

Fast Food Award flexibility during coronavirus

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Expiry of Fast Food Award temporary flexibility schedule

Schedule H in the Fast Food Award stopped applying from 31 July 2020. This means that employers and employees can no longer use the flexibility provisions in Schedule H for changes to part-time work or annual leave.

Employers and employees need to use the standard award provisions to make part-time or annual leave arrangements:

- [clause 12: Part-time employees](#)
- [clause 28: Annual leave](#).

Go to [Part-time employees \(https://www.fairwork.gov.au/employee-entitlements/types-of-employees/casual-part-time-and-full-time/part-time-employees\)](https://www.fairwork.gov.au/employee-entitlements/types-of-employees/casual-part-time-and-full-time/part-time-employees) or our [Annual leave section \(https://www.fairwork.gov.au/leave/annual-leave\)](https://www.fairwork.gov.au/leave/annual-leave) and select the Fast Food industry for more information about these provisions.

We've updated the information on this page to reflect this change.

Unpaid pandemic leave

The Commission has inserted unpaid pandemic leave and annual leave at half pay into the Fast Food Award. These provisions apply until 30 September 2020. See [Unpaid pandemic leave and annual leave changes in awards \(www.fairwork.gov.au/coronavirus-and-australian-workplace-laws/temporary-changes-to-workplace-laws-during-coronavirus/unpaid-pandemic-leave-annual-leave-changes-in-awards/default\)](http://www.fairwork.gov.au/coronavirus-and-australian-workplace-laws/temporary-changes-to-workplace-laws-during-coronavirus/unpaid-pandemic-leave-annual-leave-changes-in-awards/default).

On 19 May 2020, the Fair Work Commission (the Commission) made a [determination \(https://www.fwc.gov.au/documents/documents/awardmod/variations/2020/pr719480.pdf\)](https://www.fwc.gov.au/documents/documents/awardmod/variations/2020/pr719480.pdf) varying the Fast Food Award. The determination added a temporary new Schedule H, which applied from an employee's first full pay period on or after 19 May 2020 until 31 July 2020.

Schedule H added flexibility to the award during coronavirus for:

- [part-time work](#)
- [annual leave](#).

Who did it apply to?

Schedule H applied to:

- employers covered by the Fast Food Award and who didn't qualify for JobKeeper payments
- employees covered by the Fast Food Award who weren't eligible for JobKeeper payments.

For information about the JobKeeper scheme, see [JobKeeper scheme - overview \(www.fairwork.gov.au/coronavirus-and-australian-workplace-laws/pay-and-leave-during-coronavirus/jobkeeper-wage-subsidy-scheme/default\)](http://www.fairwork.gov.au/coronavirus-and-australian-workplace-laws/pay-and-leave-during-coronavirus/jobkeeper-wage-subsidy-scheme/default).

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.

On this page:

- [disputes about temporary award changes](#)

- [employees covered by an agreement](#)
- [more information.](#)

Part-time work

Schedule H in the Fast Food Award stopped applying from 31 July 2020. This means that employers and employees can no longer use the flexibility provisions in Schedule H for changes to part-time work.

Employers and employees need to use the award provisions in clause 12: Part-time employees to make part-time arrangements under the Fast Food Award. Go to [Part-time employees \(https://www.fairwork.gov.au/employee-entitlements/types-of-employees/casual-part-time-and-full-time/part-time-employees\)](https://www.fairwork.gov.au/employee-entitlements/types-of-employees/casual-part-time-and-full-time/part-time-employees) and select the Fast Food industry for more information.

For the time it applied, Schedule H added new flexibilities for part-time work.

An employer and an employee could agree in writing to new flexible part-time employment arrangements. If they did this, the new arrangements temporarily replaced the standard part-time arrangements currently in the award.

A part-time employee employed under Schedule H was someone who got the same pay and conditions as a full-time employee (but on a pro-rata basis) and worked:

- at least 8 but less than 38 hours per week
- reasonably predictable hours of work.

Agreements for flexible part-time arrangements were made under Schedule H.7. To make one, an employer and employee needed to have a written agreement including:

- a guaranteed minimum number of hours given and paid each week or roster cycle
- the days and times of the week when the employee was available to work the guaranteed minimum hours
- that any disputes about Schedule H.7 could be arbitrated by the Commission.

