

# Know the NSW Public Hospital (Medical Officers) Award

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## Resources



### Public Hospital (Medical Officers) Award

Serial C4272. Industrial Relations Commission of New South Wales. Issued 16 December 2005. [117 Kb]



### Public Hospital (Medical Officers) Award - Hours of Work and Tenure

NSW Health Department Policy Directive (no. PD2005\_457). Issued 28 January 2005. [32 Kb]

Looking back, I never even once received a copy of the Public Hospital (Medical Officers) Award went starting work at a number of NSW Public Hospitals. The Award sets out the conditions of employment for junior medical officers (i.e., interns, residents, registrars) and is set by the [Industrial Relations Commission of NSW](#).

The second publication is a policy directive from the [NSW Department of Health](#) that I will go through.

I strongly encourage that all JMOs read through the Award. My experience is that NSW Public Hospitals (or their administration) do not follow many of the finer details of the Award when they think that they can get away with it. This is really quite disgusting. The purpose of the Award is so that your rights and entitlements are documented in stone. The shouldn't have to fight for them.

[Don't let medical and hospital administration get away with labour theft](#) because of your own ignorance of your employment contract and conditions.

## Important snippets from the Award

*Part A, Clause 2 (Payment of Salaries), paragraph 2*

"Salaries shall be deposited by hospitals in sufficient time to ensure that wages are available for withdrawal by employees no later than pay day..."

That is, payment of salaries must be on time. If it is delayed (or the wrong amount paid) then the outstanding amount should be paid *as soon as possible*, not whenever it is convenient for the pay office.

*Part A, Clause 6 (Hours of Work), sub-clause (i)*

"Upon termination of employment an officer shall be paid the monetary value of any untaken additional roster leave, calculated at the officer's ordinary time rate of pay..."

That is, "ADOs", or accrued days off hours are paid out when you finish your contract with your hospital.

*Part A, Clause 6 (Hours of Work), sub-clause (ii)*

"Officers shall be free from ordinary hours of duty for not less than two days in each week, or where this is not practicable, four days in each fortnight."

Note that this statement is explicit. This means that you cannot be rostered for more than 10 standard shifts (ordinary hours of duty) in a 14 day period.

*Part A, Clause 6 (Hours of Work), sub-clause (iii)*

"No shift shall be less than eight hours in length on a week-day or less than four hours in length on a Saturday, Sunday or public holiday."

This means that even if medical administration wants you to work shorter shifts (for some bizarre payment reason), you are paid a minimum of 8 hours on a week day and 4 hours on a weekend.

*Part A, Clause 6 (Hours of Work), sub-clause (v)*

"All time worked in excess of ten hours in any one shift shall be paid as overtime."

Again, this is explicit. There are no "time in lieu" provisions in the NSW Public Hospital (Medical Officers) Award (unlike the CMO Award).

*Part A, Clause 6 (Hours of Work), sub-clause (vi)*

"Officers shall be given at least two weeks notice of rosters to be worked in relation to ordinary hours of work..."

That is, administration cannot tell you to "work for team X tomorrow" unless it is an "emergent" situation.

*Part A, Clause 8 (Time Worked), paragraph 1*

"Time worked means the time during which an officer is required by a hospital to be in attendance at a hospital for the purpose of carrying out such functions as the

hospital may call on him to perform, and it shall include times when the officer, in waiting to carry out some active function, is studying or resting or sleeping or engaged in any other activity."

That is, if you have to stay behind to look after an unwell patient or attend a late ward round (i.e., "is required ... to be in attendance ... for the purpose of carrying out ... functions as t the hospital may call on him to perform"), then it is time worked. If (as above) it is more than 10 hours in the shift, then it is paid with overtime penalties.

*Part A, Clause 9 (Meal Breaks), sub-clause (iii) and (iv)*

"(iii) If officers are required to work during their meal break they shall be paid for the time worked; (iv) Medical Administrators are to establish simple and effective procedures in consultation with officers to record when staff are required to work through their meal break and to ensure that payment is made."

That is, if you work through your lunch, you should be paid for it. Moreover, it is the responsibility of administration (not yours) to ensure that a system is in place.

*Part A, Clause 11 (On Call and Call Back), sub-clause (iv)*

"An officer who is called back for duty shall be paid for all time worked at the appropriate overtime rate, with a minimum of 4 hours at such rates."

That is, when you are called back into hospital (when on call), you are paid a minimum of 4 hours at the appropriate penalty rate for that time of work.

