



The Pharmacy
Guild of Australia

6 December 2019

**AM2019/17 - 4 YEARLY REVIEW OF MODERN AWARD – PHARMACY INDUSTRY
AWARD 2010**

Background

- 1 This submission is made following the Fair Work Commission (**'Commission'**) Report directions of 29 November 2019.
- 2 In accordance with the directions at [5], the Pharmacy Guild of Australia (PGA) after consulting with parties was directed to file a report setting out the views of the parties.

Report

- 3 PGA provided the attached table to APESMA, SDA and HSU for consideration as indicating the proposed changes in column 2.
- 4 PGA indicated via tracked changes the proposed inclusion or changes to remove any uncertainty in the application of the provisions.
- 5 The parties provided comments in response as indicated in the attachment via the actual document or email.
- 6 For your consideration.

Scott Harris

**National Manager, Workplace Relations
Pharmacy Guild of Australia**



AM2019/17 – 4 **yearly review of modern awards—Pharmacy Industry Award 2010** – Plain Language Exposure Draft

Proposed Changes to Terminology - Background Paper Clause 3(q)

Column 1 Draft Version - September 2019	Column 2 Proposed changes highlighted
Table 3 – Minimum Rates NOTE 2: Provisions for calculating rates for casual employees are at clause 11—Casual employees. Overtime rates are specified in clause 21—Overtime and penalty rates are specified in clause 22—Penalty rates.	Table 3 – Minimum Rates NOTE 2: Provisions for calculating minimum hourly rates for casual employees are at clause 11—Casual employees. Overtime rates are specified in clause 21—Overtime and penalty rates are specified in clause 22—Penalty rates.
Table 3 – Minimum Rates NOTE 3: Schedule B—Summary of Hourly Rates of Pay contains a summary of hourly rates of pay including casual, overtime and penalty rates.	Table 3 – Minimum Rates NOTE 3: Schedule B—Summary of Minimum Hourly Rates of Pay contains a summary of minimum hourly rates of pay including casual, overtime and penalty rates.
21.3 An employer must pay a part-time employee at the overtime rate for each hour worked in excess of the number of hours that the employee has agreed to work under clauses 10.4 and 10.12 (Part-time employment).	21.3 An employer must pay a part-time employee at the overtime rate for each hour worked in excess of the number of hours that the employee has agreed to work under clauses 10.4 and 10.12 (Part-time employmentemployee).
21.4 Payment of overtime (b) The overtime rate specified in column 2 of Table 5—Overtime rates must be applied to the applicable minimum rate for the employee	21.4 Payment of overtime (b) The overtime rate specified in column 2 of Table 5—Overtime rates must be applied to the applicable minimum hourly rate for the

classification in accordance with clause 16— Minimum rates.	employee classification in accordance with clause 16—Minimum rates.
Table 5 – Overtime rates NOTE: Schedule B—Summary of Hourly Rates of Pay sets out the hourly overtime rate for all employee classifications according to when overtime is worked.	Table 5 – Overtime rates NOTE: Schedule B—Summary of Minimum Hourly Rates of Pay sets out the minimum hourly overtime rate for all employee classifications according to when overtime is worked.
22.3 Payment of penalty rates (b) The penalty rate specified in column 2 or 3 of Table 6—Penalty rates must be applied to the applicable minimum rate for the employee classification in accordance with clause 16—Minimum rates.	22.3 Payment of penalty rates (b) The penalty rate specified in column 2 or 3 of Table 6—Penalty rates must be applied to the applicable minimum hourly rate for the employee classification in accordance with clause 16—Minimum rates.
Table 6—Penalty rates Column 2 Full-time and part-time penalty rate % of minimum rate	Table 6—Penalty rates Column 2 Full-time and part-time penalty rate % of minimum hourly rate
Table 6—Penalty rates Column 3 Casual penalty rate (inclusive of casual loading) % of minimum rate	Table 6—Penalty rates Column 3 Casual penalty rate (inclusive of casual loading) % of minimum hourly rate
Table 6—Penalty rates NOTE 2: Schedule B—Summary of Hourly Rates of Pay sets out the hourly penalty rate for all employee classifications.	Table 6—Penalty rates NOTE 2: Schedule B—Summary of Minimum Hourly Rates of Pay sets out the minimum hourly penalty rate for all employee classifications.
23. Annual leave NOTE: Where an employee is receiving over-award payments such that the employee's	23. Annual leave NOTE: Where an employee is receiving over-award payments such that the employee's

