

ACT Bargaining Update: Draft Alteration of Service Hours Clause

Dear Member,

As you will know, the ACT Government has been pursuing changes to B6.6, the clause that requires a majority vote for the introduction of shift work, a new roster or shift cycles.

On 9 April 2018 they withdrew the claim from all Agreements except Health Agreements.

On 11 July 2018 the Government tabled a new clause (Attachment 1) entitled '*Alteration of Service Hours*' which enabled the introduction of these changes with six months' notice if the vote failed where an extension of service hours was required.

On 14 August 2018 a further draft clause was sent to Health Unions as an attachment to a letter from the ACT Government (Attachment 2).

The HSU's first response was to oppose this clause. However, when one of the Health unions indicated that it had their support, which meant it could be approved by a majority of employees with the support of that union and non-members, and keen to see the end of bargaining, the HSU decided in consultation with representatives that the best strategy was to negotiate as many protections in the clause as possible.

At a meeting with HSU representatives we discussed the clause and the associated challenges. Following this, we provided to the ACT Government requirements to address the issues raised by representatives of current workloads, personal impact and safety. Representatives also met with the ACT Government to emphasise their concerns.

As a consequence, a further draft clause has been provided to the HSU and other Health Unions (Attachment 3) which is a vast improvement on the previous clauses. It includes all the protections that the HSU sought but it also makes it clear that multiple votes should take place and that any changes can only be introduced if it can be adequately resourced taking into consideration workload, safety and personal circumstances.

Given the importance of this issue, paid meetings will be held at TCH and Calvary Bruce Public Hospital in the week beginning 10 September 2018 as set out in the attached schedule. If any member cannot attend a meeting and has any questions/concerns please contact HSU Industrial Officer, Julie Gordon on julie.gordon@hsu.asn.au.

In unity,



Gerard Hayes
Secretary, HSU NSW/ACT/QLD

Rostering provisions in Enterprise Agreements:

In the current enterprise agreements majority support of affected staff is required to introduce shift work or a new roster.

The Government initially proposed to amend all EAs to allow for new rosters to be implemented even in the absence of majority agreement, provided that the Government could demonstrate it had met strict criteria and provided no less than 6 months' notice.

Following negotiations the Government has amended its proposal several times, particularly in relation to scope. The Government has withdrawn the proposal in relation to most agreements. It has limited the application of the clause to circumstances where service hours are proposed to be significantly altered in relation to those agreements.

ACT Government's current proposal:

Amended Current Clause (for inclusion in all agreements)

The proposal is to leave existing rostering provisions in the core part of the agreements unchanged, except for a clarification of current practice in relation to existing rosters. This clarification is contained in the underlined sections in the clauses below, and maintains the status quo.

B6.7 The head of service may, after consulting with the employees affected and the employees' representatives and following agreement of a majority of employees affected introduce:

B6.7.1 shift work;

B6.7.2 a new roster; or

B6.7.3 an arrangement of shift cycles.

B6.8 Rosters setting out the start times, finish times, and rotation of shifts over at least a twenty-eight day period will be posted at least fourteen calendar days prior to the commencement of the roster.

Amendments to Existing Rosters

B6.9 Amendments may be made to rosters to meet the operational or business needs of a particular business unit. These amendments will be made available to affected staff as soon as practicable. For clarity these amendments are not viewed as the introduction of a new roster and do not require majority of staff agreement as that required under subclause XX.

Proposed New Clause (for inclusion in specified agreements)

For the following agreements it is proposed to include a new clause about changes that are required as a result of needing to significantly alter service delivery hours:

- ACTPS Medical Practitioners EA;
- ACTPS Health Professionals EA;
- ACTPS Nursing and Midwifery EA;
- ACTPS Support Services EA;
- ACTPS Technical and other Professional EA; and
- ACTPS Administrative and Related Classifications EA.

The proposed clause set out below is in principle the same as the one contained in the most recent version of the draft core agreement, as distributed with the letter of 22 June 2018:

A1 - Alteration of service Hours

- A1.1 In those circumstances where the introduction of shift work, a new roster or an arrangement of shift cycles is sought as a result of a need to significantly alter service hours, the head of service must first attempt to get agreement of a majority of employees affected in accordance with subclause B. Where such agreement cannot be obtained the head of service may only introduce the proposed change if the head of service has:
- A1.1.1 met the consultation requirements under subclauses XXX;
 - A1.1.2 outlined the business need for the change;
 - A1.1.3 demonstrated that other options have been canvassed, but cannot as effectively meet business needs;
 - A1.1.4 as far as practicable managed the introduction through the voluntary participation of staff;
 - A1.1.5 considered any individual request by an employee to have their personal circumstances considered; and
 - A1.1.6 provided employees with a minimum of 6 months' notice prior to introduction.
- A1.2 Notwithstanding subclause A1.1 if there is a sufficient number of employees that agree to participate on a voluntary basis to allow for a full or partial introduction of the new arrangement, the new arrangement can be introduced with a minimum of three months' notice, provided that any employee who does not agree to participate on a voluntary basis will be given 6 months' notice before being required to participate in the new arrangements.

In the Support Services EA, Technical and Other Professional EA and Administrative and Related Classifications EA the clause would be located in the Health related schedules at the rear of the document.

In the Health Professionals EA the new clause would be located in an appropriate part of the Agreement, but separate from the normal rostering provisions to ensure it is clear its application is limited to circumstances of alterations to service delivery hours.

The operational environment in the Medical Practitioners EA and the Nursing and Midwifery EAs may mean the clause could look different, but the guaranteed ability to meet the Government's service delivery needs is still sought.

