

Clerks – Private Sector Award 2020

The [Clerks – Private Sector Award 2020](#) is an Occupational Award which covers many different private sector clerical roles. The following are some key items of this Award, please refer to the Award for full references of clauses.

COVERAGE

<p>The Clerks – Private Sector Award covers the following:</p> <ul style="list-style-type: none"> a) private sector employers throughout Australia in relation to employees wholly or principally engaged in clerical work; and b) private sector employees who are wholly or principally engaged in clerical work and who are employed by employers mentioned above. <p>This occupational award does not cover employers covered by the Awards mentioned within the Award clause 4.3 and 4.4.</p>	<p>This occupational award does not cover any of the following:</p> <ul style="list-style-type: none"> a) employers covered by a modern award that contains clerical classifications; or b) employees excluded from award coverage by the Act; or NOTE: See section 143(7) of the Act. c) employees covered by a modern enterprise award or an enterprise instrument; or d) employees covered by a State reference public sector modern award or a State reference public sector transitional award; or e) employers in relation to employees mentioned in c) and d) above.
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INDIVIDUAL FLEXIBILITY ARRANGEMENTS

<p>An employer and an individual employee may agree to vary the application of the terms of this award relating to any of the following in order to meet the genuine needs of both the employee and the employer:</p> <ul style="list-style-type: none"> a) arrangements for when work is performed; or b) overtime rates; or c) penalty rates; or d) allowances; or e) annual leave loading. 	<p>An agreement must be one that is genuinely made by the employer and the individual employee without coercion or duress.</p> <p>An agreement may only be made after the individual employee has commenced employment with the employer.</p> <p>Refer to the Award for further provisions relation to Individual flexibility arrangements.</p>
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REQUEST FOR FLEXIBLE WORKING ARRANGEMENTS

<p>An employee may request a change in working arrangements. As set out in Clause 65 of the Fair Work Act 2009 (the Act), the request must be in writing and set out details of the change sought and of the reasons for the change.</p> <p>Where an employee makes a request to their employer for a change in working arrangements relating to circumstances that apply to the employee, the employer must give the employee a written response to the request within 21 days.</p>	<p>NOTE: The employer may only refuse the request on reasonable business grounds (see section 65A(3) of the Fair Work Act 2009).</p> <p>Refer to the Act for further provisions relation to Request for flexible work arrangements.</p>
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TYPES OF EMPLOYMENT

<p><u>Full Time Employment</u></p>	<p>Each of the following is a full-time employee:</p> <ul style="list-style-type: none"> a) an employee who is engaged to work 38 ordinary hours per week; or b) an employee who is engaged to work the number of ordinary hours (fewer than 38) per week that is considered full-time at the workplace by the employer. <p>NOTE: The number of ordinary hours worked per week by a full-time employee may be averaged over a period of up to 4 weeks or over an agreed roster period.</p>	
<p><u>Part Time Employment</u></p>	<p>A part-time employee is engaged to work for fewer than 38 ordinary hours per week on a reasonably predictable basis.</p> <p>Additionally, an employer must roster a part-time employee on any shift for a minimum of 3 consecutive hours.</p>	<p>At the time of engaging a part-time employee, the employer and employee must agree in writing on all of the following:</p> <ul style="list-style-type: none"> a) the number of hours to be worked each day; and b) the days of the week on which the employee will work; and c) the times at which the employee will start and finish work each day. <ul style="list-style-type: none"> • For any time worked in excess of the part-time employees guaranteed hours, the part-time employee must be paid at the overtime rate specified within the Award. • Refer to the Award for changes of regular pattern or work by the employer and review of guaranteed hours.
<p><u>Casual Employment</u></p>	<p>A casual employee must be paid for a minimum of 3 hours' work on each engagement even if they are rostered to work fewer than 3 consecutive hours.</p> <p>For each hour worked, a casual employee must be paid a loading of 25% on top of the minimum hourly rate.</p> <p>NOTE: The casual loading is payable instead of other entitlements (such as entitlement to paid leave) from which casuals are excluded by the terms of this award and the NES - See Part 2-2 of the Act.</p>	<p>An employer engaging a casual employee, must adhere to the casual definition contained within Fair Work Act 2009 s15A and comply with the provisions of the <i>Clerks – Private Sector Award 2020</i>.</p> <p>Offers and requests for casual conversion are in accordance with the NES.</p>
<p><u>Junior Employees</u></p>	<p>A junior employee is someone who is less than 21 years of age and the employer must pay a junior employee in accordance with the Award</p>	

