



Fair Work  
Commission

## AM2023/21 – Modern Awards Review 2023-24 Work and Care Stream Consultation day 2

Working from home (Q4)  
Minimum payment periods (Q6)  
Span of hours (Q7)  
Rosters (Q8)

### SUMMARY OF SUBMISSIONS

This submission summary document has been prepared by staff of the Fair Work Commission (**Commission**) to assist with the Work and Care stream of the Modern Awards Review 2023-24. The summary document does not represent the concluded view of the Commission on any issue.

This document been prepared to assist parties in **Consultation Day 2** dealing with the following issues related to working from home, hours of work and rosters.

#### **Morning Session: Working from Home and Hours of Work**

- **Discussion question 4 - Working from home** - Are there any specific variations needed in modern awards regarding working from home arrangements that are necessary to ensure they continue to meet the modern awards objective?
- **Discussion question 6 - Minimum payment periods** - Are there any specific variations to the minimum payment periods for part-time employees in modern awards that are necessary to ensure they continue to meet the modern awards objective?
- **Discussion question 7 - Span of hours** - Are there any specific variations to span of hours provisions in modern awards that are necessary to ensure they continue to meet the modern awards objective?

#### **Afternoon Session: Rosters**

- **Discussion question 8 - Rosters** - Noting the Work and Care Senate Committee Recommendation 21 that all employees should have at least 2 weeks' notice of their roster except in exceptional circumstances, are there any specific variations to rostering provisions in modern awards that are necessary to ensure they continue to meet the modern awards objective?



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# AM2023/21 – Modern Awards Review 2023-24

## Work and Care Stream

### Consultation day 2

Working from home (Q4)  
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Span of hours (Q7)  
Rosters (Q8)

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<b>Glossary</b>	
<b>ABI/BNSW</b>	Australian Business Industrial (ABI) and Business NSW
<b>ACCI</b>	Australian Chamber of Commerce and Industry
<b>ACTU</b>	Australian Council of Trade Unions
<b>AHA</b>	Australian Hotels Association
<b>AHEIA</b>	Australian Higher Education Industrial Association
<b>Ai Group</b>	Australian Industry Group
<b>AMWU</b>	Australian Manufacturing Workers' Union
<b>ANMF</b>	Australian Nursing and Midwifery Federation
<b>ARA</b>	Australian Retailers Association
<b>ASU</b>	Australian Municipal, Administrative, Clerical and Services Union
<b>Carers Tas</b>	Carers Tasmania
<b>CEPU</b>	Communications, Electrical, Electronic, Energy, Information, Postal, Plumbing and Allied Services Union of Australia
<b>CFW</b>	Australia Institute - Centre for Future Work
<b>CGCL</b>	Circle Green Community Legal
<b>CLC Group</b>	South-East Monash Legal Service, WEstjustice CLC and Jobwatch
<b>CPSU</b>	Community and Public Sector Union - Public Services Union Group
<b>CPSU-SPSF</b>	Community and Public Sector Union - State Public Service Federation Group
<b>FAAA</b>	Flight Attendants Association of Australia
<b>HSU</b>	Health Services Union
<b>LCA</b>	Law Council of Australia
<b>MEU</b>	Mining & Energy Union
<b>MTO</b>	Motor Trades Organisations
<b>NECA</b>	National Electrical and Communications Association
<b>NTEU</b>	National Tertiary Education Union
<b>SDA</b>	Shop, Distributive and Allied Employees' Association
<b>UWU</b>	United Workers Union
<b>WFPR</b>	Work and Family Policy Roundtable

## Working From Home - Discussion Question 4

Are there any specific variations needed in modern awards regarding working from home arrangements that are necessary to ensure they continue to meet the modern awards objective?

Party	REF	THEIR REF	Issue	Commentary	Proposal
ACTU	1.	74-78 p33-34	<b>Awards should accommodate WFH - ACTU</b>	<p>The ACTU highlights that working from home provisions are not currently a feature of modern awards. Given the large number of employers who are working from home or who want to work from home, the clear benefits to all employees and the potential gains to productivity, workforce participation and diversity and inclusion, modern awards in industries where work can be performed from home need to be varied to accommodate working from home arrangements to achieve the modern awards objective.</p> <p>ACTU provide that an estimated 35 per cent of jobs that can be performed from home and almost 40 per cent of Australians say flexibility is their main reason for working from home. Research demonstrates the benefits of working from home arrangements particularly to women and mothers, where working from home has been suggested to transform traditionally family unfriendly occupations into more family friendly ones. Working from home increases labour supply and workforce participation of women. Research demonstrates that working from home significantly increased workforce participation for people with disability or health conditions.</p> <p>They submit that there are broader benefits including productivity and participation gains, deepening the pool of available employees with benefits for diversity and inclusion, mental health and employee engagement, reducing absenteeism and improving autonomy.</p>	<p><b>Proposal Summary:</b> Relevant modern awards be varied to provide workers with the right to request work from home arrangements, with access to dispute resolution by the FWC and the same requirements for employers in terms of responding to the request and information they need to provide to employees. This right should be available to all employees regardless of their length of service or reason for requesting working from home arrangements.</p> <p>Employers should only be permitted to refuse a request on reasonable grounds. There should be clear, objective and industry-specific criteria in each relevant award to determine the reasonableness of a refusal.</p> <p><b>Proposal endorsed/supported by:</b></p> <ul style="list-style-type: none"> <li>• MEU (3, p2)</li> <li>• CEPU (6, p3)</li> <li>• AMWU (para 11)</li> </ul>
AHEIA	2.	p6	<b>No variations necessary to the higher education sector awards - AHEIA</b>	<p>AHEIA submit that no variations are necessary in higher education sector awards. AHEIA submit universities already provide through enterprise agreements and policies a diverse range of work location arrangements.</p>	<p><b>Proposal Summary:</b> No variations proposed.</p>
Ai Group	3.	148-154 p53-55	<b>Timing of meal and rest breaks WFH - Ai Group</b>	<p>Ai Group provide that many modern awards stipulate when employees are permitted to take meal and rest breaks.</p> <p>For example, Clerks Award states that employees working more than 5 hours are entitled to one unpaid meal break between 30-60 minutes, to be taken within the first 5 hours of work. Retail Award sets out at clause 16.2 a</p>	<p><b>Proposal Summary:</b> Vary modern awards to ensure they can accommodate the following arrangements:</p> <ul style="list-style-type: none"> <li>• Any provisions requiring meal breaks and/or rest breaks to be taken at a particular time should not apply to an employee working from home, where the employer and employee agree.</li> </ul>

### Working From Home - Discussion Question 4

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Party	REF	THEIR REF	Issue	Commentary	Proposal
				<p>table specifying timing and duration of meal unpaid meal breaks and paid rest breaks and prohibits employers from requiring employees to take a rest break or a meal break within the first or last hour of work and from working more than 5 hours without taking a meal break. Similar provisions are contained in other awards such as clause 14 of the Banking, Finance and Insurance Award 2020, clause 16 of the Airline Operations – Ground Staff Award 2020, clause 27 of the SCHADS Award and clause 14 of the Storage Services Award.</p> <p>Ai Group submit that employees working from home may wish to take their meal and rest breaks at times of their choosing, including to allow them to accommodate any caring responsibilities. Some modern awards also provide that rest breaks cannot be combined with meal breaks, which can be necessary for attendance at a designated workplace to ensure employees are not required to work for extended periods of time and are not unduly fatigued. Ai Group submits this rationale does not apply with the same force to an employee working from home who may have caring responsibilities and may wish to take longer breaks to attend personal matters.</p>	<ul style="list-style-type: none"> <li>An employee working from home should be able to combine a meal break with any rest breaks to which they are entitled, where agreed with the employer.</li> </ul>
<b>Ai Group</b>	4.	155-156 p55	<b>Allowances - Ai Group</b>	<p>Ai Group provide that the modern awards system provides for various allowances to be paid to employees in particular circumstances. These allowances may be required to be paid on a weekly, hourly or per-shift basis, or provided as a reimbursement. Some allowances are intended to compensate employees for circumstances arising from working at the employer's designated workplace. For example, various modern awards provide entitlements associated with special clothing or uniforms, which may not be worn where an employee is working from home. Ai Group submit that such entitlements should not apply in those circumstances.</p>	<p><b>Proposal Summary:</b> Modern awards should be reviewed to ensure all allowances are not payable where an employee is working from home.</p>
<b>ANMF</b>	5.	47-49 p10-11	<b>Right to request WFH in Nurses Award - ANMF</b>	<p>ANMF submits that members in non-direct care roles, like nurse education, can benefit from the flexibility of working from home. It reduces travel time and helps manage work and care.</p>	<p><b>Proposal Summary:</b> Vary Nurses Award to allow non-direct care employees to request work from home. Employers must consider requests and must not unreasonably refuse, with review and dispute provisions. Clause must also include safeguards around work hours, right to disconnect, health and safety, and other relevant issues.</p>



### Working From Home - Discussion Question 4

Are there any specific variations needed in modern awards regarding working from home arrangements that are necessary to ensure they continue to meet the modern awards objective?

Party	REF	THEIR REF	Issue	Commentary	Proposal
ASU	6.	41-42 p12-13	Right to request WFH - ASU	ASU submit that working from home is an important flexibility for working carers.	<p><b>Proposal Summary:</b> All employees should have the right to request working from home arrangements, regardless of whether they meet the criteria for flexible working arrangements or have been employed for 12 months.</p> <p>Employers should be required to discuss the employee's request and provide a written response within 21 days. If the request is denied, the employer must provide clear and reasonable grounds for doing so, as determined by industry-specific criteria outlined in each award. If disputes arise, employees should have the option for FWC review.</p> <p>Union representatives should be able to make requests for working from home arrangements on behalf of employees, and employees should have the right to be consulted about policies, processes, and procedures related to working from home.</p>
City of Newcastle	7.	2 p2	Flexible rosters - City of Newcastle	City of Newcastle submits that carers face considerable physical, psychological, and financial challenges due to their caregiving responsibilities.	<p><b>Proposal Summary:</b> Expand scope of flexible working arrangements available to carers. This expansion should ideally include options for working from home, where feasible, considering the unique benefits it offers to individuals with caregiving responsibilities.</p>
Infinite Potential	8.	4-4.1 p6-7	Hybrid work models - Infinite Potential	<p>Infinite Potential submit that employers should conduct a review of all job roles to determine: the workload and job demands of these roles; which parts of these roles can be accomplished working from home and working on site; and what steps will the employer take to ensure the wellbeing of their employees in these settings.</p> <p>Infinite Potential provide that when done well, hybrid work can balance people's needs for flexibility, autonomy while ensuring a level of connectivity and in-person interactions. Those working in a hybrid environment experience the lowest rates of burnout and the highest rates of individual wellbeing.</p>	<p><b>Proposal Summary:</b> No variations proposed.</p>
Infinite Potential	9.	4.3 p7	Establish clear expectations on WFH - Infinite Potential	Infinite Potential submit employers and employees often have conflicting interpretations of what is expected from the employee. Infinite Potential suggests organisations need to create the right balance between setting	<p><b>Proposal Summary:</b> No variations proposed.</p>

### Working From Home - Discussion Question 4

Are there any specific variations needed in modern awards regarding working from home arrangements that are necessary to ensure they continue to meet the modern awards objective?

Party	REF	THEIR REF	Issue	Commentary	Proposal
				guidelines to ensure clarity on what work is expected to be done in person and what can be done remotely.	
MTO	10.	22-24 p6-7	<b>Employer to determine location at which work is performed with consultation - MTO</b>	<p>MTO submits that the location at which work is performed by an employee is a matter determined by the employer, following consultation.</p> <p>MTO submits that small businesses may not be able to practically accommodate working from home requests and that very few roles in the vehicle repair, services and retail industry are able to operate from home.</p> <p>MTO argues is necessary to be careful relying on data gathered during COVID regarding working from home arrangements.</p>	<b>Proposal Summary:</b> No variations proposed.
NTEU	11.	18-28 p6-7	<b>Right to request WFH - NTEU</b>	<p>NTEU notes the limitations of individual rights mechanisms.</p> <p>NTEU supports the introduction of an individual employee and collective employee right to request flexible working arrangements generally, and an individual employee and collective employee right to request working from home arrangements.</p>	<p><b>Proposal Summary:</b> Vary General Staff Award to provide a right to request to work from home, both individually and collectively. Both parties should discuss and genuinely try to reach agreement on an arrangement that will reasonably accommodate the employee's circumstances. An application should only be refused if the application is unreasonable, and the employer is unable to accommodate the request. If the application is rejected, the employer must provide detailed reasons within 10 working days. It should ensure that an employer cannot direct employees to work from home unless required to do so by a public health directive. It should also provide that the employer will ensure an employee's home-based work setting is to the required employer standards including WHS considerations and the employer will meet any reasonable costs associated with working from home.</p> <p>The General Staff Award should also provide that a record of the arrangement will be kept by the employer and it should include specific details including:</p> <ol style="list-style-type: none"> <li>The days (or part days) on which the employee(s) will work from home.</li> <li>The date of commencement</li> <li>Whether the arrangement is ongoing or for a specified period</li> <li>Starting and finishing times or the span of ordinary hours in which work is to be performed.</li> <li>Entitlements to breaks in accordance with the award.</li> </ol>

### Working From Home - Discussion Question 4

Are there any specific variations needed in modern awards regarding working from home arrangements that are necessary to ensure they continue to meet the modern awards objective?

