IN THE KNOW

May 2026

Quartz Consulting Monthly E-News

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A Message from our Managing Director

As this financial year draws quickly to a close, we know that many employers will be struggling with the rapid rate of legislative and regulatory change at the moment. Increasingly, employers are finding it hard to be across all of the changes which they need to stay on top of, with ignorance of these changes being no defence in the case of legal challenges. While the stream of information seems to be multiplying – it can be hard to know what information is accurate, and what is outdated or simply inaccurate.

Here at Quartz Consulting, we introduced this monthly newsletter to assist our clients and readers to stay informed. Rather than bombard you with weekly or even daily emails clogging your inbox – we spend time producing just a single monthly e-newsletter to minimise the research you need to do.

If there is a topic that you would like us to cover – please reach out to our team and we will include it in forthcoming editions.

In other news, the Fair Work Commission is expected to hand down their annual minimum wage decision for the forthcoming year any time now. As always, we will send this update out to our clients as soon as its released.

Kind regards,

Tracey Doedens
Managing Director

t: 1300 936 223 or e: info@quartzconsulting.com.au

Australia's Biggest Morning Tea

It's not too late to make a difference!

At Quartz Consulting, we have a very important reason this year to support the Cancer Council by hosting a Biggest Morning Tea event on Friday, 22nd May 2026.

The very young daughter of a very loved former member of the Quartz Consulting team has recently been diagnosed with a rare form of Leukemia. The family has needed to relocate to Melbourne to receive treatment at the Royal Children's Hospital. The Cancer Council has provided outstanding support to baby Selma and her family, and this is just one way that we can support this organisation to continue their support of others on this journey.

We appreciate that its difficult for many of our clients and friends to take time out of their working day to attend a morning tea event, but if you would like to support the amazing work of the Cancer Council – you can make a donation anytime this month via the following link:

https://www.biggestmorningtea.com.au/fundraisers/QuartzConsulting

We thank the generous donors who have already made a contribution to this important cause.

Accru+ Hobart

Thanks to your kindness,
we have raised well over ***$2,000***

Also special thanks to ACCRU Hobart who have hosted their own morning tea, and have generously linked with our fundraising goal.

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Australia's Biggest Morning Tea

EOFY People Checklist

As we get closer to the End of Financial Year (EOFY) – this is also time to ensure that your most valuable asset – your employees - are prioritised approaching a new business year.
Here's a few timely reminders to consider in the leadup to 30 June:

Payroll Compliance Audit:

Prior to 1st July increases, employers should review payroll, superannuation, leave balances, and award or enterprise agreement obligations to ensure all payments and entitlements are accurate. EOFY is an ideal time to identify and correct any underpayments or record-keeping gaps before they become larger risks as wages increase. From experience, we know that simply relying on the EOFY audit may not identify Award or agreement underpayments. Given the risks of penalties and prosecution for underpayments, this needs to be a priority for every business employing staff.

Performance Reviews and Goal Setting for 2026/2027:

Check that employee performance has been reviewed before the new financial year begins. Managers should complete performance reviews, set clear objectives, and identify any performance issues or capability gaps. This creates alignment between business goals and individual accountability for the year ahead. Be honest at both ends of the performance spectrum – but don't leave performance discussions until either high performing employees walk out the door because no one has recognised their potential or, in the alternative for those employees who are not meeting your expectations, things reach the pointy end of needing to commence a performance management plan.

Forging a Healthy Workplace Culture:

Employee engagement and having a safe workplace for all should not be overlooked. EOFY can be demanding, so checking wellbeing, workload pressures, and morale is essential. Culture surveys, team discussions, and recognition initiatives can improve motivation, lessen risk and reduce burnout.

Policy & Procedures Review:

Finally, policies and procedures should be reviewed. Update contracts of employment, policies and procedures so the organisation starts the new financial year with a strong governance framework. And don't just update your policies – give consideration for how you are delivering refresher training and updates to your team so that employees have a real understanding of what you expect from them.

Quartz Consulting: We're here for all your human resources and workplace relations needs.
Ph: 1300 936 223
www.quartzconsulting.com.au

Changes to the Sleepover Provisions of the SCHADS Award

A Full Bench of the Fair Work Commission has recently announced its long-awaited decision in relation to the sleepover provisions of the Social, Community, Home Care and Disability Services Industry Award (the SCHADS Award).