ORDINARY HOURS OF WORK (employees other than shiftworkers)

<p>The maximum number of ordinary hours that can be worked in a week by an employee is an average of:</p> <p>a) 38 hours per week over a period of up to 4 weeks; or</p> <p>b) 38 hours per week over a roster period agreed between the employer and the employee.</p> <p>The maximum ordinary hours on any day is 10, excluding unpaid meal breaks.</p>	<p>Ordinary hours may be worked between:</p> <p>a) 7.00 am and 7.00 pm on Monday to Friday; and</p> <p>b) 7.00 am and 12.30 pm on Saturday.</p> <p>The spread of hours may be moved to one hour forward or one hour back if agreed with individual or majority of employees.</p> <p>Refer to Setting ordinary hours by a different award if employees work with other employees covered by another award.</p> <p>An employee who works on a rostered day off basis on a 20-day roster cycle over a 12 month period is entitled to 12 rostered days off over that period.</p>
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ORDINARY HOURS OF WORK (Shiftwork employees)

<p>Shiftwork employees are employees who are required to work their ordinary hours on any of the following shifts:</p> <p>a) Afternoon shift - a shift finishing after 7.00 pm and at or before midnight</p> <p>b) Night shift - a shift finishing after midnight, and at or before 7.00 am</p> <p>c) Permanent night shift - a night shift which does not rotate with another shift or shifts or day work and which continues for a period of 4 consecutive weeks or longer.</p>	<p>The maximum number of ordinary hours that can be worked in a week is:</p> <p>a) an average of 38 hours over a 4-week period; or</p> <p>b) an average of 38 hours over a roster period, not exceeding 12 months, as agreed between an employer and the majority of employees concerned.</p> <p>The maximum number of ordinary hours that can be worked in any day is 10 hours, including paid breaks.</p> <p>The following rostering arrangements apply to an employee who works ordinary hours on shiftwork:</p> <p>a) a maximum of 6 shifts can be worked over the period of a week; and</p> <p>b) a Sunday may be included.</p>
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BREAKS (employees other than shiftworkers)

	Hours worked	Breaks
Breaks (employees other than shiftworkers)	More than 3 hours but not more than 8 ordinary hours	1 x 10 minutes paid rest break (to be taken at a time determined by the employer)
	More than 5 hours at a time	1 x 30 to 60 minutes unpaid meal break (to be taken within the first 5 hours of work and within 5 hours after resuming work after a meal break)

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	More than 8 ordinary hours	2 x 10 minutes paid rest breaks (to be taken at a time determined by the employer, which can be 1 before and 1 after unpaid meal break) 1 x 30 to 60 minutes unpaid meal break (to be taken within the first 5 hours of work and within 5 hours after resuming work after a meal break)
	More than 4 hours overtime on a Saturday morning	1 x 10 minutes paid rest break
	NOTE: An employer must pay an employee who is required to work through their meal break 200% of the minimum hourly rate from when the meal break would have commenced until a meal break is allowed.	
<u>Rest period after working overtime (employees other than shiftworkers)</u>	When a full-time or part-time employee is required to work overtime, employees must, wherever possible have at least 10 consecutive hours off duty between hours worked on successive days.	Where an employee, due to overtime worked, would be required to start working their ordinary hours without having had 10 consecutive hours off duty: <ul style="list-style-type: none"> a) the employer must release the employee from duty after finishing the overtime until the employee has had 10 consecutive hours off duty; and b) the employee must not suffer any loss of pay for any ordinary hours that the employee did not work as a result of being released from duty in accordance with the above clause. <p>If, at the direction of the employer, an employee continues work or resumes working ordinary hours without having at least 10 consecutive hours off duty, then all of the following apply:</p> <ul style="list-style-type: none"> a) the employer must pay the employee at 200% of the employee's minimum hourly rate until such time as the employee is released from duty; and b) the employer must release the employee from duty until the employee has had 10 consecutive hours off duty; and c) the employee must not suffer any loss of pay for any ordinary hours that the employee did not work as a result of being released from duty.