Party	REF	THEIR REF	Issue	Commentary	Proposal
					<ul style="list-style-type: none"> <li>f. Reimbursement for equipment and expenses</li> <li>g. WHS measures, including a WFH risk assessment checklist, method for reporting work-related incidents, and workers compensation processes.</li> <li>h. Work/life balance measures including any FWA.</li> <li>i. Processes to ensure effective and regular communication.</li> <li>j. Privacy, surveillance, and performance issues in accordance with this clause.</li> <li>k. Employee support, including union access.</li> <li>l. The process of an annual review of the arrangement.</li> <li>m. Any other relevant matter agreed.</li> </ul> <p>The arrangement should be by mutual agreement and an employee should be able to terminate the arrangement at any stage by giving at least 10 working days' notice.</p>

Working From Home - Span of Hours and Minimum Payment Periods					
Party	REF	THEIR REF	Issue	Commentary	Proposal
ABI/ BNSW	12.	23-63 p7-15	<b>Span of hours/minimum engagement not apply when WFH - ABI/BNSW</b>	<p>ABI/BNSW submit that two types of award provisions place significant restrictions on benefits of working from home arrangements: span of hours clauses and minimum engagement clauses.</p> <p>ABI/BNSW state in order to allow employees to undertake any required caring responsibilities during usual work hours, employees often must make up work time that was lost when undertaking their care responsibilities. This creates a difficulty in the current modern awards system where the make-up work time must occur outside a relevant span of hours or would involve a breach of a relevant minimum engagement clause. ABI/BNSW submit IFAs are currently not an effective solution for these issues.</p> <p>ABI/BNSW notes provisions of Schedule I inserted into Clerks Award during COVID-19 pandemic included provision for agreed flexibilities in relation to hours worked from home and submissions were filed by employers suggesting the benefits of the flexibilities now sought by ABI/BNSW.</p>	<p><b>Proposal Summary:</b> Span of hours clauses and minimum engagement clauses should not impede on working from home flexibilities. This should apply across all awards. Where an employee works from home, the employee can agree with their employer that the span of hours under an award and the minimum engagement under an award not apply (or otherwise be varied).</p> <p>In addressing prospect of employees working “unsocial, irregular or unpredictable hours” ABI/BNSW submits:</p> <ul style="list-style-type: none"> <li>• Employees can agree to vary or remove the span of hours clause or minimum engagement clause such that hours worked under an arrangement would not be unsocial in the way that hours might be if an employee was required to work them.</li> <li>• Proposal is confined to “at home” work so the primary negative aspects of early morning or late night unsocial work do not arise.</li> <li>• Purpose of proposal is to enable employers and employees to agree on hours that work for them and their individual needs such that employee should not be entitled to penalty payments merely due to the lateness of their work.</li> </ul>
ABI/ BNSW	13.	66-72 p15-16	<b>Minimum engagement clauses not apply when WFH - ABI/BNSW</b>	<p>ABI/BNSW submit that the rationale for minimum engagement periods is to ensure that an employee receives a “sufficient amount of work, and income, for each attendance at the workplace to justify the expense and inconvenience associated with that attendance by way of transport time and cost, work clothing expenses, childcare expenses and the like” largely does not apply to working from home arrangements.</p> <p>ABI/BNSW submit that when work is performed from home and it is agreed by an employee and employer, a minimum engagement period should not restrict employees or employers from engaging in work patterns which have mutual benefit. This could take the form of an employee and employer agreeing to working a short shift at home at the convenience of the employee, and for their benefit as it suits them.</p> <p>There may be forms of work that could be readily performed from home but for the imposition of minimum engagement clauses e.g. short online training modules that could be completed by employees at their convenience at home.</p>	<p><b>Proposal Summary:</b> Minimum engagement clauses should not impede on working from home flexibilities. This should apply across all awards. Where an employee works from home, the employee can agree with their employer that the minimum engagement under an award does not apply (or otherwise be varied).</p> <p>Where agreed by an employee and employer, an employee should not be prevented from organising their work and care responsibilities in such a way that would otherwise breach a minimum engagement provision.</p>

Working From Home - Span of Hours and Minimum Payment Periods					
Party	REF	THEIR REF	Issue	Commentary	Proposal
ABI/ BNSW	14.	73-80 p16-17	<b>Span of hours should be varied or not apply when WFH - ABI/BNSW</b>	ABI/BNSW submit that there are obvious potential mutual benefits to both employees and employers in allowing work to be performed at convenient times. For employees with caring responsibilities, the ability to work from home during times that would otherwise be considered unsociable hours attracting penalty payments may present an attractive option to balance work and care needs.	<p><b>Proposal Summary:</b> Span of hours clauses should not impede on working from home flexibilities. Where an employee works from home, the employee can agree with their employer that the span of hours under an award not apply (or otherwise be varied).</p> <p>FWC should not proceed with any variation that creates further rigidity in the system as this will likely be counterproductive to both employers and employees requiring flexibility. ABI/BNSW note that attempts to reduce spans of hours or create further restrictions in relation to broken shifts will likely be opposed.</p>
ACCI	15.	89-136 p20-28	<b>Span of hours and minimum engagement clauses when WFH - ACCI</b>	<p>ACCI does not support the introduction of any general enshrined “right to work from home” in the context of modern awards. ACCI suggest instead terms be negotiated through enterprise bargaining or arise organically at individual workplaces or in certain industries. Section 65 FW Act flexibility requests can also be utilised to seek work from home arrangements. ACCI submits that to extent that working from home is necessary for those with caring responsibilities, those workers have the right to request working from home arrangements under the NES.</p> <p>ACCI submits that the relevant question for this Review is not whether there should exist a “right” to work from home, but whether modern awards currently facilitate effective working from home arrangements. In the context of “work and care”, it is apparent that two types of award provisions place significant restrictions on the benefits of working from home: span of hours clauses; and minimum engagement clauses.</p>	<p><b>Proposal Summary:</b> By written agreement between an employer and employee, when working from home, the following award provisions should be able to be varied or not apply:</p> <ul style="list-style-type: none"> <li>• Span of hours.</li> <li>• Minimum engagement clauses.</li> </ul> <p>ACCI anticipates that working from home arrangements suitable for this proposal would likely be largely limited to clerical roles, primarily arising under the Clerks Award.</p> <p><b>Proposal endorsed/supported by:</b></p> <ul style="list-style-type: none"> <li>• NECA (p1)</li> <li>• Clubs Australia (p1)</li> </ul>
ACCI	16.	149-155 p30	<b>Span of hours should be varied or not apply when WFH - ACCI</b>	ACCI submit that there are obvious potential mutual benefits to both employees and employers in allowing work to be performed at convenient times. For employees with caring responsibilities, the ability to perform work at home during times which would otherwise be considered unsociable hours attracting penalty payments may present an attractive option to balance work and care needs.	<p><b>Proposal Summary:</b> By written agreement between an employer and employee, when working from home, span of hours should be able to be varied or not apply.</p> <p>FWC should not proceed with any variation which creates further rigidity in the system as this will likely be counterproductive to both employers and employees requiring flexibility. ACCI note that attempts to reduce relevant spans of hours or create further restrictions in relation to broken shifts will be opposed.</p>

Working From Home - Span of Hours and Minimum Payment Periods					
Party	REF	THEIR REF	Issue	Commentary	Proposal
					<p><b>Proposal endorsed/supported by:</b></p> <ul style="list-style-type: none"> <li>• NECA (p1)</li> <li>• Clubs Australia (p1)</li> </ul>
ACCI	17.	140-148 p29-30	<b>Minimum engagement clauses be varied or not apply when WFH - ACCI</b>	<p>ACCI submit that the rationale for minimum engagement periods is to ensure an employee receives a “sufficient amount of work, and income, for each attendance at the workplace to justify the expense and inconvenience associated with that attendance by way of transport time and cost, work clothing expenses, childcare expenses and the like” largely does not apply in relation to work from home arrangements.</p> <p>ACCI submit that when work is performed from home and it is agreed by an employee and employer, a minimum engagement period should not restrict employees or employers from engaging in work patterns which have mutual benefit. This could include agreeing to working a short shift at home which will be at the convenience of the employee and for their benefit as it suits them.</p>	<p><b>Proposal Summary:</b> By written agreement between an employer and employee, when working from home, minimum engagement clauses should be able to be varied or not apply. Where agreed by an employee and employer, an employee should not be prevented from organising their work and care responsibilities in such a way that would otherwise breach a minimum engagement provision.</p> <p>ACCI submit that FWC should not proceed with any variation which creates further rigidity in the system as this will be counterproductive to both employers and employees requiring flexibility. ACCI note that attempts to increase the minimum engagement or payment clauses will be opposed.</p> <p><b>Proposal endorsed/supported by:</b></p> <ul style="list-style-type: none"> <li>• NECA (p1)</li> <li>• Clubs Australia (p1)</li> </ul>
Ai Group	18.	142-147 p51-53	<b>Minimum engagement/ payment periods when WFH- Ai Group</b>	<p>Ai Group provide that a large number of modern awards contain minimum engagement/payment periods in respect of part-time and casual employees, precluding arrangements involving short periods of work, even if they are sought by an employee. For example, if an employee wishes to take a 2-hour break in the afternoon to spend time with their children and work 2 hours in lieu later in the evening or on the weekend, a minimum engagement period of at least 3 or 4 hours may prohibit this. Ai Group also notes that modern award terms that require payment of a minimum amount that exceeds the period of time sought to be worked discourages employers from permitting such arrangements.</p> <p>Ai Group submit that modern awards should not be a barrier to the implementation of arrangements involving short periods of work in respect of an employee working from home, where agreed between an employer and employee. The key rationale underpinning minimum engagement periods was described by the Full Bench during the 4 yearly review as to “ensure that the employee receives a sufficient amount of work, and income, for each attendance at the workplace to justify the</p>	<p><b>Proposal Summary:</b> Vary modern award provisions so that an employer and employee can agree that minimum engagement or payment periods do not apply when working from home.</p> <p>Variations should also apply where an employee engages in training or attends meetings remotely to facilitate remote participation in these activities in ways and at times that are convenient to employees, taking into account any caring responsibilities.</p>



### Working From Home - Span of Hours and Minimum Payment Periods

Party	REF	THEIR REF	Issue	Commentary	Proposal
				expense and inconvenience associated with that attendance by way of transport time and cost, work clothing expenses, childcare expenses and the like”. This expense and inconvenience does not arise where the employee is working from home or another location of their choosing so minimum engagement and payment periods should not apply in such circumstances.	
<b>Ai Group</b>	19.	135-141 p49-51	<b>Continuous ordinary hours and span of hours when WFH- Ai Group</b>	<p>Ai Group provide that employees working from home may wish to take breaks during ordinary hours to attend to personal matters including transporting children to and from school or attending medical appointments. Employees may seem to “make up” the time spent off work outside the span of hours, such as parents who wish to make up time at night after their children have gone to bed. Ai Group submit that a strict application of various award provisions may prevent implementation of this because many awards require ordinary hours be worked “continuously” and/or prescribe a span of hours that precludes the ability to work ordinary hours beyond it.</p> <p>Ai Group provide an example that in the Clerks Award, clause 13.6(a) requires ordinary hours be worked “continuously” and clause 13.3 requires ordinary hours be performed between 7:00AM to 7:00PM on Monday to Friday, or 7:00AM to 12:30PM on Saturday. While clause 13.4 permits the spread of ordinary hours to be moved up to one hour earlier or later by agreement, it does not contemplate performance of ordinary hours of work outside the span of hours. Clause 13.8 provides for an employee to take time off during ordinary hours and make up that time later, but the make up time must also be worked during ordinary hours. Any time worked outside the spread of hours attracts overtime rates. They submit this framework does not provide a “relevant” safety net, is not consistent with contemporary practices of working flexibly from home and renders unlawful arrangements that would benefit worker-carers.</p>	<p><b>Proposal Summary:</b> Vary modern award provisions so that an employer and employee can agree:</p> <ul style="list-style-type: none"> <li>• That any award provisions requiring that ordinary hours must be worked “continuously” should not apply to an employee working from home.</li> <li>• For an employee working from home to work ordinary hours outside the span of hours.</li> </ul>

### Minimum Payment Periods - Discussion Question 6

Are there any specific variations to the minimum payment periods for part-time employees in modern awards that are necessary to ensure they continue to meet the modern awards objective?

