

# Clerks Award flexibility during coronavirus

Published 28 March 2020 | Updated 19 November 2020

## Extension of temporary award flexibility for Clerks Award

The Fair Work Commission has extended the operational date of the temporary Schedule I in the Clerks Award. The updated Schedule I now applies until 29 March 2021.

We've updated this page to reflect these changes.

On 28 March 2020, the Fair Work Commission (the Commission) made a [determination \(https://www.fwc.gov.au/documents/documents/awardmod/variations/2020/pr717900.pdf\)](https://www.fwc.gov.au/documents/documents/awardmod/variations/2020/pr717900.pdf) varying the Clerks Award. The determination inserted a temporary new Schedule I that applied from an employee's first full pay period on or after 28 March 2020.

Schedule I adds extra award flexibility to help employers and employees during the impact of coronavirus. It applies until 29 March 2021.

## On this page:

- [Who Schedule I applies to](#)
- [Which parts of Schedule I have been extended and how they apply now](#)
- [Span of hours changes while working from home](#)
- [Full-time and part-time employees' hours of work](#)
- [Annual leave](#)
- [Employees covered by agreements](#)
- [Which parts of Schedule I stopped applying after 30 June 2020](#)
- [More information.](#)

The Commission can continue to extend Schedule I, if an application is made by an interested party. We'll keep updating our information if that happens.

## Who does it apply to?

The updated Schedule I applies to employers and employees covered by the Clerks Award.

Use [Find my award \(https://www.fairwork.gov.au/awards-and-agreements/awards/find-my-award/\)](https://www.fairwork.gov.au/awards-and-agreements/awards/find-my-award/) if you're not sure which award applies to you.

[Back to top](#)

## Extended parts of Schedule I that apply until 29 March 2021

### Requirements of a direction under Schedule I

From the first full pay period on or after 1 July 2020, any direction or request given by an employer under Schedule I:

- has to be in writing
- has to say that the employer agrees to the Commission arbitrating any disputes about the direction
- can't be unreasonable in all of the circumstances.

### **Span of hours changes while working at home**

Employees who have agreed with their employer to work from home can also agree to change their span of hours to allow them to work between:

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

To change the span of hours of work for individual employees working from home, employers don't need to agree with a majority of their employees.

### **Hours of work for full-time and part-time employees**

Under Schedule I, some employers can temporarily reduce full-time and part-time employees' ordinary hours of work for a specified period.

From the first full pay period on or after 1 July 2020, employers can only use these reduction in hours provisions if they'd already used them before 30 June 2020. Other employers need to follow the normal rules about hours of work in the Clerks Award. See [Hours of work, breaks & rosters \(https://www.fairwork.gov.au/employee-entitlements/hours-of-work-breaks-and-rosters\)](https://www.fairwork.gov.au/employee-entitlements/hours-of-work-breaks-and-rosters) for more information.

Employers who have already temporarily reduced their employees' hours under Schedule I can continue to temporarily reduce their permanent employees' hours of work to:

- not less than 75% of their full-time ordinary hours, or
- not less than 75% of their agreed part-time hours immediately prior to any reduction.

This can be for the whole business or a section of the business.

If an employer wants to further reduce their employees' hours, the employees will need to vote in favour of it. At least 75% of the full-time and part-time employees in the business or section of the business have to approve the temporary reduction.

The employer needs to follow these steps for the vote to be valid:

- If any employee is a known member of the Australian Services Union (ASU) or another organisation, let the ASU or the organisation know about the vote.
- Provide the employees with the contact details for the ASU, if they wish to contact the ASU for advice.
- Email [clerksaward@fwc.gov.au](mailto:clerksaward@fwc.gov.au) (mailto:clerksaward@fwc.gov.au) about the vote and provide the employees' work email addresses. The Commission will email the employees the ASU COVID-19 Information Sheet.
- Hold a vote at least 24 hours after they have followed steps 1-3.