BREAKS (Shiftwork employees)

	Hours worked	Breaks
<u>Breaks for shiftwork</u>	More than 3 hours but not more than 8 ordinary hours	1 x 10 minutes paid rest break (to be taken at a time determined by the employer)
	Taken within 5 hours of starting the shift – counted as time worked	1 x 20 minutes paid meal break
	More than 8 ordinary hours	2 x 10 minutes paid rest breaks (to be taken at a time determined by the employer, which can be 1 before and 1 after unpaid meal break)
	More than 4 hours overtime on a Saturday morning	1 x 10 minutes paid rest break
<u>Rest Period after working</u>	When overtime is necessary, full-time and part-time employees must, wherever reasonably	where an employee, due to overtime worked, would be required to start work without having had 8 consecutive hours off duty between finishing one shift of ordinary hours and beginning the next shift of ordinary hours:

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<u>overtime for shiftwork</u>	<p>practical, have at least 8 consecutive hours off duty between hours worked on successive days.</p> <p>The provisions of this clause apply when overtime is worked in any of the following circumstances:</p> <p>a) for the purposes of changing shift rosters; or</p> <p>b) where an employee working a shift does not report for duty and another employee is required to work their shift; or</p> <p>c) where a shift is worked by arrangement between the employees themselves.</p>	<p>a) the employer must release the employee from duty after finishing the overtime until the employee has had 8 consecutive hours off duty; and</p> <p>b) the employee must not suffer any loss of pay for any ordinary hours not worked as a result of being released from duty.</p> <p>If, at the direction of the employer, an employee resumes or continues work without having at least 8 consecutive hours off duty then all of the following apply:</p> <p>a) the employer must pay the employee at 200% of the minimum hourly rate until such time as the employee is released from duty; and</p> <p>b) the employer must release the employee from duty until the employee has had 8 consecutive hours off duty; and</p> <p>c) the employee must not suffer any loss of pay for any ordinary hours not worked as a result of being released from duty.</p>
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[OVERTIME \(employees other than shiftworkers\)](#)

<p>An employer must pay an employee at the overtime rate for any hours worked at the direction of the employer:</p> <p>a) in excess of the ordinary weekly hours; or</p> <p>b) in excess of 10 ordinary hours on any one day, excluding unpaid meal breaks; or</p> <p>c) outside the spread of ordinary hours; or</p> <p>d) for overtime worked on a rostered day off that is not substituted or banked; or</p> <p>e) for part-time employees, in excess of the number of ordinary hours that the employee has agreed to work under clause 10.2 or as varied under clause 10.3.</p>	<p>An employee is entitled to be paid overtime when the total overtime an employee has worked in one week reaches a minimum of half an hour.</p>		
<u>Payment for working overtime (other than shiftworkers)</u>	<p style="text-align: center;">Day overtime is worked</p> <p>Monday to Saturday – first 2 hours</p> <p>Monday to Saturday* – after 2 hours *overtime worked on a Saturday is a minimum of 3 hours payment if already completed 38 hours or more</p> <p>Monday to Friday</p> <p>Sunday* – all day</p>	<p style="text-align: center;">Full-time & part-time employees % of minimum hourly rate</p> <p style="text-align: center;">150%</p> <p style="text-align: center;">200%</p> <p style="text-align: center;">200%</p>	<p style="text-align: center;">Casual employees % of minimum hourly rate</p> <p style="text-align: center;">175%</p> <p style="text-align: center;">225%</p> <p style="text-align: center;">225%</p>

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	*overtime worked on a Sunday is entitled to not less than 4 hours pay (inclusive of ordinary hours worked)		
	Public holiday – all day	250%	275%
Return to Duty	An employer must pay an employee at the overtime rate specified above, where an employee is required to return to duty after the usual finishing hour of work for that day. The employer must pay an employee a minimum payment of 3 hours.	This clause does not apply where the work is continuous (subject to a meal break of not more than one hour) with the start or finish of ordinary working time	
Time off instead of payment for overtime (employees other than shiftworkers)	An employee and employer may agree in writing to the employee taking time off instead of being paid for a particular amount of overtime that has been worked by the employee.	The period of time off that an employee is entitled to take is the same as the number of overtime hours worked. EXAMPLE: By making an agreement under clause 23 an employee who worked 2 overtime hours is entitled to 2 hours 'time off. Refer to the Award for further provisions of time off instead of payment for overtime.	