Party	REF	THEIR REF	Issue	Commentary	Proposal
ACTU	20.	81-85 p35-36	<b>Minimum 4-hour engagement period across awards as baseline - ACTU</b>	ACTU provide that the importance of minimum payment periods to achieve modern awards objective is well established. ACTU submit that currently, there are inconsistent provisions in modern awards, including those that do not provide for a minimum payment period at all.	<p><b>Proposal Summary:</b> Modern awards should be varied as follows (with these variations being model position or baseline entitlements across awards, ACTU affiliates may raise sector or occupation specific variations):</p> <ul style="list-style-type: none"> <li>• Modern awards should provide for fairness and certainty on minimum engagements, including on a weekly basis for part-time employees.</li> <li>• There should be a 4-hour minimum engagement period as a baseline entitlement for all employees except where indicated otherwise by ACTU affiliates for relevant awards, excluding awards where there is a more generous entitlement that exists. The 4-hour minimum engagement period should exclude any unpaid breaks.</li> <li>• Minimum payment should apply where the rostered shift of a casual employee is cancelled.</li> </ul> <p><b>Proposal endorsed/supported by:</b></p> <ul style="list-style-type: none"> <li>• MEU (3, p2)</li> <li>• CEPU (6, p3)</li> <li>• AMWU (para 12)</li> </ul>
AHEIA	21.	p7-8	<b>Minimum engagement for part-time employees may impede employment - AHEIA</b>	<p>AHEIA provide that the higher education sectors awards provided sufficient minimum engagement for casual employees. There is no minimum engagement period for part-time employees in the higher education sector awards.</p> <p>AHEIA submit that placing a minimum time that must be worked for part-time employment during a week may potentially impede the ability of some employees to participate in the work force as part-time employees. They suggest there is merit in having a daily minimum engagement period identical to existing arrangements for general staff casual engagement.</p>	<b>Proposal Summary:</b> No variation proposed.



### Minimum Payment Periods - Discussion Question 6

Are there any specific variations to the minimum payment periods for part-time employees in modern awards that are necessary to ensure they continue to meet the modern awards objective?

Party	REF	THEIR REF	Issue	Commentary	Proposal
Ai Group	22.	160-169 p57-59	<b>Reduce minimum engagement/ payment clauses - Ai Group</b>	<p>Ai Group provides that the vast majority of minimum engagement/payment clauses in modern awards do not provide for the relevant period to be able to be reduced. Further, the model flexibility term does not enable an IFA to be made in respect of minimum engagement periods.</p> <p>Ai Group submit that varying modern awards to include facilitative provisions allowing minimum engagement/payment periods applying to ordinary hours and overtime to be reduced by agreement would enable worker-carers to participate in paid employment by enabling them to perform work for short periods of time in situations where they may otherwise be prevented from engaging in work at those times. Modern awards that require a minimum payment do not require that employees be provided with an equivalent period of work ignores the impact on employers from having to pay the relevant amount in circumstances where employees are not performing productive work.</p>	<p><b>Proposal Summary:</b> Provisions concerning minimum engagement and payment periods should be varied such that the relevant period can be reduced by agreement between the employer and an employee. This can be done by introducing facilitative provisions to allow minimum engagement/payment periods be reduced by agreement between employer and employee.</p> <p>The facilitative provisions proposed would only apply where there is mutual agreement between an employer and employee. an employer would not be at liberty to unilaterally reduce the relevant minimum engagement/payment periods. A part-time employee's hours of work, and any changes to them, must be agreed with the employee.</p>
Ai Group	23.	170-171 p59-60	<b>Satisfying minimum engagement period by making payment - Ai Group</b>	<p>Ai Group provide that many modern awards require employers to roster or engage employees to work a minimum number of hours on each shift or engagement. Where an employer does not direct an employee to perform the prescribed number of hours of work, such a requirement would not be satisfied, even if the employer paid the employee for the minimum period. Ai Group submit that this precludes employers from offering employees shorter periods of work, such as for an employee who cannot work for longer due to their caring responsibilities.</p>	<p><b>Proposal Summary:</b> Provisions concerning minimum engagement and payment periods should be varied such that all minimum engagement periods for ordinary hours can be satisfied by either:</p> <ul style="list-style-type: none"> <li>• Providing a minimum period of work, or</li> <li>• Providing a minimum payment of the equivalent amount.</li> </ul>
ANMF	24.	50-54 p11	<b>Short engagement period in Nurses Award - ANMF</b>	<p>ANMF provide that the Nurses Award does not have a minimum engagement period for part-time employees. They submit this causes disruptive work patterns and additional costs for employees. Working carers, especially women, are affected. ANMF submit that a minimum engagement period would increase workforce participation and promote social inclusion and gender equality, in line with the Modern Award Objectives. Note that the minimum engagement period for casual employees is two hours.</p>	<p><b>Proposal Summary:</b> Minimum engagements of 4 hours for all employees.</p>

### Minimum Payment Periods - Discussion Question 6

Are there any specific variations to the minimum payment periods for part-time employees in modern awards that are necessary to ensure they continue to meet the modern awards objective?

Party	REF	THEIR REF	Issue	Commentary	Proposal
CFW	25.	11-12 p4	<b>Short engagement periods enable exploitation - CFW</b>	CFW submit that short engagement periods leave workers with “dead time” or periods of time when workers are not in paid work, but they do not have enough time to engage in other activities. CFW submit that these short engagement periods also leave workers with inadequate incomes and little control over their time which undermines their wellbeing and ability to balance work and care.	<b>Proposal Summary:</b> The minimum engagement periods in all awards should be 4 hours.
CPSU-SPSF	26.	41-44 p7	<b>Team meeting minimum time extended - CPSU-SPSF</b>	CPSU-SPSF provide that the NDIA pays providers for only 2 hours for worker attendance at team meetings. However, team meetings can take up to 4 hours and regional workers may need to travel long distances to attend these meetings.	<p><b>Proposal Summary:</b> Insert a new clause into SCHADS.</p> <p><b>Proposed Wording:</b></p> <p><b>1. Team meetings</b></p> <p>1.1. <i>Team meetings are an important part of providing support to NDIS participants. Team meetings also provide an opportunity for inclusiveness in the workplace. Team meetings are an opportunity for management to consult with staff about workplace changes.</i></p> <p>1.2. <i>Attendance at team meetings is mandatory for permanent full-time and part-time Supported Independent Living employees.</i></p> <p>1.3. <i>Dates for team meetings will be rostered with appropriate consultation. Dates for the calendar year will be set and notified to all employees by 31 January each calendar year.</i></p> <p>1.4. <i>Where practical casual employees who work consistent hours at the service should be invited to attend a team meeting at least three times a year to ensure consultation with these employees.</i></p> <p>1.5. <i>Team meetings will be rostered for a minimum period of 3 hours. Team meetings are on paid time and all staff present should be recorded for payroll purposes.</i></p> <p>1.6. <i>Employers will ensure that a request for agenda items is sent out to all employees at the site a minimum 7 days before the team meeting to ensure facilitate consultation of matters important to the staffing group are received, discussed and considered.</i></p>

### Minimum Payment Periods - Discussion Question 6

Are there any specific variations to the minimum payment periods for part-time employees in modern awards that are necessary to ensure they continue to meet the modern awards objective?

Party	REF	THEIR REF	Issue	Commentary	Proposal
					1.7. Provision will be made for staff to attend via online meetings such as MTeams or other videoconferencing facilities and must follow an agreed Online Meeting Etiquette.
CPSU-SPSF	27.	45-54 p7-8 Ann. B p15-16	<b>Sleepover clause in SCHADS - CPSU-SPSF</b>	<p>CPSU-SPSF provide that clause 25.7 in SCHADS requires only minimum shift payment of 4 hours for adjacent hours worked plus an allowance for a further 8 hours, in what is an effective 12-hour minimum shift. There are minimal rights of refusal, particularly for such a casualised work force as the care sector. If a worker reuses a sleepover shift, they often forgo a fully paid working shift.</p> <p>CPSU-SPSF provide that the requirement for a worker to be at a workplace, preventing the worker from working elsewhere is a common practice in the sector due to low pay and short regular shifts. The worker is unable to participate in normal daily living activities.</p> <p>CPSU-SPSF submit that sleepovers directly conflict with the Modern Awards Objectives.</p>	<p><b>Proposal Summary:</b> Remove the sleepover clause from SCHADS. In the alternative, amend the clause as provided.</p> <p><b>Proposed Wording:</b></p> <p><b>Sleepovers</b></p> <p>a. A sleepover means an employee is required to sleep overnight on the employer's premises.</p> <p>b. Employees are usually required to be on the premises during sleepovers to attend to emergency situations or unforeseen circumstances.</p> <p>c. The span for a sleepover will be a continuous period of eight hours.</p> <p>d. An employee performing sleepover work will be paid an allowance equivalent to eight (8) hours pay at the employees ordinary hourly rate.</p> <p><b>Standard facilities to be provided to employees on sleepovers</b></p> <p>e. Employees on sleepovers should be provided their own facilities, separate to those of the residents, to minimise the potential of disturbing other staff and residents overnight.</p> <p>f. An employee performing sleepover work will be provided with exclusive use of the following facilities:</p> <p>i. a lockable sleepover room separate from client areas. The room must be secure and allow Staff to view outside the sleepover room without opening the door.</p> <p>ii. a bed, with fresh, clean, and light linen. The bed must not have been used by residents and clients.</p> <p>iii. a telephone and/or other emergency communication equipment so that assistance maybe summoned if required.</p> <p>iv. a fridge for storing meals.</p> <p>v. a microwave oven for heating up of meals.</p> <p>vi. tea and coffee making facilities.</p>

### Minimum Payment Periods - Discussion Question 6

Are there any specific variations to the minimum payment periods for part-time employees in modern awards that are necessary to ensure they continue to meet the modern awards objective?

Party	REF	THEIR REF	Issue	Commentary	Proposal
					<p>vii. <i>Separate toilet and showering amenities within the unit for the purposes of personal hygiene.</i></p> <p>g. <i>Employees will be provided the facilities as detailed above on each night they perform sleepovers.</i></p> <p>h. <i>There will be no board, lodging or any other fees charged to employees on sleepovers for use of the above facilities.</i></p> <p>i. <i>Employee sleepover facilities must not to be used by residents.</i></p> <p><b>Disturbances during sleepovers</b></p> <p>j. <i>A sleepover will only be implemented in circumstances where there is a reasonable expectation that an employee will have 8 hours of uninterrupted sleep.</i></p> <p>k. <i>The use of any technological monitoring devices (including but not limited to baby monitors, mattress and/or door alarms) is an indicator that staff disturbances are to be expected on a sleepover shift.</i></p> <p>l. <i>If an employee has been disturbed during a sleepover the employee will be paid:</i></p> <p>i. <i>If disturbed to perform any necessary work, the employee will be paid at overtime rates in addition to the sleepover allowance.</i></p> <p>ii. <i>If disturbed by clients on two or more occasions, but not to perform any necessary work, the employee shall be paid as for an active night shift, in lieu of the sleepover allowance</i></p> <p>iii. <i>If disturbed by clients on two or more occasions to perform any necessary work, the work shall be paid for at overtime rates, with a minimum payment of an amount equal to the rate for an active evening shift, in addition to the sleepover allowance.</i></p> <p><b>Employee initiated Sleepover reviews</b></p> <p>m. <i>A review of sleepover arrangements at a site can be requested by an employee at any time.</i></p> <p>n. <i>An employee can request a review of the appropriateness of sleepover arrangements for various reasons which may include, but are not limited to:</i></p> <p>i. <i>An employer wishes to introduce technological monitoring devices during sleepovers due to the evolving circumstances of a resident.</i></p> <p>ii. <i>Monitoring devices indicate that disturbances will occur overnight, and active nightshifts are more appropriate support for residents.</i></p>

### Minimum Payment Periods - Discussion Question 6

Are there any specific variations to the minimum payment periods for part-time employees in modern awards that are necessary to ensure they continue to meet the modern awards objective?