*Part A, Clause 12 (Annual leave), sub-clause (v)*

"If the officer and the hospital so agree, the annual leave or any such separate periods, may be taken wholly or partley in advance before the officer has become entitled to that leave..."

This sub-clause mostly affects interns. I know of occasions where a hospital has forced an intern into taking their leave at the beginning of the year! Interns technically are not necessarily entitled to annual leave as it need not be granted until a year of employment. Annual leave may still be taken as per this sub-clause, however, it is **"if the officer and the hospital so agree"**. If you don't agree, then the hospital cannot force you to take annual leave as an intern.

*Part A, Clause 12 (Annual leave), sub-clause (vii)*

"The hospital shall give the officer at least two months' notice of the date from which his annual leave is to be taken."

That is, the hospital cannot force you into taking annual leave. They must give due notice.

*Part A, Clause 12 (Annual leave), sub-clause (ix)*

"Where the employment of an officer is terminated, the officer shall be entitled to receive proportionate payment for each completed month of service together with such additional annual leave entitlements..."

Annual leave is paid out at your current level of salary when you finish working at a hospital.

*Part A, Clause 28 (Secondment), sub-clause (i)*

"An officer, other than an intern, seconded to work in a 2nd or 3rd Schedule hospital shall have his/her salary increased by one incremental step, by way of allowance, for the period the officer works in such hospital."

Unfortunately, interns lose out here, but RMO1s and above are should be paid one level up when seconded away from their primary hospital.

*Part A, Clause 33 (Reasonable Hours), sub-clause (ii) and (iii)*

"(ii) An employee may refuse to work overtime in circumstances where the working of such overtime would result in the employee working hours which are unreasonable.

(iii) For the purposes of sub-clause (ii) what is unreasonable or otherwise will be determined having regard to:

1. any risk to employee health and safety.
2. The employee's personal circumstances including any family and carer responsibilities.
3. The needs of the workplace or enterprise.
4. The notice (if any) given by the employer of the overtime and by the employee of his or her intention to refuse it; and
5. Any other relevant matter."

Basically, under the Accord which are the agreed conditions in your employment contract, you have the right to refuse any overtime that is "unreasonable". Certainly, any overtime that potentially puts your health and safety at risk is unreasonable. Remember, after 17-19 hours without sleep, performance is equivalent to a blood alcohol level of 0.05% (1) and this is a significant risk to you if you need to drive home.

**Important snippets from the Policy Directive on Hours of Work and Tenure***Page 1, Compliance*

"Compliance with this policy directive is mandatory."

The instructions in this circular from the NSW Department of Health (i.e., your boss' boss) cannot be waived.

*Page 2, Hours of Work, paragraph 1*

"Resident Medical Officers cannot be rostered to work for more than 34 hours continuously; or 16 hours continuously in high work load areas, e.g., intensive care and accident and emergency, such hours being a combination of ordinary and/or overtime hours."

In "high work load areas", you cannot be rostered to work (overtime or otherwise) for more than 16 consecutive hours. Although "high work load" is arbitrary, arguably a busy surgical term would be a "high work load" area.

*Page 2, Hours of Work, paragraph 2 and 4*

"A minimum break of eight consecutive hours is to be given between shifts and/or after continuous periods of work of up to 16 hours and a minimum break of 12 consecutive hours is to be given between shifts and/or continuous periods of work exceeding 16 hours..."

In instances where the minimum break, because of necessity, includes normal rostered hours as a result of recall duties the officer is to be paid for those normal hours which are included in the minimum break as if they had been worked."

That is, you must be given at least 8 hours break between shifts or 12 hours if your last shift was 16 hours or more. Where your "break hours" go into your normal rostered working hours, you are paid as if you worked normally.

For example, let's say you worked a normal 8-5 PM shift (8 hours) + an evening overtime shift from 5 PM to midnight (7 hours). Normally, you should be able to start again the next day at 8 AM (8 hours break after 15 hours of work). However, let's say for example that the evening shift was really busy and you were caught up with an arrest until 1:30 AM. Then, you would have worked a 16.5 hour shift. According to your award, you should have **12 hours** of break so you shouldn't have to go back to work until 1:30 PM but be paid for the morning as if you worked it.

Few hospitals have such an arrangement so you should remind them of this policy directive and the fact that its compliance is "mandatory".

## Reference articles

(1) Williamson A., Feyer A. Moderate sleep deprivation produces impairments in cognitive and motor performance equivalent to legally prescribed levels of alcohol intoxication. *Occup Environ Med* 2000;57:649-655 (October). [download [PDF](#) :: 182 Kb :: [Link](#)]