A1 - Alteration of service Hours

A1.1 Where there is a ministerial decision that there is a significant public health need that would require the introduction of shift work, or a new roster that would significantly alter service hours, and the head of service hasn't already obtained agreement of a majority of employees affected in accordance with clause B6.7, the head of service must first attempt to get such agreement.

A1.2 Where such agreement under B6.7 cannot be obtained the head of service may only introduce the proposed change if the head of service has:

A1.2.1 met the consultation requirements under sub-clauses XXX. In consulting with affected staff, the head of service will also consider other factors in the decision to extend service deliver hours, such as, but not limited to:

- i) Resourcing required to effectively extend the service delivery hours;
- ii) Staffing levels and the impact on workloads;
- iii) Any other matter that is deemed relevant by parties to this agreement.

A1.2.2 outlined the business need for the change;

A1.2.3 demonstrated that other options have been canvassed, but cannot as effectively meet business needs

A1.2.4 as far as practicable managed the introduction through the voluntary participation of staff;

A1.2.5 considered any individual request by an employee to have their personal circumstances considered; and

A1.2.6 provided employees with a minimum of 6 months' notice prior to introduction.

A1.3 The notice period in accordance with subclause A1.2.6 will not commence before the requirements of subclauses A1.2.1 to A1.2.5 have been met.

A1.4 Alternatively, if there is a sufficient number of employees that agree to participate on a voluntary basis to allow for a full or partial introduction of the new arrangement, or the head of service recruits additional resources that would meet the requirement for partial or full introduction of the new arrangement, the new arrangement can be introduced immediately, following a consultation process outlined in Section G.

Without prejudice

Alteration of Services Hours Clause

1. Where there is a ministerial decision that there is a public health need that requires a significant alteration of service hours necessitating the introduction of a new rostering arrangement, shift work or a new shift the head of service must first consult with employees and their representatives, including relevant unions, and seek the agreement of a majority of employees affected by the proposed change.
2. Consultation in accordance with subclause 1 will meet the requirements of section G and include consideration of the following:
 - a. the resourcing required to effectively extend the service delivery hours including identified back filling requirements,
 - b. adequate staffing levels and the impact on workloads, including consideration of work life balance, leave relief and workplace health and safety issues associated with extended hours;
 - c. current service requirements and staffing levels;
 - d. the business need for the change;
 - e. whether other options can as effectively, or more effectively, meet business needs;
 - f. whether the change can be managed through the voluntary participation of staff;
 - g. any individual request by an employee to have their personal circumstances considered including the right to refuse permanent night shifts.
3. Where, following consultation and ballot(s), majority agreement of affected employees has not been obtained, further consultation will be undertaken to determine whether changes can be made to the proposal that would secure majority agreement.
4. If, after following the requirements of subclauses 1 to 3, majority agreement cannot be reached, the head of service may only introduce the change if:
 - a. The change can be adequately resourced, taking into consideration:
 - i. workloads;
 - ii. the health, safety and wellbeing of affected employees;
 - iii. any individual requests from employees to have their personal circumstances considered.
 - b. the head of service has:
 - i. outlined the business need for the change;
 - ii. demonstrated that alternative options have been canvassed, but cannot as effectively meet business needs;
 - c. affected employees have been provided a minimum 6 months' notice. Such notice will be provided to employees in writing, stating the date the change will come into effect.
 - i. If there is a sufficient number of employees that agree to participate on a voluntary basis to allow for a full or partial introduction of the new arrangement taking into account backfilling requirements, or the head of service recruits additional resources that would meet the requirement for partial or full introduction of the new arrangement, the partial or full new arrangement can be introduced with less than 6 months' notice as agreed

with those employees, provided that the requirements under subclause 4(a) can be met.

5. The purpose of the process in this clause is to as far as possible seek majority agreement and to avoid the need for the introduction of the change through subclause 4. There is no limit on the number of ballots that can be conducted to seek majority agreement.
6. The notice period in accordance with subclause 4 (c) will not commence before the requirements of subclauses 4 (a) and (b) have been met.

DRAFT

HSU Meetings re: DRAFT Alteration of Service Hours Clause

The Canberra Hospital

Date	Time	Location	Work Group	
Monday 10 September	10.00am-10.20am	CT1 Control Room (Radiation Therapy)	Radiation Therapists	
	10.20am-10.40am	CT1 Control Room (Radiation Therapy)	Radiation Therapists	
Wednesday 12 September	11.00am-11.15am	Food Services Staff Room	Food Services	
	11.15am-11.30am	Food Services Staff Room	Food Services	
	12.00pm-12.30pm	Level 1, Pathology Tea Room	Medical Imaging, Pathology	
	12.30pm-1.00pm	Medical Imaging Conference Room	Medical Imaging, Pathology	
	1.00pm-1.30pm	Medical Imaging Conference Room	Medical Imaging, Pathology, Allied Health, Administration.	
	2.00pm-2.30pm	ACTH-TCH-9B Tutorial (B1, L9-25s)	Ward Services	
	2.30pm-3.00pm	ACTH-TCH-9B Tutorial (B1, L9-25s)	Ward Services	
Thursday 13 September	11.00am-12.00pm	ACTH-TCH-CR2 (B2, L3-12s-WB)	Ward Services	
	12.30pm-1.00pm	Level 1, Pathology Tea Room	Medical Imaging, Pathology, Allied Health, Administration	

Calvary Bruce Public Hospital

Date	Time	Location	Work Group
Tuesday 11 September	12.30-1pm	Medical Imaging Tea Room	Medical Imaging
	1-1.30pm	Patient Flow Unit Meeting Room	Wardspersons