Party	REF	THEIR REF	Issue	Commentary	Proposal
					<p>iii. a pattern emerges (or is expected to arise) where an employee is not getting an opportunity to sleep for 8 hours.</p> <p>o. Circumstances that may give rise to a change in the customary sleepover pattern, or an expectation that the sleepover will be interrupted, include but are not limited to:</p> <p>i. A new service user transitioning into a residence.</p> <p>ii. Illness or evolution of a resident's health conditions.</p> <p>iii. Change in the behaviour pattern of a resident.</p> <p>iv. Internal or external environmental factors.</p> <p>v. Other circumstances resulting in the continued interruption of sleepovers.</p> <p>p. An employer will consider the employee's request in a timely manner and the review process will take no longer than 20 calendar days for preliminary options to be determined.</p> <p>q. Once preliminary options have been determined, consultation with affected staff and their union representatives will occur. At the completion of consultation, an employer may make permanent or temporary, short term or long term changes to sleepover arrangements at the site.</p> <p>r. If the employer does not consider there is a need for a change to the existing sleepover arrangements, written reasons will be provided to the employee who raised the request for review.</p> <p>s. Should failure to agree to a consensus on sleepover arrangements remain, the issue can be escalated via the disputes resolution provisions of clause &lt;insert number&gt; of the Award.</p>
FAAA	28.	71-77 p20-21	<b>Aligning minimum engagement with the operations of industry - FAAA</b>	FAAA's proposal is to improve minimum engagement for casual employees. They submit that it will improve predictability of hours and earnings, which supports casual Cabin Crew with respect to their caring responsibilities. For casuals who may work for more than one employer, their attendance to report for duty at one employer also means that they lose the possibility to work for another employer. FAAA proposal ensures that a casual who has been called in for work and is preparing for duty is paid the minimum engagement when the duty is cancelled as rostered duties are regularly cancelled.	<p><b>Proposal Summary:</b> Do not propose varying the minimum engagement or minimum payment periods for part-time employees. However, proposes to vary clause 11.2 and 11.3 to include that the minimum engagement for casual cabin crew applies once a duty has been assigned whether the duty is subsequently cancelled and to ensure rates are paid for all duty hours (reserve).</p> <p><b>Proposed Wording:</b></p> <p><i>11.2 Casual cabin crew members are entitled to a minimum payment of 4 hours work at the appropriate rate, including where the duty is cancelled within twenty-four hours of scheduled sign-on and substitute duty is not assigned.</i></p>



### Minimum Payment Periods - Discussion Question 6

Are there any specific variations to the minimum payment periods for part-time employees in modern awards that are necessary to ensure they continue to meet the modern awards objective?

Party	REF	THEIR REF	Issue	Commentary	Proposal
					<i>11.3 In accordance with the definition of “duty” and “duty hours”, all-time on-home reserve counts as duty hours required to be paid at the hourly rate of pay, except for the particular circumstances outlined for when a crew member is called out for duty while on reserve at home.</i>
HSU	29.	30 p8	<b>Absence of minimum period of engagement for part-time employees - HSU</b>	HSU provide that fundamental rationale for minimum engagement periods as explained by Full Bench is to ensure employees receive enough work, and income, for each attendance at the workplace to justify the expense and inconvenience associated with that attendance. HSU submit that the continued appropriateness of an absence of any minimum period of engagement for part-time workers under the HPSS Award is issue that merits further consideration.	<b>Proposal Summary:</b> No settled view on how awards should be varied to continue to meet modern awards objective, will consult further. Would support SCHADS being amended to remove cl 10.5(a) carve out so that all part-time and casual social and community services sector employees have the benefit of a 3-hour minimum engagement.
MTO	30.	17 p5	<b>Not appropriate to have minimum engagement period in Vehicle Award - MTO</b>	MTO note that clause 10 of the Vehicle Award provides that at time of engagement, the employer and part-time employee will agree in writing the hours worked each day and any subsequent variations must be in writing.  MTO submit that the prescribing of a minimum payment period for part-time employees is not appropriate in circumstances where the minimum number of ordinary hours worked on any day must be agreed in writing.	<b>Proposal Summary:</b> No variation proposed.
NTEU	31.	16-17 p4-5	<b>Minimum engagement period for part-time employees - NTEU</b>	NTEU provide that the General Staff Award has a 3-hour minimum engagement period for casual employees, excluding student casuals who have a 1-hour minimum engagement period.	<b>Proposal Summary:</b> Vary General Staff Award to provide part-time employees with a 3-hour minimum engagement period unless otherwise proposed by a General Staff part-time employee via an employee initiated flexible work arrangement.
SDA	32.	186-193 p30-31	<b>Increase minimum shift length to 4 hours - SDA</b>	SDA provide that shifts for permanent part-time and casual employees tend to be short shifts, despite the employees’ preference for longer shifts. SDA submit that short shifts are not well suited to formal care arrangements such as childcare. The practice of rostering short shifts also results in employees being rostered over several days and many employees feel that their hours are spread over too many days which impacts their ability to provide care.	<b>Proposal Summary:</b> Vary awards that SDA members are covered by to increase the minimum shift payment to 4 hours for all employees and include a minimum shift for full-time employees of at least 4 hours in awards where minimum shifts for full-time employees are not currently included.

### Minimum Payment Periods - Discussion Question 6

Are there any specific variations to the minimum payment periods for part-time employees in modern awards that are necessary to ensure they continue to meet the modern awards objective?

Party	REF	THEIR REF	Issue	Commentary	Proposal
				The SDA <i>Who Cares?</i> Report found that 37 per cent of respondents agreed that “I would prefer if the shifts available were longer” compared with 34 per cent who disagreed. SDA submit that there is a time and monetary cost for employees to attend shifts and the income earned from a shift should compensate employees for the time and cost of attending work.	
SDA	33.	191-193 p31-32	<b>Rest break entitlements - SDA</b>	SDA submit that the shift lengths in Retail and Fast Food are compromised by the practice of employers choosing to roster below the shift length threshold for entitlements to paid breaks. SDA provide that under these awards, employees are entitled to a paid 10-minute rest break when working 4 hours or more. However, employers roster employees for shifts below 4 hours to avoid this rest break entitlement. SDA note that in some instances, employers roster employees to work for 3 hours and 45 minutes.	<b>Proposal Summary:</b> Vary break provisions in the Retail, Fast Food, Pharmacy, and Hair and Beauty Awards to include a paid break to all employees for every shift worked regardless of shift length.
WFPR	34.	13-14 p5	<b>4-hour weekly hours, continuous daily hours and minimum engagement - WFPR</b>	<p>WFPR submit that minimum engagement periods in awards have developed in ad hoc ways and as a result, some awards covering feminised industries have low minimum payment periods. WFPR submit that for example, there is a 2-hour minimum payment period for part-time and casual employees under awards covering highly feminised aged care and children’s services industries, yet the awards covering the male dominated industries do not appear to have such low minimum payment periods.</p> <p>WFPR submit that short engagements can be costly for employees and they disproportionately impact women given their higher representation in part-time roles. They also impact on women’s capacity to engage in paid employment given the greater opportunity costs in short minimum engagement and their capacity to both provide care and/or use formal early childhood education and care services.</p>	<p><b>Proposal Summary:</b> In order to ensure a living wage for all employees, all modern awards should be amended to:</p> <ul style="list-style-type: none"> <li>• Introduce a minimum floor of secure weekly working hours and continuous daily hours of work.</li> <li>• Include a minimum engagement period of 4 hours for all casual and part-time workers.</li> </ul>
UWU	35.	15-26 p6-8	<b>Minimum payment periods for part-time and casual employees - UWU</b>	UWU submit that current short minimum payment periods pose a significant barrier to carers entering the workforce, particularly in sectors facing workforce shortages. These short periods can result in the cost and inconvenience of work outweighing the benefits for carers.	<p><b>Proposal summary:</b> UWU propose:</p> <ul style="list-style-type: none"> <li>• 4 hour minimum payment for both part-time and casual employees.</li> <li>• Reassess and potentially abolish or limit terms permitting the averaging out of weekly hours.</li> <li>• Reasonable span of hours.</li> </ul>

### Minimum Payment Periods - Discussion Question 6

Are there any specific variations to the minimum payment periods for part-time employees in modern awards that are necessary to ensure they continue to meet the modern awards objective?

Party	REF	THEIR REF	Issue	Commentary	Proposal
				<p>UWU provide that in some industries, minimum payment periods do not account for time taken to set up for work.</p> <p>UWU also submit that averaging of hours, particularly over 4 weeks can lead to extensive hours in some weeks, likely avoiding the payment of overtime rates.</p>	



## Span of Hours - Discussion Question 7

Are there any specific variations to span of hours provisions in modern awards that are necessary to ensure they continue to meet the modern awards objective?

Party	REF	THEIR REF	Issue	Commentary	Proposal
ACTU	36.	86-92 p37-38	Relevant span of hours - ACTU	<p>ACTU provide that span of hours provide boundaries for a range of entitlements such as rostering and overtime, setting the structure of hours ordinarily to be worked by employees, with work performed outside these hours being compensated by way of a penalty such as overtime or shift allowances. They also have a role in determining when an employee is a shift worker and thereby determines how much annual leave they are entitled to. Span of hours have a material impact on an employee's pay and entitlements as well as their work-life balance.</p> <p>ACTU submit that in awards with no span or a very broad span of hours, employees have very little control over being scheduled to work outside of standard weekday, daytime hours and also receive much lower compensation when they do work those hours as ordinary hours.</p> <p>ACTU submit that male dominated awards are more likely to have a narrower spread of hours than female-dominated awards. A narrower span restricts and protects against being rostered for evenings and/or weekends as ordinary hours. Hours worked outside the span must be agreed by the employee as they are overtime.</p> <p>ACTU submit that the larger span of hours for female dominated awards raises real concerns regarding how employees manage work and care and gender equality outcomes. Span of hours provisions should be reviewed to ensure modern awards are meeting the modern awards objective and are not contributing to gender-based undervaluation of work.</p>	<p><b>Proposal Summary:</b> Awards that contain a broad span of hours, or no span of hours, and include all 7 days as ordinary days of work, need to be addressed to provide stability and certainty as to when an employee can be rostered, to restrict when employees are expected to work and to provide for appropriate compensation for working unsociable hours.</p> <p>Modern awards should be varied to contain a relevant span of hours.</p> <p>All modern awards currently containing a span which extends beyond standard weekday daytime hours should be reviewed with regard to the impact on an employee's right and ability to care, security of hours and rostering, and in relation to gender equality.</p> <p>Where modern awards retain an expansive span of hours, they should be reviewed to determine if they appropriately recognise and compensate for rostering outside of standard weekday daytime hours e.g. with appropriate shift rates, allowances and leave.</p> <p><b>Proposal endorsed/supported by:</b></p> <ul style="list-style-type: none"> <li>• MEU (3, p2)</li> <li>• CEPU (6, p3)</li> </ul>
AHEIA	37.	p8	Modestly expand span of hours in higher education sector awards - AHEIA	No commentary provided.	<b>Proposal Summary:</b> Modestly expand the current span of ordinary hours contained in the General Staff Award. This can also be done by amending the facilitative provisions in the higher education sector awards.
Ai Group	38.	172-177 p61	Span of hours - Ai Group	Ai Group submit that given the increasing incidence of businesses operating 7 days a week, awards should be varied to include an ability to perform ordinary hours throughout weekends. It may be necessary for appropriate penalty rates to apply in relation to performance of such work.	<b>Proposal Summary:</b> Refer to submissions and proposals in response to Discussion Question 3. Additionally, modern awards should be varied to enable ordinary hours to be performed on weekends.

## Span of Hours - Discussion Question 7

Are there any specific variations to span of hours provisions in modern awards that are necessary to ensure they continue to meet the modern awards objective?

