day shift worker is entitled to a pro-rata proportion of the additional week of recreation leave and the number of weekend shifts required to qualify for this additional leave is a pro-rata proportion of the 20 weekend shifts per year.