

June 2017

MEAT INDUSTRY NEWS

Hours of work provisions under the Meat Industry Award

The AMIC receives many calls from members asking what they are required to pay an employee for the hours they work. It depends upon the days and times that they are going to be working, as well as whether the employee is to be employed on a full-time, part-time or casual basis.

The first thing to know is that the Fair Work Act 2009 contains the minimum standard with respect to hours of work, which is one of the ten provisions of the National Employment Standards (NES).

The NES provides that the maximum weekly hours which a full-time employee can be required to work is 38 ordinary hours, plus reasonable additional hours (otherwise known as overtime hours) over a specified period.

The NES also provides an ability for an employer to average the ordinary hours of work over more than a week, but this would depend upon what is contained in the relevant modern award.

Hours of Work

Clause 31 of the Meat Industry Award 2010 (Meat Award) is split up into three categories for the purpose of the spread of ordinary hours as follows:

- Meat processing establishment** – 6am to 8pm Monday to Friday, however, by agreement between a majority or with an individual employee, this spread can be extended by one hour either side (i.e. 5am to 9pm) plus, Saturday and Sunday can be included as ordinary hours.
- Meat manufacturing establishment** – 6am to 6pm Monday to Saturday.
- Meat retail establishments (includes meat wholesalers)** – 4am to 9pm Monday to Friday, 4am to 6pm Saturday and 8am to 6pm on Sunday. (There are different provisions for the spread of hours for loadout employees in meat retail/wholesale establishments).

For all of these establishments the Meat Award prescribes the following parameters:

- The ordinary hours of work (i.e. not including overtime hours) are not to exceed 38 in any week. However the Meat Award allows for the averaging of ordinary hours over a one, two, three or four weekly period. This means that the 152 ordinary hours (4 x 38) can be arranged in different ways week to week.

For example, if you put an employee on a fortnightly roster (76 ordinary hours), the ordinary hours could be 30 one week and 46 the next week.

- The maximum number of ordinary hours that you can work an employee on any day, excluding the unpaid lunch break, is ten.
- Any hours worked outside of the employee's rostered ordinary hours would be overtime and paid at the relevant penalty rate.
- Penalty rate apply for ordinary hours worked on a weekend.

Note: Different provisions apply to shift workers under the Meat Award.

Meal Breaks

Clause 32 of the Meat Award specifies the meal breaks provisions, which states:

'No employee will work for longer than five hours without a minimum 30 minute unpaid meal break. Any alternative arrangements between the employer and he employee must be by mutual agreement between the parties.'

This means that the unpaid meal break can be more than 30 minutes in duration. The Meat Award only mentions one other break, which only applies to certain types of employees in certain types of meat processing establishments, which is a ten minute paid rest break.

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Overtime

As mentioned above, any work performed outside the spread of ordinary hours must be paid for at overtime rates, however, in a meat processing establishment only, any work performed by an employee prior to the spread of ordinary hours that is continuous with ordinary hours for the purpose, for example, of getting the plant in a state of readiness for production work is to be regarded as part of the 38 ordinary hours of work.

For all establishments, the penalty rate for overtime is time and a half for first three hours and double time thereafter. However, any overtime worked on a Sunday in a meat processing establishment must be paid at double time with a minimum payment of four hours.

Make up time

An employee may elect, with the consent of the employer, to work make-up time under which the employee takes time off during ordinary hours, and works those hours at a later time, during the spread of ordinary hours provided by the award.

Time off Instead of Payment for Overtime

The Meat Award also allows for an employer and employee to agree to the employee taking time off in lieu of being paid

for overtime that the employee has worked. Contact the AMIC or refer to subclause 36.2 of the Meat Award for the specific provisions regarding this option.

Ordinary Hours Roster

The Meat Award requires the employer to post up a roster in the premises, showing the starting and finishing times for the ordinary hours for its employees. This requires the employer to show how the 38 ordinary hours (in the case of full-time employees) is spread over which days of the week and the number of ordinary hours on each day.

If you have any questions regarding hours of work or any other matter regarding the Meat Award please don't hesitate to contact the AMIC.

Consultation Requirements

Where an employer proposes to change an employee's regular roster or ordinary hours of work, the Meat Award (subclause 9.2) requires the employer to consult with the employee or employees affected and their representative, if any about the proposed change. This provides the employee the chance to give their views about the possible effect of the changes, however, the employer has the final decision on the change to the roster.

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Contact: Ken McKell 02 9086 2222 kmckell@amic.org.au or go to the AMIC website for more information and the registration form www.amic.org.au

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