If an employee's hours were temporarily reduced under Schedule I before 1 July 2020, the employees can ask their employer for another vote to confirm that their hours will continue to be reduced for a longer period. This vote has to happen within 7 days of an employee asking for it. If the vote doesn't happen, or the result of the vote doesn't support an ongoing reduction in hours, the reduced hours will no longer apply from 7 days after the employee asked the employer to conduct the vote.

Any employee who has had their hours reduced can ask their employer for permission to:

- find more work with another employer
- engage in training, professional development and study leave.

An employer can't unreasonably refuse an employee's request to engage in other reasonable work. An employer has to consider all reasonable requests for training, professional development or study leave.

Employees working reduced hours under Schedule I will continue to accumulate their paid leave and termination of employment entitlements based on their ordinary hours of work before the Schedule started.

An employer and employee can also individually agree in writing (including in an electronic form) to reduce the employee's hours.

[Back to top](#)

## **Annual leave**

Employers can request an employee to take annual leave under Schedule I in some circumstances.

Employers can only make this request if:

- the reasons for the request are attributable to the coronavirus pandemic or Government initiatives to slow the transmission of coronavirus
- it is to help the employer to prevent or minimise loss of employment
- the request is in writing
- they take into account the employee's personal situation
- the employee will still have at least 2 weeks' accrued annual leave left after taking the leave
- they make the request at least 72 hours before they want the employee's annual leave to start.

The employee has to consider the request and can't unreasonably refuse it.

The annual leave has to start before 29 March 2021 but can end after that date.

Employees and employers can still agree for an employee to take annual leave at any time.

To request an employee to take annual leave (including unpaid leave in some circumstances), employers can use our [Template letter for directing employees to take annual leave during the coronavirus outbreak \(DOCX 70.5KB\)](#) ([www.fairwork.gov.au/ArticleDocuments/218/directing-employees-to-take-annual-leave-during-the-coronavirus-outbreak.docx.aspx](http://www.fairwork.gov.au/ArticleDocuments/218/directing-employees-to-take-annual-leave-during-the-coronavirus-outbreak.docx.aspx)) (PDF 458.6KB) ([www.fairwork.gov.au/ArticleDocuments/218/directing-employees-to-take-annual-leave-during-the-coronavirus-outbreak.pdf.aspx](http://www.fairwork.gov.au/ArticleDocuments/218/directing-employees-to-take-annual-leave-during-the-coronavirus-outbreak.pdf.aspx)) .

### **Annual leave at half pay**

Employees can also agree with their employer to take up to twice as much annual leave at a proportionately reduced rate.

For example, this means that if an employee agrees with their employer to take annual leave at half pay, the employee gets payment for 1 week of annual leave (including annual leave loading if it applies) for 2 weeks of annual leave.

An employee on leave at half pay accumulates annual leave and sick and carer's leave as if they were on leave at full pay.

[Back to top](#)

### **Employees covered by an agreement**

The changes to the Clerks Award don't apply to employees covered by an enterprise agreement.

Find out if your workplace is covered by an agreement on the [Fair Work Commission website – Find an agreement](#) (<https://www.fwc.gov.au/awards-and-agreements/agreements>) [↗](#) (<https://www.fwc.gov.au/awards-and-agreements/agreements>) .

[Back to top](#)

### **Schedule I provisions that don't apply after 30 June 2020**

The information below outlines the Schedule I provisions that applied between 28 March 2020 and 30 June 2020. This information is historical and no longer applies.

See [Extended parts of Schedule I that apply until 29 March 2021](#) for information about which parts of Schedule I apply now.

#### **Change in duties**

Between 28 March 2020 and 30 June 2020, an employer could direct an employee to do any tasks the employee had the skill and competency for, even if those tasks weren't in their usual classification or normal work.

If an employee was told during this time to work above their usual classification for more than one day, the employer needed to pay them at the higher rate.

Employees who did tasks below their usual classification were entitled to be paid at their usual pay rate.