Under the SCHADS Award, a sleepover occurs when an employee is required to stay overnight at the same location as the client and this has been accompanied by a period of working hours, either before or after the sleepover occurs.

As outlined in previous In The Know monthly newsletters, on 8 July 2025, the Federal Court handed down its decision in Jats Joint Pty Ltd v Fair Work Ombudsman [2025] FCA743 (Jats Joint case) which determined that sleepover shifts in the SCHADS Award are separate and distinct periods of time that do not form part of a shift. This ruling ran contrary to the previous understanding as provided by the Fair Work Ombudsman, which immediately announced their appeal of that decision.

In the intervening period, the Fair Work Commission has considered amendments to the SCHADS Award to vary the operations of the sleepover provisions. The Full Bench decision was handed down on 13 April 2026 with corresponding changes to be made to the SCHADS Award. In its decision, the Full Bench noted:

...the existing provisions of the SCHADS Award dealing with sleepovers are accepted to be ambiguous and uncertain and employers have, over the last few years, been operating in an environment in which the effect of the provisions has been heavily contested. The evidence indicates that many employers had changed rostering practices to align with advice provided by the Fair Work Ombudsman which has now been found to be wrong by the Federal Court. There is some urgency in ensuring that the operation of the SCHADS Award is clarified going forward.[1]

[1] Paragraph 47.

In its recent decision and effective from the first full pay period starting on or after 1 June 2026, a number of provisions under the SCHADS Award will change to eliminate the recognised ambiguity and confusion which has existed in relation to this Award.Provisions which are changing as a result of the recent decision include the following:

- ordinary hours of work;
- shift allowances and penalty rates; and
- rest breaks between rostered work.

We will cover each of these areas in turn – summarising the main changes to this Award.

Ordinary Hours of Work

Under the new changes to the SCHADS Award, clause 25.1 (Hours of Work) will be varied as follows:

The new clause will read: (c) By agreement between the employer and employee, the ordinary hours in clause 25.1(a) may be worked up to 12 hours per shift in circumstances in which part of the shift is performed immediately before and part of the shift immediately after a sleepover period in accordance with clause 25.7. In such circumstances, a maximum of eight ordinary hours of work may be worked before or after a sleepover period.[1]

[1] Decision, paragraph 12.

What this means is that employers and employees will be able to agree to extend ordinary hours of work up to 12 hours per shift, if part of the shift is immediately before and after a sleepover period, with a maximum of 8 ordinary hours in either period of work. On those shifts, overtime is payable for any extra time worked over 12 hours.

Shift Allowances and Penalty Rates

There will be corresponding changes to shift loading and penalty rates which flow from the decision to treat both periods (immediately before and immediately after a sleepover shift) as separate periods as follows:

The proposed new clause 29.3(d) will provide that, where an employee is rostered to perform work immediately before and immediately after a sleepover period, the portion of work prior to and following the sleepover will be treated separately for the purposes of determining shift loadings.[1]

[1] Decision, paragraph 42.

This change means that the portion of work immediately prior to and immediately after a sleepover shift may fall into two different types of shifts (for example, an afternoon shift and a night shift) which each attracts different loadings due to the start times.

In summary shift loadings will be calculated separately for each portion of work performed immediately before or immediately after the sleepover.

Rest Breaks between rostered work

A further variation relates to the finding by the Federal Court in the Jats Joint case that a sleepover is a “break” between two shifts (or between rostered work).

The Full Court (at [42]) expressed the view that clause 25.4(b), as it currently stands, indicates that a sleepover is regarded as a ‘break’ between shifts. The variation we propose by adding the proposed clause 25.4(c) will clarify that a sleepover period is not to be regarded as a break within the meaning of the clause.[1]

