Cleaning Services Award 2010 — Penalty Rates

Under the Cleaning Services Award 2010 (Cleaning Award) an employee is paid penalty rates when an employee works shiftwork.

Who is a shiftworker?
For the purposes of the NES, a shiftworker is defined in the Cleaning Award as meaning:-

“an employee who works a roster and who, over the roster cycle, may be rostered to work ordinary shifts on any of the seven days of the week; and who is regularly rostered to work on Sundays and public holidays.”

When are penalty rates payable?
Penalty rates are payable when an employee works ordinary hours during:-

- an afternoon shift (that is a shift that starts before 6.00pm and finishes at, or before, 12.00pm midnight Monday to Friday); or
- an early morning shift (that is a shift that starts before 6.00am Monday to Friday); or
- a night shift (that is a shift that finishes after 12.00pm midnight and at or before 8.00am Monday to Friday) or
- a permanent night shift (that is a shift that does not rotate with another shift); or
- a Saturday (that is a shift that starts at 12.00pm midnight Friday and finishes at 12.00pm midnight on Saturday); or
- a Sunday (that is a shift that starts at 12.00pm midnight Saturday and finishes at 12.00pm midnight on Sunday); or
- a public holiday (that is a shift that starts at 12.00pm midnight on the day and concludes at 12.00 midnight on the same day).

If an employee’s ordinary hours start or finish before or after the defined shift time—of 6.00am or 6.00pm Monday to Friday, Saturday, Sunday or a public holiday, then the employee is entitled to be paid the penalty rates for the whole of the shift. For example:- if an employee is rostered to work from 4.00pm till 8.00pm Monday to Friday, as this shift finishes after 6.00pm, then under the Cleaning Award, that employee is required to be paid the afternoon shift penalty for all hours worked, unless those hours constitute overtime and require payment at overtime rates.

For a number of states this is a considerable change from what existed previously. For further information, please refer to the Information Sheet—Savings and Transitional Provisions.

What are the penalty rates?
An employee working an afternoon shift, an early morning shift or a night shift are paid an 15% of the ordinary hourly rate for their classification.

An employee working a permanent night shift is paid an additional 30% of their ordinary hourly rate for their classification. Where a part time employee gets 30% permanent night shift loading they will not also be entitled to the 15% part time allowance.

An employee working a Saturday is paid time and a half (or an additional 50%) of the ordinary hourly rate for their classification.

An employee working a Sunday is paid double time (or an additional 100%) of the ordinary hourly rate for their classification.
An employee working a public holiday is paid double time and a half (or an additional 150%) of the ordinary hourly rate for their classification.

**Part time allowance and Casual loading**

The part time allowance and the casual loading are both payable in addition to the penalty rates, except for a part time employee working a permanent night shift. However, the rates are not compounded. The following example demonstrates.

**Example:** Gus is a part time Cleaning Service Employee Level 3 (CSE 3) who works in Victoria from 5.30am till 9.30am Monday to Friday. All hours are paid at the applicable shift work rate. Gus’s shift work rate is made up of three factors:-

- the CSE 3 ordinary hourly rate; and
- the part time allowance (which is fifteen percent of the ordinary hourly rate); and
- the early morning shift penalty rate (which is fifteen percent of the ordinary hourly rate)

**Schedule A—Savings Provisions and Schedule B—Transitional Provisions**

The transitional arrangements in the Cleaning Award commenced operation on 1 January 2010 and will cease operation no later than the first pay period on or after 31 December 2014.

Schedule A—Savings Provisions contains saved rates that are all higher than the rates contained in the Cleaning Award. The higher rates and penalties are from the various State/Territory based awards that existed prior to the creation of the Cleaning Award. The saved rates only apply to those employees who were employed as at 31 December 2009 and who were entitled to receive the rate and/or penalty that has been saved.

Schedule B—Transitional Provisions contains transitional rates that are lower than the rates contained in the Cleaning Award which are being phased up to match the rates contained in the Cleaning Award. The lower rates are from the various State/Territory based awards that existed prior to the creation of the Cleaning Award. The transitional rates apply to all employees—irrespective of the date that the employee commenced employment with their employer. The reason for this is that the transitional rates are based on geographic location and employment classification under the Cleaning Award.

**Further contact**

For further information or assistance please contact:-

- BSCAA National Office on 02 9437 4411 or national@bscaa.com or
- Fair Work Info line on 13 13 94 which is open from 8.00am till 6.00pm Monday to Friday

**Acknowledgement**

The Information Sheets have been prepared by the Building Service Contractors Association of Australia as a result of funding by the Fair Work Ombudsman’s Shared Industry Assistance Project.

The information contained in the Information Sheet is current as at 1 March 2011.

**Disclaimer**

*The Fair Work Ombudsman is committed to providing useful, reliable information to help you understand your rights and obligations under workplace laws.*

The information contained in this publication is:

- general in nature and may not deal with all aspects of the law that are relevant to your specific situation; and
- not legal advice.

Therefore, you may wish to seek independent professional advice to ensure all factors relevant to your circumstances have been properly considered.

*This information was published on 1 March 2011. The Fair Work Ombudsman does not accept legal liability arising from or connected to the accuracy, reliability, currency or completeness of this information.*