The employer and employee needed to have genuinely made the part-time agreement without coercion or duress. Also, for the agreement to be valid:

- it needed to be made because of coronavirus or government initiatives to slow its transmission
- it needed to be necessary to assist the employer to avoid or minimise the loss of employment.

Employees needed to be rostered for at least 3 hours in a row each shift, and the guaranteed minimum hours needed to be at least 8 hours per week.

Changes to the guaranteed minimum hours needed to be agreed in writing between the employer and the employee.

Employees could be offered extra ordinary hours above the guaranteed minimum, if they were within the days and times the employee had agreed they were available to work. Employees could refuse to work extra hours when they were offered. If an employee had agreed to work extra hours, they could withdraw their agreement by giving their employer 14 days' notice in writing.

Employers needed to pay their employees for any extra ordinary hours worked at ordinary rates (plus any penalty rates that apply), instead of overtime rates. Employees accrued leave on any extra hours worked.

If an employer needed an employee to work reasonable overtime hours (under the normal arrangements in the award), normal overtime rates applied. An employee could have refused overtime hours if the request was unreasonable.

If an employer and a part-time employee already had a written part-time agreement under the award, and they didn't agree in writing to make a new part-time arrangement under Schedule H, the employee's existing arrangement continued to apply. If they did agree, the new arrangement only applied for the time that Schedule H did. When Schedule H stopped operating from 31 July 2020, the employee needed to go back to their normal part-time arrangements.

If a person was first employed as a part-time employee under Schedule H, they changed to casual employment when Schedule H stopped operating from 31 July 2020 unless they agreed with their employer to stay employed part-time and made a part-time agreement under the award.

Annual leave

Schedule H in the Fast Food Award stopped applying from 31 July 2020. This means that employers and employees can no longer use the flexibility provisions in Schedule H for changes to part-time work.

Employers and employees need to use the award provisions in clause 28: Annual leave to annual leave arrangements under the Fast Food Award. Go to our [Annual leave section \(https://www.fairwork.gov.au/leave/annual-leave\)](https://www.fairwork.gov.au/leave/annual-leave) and select the Fast Food industry for more information.

Schedule H is no longer in operation, but it allowed an employer to ask an employee to take paid annual leave if:

- the reasons for the request were attributable to the coronavirus outbreak or Government initiatives to slow its transmission
- it was necessary to help the employer to prevent or minimise the loss of employment
- the employee still had at least 2 weeks of accrued paid annual leave left after taking the leave.

If an employer made a request, it needed to:

- have been in writing
- have been reasonable in all the circumstances
- have considered the employee's personal circumstances
- have been given with at least 72 hours' notice before the leave started
- tell the employee that the employer agreed that any dispute about whether the request was reasonable could be arbitrated by the Commission.

The leave under the Schedule needed to start before 16 June 2020.

Employees needed to consider their employer's request to take leave, and couldn't unreasonably refuse it.

Employers and employees could still agree for an employee to take annual leave at any other time.

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Disputes about temporary award changes

If you have a dispute about the operation of Schedule H, you can ask for help from the Commission.

Go to [Interpret or enforce an award – Disputes about how an award applies \(https://www.fwc.gov.au/awards-and-agreements/awards/interpret-or-enforce-award\)](https://www.fwc.gov.au/awards-and-agreements/awards/interpret-or-enforce-award) on the Commission's website for more information.

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Employees covered by an agreement

The changes to the Fast Food Award didn'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).

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More information

- For further information on these changes, read the [Fair Work Commission decision \(https://www.fwc.gov.au/documents/decision-ssigned/html/pdf/2020fwcfb2316.pdf\)](https://www.fwc.gov.au/documents/decision-ssigned/html/pdf/2020fwcfb2316.pdf).
- Want to check other entitlements and obligations under the award? Go to the [Fast Food Award \(http://awardviewer.fwo.gov.au/award/show/MA000003\)](http://awardviewer.fwo.gov.au/award/show/MA000003).
- 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/).
- 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).

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