Party	REF	THEIR REF	Issue	Commentary	Proposal
				<p>Ai Group submit that many employees are amenable, or would prefer to, work on weekends vis-à-vis weekdays for the following reasons:</p> <ul style="list-style-type: none"> <li>• Opportunity to work at times that attract penalty rates.</li> <li>• Greater availability of parents due to another family member being available to care for their children.</li> <li>• Greater availability of those with study commitments.</li> </ul> <p>Ai Group submit that the prohibition on working ordinary hours on a weekend reflects a bygone era. Community expectations and social mores related to working arrangements and patterns have changed significantly.</p>	
ASU	39.	29 p8-9	<b>Unfairly broad span of hours - ASU</b>	<p>ASU submit that many ASU members are covered by awards that have unfairly broad span of hours. For example:</p> <ul style="list-style-type: none"> <li>• SCHADS: 6am to 8:30pm, Monday to Sunday.</li> <li>• Clerks Award: 7am to 7pm Monday to Friday, 7am to 12:30pm Saturday)</li> <li>• Labour Market Award: 6am to 6pm Monday to Sunday</li> <li>• Supported Employment Award: 6am to 6pm Monday to Sunday</li> <li>• Local Government Award: ordinary hours can be worked with no penalty rate between the following hours: <ul style="list-style-type: none"> <li>○ Community Services Employees (5am to 10pm. Monday to Sunday)</li> <li>○ Libraries (8am to 9pm, Monday to Sunday)</li> <li>○ Customer Service (6am to 6pm, Monday to Sunday)</li> </ul> </li> </ul>	<b>Proposal Summary:</b> No variation proposed.
CFW	40.	13 p4-5	<b>Inequities between awards in compensation - CFW</b>	No commentary provided on the proposal.	<b>Proposal Summary:</b> FWC should review award provisions and identify inequities across industries to ensure that employees in female-dominated industries have reasonable protection and compensation, including increasing compensation for workers covered by awards where the span of hours is relatively long.
FAAA	41.	78-83 p21-22	<b>Right to return home on duty or deadhead - FAAA</b>	FAAA provide that ACCA does not prescribe a span of hours to Cabin Crew. Cabin Crew are expected to fly a maximum number of hours per year, averaged out. FAAA propose that as part of a fair and relevant safety net of terms and conditions for Cabin Crew which accommodates the airlines' operations, propose a "right to return home on duty or deadhead".	<b>Proposal Summary:</b> Insert new clause B.2.4(e) to facilitate return to home base for crew who would be forced to overnight away from home due to delays exceeding daily hours' limitations. Clause does not require an airline to provide transport where there is no flight available or seats available on one of their operated flights.

### Span of Hours - Discussion Question 7

Are there any specific variations to span of hours provisions in modern awards that are necessary to ensure they continue to meet the modern awards objective?

Party	REF	THEIR REF	Issue	Commentary	Proposal
				FAAA submit that an ability for Cabin Crew to elect to go home where a flight is available following an extended duty rather than be required to stay overnight away from home would support achieving the Work and Care Factors. Additional remuneration for unexpected additional hours not only appropriately remunerates the employee for working additional hours but also supports Cabin Crew with the additional short-term care expenses that may be incurred from unexpected extended hours.	<p><b>Proposed Wording:</b></p> <p><i>B.2.4 Daily Duty Hours</i></p> <p><i>(e) Notwithstanding the daily hour limitations in this clause B.2.4, to expedite a return to home base for crew required to overnight away from home due to daily duty or flying hours being exceeded by delay, cabin crew may elect to:</i></p> <p><i>(i) operate beyond the daily hour limitations at B.2.4 (b) and (d) and be paid 150% additional to the employee's minimum hourly rate; or</i></p> <p><i>(ii) deadhead to home base and be paid at the employee's minimum hourly rate (where a flight is available).</i></p> <p><i>(f) Where duty extends beyond 12 hours crew will receive the following calendar day free from duty in addition to any overtime provisions.</i></p>
HSU	42.	33-44 p8	<b>Inconsistency in span of hours provisions - HSU</b>	<p>HSU submit that there are different span of hour arrangements Aged Care, SCHADS, and HPSS Awards. Awards cover occupations identified as highly feminised and covering 24/7 operations but HSU submits that different span of hours provisions across awards means is inconsistent in way employees are compensated for working unsociable hours.</p> <p>HSU provide the example that a part-time residential aged care worker covered by Aged Care is entitled to an afternoon shift allowance for shifts which end after 6pm, however same only kicks in for a part-time in-home aged care worker covered by SCHADS after 8pm. Workers under Aged Care become eligible for an extra week of annual leave if regularly work any weekend hours, whereas workers under the SCHADS Award must work more than 4 ordinary hours on 10 or more weekends in a year to attain the same. They submit the HPSS award even more complicated.</p> <p>HSU provide that members regularly report frustration with being required by employers to be available at all times during the relevant span of hours, including evenings and weekends, and discuss the detrimental impact. Amount members are compensated for being available these unsociable and non-family friendly hours are impacted by the wide and varied span of hours provisions.</p>	<p><b>Proposal Summary:</b> The continued appropriateness of the broad and varied span of hours provisions in the SCHADS and HPSS Awards having regard to the Senate Report and the new sub-s 134(1)(ab) is an issue that merits further consideration.</p>

### Span of Hours - Discussion Question 7

Are there any specific variations to span of hours provisions in modern awards that are necessary to ensure they continue to meet the modern awards objective?

Party	REF	THEIR REF	Issue	Commentary	Proposal
MTO	43.	18 p5	<b>No variations needed for Vehicle Award - MTO</b>	<p>MTO submit that clause 22.2 Vehicle Award provides that ordinary hours for full-time and part-time employees will be worked on not more than 5 days in any week with the only exception being where an employer accepts a part-time employee's written request to be employed on more than 5 days per week.</p> <p>MTO provide that the Vehicle Award includes a facilitative arrangement enabling any other cycle during which a weekly average of 38 hours (pro-rata for part-time) is worked, to be determined by agreement between employer and an employee or employees.</p>	<b>Proposal Summary:</b> No variation proposed.
SDA	44.	194-226 p32-4/	<b>Review span of hours provisions - SDA</b>	<p>SDA provide that span of hours contained in Awards relevant to SDA members are as follows:</p> <ul style="list-style-type: none"> <li>• Storage and Wholesale Award: span is 7am to 5.30 pm Monday to Friday unless employee(s) and employer agree to ordinary hours on Saturday and Sunday.</li> <li>• Retail Award: across 7 days, from 7am to 11pm depending on trading hours.</li> <li>• Pharmacy Award: 7am to midnight, 7 days a week</li> <li>• Hair and Beauty Award: 7 days a week with varying hours, but expansive.</li> <li>• Fast Food Award: no span of hours clause</li> <li>• Vehicle Award: no span of hours clause.</li> </ul> <p>SDA submit that span of hours is a critical consideration when reviewing the impact that awards have on the ability for workers to manager work and care responsibilities. In award with no span, workers have little control over being scheduled to work outside of standard Monday-Friday daytime hours and are compensated less for working less sociable hours.</p> <p>SDA submit that a very broad spread of hours has led to rostering practices that do not support worker carers. SDA further submit that the blanket approach of employers of requiring a certain number of hours worked on weeknights and weekends by supervisors and managers constitutes indirect discrimination against worker carers and is somewhat a result of the expansive span of hours.</p>	<b>Proposal Summary:</b> All awards should contain a relevant span of hours and all awards currently containing a span which extends beyond standard Monday to Friday daytime hours should be reviewed regarding the impact on a worker's right and ability to care, security of hours and rostering, and in relation to gender equality. Where awards retain expansive hours, they should be reviewed to determine if they appropriately recognise and compensate for rostering outside of standard Monday to Friday daytime hours, e.g., overtime, shift rates, allowances and leave.

### Span of Hours - Discussion Question 7

Are there any specific variations to span of hours provisions in modern awards that are necessary to ensure they continue to meet the modern awards objective?

Party	REF	THEIR REF	Issue	Commentary	Proposal
				<p>SDA submit that a broad span of hours, when combined with the computerised rostering systems has led to frequent “roster resets” that plays havoc on rostering certainty.</p> <p>SDA submits that there is a positive link between weekend work and higher levels of work family conflict and that work family conflict is also higher for employees working nights. SDA submit that this is connected to the level of worker schedule control and that this is a gender issue as male dominated awards are more likely to have a narrower spread of hours than female dominated awards.</p>	
NECA	45.	p2	<b>More flexibility for averaging hours - NECA</b>	<p>NECA submit that although there is an option for averaging hours under modern awards, in some awards there is still a requirement to set those averaged hours in advance. NECA suggest this does not allow for flexibility for carers without a formal agreement.</p> <p>NECA provide that for example, in the Electrical Award, overtime is payable after 7.6 hours each day and not for a full 38-hour week, as is the case with other modern awards. This approach limits the flexibility that an employer can offer an employee to average their hours, particularly on a short-term basis to meet the employee’s caring needs, as the employer may be unable or unwilling to agree to change an employee’s hours in situations where it will trigger overtime rates.</p>	<b>Proposal Summary:</b> No variation proposed.
UWU	46.	15-26 p6-8	<b>Span of hours - UWU</b>	<p>UWU submit that excessive hours and the flexible averaging of hours can hinder a carer’s ability to fulfill their responsibilities. UWU suggest that inflexible spans of hours and low minimum engagement periods exacerbate these challenges, particularly in industries like aged care, disability support, and ECEC.</p>	<b>Proposal Summary:</b> There should be reasonable span of hours in modern awards. See UWU proposal on minimum payment periods for part-time and casual employees.

### Notice of Rosters - Discussion Question 8

Noting the Work and Care Senate Committee Recommendation 21 that all employees should have at least 2 weeks' notice of their roster except in exceptional circumstances, are there any specific variations to rostering provisions in modern awards that are necessary to ensure they continue to meet the modern awards objective?

Party	REF	THEIR REF	Issue	Commentary	Proposal
ABI/ BNSW	47.	81-84 p17-18	<b>Oppose 2 week notice period for roster changes - ABI /BNSW</b>	<p>ABI/BNSW does not support a 2 week notice period for roster changes across all awards as it fails to take into account, amongst other things:</p> <ul style="list-style-type: none"> <li>Differences between industries in relation to variability in workflow and need for labour.</li> <li>Particular circumstances of small businesses or businesses in variable environments for which a 2 week roster notification requirement would be entirely impractical.</li> </ul> <p>ABI/BNSW supports retention of existing provisions and stresses that the modern awards objective requires balancing of a range of considerations, not simply the accommodation of what they term “roster justice”.</p> <p>ABI/BNSW submit that variability in rostering is a necessary and inevitable result of variability in demand and a fair and relevant safety net cannot simply accommodate an employee’s desire for certainty when an employer’s needs are not reasonably predictable. ABI/BNSW notes that awards already contain consultation obligations regarding changes to an employee’s regular roster or hours of work and a variety of notice requirements for such changes.</p>	<p><b>Proposal Summary:</b> No variation proposed.</p>
ACCI	48.	156-163 p31	<b>Oppose 2 week notice period for roster changes - ACCI</b>	<p>ACCI supports the retention of existing provisions and stresses that the modern awards objective requires the balancing of a range of considerations, not simply the accommodation of what they term “roster justice”.</p> <p>ACCI submits that variability in rostering is a necessary and inevitable result of variability in demand and that a fair and relevant safety net cannot accommodate an employee’s desire for certainty when an employer’s needs are not reasonably predictable. ACCI notes that awards already contain consultation obligations regarding changes to an employee’s regular roster or hours of work and a variety of notice requirements for such changes.</p>	<p><b>Proposal Summary:</b> ACCI does not support a 2 week notice period for roster changes across all awards as it fails to consider:</p> <ul style="list-style-type: none"> <li>Differences between industries in relation to variability in workflow and need for labour.</li> <li>The circumstances of small businesses or businesses in variable environments for which a 2-week roster notification requirement would be entirely impractical.</li> </ul> <p><b>Proposal endorsed/supported by:</b></p> <ul style="list-style-type: none"> <li>NECA (p1)</li> <li>Clubs Australia (p1)</li> </ul>



