



EXTENSION OF SCHEDULE I UNDER THE CLERKS AWARD

The Fair Work Commission has decided to further extend Schedule I in the Clerks - Private Sector Award 2020 ("the Clerks Award") until **29 March 2021**.

Schedule I is a temporary schedule that provides extra award flexibility during the impacts of the coronavirus. The Schedule applies flexibility in relation to:

- the spread of ordinary hours when working from home;
- the temporary reduction in ordinary hours for Full time and part time hours employees; and
- annual leave.

Any direction issued under Schedule I **must**:

- be in writing;
- not be unreasonable in all the circumstances; and
- include a notification to the employees in writing that that the employer consents to a dispute arising from the direction being settled by the Fair Work Commission.

Working from Home

Schedule I provides employees who have agreed with their employer to work from home to also agree to change their spread of ordinary hours to allow them to work between:

- 6am and 10pm, Monday to Friday
- 7am and 12.30pm, Saturday

Temporary Reduction in Hours of Work

The ability to reduce an employee's ordinary hours of work under Schedule I only applies if an employer has already implemented a reduction in hours **prior to 30 June 2020** in accordance with Schedule I of the Clerks Award.

Under the Schedule I, if an employee cannot usefully be employed as a result of the impacts of coronavirus, and if at least 75% of full time and part time employees agree to temporarily reduce their ordinary hours of work via a vote, then:

- full time employees' hours may be temporarily reduced to not less than 75% of their agreed ordinary hours
- part time employees' hours may be temporarily reduced to not less than 75% of their agreed ordinary hours

The employer will need to comply with voting compliance in accordance with Schedule I.

Further requirements that must be complied with under this section of Schedule I include:

- Where an employee's hours have been reduced, the employee's ordinary hourly rate will be maintained but the weekly wage will be reduced by the same proportion;
- If an employee's hours of work were temporarily reduced before 1 July 2020, then employees can ask their employer for another vote to confirm that their hours will continue to be reduced for a longer period. This vote has to happen within 7 days of the employee asking for it. Where the vote does not happen, or the result of the vote does not support the ongoing reduction in hours (i.e. at least 75% of full time and part time employees have agreed), the reduced hours will no longer apply from 7 days after the employee asked the employer to conduct the vote;
- If an employee's hours have been reduced, the employer must not unreasonably reuse an employee request for reasonable secondary employment, and must consider all reasonable employee requests for training, professional development and/or study leave; and
- Where an employee's employment terminates, all relevant accruals and all entitlements on termination of employment will continue to be based on the employee's weekly ordinary hours of work prior to the reduction of hours.

After 29 March 2021, any temporary reduction in hours will cease and the employees will revert back to their ordinary hours prior to the request.

Annual Leave

An employer may request an employee to take annual leave, provided that the request:

- is not unreasonable having regard for the personal circumstances of the employee;
- is for reasons attributable to the coronavirus pandemic or Government initiatives to slow the transmission of COVID-19 and to assist the employer to avoid or minimise the loss of employment;
- does not leave the employee with less than two weeks of annual leave remaining; and
- a minimum of 72 hours of notice is provided to the employee.

An employee must not unreasonably refuse this request.

The period of annual leave must commence before 29 March 2021 but may end after this date.

Alternatively, an employee can agree to take twice as much annual leave at half the rate of pay for any agreed period, including any close down period. The employee will continue to accrue leave entitlements as normal despite taking annual leave at half the rate of pay.

Please contact the MTA Employment Relations Department on 02 9016 9000 or email eradvice@mtansw.com.au for any questions relating to Schedule I.