

Hospitality Award flexibility during coronavirus

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Expiry of Hospitality Award temporary flexibility schedule

Schedule J in the Hospitality Award stopped applying after 27 September 2020. This means that employers and employees can no longer use the flexibility provisions in Schedule J for changes to:

- an employee's classification and duties
- full-time and part-time employees' hours of work
- requests to take annual leave.

Employers and employees need to use the standard award provisions instead. To learn more about these provisions, go to:

- [Hours of work \(https://www.fairwork.gov.au/employee-entitlements/hours-of-work-breaks-and-rosters/hours-of-work\)](https://www.fairwork.gov.au/employee-entitlements/hours-of-work-breaks-and-rosters/hours-of-work)
- [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)
- [Annual leave \(https://www.fairwork.gov.au/leave/annual-leave\)](https://www.fairwork.gov.au/leave/annual-leave)

Select the Hospitality industry to see tailored information for you.

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

On 24 March 2020, the Fair Work Commission (the Commission) made a [determination](https://www.fwc.gov.au/documents/award-sandorders/html/pr717757.htm) varying the Hospitality Award.

The determination inserted a temporary new Schedule J from an employee's first full pay period on or after 24 March 2020. Schedule J added extra flexibility to help employers and employees during the impact of coronavirus.

On 29 June 2020, the Commission made a new determination [that extended and changed parts of Schedule J, including who it applied to. The updated Schedule applied from an employee's first full pay period on or after 1 July 2020 until 27 September 2020.](https://www.fwc.gov.au/documents/documents/awardmod/variations/2020/pr720585.pdf)

On this page:

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Who did it apply to?

Schedule J applied to some employers and employees covered by the Hospitality Award.

From the first full pay period or on after 1 July 2020, Schedule J no longer applied to employees and their employers in the JobKeeper scheme. Instead, these employers could use the temporary Fair Work Act JobKeeper provisions to manage their workforce more flexibly.

For information about the JobKeeper scheme and the Fair Work Act JobKeeper provisions, 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).

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What stopped applying after 27 September 2020

The information below outlines the Schedule J provisions that applied between 1 July 2020 and 27 September 2020. This information is historical and no longer applies.

Requirements of a direction under Schedule J

Under Schedule J, if an employer gave a direction they had to tell the employee in writing that the employer agreed to the Commission arbitrating any disputes about that direction.

Any direction given under Schedule J stopped applying at the earlier date of either:

- when the employer withdrew, revoked or replaced the direction, or
- on 27 September 2020.

Change in employee duties

While Schedule J applied, employers could direct their employees to perform any tasks that the employee had the skill and competency for, even if those tasks weren't in the employee's usual classification or normal work. The tasks needed to be safe and the employee had to have all the appropriate licences and qualifications to perform the tasks.

When an employee performed duties of a higher classification than their normal classification for less than 2 hours in a day, the employer had to pay them the higher classification rate for the hours they performed the duties. If the employee performed the duties of a higher classification for 2 hours or more, the employer had to pay them the higher classification rate for the whole day. This didn't apply to employees classified as food and beverage attendants grade 2 or 3.

Employees who performed tasks of a classification lower than their usual classification were still paid at their usual pay rate.

Example: employee directed to do deliveries

Mia is a waiter who usually removes food and clears tables. She's paid as a food and beverage attendant grade 1 under the Hospitality Award.

Due to an enforceable government direction, the pub she works at is currently only doing limited dine-in service and mainly sells takeaway food.

Mia has a driver's licence and a car. Under the new Hospitality Award flexibility arrangements, Mia's employer directs her to deliver food to customers. She's paid as a food and beverage attendant grade 2 for these higher duties.

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

Under Schedule J, employers could reduce their permanent employees' hours of work to an average of:

- between 22.8 and 38 ordinary hours each week for full-time employees
- between 60% and 100% of their guaranteed hours per week, or over the roster cycle, for part-time employees.