### Notice of Rosters - Discussion Question 8

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Party	REF	THEIR REF	Issue	Commentary	Proposal
				ACCI submits that reforms relating to the definition of casual employment and employee choice in relation to casual conversion will likely affect access to rostering for eligible employees. ACCI also submits that the creation of rigidities in the system in relation to certainties of rosters has the potential to reduce the ability of employers to provide ad hoc flexibilities to employees.	
ACTU	49.	93-102 p38-41	<b>Multiple variations to rostering provisions - ACTU</b>	<p>ACTU submit that current rostering provisions have multiple negative impacts on employees and the balancing of work and care responsibilities. ACTU submit that rostering provisions mean that employees have a lack of control over their hours of work, changes to their rostered hours and their ability to take their accrued leave entitlements. Unfair rostering practices such as variable hours, unexpected schedule changes, disruptive rostering, lack of genuine consultation with employees and no capacity to reject changes to working hours all negatively impact employees' caring responsibilities.</p> <p>ACTU note that there are a broad range of roster notification periods in modern awards from 48 hours to 14 days with provisions for making changes to rosters similarly varied ranging from 24 hours to 7 days. Notice periods play a crucial role in work and care planning, with a regular schedule the most common working arrangement sought by new parents.</p> <p>ACTU also note that all awards include a model consultation clause about changes to rosters or hours of work, requiring employers to consult on proposed changes to the regular roster or ordinary hours of work of any employee. Provisions do not require parties to reach a mutually agreed position before the change is made.</p> <p>ACTU submit that there is a clear need for better rights for all workers to secure certain, stable and meaningful rosters that provide job security and accommodate caring responsibilities.</p>	<p><b>Proposal Summary:</b> Vary awards to ensure that:</p> <ul style="list-style-type: none"> <li>All employees have access to regular, predictable patterns and hours of work.</li> <li>Advanced notice of 28 days of rosters is given except in exceptional circumstances.</li> <li>Roster changes can be made by mutual agreement only. In the alternative, there should be 28 days' notice of roster changes for all employees, including casuals, and a requirement for employers to genuinely consider employee views about the impact of proposed roster changes, and take the views of the employee into consideration when changing rosters and other work arrangements.</li> <li>Employees have a right to say no to extra hours with protection from negative consequences.</li> <li>There is a positive obligation to provide employees with rosters that accommodate responsibilities (Right to Care Roster Clause).</li> <li>Employees can bring rostering disputes to FWC for conciliation and arbitration, and have the status quo apply until the matter is resolved.</li> </ul> <p><b>Proposal endorsed/supported by:</b></p> <ul style="list-style-type: none"> <li>MEU (3, p2)</li> <li>CEPU (6, p3)</li> </ul>

### Notice of Rosters - Discussion Question 8

Noting the Work and Care Senate Committee Recommendation 21 that all employees should have at least 2 weeks' notice of their roster except in exceptional circumstances, are there any specific variations to rostering provisions in modern awards that are necessary to ensure they continue to meet the modern awards objective?

Party	REF	THEIR REF	Issue	Commentary	Proposal
AHEIA	50.	p8-9	<b>No variation in the higher education sector awards - AHEIA</b>	AHEIA submit that the General Staff Award already meets Recommendation 21 of the Senate Report at clause 15.2(b).	<b>Proposal Summary:</b> No variation proposed.
Ai Group	51.	178-181 p62-63	<b>No changes to roster notice - Ai Group</b>	<p>Ai Group submit that in relation to the portion of Recommendation 21 and proposition that FWC review awards “to ensure employees have a ‘right to say no’ to extra hours with protection from negative consequences”, this matter is already addressed in the NES, employees have an existing right to refuse hours in addition to 38 per week in various circumstances (or the lesser of 38 ordinary hours and an employee’s ordinary hours, where the employee is not engaged on a full-time basis). Ai Group submit that an employee who refuses to work additional hours may be seen as exercising a workplace right in respect of which the employee is protected from adverse action against them pursuant to the general protections provisions in Part 3-1 of FW Act.</p> <p>Ai Group submit that it follows that it is not “necessary” for awards to be varied to give effect to this aspect of Recommendation 21, since the matter is already effectively dealt with under FW Act.</p> <p>Ai Group also submit that an introduction of a minimum two-week notice period would have a potentially deleterious impact on employers. They state there are numerous obvious reasons why employers genuinely require greater flexibility when preparing and varying rosters including a need to accommodate for fluctuating customer demand, changing staffing requirements, unexpected staff absences and other operational challenges. Employers are required to consult employees about proposed changes to rosters and ordinary hours of work, providing a meaningful mechanism to ensure employees are informed of, and have an opportunity to be heard in respect of, proposed roster changes.</p>	<b>Proposal Summary:</b> Strongly opposes introduction of a minimum notice period of two weeks as suggested by the Work and Care Senate Committee.



### Notice of Rosters - Discussion Question 8

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Party	REF	THEIR REF	Issue	Commentary	Proposal
				Ai Group submit that the vast majority of awards do not presently regulate the provision of rosters or the circumstances in which rosters may be varied. They suggest that these matters are best determined at the enterprise level, taking into account the nature of the employer's operations and the manner in which the employer seeks to arrange labour to ensure it is deployed efficiently and productively. Ai Group submit that one-size-fits-all proposition seeking to prescribe how and when rosters are to be published and/or varied would be ill-suited to the awards safety net.	
AMWU	52.	Rec 1 p3	<b>Notice of rosters - AMWU</b>	AMWU provide that notice periods vary across awards, particularly for the Vehicle and Manufacturing Awards.	<p><b>Proposal Summary:</b> AMWU expands on ACTU and AMWU submissions to the Job Security stream and includes the following proposals:</p> <ul style="list-style-type: none"> <li>• Employers should be required to give advance notice of at least 4 weeks of rosters and roster changes (except in exceptional circumstances);</li> <li>• Expressly prohibit employers from changing rosters without consultation and genuinely considering employee views about the impact of proposed roster changes and to accommodate the needs of the employee; and</li> <li>• Ensure employees have a 'right to say no' to extra hours with protection from negative consequences.</li> </ul>
ANMF	53.	58-59 p12	<b>14-day notice requirement in Nurses Award - ANMF</b>	ANMF submits this proposal enhances worker certainty and predictability for work and care responsibilities.	<p><b>Proposal Summary:</b> Clause 13.2(e) of the Nurses Award should be varied so that an employer may change a roster with 14 days' notice, as opposed to the current 7-day requirement. FWC should consider whether an appropriate penalty should apply if this is breached.</p>
ANMF	54.	60-61 p12-13	<b>28-day roster cycle in Nurses Award - ANMF</b>	ANMF state that the Nurses Award provides for weekly or fortnightly roster cycle. ANMF submit this does not provide sufficient security and predictability. Some public sector instruments applicable to nurses provide for up to a 28-day roster cycle. ANMF suggest this proposal is well suited for the nursing profession due to the need to properly plan for the adequate and safe staffing of health facilities.	<p><b>Proposal Summary:</b> A 28-day roster cycle should be adopted for the Nurses Award.</p>

### Notice of Rosters - Discussion Question 8

Noting the Work and Care Senate Committee Recommendation 21 that all employees should have at least 2 weeks' notice of their roster except in exceptional circumstances, are there any specific variations to rostering provisions in modern awards that are necessary to ensure they continue to meet the modern awards objective?

Party	REF	THEIR REF	Issue	Commentary	Proposal
ANMF	55.	55-57 p12	<b>28-day notice period in Nurses Award - ANMF</b>	ANMF submit that the Nurses Award's rostering provisions are deficient, providing inadequate notice of future work patterns, leading to unstable and unpredictable rosters that make planning work and care difficult. They submit the 7-day notice requirement when displaying rosters is too short.	<b>Proposal Summary:</b> A minimum 28-day notice period for the publishing of rosters would be more appropriate to promote predictability. This would also provide greater opportunity to consult around roster grievances before commencement. Note that the public sector enterprise agreements in some jurisdictions require employers to display rosters up to 28 days before commencement as common practice in hospital settings.
Carers Tasmania	56.	p8	<b>14 days' notice for rosters - Carers Tas</b>	Carers Tas agrees with Senate Select Committee recommendation of at least 14 days' notice for rosters.	<b>Proposal Summary:</b> Supports 14 day advance notice of rosters.
CGCL	57.	7.4(b)-(e) p5-6	<b>2 weeks' notice for rosters - CGCL</b>	CGCL support the implementation of Recommendation 21 of Work and Care Report providing that FWC can review current awards to ensure employees have predictable, stable rosters and that employees have a right to say no to extra hours with protection from negative consequences.  CGCL submit that these provisions should also be extended to casual employees, to the extent that they do not restrict the flexible and irregular nature of casual employment. They submit that casual employees should also have protections under both FW Act and relevant awards to protect them from adverse action when they refuse extra hours or changes to the roster on short notice. CGCL submit that it is unreasonable to expect casual employees, who do not have access to personal/carer's leave or annual leave entitlements, and with current limited scope of unpaid carer's leave, to be able to arrange formal care for dependents or to reschedule their care commitments at short notice.	<b>Proposal Summary:</b> CGCL propose that awards should include: <ul style="list-style-type: none"> <li>• A provision requiring employers give at least 2 weeks' notice of rosters and roster changes.</li> <li>• A right to say no to extra hours or last-minute roster changes without adverse consequences.</li> </ul>
City of Newcastle	58.	5 p4	<b>14 days' notice for rosters - City of Newcastle</b>	City of Newcastle agrees with Senate Select Committee recommendation of at least 14 days' notice for rosters.	<b>Proposal Summary:</b> Roster notice should be extended as far as reasonably possible, allowing caregivers adequate time to adjust their care arrangements and minimise disruptions to dependent's care.
CLC Group	59.	p8	<b>14 days' notice for rosters - CLC Group</b>	CLC Group agrees with Senate Select Committee recommendation for 2 week notice period for rosters.	<b>Proposal Summary:</b> Supports the recommendation, include the 2-week advance notice of rosters in modern awards.

### Notice of Rosters - Discussion Question 8

Noting the Work and Care Senate Committee Recommendation 21 that all employees should have at least 2 weeks' notice of their roster except in exceptional circumstances, are there any specific variations to rostering provisions in modern awards that are necessary to ensure they continue to meet the modern awards objective?

Party	REF	THEIR REF	Issue	Commentary	Proposal
CPSU-SPSF	60.	58-61 p9	<b>Extend notice period in SCHADS - CPSU-SPSF</b>	CPSU-SPSF submit that clause 8A in SCHADS is used to modify rosters at short notice, less than the 2 weeks mandated by clause 25.5. CPSU-SPSF note that in male dominated industries there are rostering provisions that require 4 weeks' notice, to 6 months' notice.	<b>Proposal Summary:</b> Extend notice period in clause 25.5 in SCHADS to a minimum of 4 weeks' notice.
NTEU	61.	29-30 p7	<b>Expand notice for roster change - NTEU</b>	No commentary provided.	<b>Proposal Summary:</b> Vary General Staff Award to provide 28 days' notice of a roster change. In the alternative, vary clause 15.2(b)(iii) General Staff Award to provide a minimum period of at least 2 weeks as proposed by the Senate Report.
SDA	62.	154-157 p23-24	<b>Notification of rosters - SDA</b>	SDA submits that the lack of regularity and high degree of frequent roster change is worse for casuals but also prevalent for permanent employees. Protections in relation to notice for rosters is vital given the high-use of casual and part-time employees in retail, fast food, pharmacy, and hair and beauty, and given the fact that most employees in these industries are women who have a disproportionately higher responsibility for care.	<b>Proposal Summary:</b> Vary awards to include notice periods for a roster change and an appropriate notice period for the notification of a roster for all workers including casuals.
WFPR	63.	16-18 p6-7	<b>Minimum notice periods for rosters and variations - WFPR</b>	<p>WFPR submit that awards should promote secure, predictable working hours. They submit that employees need regularity and stability to feel secure in their working and caring lives and to plan for the future. WFPR submit that short notice work is a problematic feature across feminised jobs. For example, disability support workers report poor working time security with 45 per cent reporting their shifts change unexpectedly and 29 per cent often called in to work at inconvenience times.</p> <p>WFPR submit that in retail industries, computerised and app-based rostering systems generate rosters at short notice based on real time customer traffic, which is helpful for employers by enabling them to use "just-in-time" rostering but does not allow for consultation required by individual employees who are also trying to accommodate their own caring responsibilities. Notice periods impact on care planning and children's schedules, including access to childcare. Short notice periods can increase families' requirements for informal childcare, usually provided by women. Changes at short notice can cause young children to miss out on early education and care by making it hard for caregivers</p>	<p><b>Proposal Summary:</b> FWC comprehensively assess whether minimum weekly hours arrangements for part-time employees may be underpinned by gender bias to help ensure employees in caring and other feminised industries receive adequate hours and income for their working time.</p> <p>Awards be varied to require the following:</p> <ul style="list-style-type: none"> <li>Two weeks' notice of rosters must be provided to all part-time and full-time employees.</li> <li>A minimum notice period of 7 days for changes to rosters, which must be genuinely agreed to by employees, with exceptions only in properly defined emergency situations outside the employer's control.</li> </ul>

### Notice of Rosters - Discussion Question 8

Noting the Work and Care Senate Committee Recommendation 21 that all employees should have at least 2 weeks' notice of their roster except in exceptional circumstances, are there any specific variations to rostering provisions in modern awards that are necessary to ensure they continue to meet the modern awards objective?