OVERTIME (shiftwork employees)

For all time worked	Full-time & part-time employees % of minimum hourly rate	Casual employees % of minimum hourly rate
In excess of the ordinary WEEKLY hours in clause 26.1 First 3 hours After 3 hours	150% 200%	175% 225%
In excess of ordinary DAILY hours on an ordinary shift First 2 hours After 2 hours	150% 200%	175% 225%
Saturday, Sunday or public holiday not an ordinary working day	200%	225%
<p>NOTE: An employer must pay an employee for a minimum of 4 hours at the overtime rate specified if:</p> <p>a) the employee is required to work overtime on a Saturday, a Sunday or a public holiday (as prescribed in Division 10 of Part 2.2 of the Act); and</p> <p>b) the employee would not have been ordinarily rostered to work that day; and</p> <p>c) the work is not continuous with the start or finish of the employee's ordinary shift.</p>		
Time off instead of payment for overtime for shiftwork.	An employee and employer may agree in writing to the employee taking time off instead of being paid for a particular amount of	The period of time off that an employee is entitled to take is the same as the number of overtime hours worked. EXAMPLE: By making an agreement an employee who worked 2 overtime hours is entitled to 2 hours' time off.

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	overtime that has been worked by the employee.	Refer to the Award for further provisions of time off instead of payment for overtime.
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PENALTY RATES (employees other than shiftworkers)

Time of ordinary hours worked	Full-time and part-time employees % of minimum hourly rate	Casual employees % of minimum hourly rate, inclusive of casual loading
Saturday – all ordinary hours	125%	150%
Sunday – all ordinary hours Min. 4 hours pay	200%	225%
Public holidays – all ordinary hours Min. 4 hours pay	250%	275%

PENALTY RATES (Shiftwork employees)

Time of ordinary hours worked	Full-time and part-time employees % of minimum hourly rate	Casual employees % of minimum hourly rate, inclusive of casual loading
Afternoon shift - a shift finishing after 7.00 pm and at or before midnight Night shift - a shift finishing after midnight, and at or before 7.00 am	115%	140%
Permanent night shift - a night shift which does not rotate with another shift or shifts or day work and which continues for a period of 4 consecutive weeks or longer	130%	155%
Saturday, Sunday or Public holiday	150%	175%

SUPERANNUATION

An employer is required to comply with Superannuation legislation and make relevant employer contributions as determined by the legislation. An employee can make voluntary contributions as well.

Absence from work

Subject to the governing rules of the relevant superannuation fund, the employer must also make the superannuation contributions in the following situations:

- a) **Paid Leave** – while the employee is on any paid leave;
- b) **Work-related injury or illness**—for the period of absence from work (subject to a maximum of 52 weeks) of the employee due to work-related injury or work-related illness provided that:
 - i. the employee is receiving workers compensation payments or is receiving regular payments directly from the employer in accordance with the statutory requirements; and
 - ii. the employee remains employed by the employer.

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LEAVE AND PUBLIC HOLIDAYS

<u>Annual Leave</u>	<ul style="list-style-type: none"> • A full-time employee (other than shift worker) receives 4 weeks annual leave per year. • A part-time employee (other than shiftworker) receives a pro-rata of 4 weeks annual leave per year based on ordinary hours • A casual employee is not entitled to annual leave <p>NOTE: A shiftworker who regularly is rostered to work on Sundays and public holidays in a business operating 24/7, the employee is entitled to an additional week of paid annual leave (5 weeks)</p> <p>Annual leave rolls over year to year.</p> <p>Notice of a temporary close-down where employees are required to take leave during the period, the employer must provide 4 weeks' notice of a temporary close down.</p>	
<u>Annual leave loading (other than shiftwork)</u>	<p>For an employee other than a shiftworker or casual, the additional payment when taking annual leave is either:</p> <ul style="list-style-type: none"> • 17.5% of the employee's minimum hourly rate for all ordinary hours of work in the period; <p>OR</p> <ul style="list-style-type: none"> • The employee's minimum hourly rate for all ordinary hours of work in the period inclusive of penalty rates. 	
<u>Annual leave loading (shiftwork employee)</u>	<p>For an employee who would have worked on shiftwork had they not been on leave, the additional payment is the greater of:</p> <ul style="list-style-type: none"> • 17.5% of the minimum hourly rate for the employee's ordinary hours of work in the period; <p>OR</p> <ul style="list-style-type: none"> • The minimum hourly rate for the employee's ordinary hours of work in the period inclusive of shift and weekend penalty rates for shiftwork as specified. 	
<u>Personal/carer's leave and compassionate leave</u>	<ul style="list-style-type: none"> • A full-time employee is entitled to 10 days personal/carer's leave per year • A part-time employee receives a pro-rata amount of personal/carer's leave based on ordinary hours of work. • A casual employee may only be absent from work due to personal/carer's leave for up to 48 hours unpaid. 	<p>Personal/carer's leave rolls over year to year.</p> <p>For details of when an employee can be absent from work due to personal/carer's leave, refer to the Award and the National Employment Standards (NES) within the <i>Fair Work Act 2009</i>.</p> <p>Refer to the Award and the NES for further information relating to compassionate leave, <u>parental leave</u>, <u>community service leave</u>.</p> <p>Long service leave is provided for within the <i>Industrial Relations Act 1999</i></p>
<u>Family and domestic violence leave</u>	<p>All (including full-time, part-time, casual) employees are entitled to 10 days paid leave in a 12 months period of the employee's employment. This leave does not accumulate from year to year</p>	<p>The employee may take paid family and domestic violence leave if:</p> <ol style="list-style-type: none"> a) the employee is experiencing family and domestic violence; and b) the employee needs to do something to deal with the impact of the family and domestic violence; and c) it is impractical for the employee to do that thing outside the employee's work hours. <p>For example, attending court hearings, accessing policy services, attending counselling and appointments with medical, financial or legal professionals.</p>

