

BULLETIN

Industrial Relations



Reference No: COVID-19 Award Changed/ bc-07-20

Date issued: 1/07/2020

Important IR Development

Interim flexibility award changes during the coronavirus extended until 31 July 2020

VACC and the Motor Trades Associations, assisted by the Australian Chamber of Commerce and Industry (ACCI), applied to the Fair Work Commission (FWC) for an extension to the interim award flexibility provisions in **Schedule I – Award flexibility during the COVID – 19 Pandemic** in the Vehicle Repair, Services and Retail Award 2020 (**VRSR Award**).

Schedule I had previously been inserted by the FWC in the Vehicle Manufacturing Repair, Services and Retail Award 2010 to operate from 1 May 2020 until 30 June 2020. However, an application could be made to the FWC to have the operation of the Schedule extended if it could be demonstrated that businesses in the vehicle industry:

- continue to be adversely affected by the pandemic; and
- are utilising Schedule I.

Details of the award flexibility provisions were forwarded to members in a VACC IR Bulletin dated 15 May 2020.

The award variations in **Schedule I** only applies to:

- businesses who are not eligible for JobKeeper;
- to non-eligible employees (i.e. employees employed after 1 March 2020) employed by a business qualified to receive the JobKeeper payment; and
- only to businesses covered by the **VRSR Award 2020** (this award replaced the Vehicle Manufacturing, Repair, Services and Retail Award on 29 May 2020).

The new temporary **Schedule I** changed the following award provisions during the coronavirus outbreak:

- [employees' classifications and duties](#)
- [full-time and part-time employees' hours of work](#)
- [annual leave](#)
- [annual leave and close downs](#)

On 6 June 2020 a survey was sent out by VACC and Motor Trades Organisations to their respective members to determine how many members were using the award flexibility provisions and which of the flexibility areas set out above were being utilised.

The survey responses received were very low, however of those responses the ability to adjust full time and part time hours and the ability to direct employees to take annual leave, were the two main flexibilities used by eligible members.

On the evidence provided by the VACC and Motor Trades Organisations, the ACTU and Unions only agreed to a consent variation to extend **Schedule I** to 31 July 2020 which retains **clause I.3** (temporary reduction of hours) and **clause I.4** (annual leave).

The following conditions apply to the use of temporary reduction in hours, and directing an employee to take annual leave:

a. Temporary reduction in hours

- i. The temporary reduction of hours clause can only be used by businesses which have already utilised and implemented a reduction in hours prior to 30 June 2020 in accordance with existing protections in **clause I.3. (Note: any future adjustment in hours of work does not have to be the same as an adjustment in hours made before 30 June).**
- ii. The existing protections refers to compliance with the wage guarantee limits and consultation provisions in **clause I.3** and Secondary jobs/training in **clause I.6.1.**

“I.6.1 *If an employee is directed to take unpaid leave or work temporary reduced hours and the employee makes a request to engage in:*

- a. *reasonable secondary employment;*
- b. *training; or*
- c. *professional development;*

the employer must consider and not unreasonably refuse the request”.

b. Directing an employee to take annual leave – Clause 1.4.

Any business that qualifies to use **Schedule I** can apply clause 1.4 - directing an employee to take annual leave until 31 July 2020 (i.e. a business does not have to have used this flexibility prior to 30 June 2020) subject to conditions set out in this clause which include:

- i. An employer may, subject to considering an employee’s personal circumstances, request an employee to take paid annual leave, provided that the request does not result in the employee retaining a balance of less than 2 weeks annual leave after the leave is taken.
- ii. Such a request must be made a minimum of 72 hours before the date on which the annual leave is to commence.
- iii. An employee must consider and may not unreasonably refuse a request to take annual leave made under this clause.
- iv. An employer can only request that an employee take annual leave pursuant to this clause if the request is made for reasons attributable to the COVID-19 pandemic or Government initiatives to slow the transmission of COVID-19 and to assist the employer to avoid or minimise the loss of employment.

Please contact the IR Department on 03 9829 1123 if you require further information on this award variation and the conditions which apply to a business utilising these provisions.



W J Chesterman

Manager

Industrial Relations OHSE Department

VACC

Level 7 | 464 St Kilda Road | Melbourne Vic 3004

P: 03 9829 1123 | **E:** bchesterman@vacc.com.au | **W:** vacc.com.au