



AGED CARE AWARD 2010

PART 1 – APPLICATION AND OPERATION

1.1 Coverage

This award covers employers in the private aged care sector throughout Australia with respect to their employees covered in the classifications therein.

It does not cover employees who are covered by a State reference public sector modern award, a State reference public sector transitional award, a modern enterprise award or an enterprise instrument.

1.2 Access to the award and the National Employment Standards

The employer must ensure that copies of this [award](#) and the National Employment Standards (NES) are available to all employees to whom they apply.

1.3 The National Employment Standards (NES) and this award

The [NES](#) and this award contain the minimum conditions of employment for employees covered by this award.

1.4 Award Flexibility

Parties may agree to vary certain terms of the employment, as set out in clause 7.1 of the [award](#), to meet their genuine individual needs.

Any variation must comply with certain administrative requirements which are set out in clause 7 of the [award](#).

PART 2 – CONSULTATION AND DISPUTE RESOLUTION

2.1 Consultation

Major workplace change

Where an employer has made a *definite* decision to introduce major changes in production, program, organisation, structure or technology which are likely to have *significant effects* on employees, an employer must notify the affected employees and their representatives.

Significant effects include, but are not limited to:

- termination of employment
- major changes in the composition, operation or size of the employer's workforce or in the skills required
- the elimination or diminution of job opportunities, promotion opportunities or job tenure
- the alteration of hours of work
- the need for retraining or transfer of employees to other work or locations; and
- the restructuring of jobs.



Changes to rosters or hours of work

Where an employer proposes to change an employee's regular roster or ordinary hours of work, the employer must follow the particular procedures prescribed by clause 8.2 the award.

2.2 Dispute Resolution

Where there is a dispute about a matter under the award or in relation to the NES, the parties must follow the procedures prescribed by clause 9 of the award.

PART 3 – TYPES OF EMPLOYMENT AND TERMINATION OF EMPLOYMENT

3.1 Types of employment

Employees will be employed on either a full-time, part-time or casual basis. At the time of engagement, the employer will inform each employee the basis of their employment.

Please refer to clause 10 of the award for definitions of full-time, part-time and casual employment respectively.

3.2 Termination of employment

Notice of termination is provided for in the NES.

3.3 Redundancy

Redundancy pay is provided for in the NES.

Redundancy pay is not payable where an employee has less than 12 months service or the employer is a small business employer (less than 15 employees).

Transfer to lower paid duties

Where an employee is transferred to lower paid duties by reason of redundancy, the employer must give the same period of notice the employee would have been entitled to if the employment had been terminated and may instead of notice make a payment in lieu of notice for the number of weeks still owing.

Employee leaving during the notice period

An employee may terminate their employment during the period of notice and is entitled to receive the benefits and payments they would have received had they remained in employment until the expiry of the notice, but is not entitled to payment instead of notice.

PART 4 – MINIMUM WAGES AND RELATED MATTERS

4.1 Classifications

Classification definitions are set out in Schedule B of the award.

Employers must advise employees of their classifications in writing upon commencement of employment and of any subsequent changes to their classification.



4.2 Minimum wages

Refer to clause 14 of the award for current wage rates.

4.3 Allowances

The following allowances are payable under clause 15 of the award include but are not limited to:

- Clothing and equipment
- Leading hand allowance
- Meal allowance
- Nauseous work allowance
- Tool allowance
- Travelling, transport and fares

PART 5 – HOURS OF WORK AND RELATED MATTERS

5.1 Ordinary hours of work and rostering

The ordinary hours of work will be 38 hours per week, or an average of 38 hours per week worked over 76 hours per fortnight or 114 hours per 21 days or 152 hours per four week period, and will be worked either:

- (a) in a period of 28 calendar days of not more than 20 work days in a roster cycle;
- (b) in a period of 28 calendar days of not more than 19 work days in a roster cycle, with the twentieth day taken as an accrued paid day off (ADO); or
- (c) eight hours on a day shift or 10 hours on a night shift

5.2 Span of hours

The ordinary hours of work for an employee will be worked between 6.00 am and 6.00 pm Monday to Friday.