From the first full pay period on or after 1 July 2020 until 27 September 2020, an employer could only reduce a full-time or part-time employee's hours if:

- the direction was reasonable in all the circumstances
- the direction was in writing
- the employee couldn't be usefully employed for their normal days or hours during the period of the direction because of business changes attributable to:
 - the coronavirus pandemic, or
 - government initiatives to slow the transmission of coronavirus.

If an employer wanted to reduce a part-time or full-time employee's hours, they had to discuss the changes with the employee, making sure they:

- followed the award's consultation rules about changes to rosters or hours of work
- provided as much notice as they can.

If the employee was a member of a union, their employer also needed to let their union know this change was happening.

Leave entitlements while working reduced hours

An employee who was directed to work less hours still accrued annual leave, personal leave and any other leave based on their ordinary hours before Schedule J started.

If an employee with reduced hours took annual leave or personal leave, they were paid for their ordinary hours for the time they took leave (based on their hours before Schedule J started).

Example: reduction of hours

Augustus works as a full-time clerical assistant at a bespoke taphouse and winery. He's employed as a clerical grade 2 worker under the Hospitality Award.

Because of an enforceable government direction, Augustus's employer lets him know that as the business is now only selling takeaways, the amount of administrative work has reduced and they need to reduce his hours.

Augustus, his organiser from the United Workers Union, and his employer sit down together and work through the consultation clause. His employer listens to his concerns, and they all agree Augustus will work 25 hours per week until 31 August, when they'll reassess the situation.

In July, Augustus is sick with coronavirus and takes sick leave while he's unwell. Augustus is entitled to be paid for 38 hours each week while he's on sick leave because this is what his ordinary hours were before.

Secondary employment, training or professional development while on reduced hours

From the first full pay period on or after 1 July 2020 until 27 September 2020, if an employee was temporarily directed to work reduced hours, they could request:

- reasonable secondary employment
- training, or
- professional development.

Employers needed to consider these requests and couldn't unreasonably refuse a request.

Annual leave

Under Schedule J, employers could request an employee take their accrued annual leave in some circumstances.

Employers could only make this request if:

- it was reasonable in all the circumstances
- the reasons for the request related to the coronavirus pandemic or Government initiatives to slow the transmission of coronavirus
- it was necessary to help the employer to prevent or minimise the loss of employment
- the request was in writing
- they took into account their employee's personal situation
- the employee would still have at least 2 weeks' accrued annual leave left after taking the leave.

The employee had to consider the request and couldn't unreasonably refuse it.

The annual leave had to start before 13 September 2020 but could end after that date.

Annual leave at half pay

Under Schedule J, employees could also agree with their employer to take their annual leave at half pay, and double their time off work.

This meant that an employee got payment for 1 week of annual leave (including annual leave loading if it applied) for every 2 weeks of annual leave they took.

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

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Employees covered by an agreement

The changes to the Hospitality 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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Schedule J provisions that stopped applying after 30 June 2020

The information below outlines the Schedule J provisions that applied between 24 March 2020 and 30 June 2020. This information is historical and no longer applies.

Annual leave

Between 24 March 2020 and 30 June 2020, employers could direct an employee to take annual leave under Schedule J by:

- giving their employees at least 24 hours notice
- considering their employee's personal situation.

After 30 June, employees can no longer do this under the updated Schedule J.

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More information

Any dispute about the operation of Schedule J can be referred to 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 Fair Work Commission website for more information.

- For further information on the changes, read the Fair Work Commission's [original decision](http://https://www.fwc.gov.au/documents/awardsandorders/html/pr717757.htm) (<http://https://www.fwc.gov.au/documents/awardsandorders/html/pr717757.htm>) [↗](#) and the [updated determination](http://https://www.fwc.gov.au/documents/documents/awardmod/variations/2020/pr720585.pdf) (<http://https://www.fwc.gov.au/documents/documents/awardmod/variations/2020/pr720585.pdf>) [↗](#).
- Want to check other entitlements and obligations under the award? Go to the [Hospitality Award](http://awardviewer.fwo.gov.au/award/show/MA000009) (<http://awardviewer.fwo.gov.au/award/show/MA000009>) .
- 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>) .

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