



SITREP 38/14

Reminder on minimum payments for overtime / relief duties

Permanent members ...

... are reminded that recalls to maintain minimum staffing attract a four hour minimum payment at overtime rates, with one exception. If the recall adjoins the rostered shift of the member performing the recall (eg, starting at 0600 rather than 0800) and that member was given prior notice of that recall (ie, before they last ceased duty), then the four hour minimum does not apply and the member is entitled to payment of overtime only until the start of their rostered shift, when ordinary time will then apply. The difference hinges entirely on whether or not prior notice was given.

Members who perform overtime immediately prior to and following a rostered shift should count the entire overtime worked as one period, regardless of whether prior notice was given or not. For example, a member who works 2 hours' overtime immediately prior to a day shift and another 2 hours' overtime immediately following that day shift is entitled to 2 hours at time and one half and 2 hours at double time (or 7 single time hours), not 2 hours at time and one half for each overtime period (or 6 single time hours).

Retained members ...

... are reminded that under the new 2014 Retained Award, relief duties (previously known as stand-by duties) currently attract a minimum flat payment of \$101.26 (ie, time and one half) for the first two hours or part thereof, and \$67.52 per hour (double time) for any time worked beyond that. The initial \$101.26 payment is not dependent on the member physically remaining on duty for the full two hours, so a retained member who is required to maintain staffing for, say, 30 minutes is still entitled to the full \$101.26 regardless.

In this respect, retained relief duties are no different to any other retained work – you should be held on duty only while the purpose for which you were brought in remains incomplete. Members who respond to a 15 minute fire call should be released asap following their return to the station, not held for the hour.

Removal of Retained business phones

Another day, another dollar saved by management. Or not, as the case may be. The Department has decided to remove the business telephones from Captains' and Deputy Captains' homes in the expectation it will save \$300K per annum.

The business phone system has worked well in managing retained brigades and communicating with the general public for the last four decades. The Department will only save money by scrapping it if retained members fill the void and carry the cost personally.

The Union's advice to Captain and Deputy Captain members? Don't use your own phone. If calls have to be made for FRNSW business then members should do so using the station's phone and claim for the performance of authorised duties. A minimum of one hour's payment and return km's to the station should be claimed for each such event. Of course members who are required to check the answering machine at the station should also claim a minimum of one hour and km's.

The sensible, fairer, and cheaper option is for management to simply leave the business phones alone.



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Regulation 12(1)(b) terminated

Back in 2003 the Regulations were amended to include a provision, 12(1)(b), giving the Commissioner the power to terminate a firefighter's employment on the basis that they were "no longer a suitable person to exercise the functions of a firefighter". The Union opposed this out of concern that it would allow the Department to terminate the appointment of a firefighter for just about any reason without procedural fairness or natural justice, and continued to press for the removal of this "suitable person" power over the next decade. Our campaign came to a successful end recently with the amendment of the 2014 Regulation to replace the old 12 (1)(b) with a new 11(1)(b) that narrows the basis on which a firefighter may be sacked outside of disciplinary action to "abandonment of employment" (ie, the employee stops coming to work).

IRC ruling: What's ours is theirs

A Full Bench of the IRC recently ruled on what constitutes employee-related cost savings (and therefore what savings may be used to fund additional wage rises) under the Baird Government's IR laws. A copy of the judgment and relevant Regulation is available for download on the online version of this SITREP.

The decision comes from a PSA case about the savings from a reduction in the number of prison officers, which the union argued would produce annual savings of over \$500,000 that should be returned to the members as employee-related cost savings. The NSW Government countered that the savings were "whole of Government savings measures" under cl 9(1)(d) of the Regulation, and therefore not available to the union in award negotiations. The Full Bench concluded that "*...it is not open on the evidence to make a finding that there was an agreement that any offset above 2.5% would be applied towards increases in remuneration or other conditions of employment.*" So the PSA lost both the jobs and the money.

What does this mean for us? Whilst each case turns on its own circumstances, it appears that unless a particular saving is coming directly from an award change (which an agency like FRNSW cannot do without union agreement and/or an Order of the IRC) then it will be viewed as a "whole of Government" saving, and therefore not available to fund wage rises above 2.5%. The Full Bench did however find that it was still open to individual agencies to *agree* to share savings with the union, thereby turning otherwise "whole of Government" savings into employee-related savings.

The Government's 2.5% cap is binding on unions like the FBEU and agencies like FRNSW. It is also binding on the IRC, which can no longer award wage rises based on increased work value and productivity (like MFR). This latest ruling simply reaffirms the stupidity of the NSW Coalition's IR laws and policies, which give no reason for unions like the FBEU to cooperate with management, and every reason for us to resist change until they agree to share the savings from that change with us.

For all of that, it could be worse. Tasmanian unions (including the UFU) are currently arguing for a wage freeze in an attempt to avoid Liberal Government job cuts. And in England, firefighters already reeling from both wage freezes and job cuts just went on strike (not bans, but all out) for a full 4 days - from 1800 Friday 31 October until 1800 Tuesday 4 November - in the FBU's struggle to defend their pension scheme.

A handwritten signature in black ink, appearing to read "Jim Casey".

Jim Casey
State Secretary

Saturday 8 November 2014