Party	REF	THEIR REF	Issue	Commentary	Proposal
				to commit to the regular times of care required in ECEC services and can also constrain the developmental and extra-curricular opportunities for older children, e.g. their ability to participate in music lessons or weekend sports.	
UWU	64.	27-31 p8-10	<b>Notice of rosters - UWU</b>	UWU submit that fair and predictable rosters are vital for workers, especially those with caring responsibilities, to manage their work-life balance. UWU submit that the need for advance notice of rosters and the ability to decline extra hours or late roster changes without repercussions are crucial aspects of fair work conditions.	<p><b>Proposal Summary:</b> UWU propose the following variations:</p> <ul style="list-style-type: none"> <li>• 28 days advance notice for rosters, with a genuine consideration of employee views on the impact of proposed changes.</li> <li>• 14 days' notice to change rosters with the explicit agreement of the affected employee.</li> <li>• Right to say no to additional hours.</li> <li>• Restrictions to when rosters can be changed, with "emergency" clearly defined within the award to prevent misuse.</li> </ul> <p><b>Award specific concerns:</b></p> <ul style="list-style-type: none"> <li>• <b>Cleaning Award:</b> Adress the issue of no notice of roster provisions (except 7 days' notice of changes).</li> <li>• <b>SCHADS Award:</b> Flexibility in changing rosters due to staff illness or emergencies, to ensure they offer predictable and fair working conditions for employees with caring responsibilities.</li> <li>• <b>Fitness Award:</b> Genuine consultation on roster changes is an issue in this industry.</li> </ul>

Rosters - Variation to rosters					
Party	REF	THEIR REF	Issue	Commentary	Proposal
ACTU	65.	100-102 p40-41	<b>Varying the standard consultation term - ACTU</b>	<p>ACTU submits that the standard term concerning consultation about changes to regular rosters or ordinary hours of work should be varied to specify critical information that will enable employees to participate in the consultation in an informed way and to exercise some influence or choice over matters affecting their job security.</p> <p>ACTU provides that genuine facilitation of choice requires some effort to ensure that a proposition being put to an employee is comprehensive, irrespective of the industry they work in.</p>	<p><b>Proposal Summary:</b> The standard term concerning consultation about changes to regular rosters or ordinary hours of work should be varied to:</p> <ul style="list-style-type: none"> <li>Ensure that the information provided by the employer about a proposed change includes information about whether the change is expected to be permanent or temporary and, if the latter, its duration, and the expected effects of the change on employee earnings.</li> <li>Ensure that the information provided by the employer about a proposed change is provided in writing and in a manner which facilitates employee understanding of the proposed changes, having regard to their English language skills.</li> </ul> <p><b>Proposal endorsed/supported by:</b></p> <ul style="list-style-type: none"> <li>MEU (3, p2)</li> <li>CEPU (6, p3)</li> </ul>
Ai Group	66.	182-85 p63-64	<b>Variation of rosters by agreement - Ai Group</b>	<p>Ai Group notes many of the awards containing rostering provisions stipulate a notice period for any variation to the roster. In some cases, the award permits variations of the roster without providing the notice period where the employer and employee agree to the variation. Ai Group suggests these arrangements would be beneficial to both employers and employees balancing work and care, who may seek changes to a roster at short notice. For example, an employee may seek to attend a medical appointment with a relative or to attend a matter at a child's school. Ai Group submits that it would also facilitate shift swaps as agreed between employees, enabling one or both to attend to caring responsibilities without needing to access paid or unpaid leave entitlements.</p> <p>Ai Group submits that these provisions would apply fairly to employees and employees by providing an avenue for employees to seek changes to a roster at short notice and to enable an employer to make changes on account of operational needs, provided they are agreed by the employee.</p>	<p><b>Proposal Summary:</b> Awards that contain pre-existing rostering provisions but do not currently permit variations to an employee's roster by agreement between the employer and employee, without the provision of notice, should be varied to permit an employer and employee to agree to a roster variation, at any time.</p>
Ai Group	67.	186-188 p64-65	<b>Roster variation in unforeseen circumstances - Ai Group</b>	<p>Ai Group notes that some awards with rostering provisions also provide a unilateral right for employers to change the roster with limited notice in unforeseen circumstances. For example, clause 15.2(c)(ii) of the Hair and Beauty Award, clause 22.6(c) of the Aged Care Award, clause 14.1(b) of the Health Professionals Award and clause 25.5(d)(ii)(B) of the SCHADS Award.</p>	<p><b>Proposal Summary:</b> To the extent that awards that contain pre-existing rostering provisions do not already provide for the right, modern awards should be varied to provide a unilateral right for an employer to vary the roster with a short period of notice in the event of unforeseen circumstances.</p>

Rosters - Variation to rosters					
Party	REF	THEIR REF	Issue	Commentary	Proposal
				<p>Ai Group submits that there are many types of unexpected circumstances which require an employer to respond quickly to make changes in order to continue its operations including:</p> <ul style="list-style-type: none"> <li>• Unexpected changes in customer demand, e.g. in the retail sector around festive periods where customer demand may be higher.</li> <li>• Unanticipated changes in production volume.</li> <li>• Unexpected absences of other employees.</li> <li>• Urgent maintenance or repair required for plant or equipment necessary for an employee's work.</li> <li>• Unexpected weather events and their related effects preventing particular work from taking place.</li> </ul> <p>Ai Group submits that employers should be able to respond to these unforeseen changes by being permitted to change rosters with a limited period of notice e.g. 24 hours. They state this flexibility would better enable short notice requests by an employee to be absent from work due to caring responsibilities. For example, an employer may be more inclined to permit an employee to finish work early at short notice due to an unexpected need to attend to a personal matter if they have a corresponding ability to vary the roster to require another employee to work in their place.</p>	
ASU	68.	33-35 p9-10	<b>Standard consultation term is ineffective - ASU</b>	ASU submits that employers often fail to genuinely consult with their employees about roster changes. ASU submits the current standard clause permits employers to make significant changes to rosters without consulting employees in awards with many facilitative provisions or opt-out arrangements.	<b>Proposal Summary:</b> The standard consultation term should require a 14-day notice period for regular roster changes; and a provision expressly indicating that consultation over changes to rostering or hours of work is a precondition to change being made.
CFW	69.	14-16 p5	<b>Certainty and stability in rosters - CFW</b>	CFW submit that the circumstances under which rosters can be changed must be exceptional circumstances only, not regular occurrences such as worker illness. CFW state employees report negative repercussions such as loss of work hours when extra hours are refused.	<b>Proposal Summary:</b> Employees must be provided notice of a roster change at least 2 weeks in advance as per Recommendation 5 of the Senate Report, and employers should be expressly prohibited from rostering employees outside their agreed availability without consultation.



Rosters - Variation to rosters					
Party	REF	THEIR REF	Issue	Commentary	Proposal
CGCL	70.	7.4(b)-(e) p5-6	<b>Implement recommendation 21 and extend to casual employees - CGCL</b>	<p>CGCL supports the implementation of Recommendation 21 of the Work and Care Senate Committee that FWC review current awards to ensure employees have predictable, stable rosters and that employees have a right to say no to extra hours with protection from negative consequences.</p> <p>CGCL submit that these provisions should also be extended to casual employees, to the extent that they do not restrict the flexible and irregular nature of casual employment. CGCL submits that casual employees should have protections under both FW Act and relevant awards to protect them from adverse action when they refuse extra hours or changes to the roster on short notice. They state it is unreasonable to expect casual employees, who do not have access to personal/carer's leave or annual leave entitlements, and with current limited scope of unpaid carer's leave, to be able to arrange formal care for dependents or to reschedule their care commitments at short notice.</p>	<p><b>Proposal Summary:</b> CGCL proposes awards should include:</p> <ul style="list-style-type: none"> <li>• A provision requiring employers give at least 2 weeks' notice of rosters and roster changes.</li> <li>• A right to say no to extra hours or last-minute roster changes without adverse consequences.</li> </ul>
CPSU	71.	48-56 p12-14	<b>Certainty and stability in rosters - CPSU</b>	<p>CPSU supports greater certainty and stability in rostering, providing job security and work life balance, and accommodating caring responsibilities. CPSU agrees with the suggestions of the Committee. The nature and work carried out by rostered workers in the CPSU's areas of coverage vary greatly, however it is a common theme that employees with caring responsibilities working in rostered environments seek the ability for their caring responsibilities to be recognised, considered, and accommodated.</p> <p>APS, NTPS, ACTPS and AGIA Awards largely provide rostering entitlements in relation to shift workers. CPSU submit that apart from minimum consultation requirements where the employer proposes to change an employee's regular roster, these provisions leave a gap in minimum entitlements for rostered workers who fall outside the definition of a shift worker. Without minimums set out in the award, there is no baseline for enterprise agreements in setting rostering provisions.</p>	<p><b>Proposal Summary:</b> Variations to modern awards that enable employees to have control over additional hours they take on, or the ability to reject additional hours, outside of their nominated availability or guaranteed hours would benefit employees balancing work and care.</p> <p>To better support and protect employees to balance their work and care responsibilities, modern awards including modern enterprise awards must ensure:</p> <ul style="list-style-type: none"> <li>• All workers have access to regular, predictable patterns and hours of work, for example by requiring employers to implement rostering practices that are predictable, stable and focused on fixed shift scheduling.</li> <li>• That roster changes are by mutual agreement only or in the alternate, 28 days' notice of roster changes for all workers, including casuals (except in exceptional circumstances), and require employers to genuinely consider employee views about the impact of proposed roster changes, and take the views of the employee, including employees with caring responsibilities, into consideration when changing rosters and other work arrangements.</li> <li>• Require employers to give advance notice of 28 days of rosters (or other periods relevant to particular industries as nominated by relevant unions (except in exceptional circumstances), and genuinely consider employee views about the impact of proposed roster changes and to accommodate the needs of the employee.</li> </ul>

Rosters - Variation to rosters					
Party	REF	THEIR REF	Issue	Commentary	Proposal
					<ul style="list-style-type: none"> <li>• Ensure employees have a “right to say no” to extra hours with protection from negative consequences.</li> <li>• Right to Care Roster Clause which outlines a worker’s right to a roster that accommodates caring responsibilities (positive obligation).</li> <li>• Workers should be able to bring rostering disputes to FWC for conciliation and arbitration, and have the status quo apply until the matter is resolved.</li> </ul>
FAAA	72.	97-103 p25-26	<b>Changes to rosters limited unless within 48 hours of roster publication - FAAA</b>	FAAA proposes FWC provide clarity and promote roster stability by defining “operational reasons”. Cabin Crew regularly contact the FAAA’s help line regarding their employer unilaterally changing a rostered duty due to undefined “operational reasons”. At Schedules A.3.3 and C.3.3 the ACCA provides that: “the employer may reassign employees an alternative duty for an operational reason at any time during the roster period”. FAAA submit that Cabin Crew are unsure of the scope of an employer’s ability to unilaterally alter their planned roster without notice.	<p><b>Proposal Summary:</b> Vary clause 2 to define “operational reasons”. Vary clause B.4.5 to add “operational reasons” as an important guideline to when an airline can change a Cabin Crew member’s roster.</p> <p><b>Proposed Wording:</b>  <i>B.4.5 Changes to duties</i>  <i>(a) All alterations to rostered duty must be made within 48 hours after provision of the roster must be advised as soon as possible and will be confirmed in writing.</i>  <i>(b) A regional cabin crew member will only be displaced from rostered duty from 48 hours after the publication of the roster for operational reasons.</i></p>
HSU	73.	45-49 p11	<b>Predictable rostering practices - HSU</b>	<p>HSU agrees with Discussion Paper that variable hours, unexpected schedule changes, disruptive rostering and a lack of genuine consultation with staff negatively impact employees’ caring responsibilities. HSU submit that rostering should be predictable, stable and focused on fixed shift scheduling and requiring employers to genuinely consider employee views about impact of proposed roster changes.</p> <p>HSU provide that in practice, rosters are changed daily in aged care, disability services and pathology. Employees are contacted outside of work hours to alert them to last minute changes to work hours or location, often even when they are on their way to work at a particular location. HSU provide that in some industries is common for employers to use electronic apps for rostering. Shifts are often changed through the app without any notification to employees. HSU submits that while employers consider have met their notice requirements in practice requires employees to regularly log on and check the app to ensure they are aware of any changes.</p>	<p><b>Proposal Summary:</b> HSU has already proposed variations to SCHADS which should go some way to improving certainty of hours for part-time workers covered by that Award.</p> <p>Additionally, provisions providing that rosters may be changed at any time in the event of staff illness or emergency are too broad. Taking into account new sub-s 134(1)(ab) is merit in reviewing the change in roster clauses in awards to introduce allowances for roster changes within certain periods of time, and to expressly prohibit employees being rostered outside their agreed availability without consultation.</p>



