

## CHILDREN'S SERVICES AWARD 2010 EXCERPTS

### Breaks

Clause 22.1 of the Children's Services Award 2010 states that:

- (a) An employee will not be required to work in excess of five hours without an unpaid meal break of not less than 30 minutes and not more than one hour. Provided that employees who are engaged for not more than six hours continuously per shift may elect to forego a meal break.
- (b) A meal break must be uninterrupted. Where there is an interruption to the meal break and this is occasioned by the employer, overtime will be paid until an uninterrupted break is taken. The minimum overtime payment will be as for 15 minutes with any time in excess of 15 minutes being paid in minimum blocks of 15 minutes.
- (c) Notwithstanding clause 22.1(a), where an employee is required to remain on the employer's premises, the employee will be entitled to a paid meal break of not less than 20 minutes or more than 30 minutes. By agreement with the employer an employee may leave the premises during the meal break, however, such time away from the premises will not be counted as time worked and nor will any payment be made for such time.

### Allowances

#### Qualification Allowance

Clause 15.6 of the Children's Services Award 2010 states that a Director or Assistant Director who holds a Graduate Certificate in Childcare Management or equivalent will be paid an all-purpose allowance, calculated at 5% of the weekly rate for an Assistant Director (Children's Services Employee Level 5.4).

The purpose of the allowance is to reward employees who undertake management training specific to their role. While a teaching degree or a diploma in child care/OSHC qualify the holders to work in OSHC as a director they are not management specific qualifications and as such **do not qualify** for the Qualifications Allowance.

#### Motor Vehicle Use - Reimbursement of Expenses

Clause 15.7 of the Children's Services Award 2010 states that where an employer requests an employee to use their own motor vehicle in the performance of their duties and the employee agrees, the employee will be paid an allowance.

#### Broken Shift Allowance

Clause 15.1 of the Children's Services Award 2010 states that where an employee works two separate shifts in a day, they will be paid an allowance of 1.91% of the standard rate per day for each day on which a broken shift is worked.

From the award definitions clause 3.1 of the Children's Services Award 2010 states that the **standard rate** means the minimum weekly rate for a Children's Services Employee Level 3.1 (Certificate III qualified) in clause 14—Minimum wages.

The current minimum weekly rate (from 1 July 2015) for a CSE L3.1 is \$764.90. 1.91% of \$764.90 is \$14.61 and this means any employee who works 2 separate shifts on one day is paid an allowance of \$14.61 for that day and for any other day they work 2 separate shifts.

## Accumulation of leave

An employee must accumulate annual leave before it can be taken. If an employee does not have enough annual leave to cover the full length time requested they can go on a period of unpaid leave.

There's no minimum or maximum amount of annual leave that can be taken at a time. Provided both parties agree, an employee can take a part day, single day or a number of days or weeks off. Employees don't need to take all of their annual leave at once however, Clause 24.4 (c) (ii) of the Children's Services Award 2010 states that an employee may be directed to take annual leave if they have accrued an entitlement of 8 weeks or more. For more information on leave visit: [www.fairwork.gov.au/about-us/policies-and-guides/fact-sheets/minimum-workplace-entitlements/annual-leave](http://www.fairwork.gov.au/about-us/policies-and-guides/fact-sheets/minimum-workplace-entitlements/annual-leave)

## Overtime for OSHC staff

It is recommended school governing councils avoid the use of regular overtime in OSHC. Services should assist employees to maintain appropriate work life balance and avoid the significant impact of overtime rates on the OSHC budget.

Any changes to contracted hours must be negotiated in advance and approved in writing by the employer or their delegate. In unexpected situations the Director can approve additional hours over and above the rostered hours when the line manager is not contactable. The Director must advise their line manager when this happens. Maintaining adequate OSHC staffing levels and relief lists will ensure overtime is rarely required.

## When to apply overtime rates

A full-time employee is paid at overtime rates for any work performed outside of their ordinary hours of work. A full-time employee is an employee who is engaged to work an average of 38 ordinary hours per week.

A part-time employee who agrees to work in excess of their normal hours will be paid at ordinary time for up to eight hours provided that the additional time worked is during the ordinary hours of operation of the service. No part-time employee may work in excess of eight hours in any day without the payment of overtime.

Clause 23.2 of the Children's Services Award 2010 states

**(a)** Overtime will be paid at the rate of time and a half for the first two hours and double time thereafter. In calculating overtime, each day's work will stand alone.

**(b)** Where, due to a genuine and pressing emergency situation, an employee is required to remain at work after their normal finishing time such time will be paid at the ordinary rate for the employee's classification. Provided that such emergency overtime does not exceed one hour per week.

*Examples: an emergency situation may include a natural disaster affecting a parent, another employee or the centre/service, the death of a child or parent, or a child requiring urgent hospitalisation or medical attention.*

## Probation periods for new OSHC employees

The Fair Work Ombudsman website states: Employers can put their employees on a probation period (also known as a probationary period) to assess if employees are suitable for the role and business. The employer decides on the length of the probation period. It can range from a few weeks to a few months at the start of employment.

Probation periods aren't a separate period of employment. While on probation, employees continue to receive the same entitlements as someone who isn't in a probation period. If hired on a permanent basis, an employee on probation is entitled to accrue and access their paid leave entitlements such as annual leave and sick leave. If an employee doesn't pass their probation, they are still entitled to receive notice when employment ends and have their unused accumulated annual leave hours paid out.

The purpose of the probation period is in effect to act as a review period, with performance issues to be addressed and dealt with as they arise, this is not essentially very different to the sort of performance management and professional development process that should occur anyway.

For more information visit: [www.fairwork.gov.au/employee-entitlements/types-of-employees/probation](http://www.fairwork.gov.au/employee-entitlements/types-of-employees/probation)

An employee, who is not meeting the requirements of their position, should be offered support and assistance to meet the requirements within agreed timelines. However, sometimes the person may not be suited to the job. If there is no improvement you have the option of ending employment, following a fair process. For more information visit: [www.fairwork.gov.au/about-us/policies-and-guides/best-practice-guides/managing-underperformance](http://www.fairwork.gov.au/about-us/policies-and-guides/best-practice-guides/managing-underperformance)