Commented [SH1]:

Ms Baulch for APESMA emailed on date 28 Nov 19 @ 2.35pm – the following point:

I just think that your suggestion of saying 'minimum hourly rates' may not completely work for the clause 23 Annual leave as some, albeit a few, employee's pay is still calculated on a weekly basis – particularly those on Annualised Salary Agreements and IFAs. I think it might be better to say minimum rate in clause 23 and 23.3.

base rate of pay is higher than the rate specified under this award, the employee is entitled to receive the higher rate while on a period of paid annual leave (see sections 16 and 90 of the Act).	base rate of pay minimum hourly rate is higher than the rate specified under this award, the employee is entitled to receive the higher rate while on a period of paid annual leave (see sections 16 and 90 of the Act).
23.3 Annual leave loading (a) During a period of annual leave an employee will receive a loading calculated on the rate prescribed in clause 16—Minimum rates of this award in addition to their minimum rate of pay. Annual leave loading payment is payable on leave accrued.	23.3 Annual leave loading (a) During a period of annual leave an employee will receive a loading calculated on the rate prescribed in clause 16—Minimum hourly rate of pay. Annual leave loading payment is payable on leave accrued.
28.2 Where an employee works on a public holiday they will be paid in accordance with clause 22.3—Payment of penalty rates.	28.2 Where an employee works on a public holiday they will be paid in accordance with clause 22.3—Payment of penalty rates. Note: -Schedule B—Summary of Minimum Hourly Rates of Pay sets out the minimum hourly penalty rate for all employee classifications.
Schedule B—Summary of Hourly Rates of Pay	Schedule B—Summary of Minimum Hourly Rates of Pay
Schedule G—Part-day Public Holidays (b) Where a part-time or full-time employee is usually rostered to work ordinary hours between 7.00 pm and midnight but as a result of exercising their right under the NES does not work, they will be paid their ordinary rate of pay for such hours not worked.	Schedule G—Part-day Public Holidays (b) Where a part-time or full-time employee is usually rostered to work ordinary hours between 7.00 pm and midnight but as a result of exercising their right under the NES does not work, they will be paid their ordinary rate of pay minimum hourly rate for such hours not worked.
Schedule G—Part-day Public Holidays (c) Where a part-time or full-time employee is usually rostered to work ordinary hours	Schedule G—Part-day Public Holidays (c) Where a part-time or full-time employee is usually rostered to work ordinary hours

Commented [KB2]: This would be inclusive of the applicable penalty rates so it should probably say that: 'they will be paid their minimum hourly penalty rate for such hours not worked.' (This would be in line with wording used in Table 6, Note 2)

<p>between 7.00 pm and midnight but as a result of being on annual leave does not work, they will be taken not to be on annual leave between those hours of 7.00 pm and midnight that they would have usually been rostered to work and will be paid their ordinary rate of pay for such hours.</p>	<p>between 7.00 pm and midnight but as a result of being on annual leave does not work, they will be taken not to be on annual leave between those hours of 7.00 pm and midnight that they would have usually been rostered to work and will be paid their ordinary rate of pay <u>minimum hourly rate</u> for such hours.</p>
<p>Schedule G—Part-day Public Holidays</p> <p>(d) Where a part-time or full-time employee is usually rostered to work ordinary hours between 7.00 pm and midnight, but as a result of having a rostered day off (RDO) provided under this award, does not work, the employee will be taken to be on a public holiday for such hours and paid their ordinary rate of pay for those hours.</p>	<p>Schedule G—Part-day Public Holidays</p> <p>(d) Where a part-time or full-time employee is usually rostered to work ordinary hours between 7.00 pm and midnight, but as a result of having a rostered day off (RDO) provided under this award, does not work, the employee will be taken to be on a public holiday for such hours and paid their ordinary rate of pay <u>minimum hourly rate</u> for those hours.</p>

Commented [KB3]: Same as above

Commented [KB4]: Same as above