Rosters - Variation to rosters					
Party	REF	THEIR REF	Issue	Commentary	Proposal
MTO	74.	19 p5	<b>No variations needed for the Vehicle Award - MTO</b>	MTO notes that clause 36 Vehicle Award requires an employer to consult with impacted employees prior to implementing a proposed roster change. MTO provides that this allows for a flexible and common-sense approach and avoids arbitrary one-size-fits-all approaches, contrary to Recommendation 21 of the Senate Report.	<b>Proposal Summary:</b> No variation proposed.
SDA	75.	107-146 p11-22	<b>Highly variable hours in retail - SDA</b>	<p>SDA submits that working hours in retail are highly variable, change frequently, unexpectedly, and often at short notice, all of which make it difficult to plan stable care arrangements. Many SDA member reported a lack of consultation over changing work times.</p> <p>SDA submits that having stable, predictable rosters allows for employees who are carers to plan and provide care. Failure to have stable and predictable rosters has detrimental stress and mental health impacts. SDA submits that employees need genuine protection in awards that provide secure, predictable, and stable rosters with genuine consultation regarding roster changes or changes to other working arrangements, as well as accommodation of caring responsibilities, without negative consequences.</p>	<b>Proposal Summary:</b> Awards should contain roster change mechanisms by consent or mutual agreement only. Where an award cannot be varied in line with this position, it should be varied so that the employers must provide 28 days' notice for a roster change and if the employee cannot work the proposed roster, they can raise a dispute to FWC for conciliation and arbitration, and the status quo (original roster) continues to be worked until the dispute is resolved.
SDA	76.	147-153 p22-23	<b>Rosters for full-time employees - SDA</b>	<p>SDA submits that full-time employees are not exempt from having rosters that are regularly changed. Retail Award contains a provision that allows for roster changes to be posed with 7 days' notice unless the employee disagrees which then extends to 14 days' notice. SDA provides that making changes to a work and care schedule for many is not possible within this time frame. If the employee disagrees with the change, the dispute provision only allows arbitration by consent.</p> <p>SDA submits that in some awards the establishment of a full-time roster is less clear and there is no explicit obligation about establishing a regular pattern of work at the time of commencement.</p>	<p><b>Proposal Summary:</b> Both full-time and part-time employees should have access to the same protections and rights in relation to a right to care and the right to predictable, stable rosters. Awards should require that a regular roster between the employer and a full-time employee at the time of commencement.</p> <p>Awards should contain roster change mechanisms for full-time employees by consent or mutual consent only. Where an award cannot be varied in line with this proposal, it should be varied so that an employer must give 28 days' notice for a proposed roster change and the worker has a right to raise a dispute to FWC for conciliation or arbitration and the status quo continues to be worked until the dispute is resolved.</p> <p>Awards should be varied to remove the ability to change a full-time roster with 48-hours' notice or, alternatively, to include the right to say no.</p>

Rosters - Other Issues					
Party	REF	THEIR REF	Issue	Commentary	Proposal
CPSU-SPSF	77.	62 p9	<b>Fairness of rosters - CPSU-SPSF</b>	Regarding fairness of rosters, CPSU previously confirmed a more supportive structure of rostering principles that were contained in the copied NSW state award utilised in the sector on transfer of workers from government to privatised disability providers.	<b>Proposal Summary:</b> A new roster clause is inserted as per NSW ADHC Rostering Principles as determined in <i>Re Crown Employees (New South Wales Department of Family and Community Services) Residential Centre Support Services Staff Award 2015; Re Crown Employees Ageing, Disability and Homecare - NSW Department of Family and Community Services (Community Living Award) 2015 [2017] NSWIRComm 1058 (30 August 2017)</i> .
FAAA	78.	89-96 p23-24	<b>Display roster in cabin crew room or electronically - FAAA</b>	<p>FAAA provides that during the period between when rosters are published and the start of roster, the ability for crew to utilise swapping provides some control back to Cabin Crew to align their work hours with the availability of childcare and other support necessary for Cabin Crew when they are away from home for extended period. ACCA provides for crew to swap duties (A.3.4, B.4.6, C.3.4). Access to the roster facilitates the acknowledged practice of duty swapping.</p> <p>FAAA submit that having access to the published rosters would significantly reduce the time Cabin Crew need to spend planning for their roster swaps and for the accommodations they need to make for their work and care responsibilities based on their roster.</p>	<p><b>Proposal Summary:</b> That there be one standard roster notification and display clause across ACCA for all Cabin Crew. Provision ensures Cabin Crew have access to the rosters of other Cabin Crew. Proposal would include a variation to roster notification and display provisions in clause B.4.2 and the new clause would also be inserted into Schedules A and C. replacing A.3.2 and C.3.2</p> <p>Access to rosters is important as it facilitates ability for crew to swap flying duties. Ability to manage own changes to roster significantly improves the stability and predictability of hours for Cabin Crew.</p> <p><b>Proposed Wording:</b> <i>B.4.2 A copy of the complete roster must be displayed on the cabin crew notice board (which may include an online notice board or facility) at least 7 days prior to the commencement of the roster. All cabin crew who receives a roster are to be included in the complete roster and be given access to where the complete roster is displayed (unless the crew member has requested not to be included).</i></p>
FAAA	79.	104-109 p26-27	<b>Clear meaning of “operational reasons” and “displacements” - FAAA</b>	<p>FAAA submits that to support the framework around airline’s ability to cancel Cabin Crew member’s assigned duty, insert definition for “operational reasons” to define scope of when employer may “re-assign” Cabin Crew from their rostered duties. Proposed definition is consistent with definition in pre-modern Domestic Award and Qantas Short Haul EBA. FAAA submits that without a definition of “operational reasons” an airline may potentially cite any reason as an operational reason.</p> <p>Pilots Award contains a displacement provision which is also found in the Airline Operations – Ground Staff Award and the Nurses Award. FAAA’s proposal provides agency and roster protection to employees whilst current ACCA provides no award entitlement to resist being reassigned at</p>	<p><b>Proposal Summary:</b> Vary definitions in clause 2 of the ACCA to insert definition for ‘operational reasons’ to define scope of what might fall within those words.</p> <p><b>Proposed Wording:</b> <i>“operational reason” means any of the following:</i></p> <ul style="list-style-type: none"> <li>(i) Overlap Flying;</li> <li>(ii) Roster Period-end changeover;</li> <li>(iii) Checking and/or training;</li> <li>(iv) Courses;</li> <li>(v) Publicity;</li> <li>(vi) Duty hour limitations;</li> <li>(vii) Cancellation of flights;</li> <li>(viii) Rest Period Requirements;</li> </ul>

Rosters - Other Issues					
Party	REF	THEIR REF	Issue	Commentary	Proposal
				any time. Proposal retains significant flexibility for employer to manage airline for genuine operational reasons that can be expected.	<ul style="list-style-type: none"> <li>(ix) Transfer and Base Swap (travelling);</li> <li>(x) Any leave specified in this Agreement;</li> <li>(xi) Misconnections;</li> <li>(xii) Aircraft type changes (to a smaller crew complement aircraft); and</li> <li>(xiii) Uniform fittings.</li> </ul>
FAAA	80.	110-114 p27-28	<b>Limit types of duties Cabin Crew can be reassigned to - FAAA</b>	FAAA provide that if there are two casual Cabin Crew and one full-time Cabin Crew and a flight is cancelled, airline is disincentivised to reassign casuals to other work as they are only paying minimum engagement for the casuals, but will reassign salaried employee who will be paid their permanent full-time hours even if duty is cancelled. FAAA submit that as such, need to have buffers around permanent employees to ensure their entire roster is not displaced by new duties.	<p><b>Proposal Summary:</b> Vary clause A.3.3 and C.3.3 to reduce roster instability arising on ‘displacements’ resulting from re-assignments due to “operational reasons”.</p> <p><b>Proposed Wording:</b></p> <p>A.3.3 The employer may reassign employees an alternative duty for an operational reason at any time during the roster period. For any replacement duty that a Cabin Crew member is reassigned to under this clause the employer must:</p> <ul style="list-style-type: none"> <li>(i) ensure the new duty is consistent with the employee performing their next planned duty on their roster (that is it must not for example, disrupt any subsequent planned duty on their published roster by either running over into the next planned duty or not leaving sufficient rest time for the Cabin Crew member to perform the next planned duty);</li> <li>(ii) give written notice of the reassigned duty as soon as possible along with the reason why; and</li> <li>(iii) have a buffer of two additional hours on the new duty.</li> </ul>
FAAA	81.	115-118 p28-29	<b>Setting floor for single days off (DDO) - FAAA</b>	<p>FAAA submit that becoming fatigued is a common condition experienced by Cabin Crew and that the ability to obtain solid periods of non-work time is essential to recover from flying through the night, duties rostered to commence early mornings and end late at night, up to 12 to 16 or 26 hour duty days, disturbed sleep-in unfamiliar hotel rooms and regularly being away from home on duty.</p> <p>FAAA submit that ACCA does not adequately account the fatigue. ACCA's combined hours and roster provisions do not provide opportunity for crew to have sufficient blocks of time off to recover.</p>	<p><b>Proposal Summary:</b> New requirement be added to all 3 schedules limiting the number of single days off that can be rostered.</p> <p><b>Proposed Wording:</b></p> <p>A.3.5 An employee will not be rostered beyond a maximum of 6 sectors in any duty period and will not be rostered to work on more than 6 consecutive days. An employee cannot be rostered more than 2 single days off in a 28 day roster or 3 single days off in a calendar month.</p>

Rosters - Other Issues					
Party	REF	THEIR REF	Issue	Commentary	Proposal
				FAAA's proposal attempts to ensure there is some time for Cabin Crew outside of recovering from fatiguing effects of work.	
SDA	82.	158-163 p24-25	<b>Use of computerised rostering systems - SDA</b>	<p>SDA provide that rostering systems typically use a range of data including customer traffic, stock flows, and task time analysis to determine the number of hours of labour needed at any time in the week. Rosters are then electronically generated using this information and communicated to workers via an app.</p> <p>The Report conducted by the University of NSW Social Policy Research Centre, and commissioned by the SDA, found that there was a general preference for more personal communication around rostering and roster changes and that the use of apps as a toll should not substitute for this personal communication. SDA submit that the use of apps does not provide for proper consultation with employees. SDA provide that employees are forced to check the app which impinges on an employee's time outside of work which puts more pressure on them while caring.</p>	<b>Proposal Summary:</b> FWC should consider the proliferation of computerised rostering systems and technology more broadly and its impacts on workers and whether protections are needed in awards to ensure they continue to meet the Modern Awards Objectives.
SDA	83.	164-172 p25-27	<b>Right to Care - SDA</b>	<p>SDA submit that awards are failing to provide fair and appropriate regulation of the control over working arrangements and there is an imbalance in favour of employers resulting in an almost unworkable situation for worker carers. SDA provide that this has a negative impact on families and the ability for them to manage care, but it also has broader impacts on society and the economy. The Report conducted by the University of NSW Social Policy Research Centre, and commissioned by the SDA, found that large proportions of workers want to work more but cannot do so due to the unpredictability and irregularity of rosters. SDA submit that giving more control to employees would positively impact gender equality and the participation of women at work. Closing the workforce participation gap between women and men would increase GDP by 8.7 per cent by 2050.</p> <p>SDA submit that while there are protections against discrimination concerning caring responsibilities, these protections do not have the same direct impact that a positive obligation variation in the awards would have.</p>	<b>Proposal Summary:</b> Awards should contain a Right to Care clause that provides a positive obligation on the employer to provide employees with a roster that accommodates their caring responsibilities. This is supported by Recommendation 1 of the Senate Report which states that a reform package should ensure that Australians have a right to care alongside their right to work.