There are ongoing requirements in the award about paying employees who work higher duties. You can use our [Pay and Conditions Tool](#) (<https://calculate.fairwork.gov.au/findYourAward>) to find out minimum rates of pay and allowances, or check the [Clerks Award](#) (<http://awardviewer.fwo.gov.au/award/show/MA000002>) for details.

#### **Minimum engagement/pay for part-time and casual employees working from home**

Between 28 March 2020 and 30 June 2020, part-time employees who agreed with their employer to work from home could have their minimum engagement reduced from 3 hours per shift to 2 hours per shift.

During this time, casual employees who agreed with their employer to work from home were also entitled to a minimum of 2 hours' pay per shift (rather than 3 hours).

#### **Annual leave and close down of business**

Between 28 March 2020 and 30 June 2020, employers could direct an employee to take annual leave under Schedule I by giving the employee at least 1 week of notice (or any shorter period of notice that was agreed).

During this time, if the annual leave direction was because the business was closing down for a period, the employer could direct an employee take unpaid leave. The employer could only do this if the employee didn't have enough paid annual leave to cover the whole period.

Any period of unpaid leave taken by an employee counted as service for entitlements under the:

- Clerks Award
- National Employment Standards.

[Back to top](#)

## More information

- For further information on the changes, read the Fair Work Commission's:
  - [original March decision](https://www.fwc.gov.au/documents/documents/awardmod/variations/2020/pr717900.pdf) (<https://www.fwc.gov.au/documents/documents/awardmod/variations/2020/pr717900.pdf>)
  - [June determination](https://www.fwc.gov.au/documents/documents/awardmod/variations/2020/pr720638.pdf) (<https://www.fwc.gov.au/documents/documents/awardmod/variations/2020/pr720638.pdf>)
  - [September determination](https://www.fwc.gov.au/documents/decisionsigned/html/2020fwcfb5246.htm) (<https://www.fwc.gov.au/documents/decisionsigned/html/2020fwcfb5246.htm>)
  - [November determination](https://www.fwc.gov.au/documents/awardmod/variations/2020/pr724498.pdf) (<https://www.fwc.gov.au/documents/awardmod/variations/2020/pr724498.pdf>)
- Want to check other entitlements and obligations under the award? Go to the [Clerks Award](http://awardviewer.fwo.gov.au/award/show/MA000002) (<http://awardviewer.fwo.gov.au/award/show/MA000002>) .
- Not sure what award you're covered by? Use [Find my award](https://www.fairwork.gov.au/awards-and-agreements/awards/find-my-award/) (<https://www.fairwork.gov.au/awards-and-agreements/awards/find-my-award/>) .
- Need to calculate pay rates, overtime and penalty rates? Use our [Pay Calculator](https://calculate.fairwork.gov.au/findyouraward/) (<https://calculate.fairwork.gov.au/findyouraward/>) .
- Want to stay updated on other award changes? [Sign up for email updates](https://www.fairwork.gov.au/Website-information/staying-up-to-date/subscribe-to-email-updates/) (<https://www.fairwork.gov.au/Website-information/staying-up-to-date/subscribe-to-email-updates/>) .

[Back to top](#)

## Contact us

Fair Work Online: [www.fairwork.gov.au](http://www.fairwork.gov.au)

Fair Work Infoline: 13 13 94

Need language help?

Contact the Translating and Interpreting Service (TIS) on 13 14 50

Hearing & speech assistance

Call through the National Relay Service (NRS):

For TTY: 13 36 77. Ask for the Fair Work Infoline 13 13 94

Speak & Listen: 1300 555 727. Ask for the Fair Work Infoline 13 13 94

The Fair Work Ombudsman is committed to providing advice that you can rely on. The information contained on this website is general in nature. If you are unsure about how it applies to your situation you can call our Infoline on 13 13 94 or speak with a union, industry association or workplace relations professional. Visitors are warned that this site may inadvertently contain names or pictures of Aboriginal and Torres Strait Islander people who have recently died.

Saved from [fairwork.gov.au](http://fairwork.gov.au) on 26/11/2020 2:58:00 PM