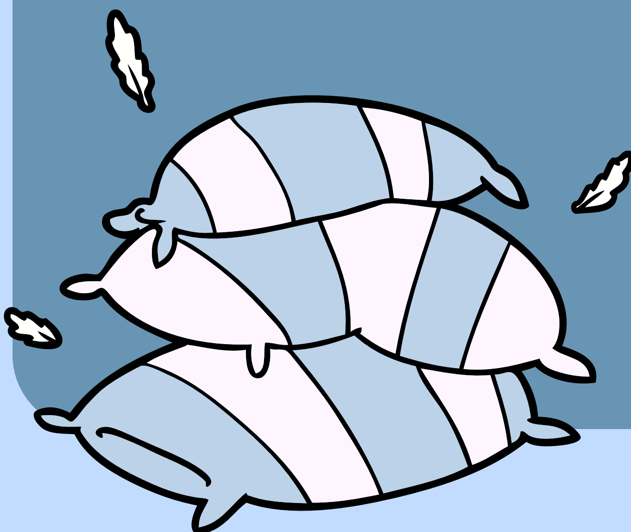
[1] Decision, Paragraph 45

For these purposes, work performed immediately before and after a sleepover period will be treated as part of the same shift, and there would need to be a rest break of at least ten (10) hours before the next shift commences.

Next Steps

Employers need to carefully consider the implications of these changes which may include the need to:

- Change rosters to be compliant with the changes (remembering that there is a requirement to consult with any affected full-time or part-time employees if contemplating a change of their ordinary working hours);
- Updating payroll systems to ensure that pays accurately reflect the new provisions of the Award; and
- Communicate with your affected employees to ensure they understand the changes which are coming and how it will be implemented.



Significant Recent Decision: Tohi v Department of Communities and Justice [2026] NSWIRComm 1028 (15 April 2026)

A Spotlight on Time Fraud

A recent decision of the Industrial Relations Tribunal of New South Wales included a focus on the concept of time fraud which is sometimes mistakenly used by employers as a description for any neglect of duties or misspent time during a working day, such as an employee playing on their mobile phone when there is work to be performed.

The case involved Mr Solomone Tohi who was dismissed from his employment as a Sheriff's Officer in the Newcastle Region on 30 June 2025 on account of misconduct. Mr Tohi was investigated by the employer with a series of allegations involving both the neglect of duties and procedures, and also having falsely stated his working times on his timesheet on six occasions during an approximate three month period.

As part of its investigation, the employer substantiated all allegations against Mr Tohi who had the opportunity to respond to the allegations as a part of the process.

While Commissioner O'Sullivan found many of the substantiated allegations to be less serious in nature and that the issuing of a warning would have been the reasonable outcome for this form of substantiated misconduct – there was a very different approach applied to the allegation concerning having claimed for hours of work which were not actually worked as follows:

Ultimately, knowingly claiming additional hours worked is time theft. Misconduct of this nature is so serious that despite the mitigating factors, on balance, dismissal is not harsh. Particularly, as the applicant was employed as a Sheriff's Officer, a role of great import and a representative of the Crown. Additionally, the applicant had been placed in a position of trust working in remote court locations without regular direct supervision. The applicant stealing from their employer was an abuse of this trust.[1]

The Commissioner confirmed that knowingly mis-stating working hours constitutes "time theft" – as opposed to instances of playing on a mobile phone during work hours which was described in the decision as being an "obsession" for many in modern society but this was ultimately assessed as requiring better management interventions, rather than being "time theft" as in the other example with the incorrect information being entered on a timesheet.

Given the Commissioner's determination of the seriousness of the time theft misconduct, the Applicant's claim was dismissed and the termination of the Applicant's employment after a period of approximately 12 years was upheld.

The decision serves as a useful guide for when employers should – and conversely should not – be applying the term "time theft". That is to say that time theft must involve some deliberate attempt to claim a benefit for hours (time) not worked either by entering those hours on a timesheet or other record of hours worked, or also by the employee removing themselves from the workplace without authority - in this instance, the Applicant had secondary employment and had left the workplace early to attend his other job.

The term "time theft" is not appropriate in the context of an employee "slacking off" during working hours, such as playing on their phone, engaging in other activities such as playing on the internet or even by skipping required protocols – in this case, failing to scan persons entering the court including solicitors and police officers. While these activities may constitute misconduct – they are not validly "time theft".

If you need advice in relation to investigating misconduct in your business or are unsure whether you have a valid reason to terminate an employee's employment, or the process required to do so in a procedurally fair way – please contact Quartz Consulting for all of your human resources and workplace relations needs.

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[1] Tohi v Department of Communities and Justice [2026] NSWIRComm 1028 (15 April 2026), paragraph 62.