5.3 Rosters

With the exception of casual employees, at least seven days' notice is required to change the start and finish times for each day unless the change is necessary due to employee absence from work or a shortage of employees or with the consent of the employee.

5.4 Meal breaks

An employee who works in excess of five hours will be entitled to an unpaid meal break of not less than 30 minutes and not more than 60 minutes.

5.5 Overtime and penalty rates



Overtime rates will be paid for all work done as follows:

- in excess of the number of hours fixed as a day's, a week's or a 28-day cycle as the case may be – time and a half for the first two hours and double time thereafter;
- outside the span of hours for start and finish times - time and a half for the first two hours and double time thereafter;

An employee who works 38 hours Monday to Friday must be paid a minimum of three hours at overtime rates for work performed on a Saturday.

Overtime is in substitution for shift loadings for shiftwork.

Further details can be found at clause 25 of the award.

Saturday and Sunday Work

Ordinary hours worked between midnight on Friday and midnight on Saturday will be at the rate of time and a half, and for ordinary hours worked between midnight on Saturday and midnight on Sunday at the rate of time and three quarters.

Rest period after overtime

Employees are to have at least 10 consecutive hours of rest between completion of overtime and recommencement of ordinary duties. If this is not possible, then the employee will be paid at the rate of double time until they are released from such duty.

Time off instead of overtime

An employee may elect, with the consent of the employer, to take time off instead of payment for overtime at a time agreed with the employer.

5.6 Shiftwork

Employees working afternoon or night shift will be paid the following percentages in addition to the ordinary rate for such shift. Provided that employees who work less than 38 hours per week will only be entitled to the additional rates where their shift commence prior to 6.00 am or finish subsequent to 6.00 pm:

- Afternoon shift commencing at 10.00 am and before 1.00 pm—10% of the ordinary hourly rate
- Afternoon shift commencing at 1.00 pm and before 4.00 pm—12.5% of the ordinary hourly rate
- Night shift commencing at 4.00 pm and before 4.00 am—15% of the ordinary hourly rate
- Night shift commencing at 4.00 am and before 6.00 am—10% of the ordinary hourly rate

PART 6 – LEAVE AND PUBLIC HOLIDAYS

6.1 Annual Leave



Annual leave is provided for in the NES.

Annual leave loading

In addition to their ordinary pay, an employee other than a shiftworker will be paid annual leave loading of 17.5% of their ordinary rate of pay.

Shiftworkers, in addition to their ordinary pay will be paid the higher of:

- annual leave loading of 17.5% of their ordinary rate of pay; or
- the weekend and shift penalties the employee would have received had they not been on annual leave during the period.

6.2 Personal/carer's leave and compassionate leave

Personal leave and carer's leave are provided for in the NES.

6.3 Community service leave

Community service leave is provided for in the NES.

6.4 Public holidays

Public holidays are provided for in the NES.

Payment for working on a public holiday

Any employee required to work on a public holiday will be paid at the rate of double time and a half for all time worked

6.5 Ceremonial Leave

An employee who is legitimately required by Aboriginal tradition to be absent from work for Aboriginal ceremonial purposes will be entitled to up to 10 working days unpaid leave in any one year, with the approval of the employer

Please note that the following clauses are also contained in the award but are not in this summary:

Commencement and Transitional (clause 2); Definitions and Interpretation (clause 3); District Allowances (clause 16); Payment of wages (clause 17); Accident Pay (clause 18); Supported Wage System (clause 19); National Training Wage (clause 20); Superannuation (clause 21); Higher Duties (clause 27);

Disclaimer

This document contains key employment conditions for those who are employed in accordance with the award.

It is to be used as a guide only. It is not intended to be exhaustive and does not contain all of the conditions, entitlements or obligations that relate to an employee's employment under this award.