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Public Holidays	<p>Full-time and part-time employees are entitled to be paid for a public holiday and not required to work, if the public holiday falls on their ordinary working day/hours.</p> <p>Casual employees are entitled to payment on a public holiday when they work on the public holiday</p>	<p>Refer to the Award for specific on part-day public holidays and substitute days.</p>
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CONSULTATION AND DISPUTE RESOLUTION

Please refer to the Award for specific details on:

- [consultation about a major workplace change](#),
- [consultation about changes to rosters or hours of work](#),
- [dispute resolution](#)

TERMINATION OF EMPLOYMENT AND REDUNDANCY

Termination

The National Employment Standards ([NES](#)) set out the requirements for notice of termination by an employer S117 and S123 of the *Fair Work Act 2009*.

Employee's period of continuous service with the Employer at the end of the day the notice is given	Period of Notice
Not more than 1 year	1 week
More than 1 year but not more than 3 years	2 weeks
More than 3 years but not more than 5 years	3 weeks
More than 5 years	4 weeks

- If the employee is over 45 years old and has completed at least 2 years of continuous service with the employer at the end of the day the notice is given, then the employee receives an additional 1 week notice if the employee is terminated or made redundant.
- The notice of termination required to be given by an employee is the same as that required of an employer except that the employee does not have to give additional notice based on the age of the employee.
 - PLEASE NOTE: If an employee who is at least 18 years old does not give the period of notice required, then the employer may deduct from wages (not leave) due to the employee under this award an amount that is no more than one week's wages for the employee.

Payment on Termination of employment

Final payments on termination must be made within 7 days to the employee via cheque, cash or electronic funds transfer.

The employer must pay the employee:

- (i) the employee's wages under this award for any complete or incomplete pay period up to the end of the day of the termination; and
- (ii) all other amounts that are due to the employee under this award and the [NES](#).

Redundancy

Redundancy is provided for in accordance with the NES S119-123 of the *Fair Work Act 2009*. The Amount of redundancy pay as per Section 120 of *Fair Work Act 2009*:

Employee's period of continuous service* with the employer on termination		Redundancy pay period (at employees current rate of pay)
1	At least 1 year but less than 2 years	4 weeks
2	At least 2 years but less than 3 years	6 weeks
3	At least 3 years but less than 4 years	7 weeks
4	At least 4 years but less than 5 years	8 weeks
5	At least 5 years but less than 6 years	10 weeks
6	At least 6 years but less than 7 years	11 weeks
7	At least 7 years but less than 8 years	13 weeks
8	At least 8 years but less than 9 years	14 weeks
9	At least 9 years but less than 10 years	16 weeks
10	At least 10 years	12 weeks

*A reference in this section to continuous service with the employer does not include periods of employment as a casual employee of the employer.

CLASSIFICATIONS DEFINITIONS

Refer to the [CLASSIFICATIONS DEFINITIONS](#) for information about duties of each different level within the Award.