

# MEMBER UPDATE

## Confidential Attention: Licensee



21 December 2016

### **Changes to the *Hospitality Industry (General) Award (HIGA)*, the *Restaurant Industry Award (RIA)* and the *Registered and Licensed Clubs Award (RLCA)***

Through the 4 Yearly Modern Award Review the Commission has recently released determinations varying the HIGA, the RIA and the RLCA. These variations are set out below and members will be advised when an updated version of the HIGA, RIA and RLCA are available for download from the AHA website.

**HIGA:** Clause 26.4 has been replaced by the following new clause:

*'Where an employee is paid their wages by cash or cheque and the employee is left waiting at the workplace to be paid for more than 15 minutes, the employee must be paid overtime rates after that 15 minutes for the duration spent waiting at the workplace.'*

This comes into operation from 16 December 2016, however it does not take effect until the start of the first full pay period starting on or after 16 December 2016. The determination can be viewed [here](#).

Members are advised that the AHA was involved in FWC proceedings relating to this change. Prior to this variation the HIGA provided that any employee left waiting for their wages for more than 15 minutes was entitled to receive overtime rates for all time waiting. This is a standard clause in many awards. In recognition that the majority of employers pay their wages via EFT, the AHA supported an amendment to clause 26.4 to exclude EFT payment practices from the clause. This a positive development for hospitality employers.

**RIA:** Clause 33.5 has been replaced by a new clause in relation to Time off instead of payment for overtime. [Click here](#) to view the determination. This new clause comes into operation from 14 December 2016 and takes effect from the start of the first full pay period that commences on or after 14 December 2016.

The variation to the time off in lieu (TOIL) clause brings the TOIL administrative arrangements in line with those administrative requirements inserted into a number of modern awards, including the HIGA, in August 2016. Please note that the way TOIL is taken has not changed, that is, under the RIA, TOIL is based on the payments the overtime would have attracted, rather than it being a time for time arrangement (such as it appears in the HIGA). By way of example, where an employer and employee make an agreement under clause 33.5, an employee who worked 2 overtime hours at the rate of time and a half is entitled to 3 hours' time off.

Please note that that this provision does not apply to employees employed on an annualised salary under clause 28 of the RIA as the application of overtime is removed by the 25% loading.

**RLCA:** Clause 28.5 has been replaced by a new clause in relation to Time off instead of payment for overtime. [Click here](#) to view the determination. This new clause comes into operation from 14 December 2016 and takes effect from the start of the first full pay period that commences on or after 14 December 2016.

The variation to the time off in lieu (TOIL) clause brings the TOIL administrative arrangements in line with those administrative requirements inserted into a number of modern awards, including the HIGA, in August 2016. Please note that the way TOIL is taken has not changed, that is, under the RLCA, TOIL is based on the payments the overtime would have attracted, rather than it being a time for time arrangement (such as it appears in the HIGA). By way of example, where an employer and employee make an agreement under clause 28.5, an employee who worked 2 overtime hours at the rate of time and a half is entitled to 3 hours' time off.

Please note that that this provision does not apply to employees employed on a specified salary under clause 17.3 of the RLCA as the application of overtime is removed by the payment of the specified salary.

If you have any questions regarding these changes, please contact the AHA (NT) office on 08 8981 3650.