



IMPORTANT NOTICE

Revised Interpretations

December 2025

➔ Ordinary Pay for Casual Workers

On 12 November 2025 a notice was provided to all employers advising that the MyLeave Board has completed a review of some key provisions in the *Construction Industry Portable Paid Long Service Leave Act 1985 WA* (Act). This review resulted in revised interpretations of ordinary pay that affect how contributions and claims are managed for casual workers.

This notice has been updated (changes shown in *italics*) to reflect employer feedback and practical experience with employment arrangements since the initial guidance was issued, providing clarification on rostering and allowances.

The key changes are:

- Ordinary hours for casual workers can now be determined from employment contracts, letters of engagement, or IFAs, provided these documents define or identify ordinary hours. This change may impact how contributions and claim payments are calculated, especially for workers whose contracts specify more than 38 hours per week.
- Arrangements for averaging ordinary hours over rostered work cycles *that include both paid on-duty days and unpaid off-duty days have been clarified. On-duty days also include travel days where on-site work is performed, and the worker has received ordinary pay.*
- Allowances paid while performing ordinary hours of work are covered under a broader interpretation of what constitutes ordinary pay, while reimbursement-based allowances are excluded. *Conditional allowances will be considered while performing ordinary hours of work.*

A comparison of the previous and revised interpretations are in the following table:

	Previous	Revised
Ordinary Hours of Work	Ordinary hours of work capped at 38 hours per week unless otherwise specified in a registered industrial instrument (e.g. award or enterprise agreement).	Ordinary hours for casual workers are determined from all terms of employment including employment contracts, letters of engagement, or IFAs, provided these documents define or identify ordinary hours. Overtime hours are excluded.
Rostered Work Cycles	As above.	Ordinary hours are averaged over rostered work cycles that include both paid on-duty days (days of service) and unpaid off-duty days. <i>On-duty days also include travel days where on-site work is performed, and the worker has received ordinary pay.</i> Average ordinary hours per week are defined in terms of employment .
Allowances	Casual loadings, and allowances in all-up rates of pay, are included.	Casual loadings, and allowances paid while performing ordinary hours of work , are covered under a broader interpretation of what constitutes ordinary pay. Reimbursement-based allowances are excluded. <i>Conditional allowances will be considered while performing ordinary hours of work.</i>

These changes reflect a more accurate application of the Act and will help ensure workers receive their correct entitlements.

Action Required:

From the October–December 2025 quarter (due January 2026), employers are required to report contributions using the revised interpretation of ordinary pay for casual workers.

➔ Details of the changes are provided on the following pages.

ORDINARY PAY FOR CASUAL WORKERS

The Construction Industry Portable Paid Long Service Leave Act 1985 (Act) requires that the ordinary pay of a worker not entitled to paid leave (i.e. casual), is the rate of pay to which the worker is entitled for ordinary hours of work.

The revised interpretation of ordinary pay may impact the contributions from some employers in the following circumstances.

(i) Ordinary Hours of Work – Terms of Employment

This change affects casual workers employed under common law contracts whose ordinary hours of work exceed 38 hours per week. Previously, ordinary hours of work were capped at 38 hours per week unless otherwise specified in a registered industrial instrument (e.g. award or enterprise agreement).

Under the revised interpretation, ordinary hours of work may now be determined from extended terms of employment such as individual flexibility arrangements (IFAs), and employment contracts, including a letter of engagement. These terms of employment may apply where 'ordinary hours' are defined or readily identifiable. If 'ordinary hours' are not stated or cannot be reasonably determined from the *extended terms of employment*, the applicable registered industrial instrument will be used.

Further, ordinary hours of work are those that do not attract overtime, regardless of whether overtime is paid separately or incorporated into a composite rate of pay. Overtime hours are excluded from the calculation of ordinary hours of work.

(ii) Rostered Work Cycles – Average Ordinary Hours of Work

This applies to casual workers engaged under rostered work cycles that include both paid on-duty days (days of service) and unpaid off-duty days, where ordinary hours are averaged over the cycle.

In these circumstances:

- Ordinary hours are typically averaged at 38 hours per week, unless otherwise specified in the worker's terms of employment *including rosters*.
- Only paid on-duty days within the work cycle are counted as days of service. *This may include travel days (mobilisation and/or demobilisation) where on-site work is performed on those days, and the worker has received ordinary pay.*

To calculate the ordinary hours of work per day of service, the total ordinary hours in the work cycle are divided by the number of paid on-duty days, using the formula and calculator provided in **Attachment 1**.

Note: If the terms of employment *and rosters do not provide for a rostered work cycle with on-duty and off-duty periods, averaging across the cycle is not permitted*. In such cases, ordinary hours of work are generally considered to be 7.6 hours per day of service, unless otherwise specified in the worker's terms of employment (as outlined in Section (i)).

(iii) Allowances – Paid on Ordinary Hours of Work

Casual workers who receive allowances while performing their ordinary hours of work are now covered under a broader interpretation of what constitutes ordinary pay.

Allowances and penalty rates paid to casual workers for performing their ordinary hours of work are generally included in ordinary pay, as they represent the rate of pay received by casual workers during ordinary hours. The inclusion of a specific allowance or penalty depends on its nature and application to the worker.

Allowances that are paid on a worker's ordinary hours or paid unconditionally are typically considered to be part of ordinary pay. This includes allowances incorporated into an all-up composite rate of pay. *Conditional allowances will be considered while performing ordinary hours of work.*

In contrast, reimbursements for costs, purchases, or payments made by a worker, are not unconditional and not paid for ordinary hours of work. Therefore these payments are not considered ordinary pay. Further, allowances or penalties that are triggered by overtime, which applies to hours worked beyond ordinary hours, are excluded from ordinary pay.

A guide for the inclusion of allowances and penalties in ordinary pay is detailed in **Attachment 2**.



Rate of Pay

The rate of pay for casual workers is defined as the hourly rate paid for ordinary hours of work, inclusive of casual loading and any applicable allowances. Where a worker is paid a composite all-up rate, inclusive of allowances and/or an unspecified component for overtime, this full rate will be used to determine the worker's ordinary pay.

Assessment of Long Service Leave Claims

All long service leave claims are now being assessed in accordance with the revised interpretation. To ensure accurate application, MyLeave may request additional information from employers to verify terms of employment and payment details.

Claim Review for Impacted Workers

To ensure workers are not disadvantaged by the change in interpretation, MyLeave will review long service leave claims dating back to December 2016. Claims prior to this date may also be considered, provided the worker can supply sufficient supporting documentation.

If any underpayments are identified based on the revised interpretation and supported by appropriate evidence, adjustments will be made to ensure affected workers receive the correct entitlement.

Given the volume of claims, this review process is expected to take several years. A dedicated team is being established and will commence this work in the coming months.

How Employers Can Assist

MyLeave may not hold all the necessary information to verify terms of employment and allowances paid to casual workers. Employer cooperation will be essential to ensure workers receive their correct entitlements under the revised interpretation of ordinary pay.

Support for employers

To assist employers with the application of the revised interpretations of ordinary pay for casual workers, or employer refunds additional guidance materials are on our website at myleave.wa.gov.au.

If you require further assistance, please contact MyLeave on **9476 5400** and speak with one of our compliance and advisory staff.

We appreciate your cooperation in implementing these changes and ensuring compliance with the revised arrangements.

Legal Notice

This notice does not constitute legal advice and should not be relied upon as legal advice. Should you have any concerns or queries regarding the application of the material to your individual circumstances, you should seek your own independent legal advice.

**ACTION
REQUIRED** !

From the October to December 2025 quarter return, due in January 2026, employers will be required to report their contributions based on the revised approach as outlined above.

➔ **Note:** Reporting for full-time and part-time workers entitled to paid leave remains unchanged. Allowances paid during annual leave must still be included.



Attachment 1

Rostered Work Cycles – Ordinary Hours Per Day of Service

The ordinary hours of work per day of service in a rostered work cycle are calculated by dividing the total ordinary hours in the work cycle by the number of paid on-duty days using the following formula.

$$\text{Ordinary hours per day of service} = \frac{a \times (b \div 7)}{c}$$

Where: **a** = Average ordinary hours per week (according to terms of employment)

b = Total number of days in the work cycle

c = Number of paid on-duty days (days of service). *On-duty days also include travel days where on-site work is performed, and the worker has received ordinary pay.*

➔ **Note:** Dividing the total number of days in the work cycle by 7 converts the cycle into weeks, which is necessary when the cycle does not align with full weeks.

Example

A worker is employed on a rostered work cycle over 6 weeks with 21 paid on-duty days and 21 unpaid off-duty days. The roster is based on 12 working hours per day.

The terms of employment provide that ordinary hours of work are an **average of 38 hours per week**.

To determine the ordinary hours of work per day of service, the total ordinary hours in the work cycle are divided by the paid on-duty days calculated using the following formula.

$$\frac{\text{average 38 ordinary hours per week} \times (\text{42 total days in work cycle} \div 7 \text{ day week})}{21 \text{ on duty days}}$$

This results in **10.86 ordinary hours per day of service**. Hours worked above this are classified as overtime and are not included in ordinary hours.

Ordinary Hours Calculator

Use this tool to calculate the ordinary hours worked per day of service for a worker, based on the rostered work cycle formula.

Enter the required details into cells 1 to 4 and the calculator will generate the result.

1. Hours worked per day	
2. Average ordinary hours per week over the work cycle *	
3. On-duty days (days of service)®	
4. Off-duty days	
Total days in the work cycle	
Ordinary hours per day of service #	
Overtime hours per day of service	

* According to the terms of employment, typically an average of 38 hours per week.

® *On-duty days also include travel days where on-site work is performed, and the worker has received ordinary pay.*

Ordinary hours per day of service cannot be greater than hours worked per day.



Attachment 2 Guide for Allowances and Penalties

A guide for the inclusion of allowances and penalties in ordinary pay is provided, but not limited to, in the following table.

Include in Ordinary Pay	Exclude from Ordinary Pay
Casual loading	Meal allowances
<i>General purpose allowances</i>	Taxi fare reimbursements
Merit or skill-based allowances (e.g. leading hand allowances)	Accommodation allowances
Tool and industry allowances	Living away from home allowances
Shift allowances/penalties	First-aid allowances – if conditional
Site allowances	Phone allowances
First-aid allowances – if unconditional	Fares, travel or vehicle allowances
Offshore allowance – if ordinary hours are worked offshore	On-call allowances
Hook up and completions loading – if unconditional	

➔ **Note:** The inclusion of a specific allowance or penalty in ordinary pay may differ dependent on the terms of employment.

