

CASUAL ENTITLEMENTS AND OBLIGATIONS GUIDE

INTRODUCTION

This document provides whole of University guidance for casual employees.

This document must be read and applied in accordance with the University of Melbourne Enterprise Agreement 2018 (EA).

All University employees whose position involves the engagement of casual employees, rostering or requesting casual work to be performed, allocation of work, authorisation for the payment of casual hours and/or the termination of casual employment, have an important role and accountability in ensuring that:

- their actions adhere to the University's legal obligations;
- the casual employee is correctly paid for the hours worked;
- casual employment is managed with proper care and in accordance with the EA and these Operating Rules.

Please note this document deals with the application of the entitlements outlined in the EA with the exception of three updated policy directives that are in excess of the entitlements outlined in the agreement as follows:

1. Minimum Engagement

You must only record one of the following (3) minimum engagement conditions:

- For casual gym and fitness instructors – 1 hour
- For casual professional staff (excluding gym/fitness instructors) – 3 hours
- For casual non-sessional academic work (excluding sessional teaching and marking) – 2 hours

Minimum engagement applies to each separate period of engagement, even if your engagements occur on the same day and work location.

Your Supervisor is responsible for scheduling your work and manually approving your timecard.

2. PhD Payment Rates

If you hold a PhD qualification (I.e. where the PhD has been conferred), you will be paid the corresponding PhD casual payment rate for sessional teaching activities irrespective of whether the sessional teaching work performed requires you to hold a PhD qualification or not. For clarity, this will result in payment in excess of the minimums set out in the EA. This directive applies to all casual academic staff and commences on and from 1 March 2023.

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It is the casual employee's responsibility to notify the University where they currently hold a PhD (i.e the PhD has been conferred) or where a PhD is conferred during the term of a casual engagement. The PhD rate is payable from the date that the University is notified in writing by the casual employee that the PhD has been conferred, including evidence of conferral.

3. Casual Engagement for Continuing and Fixed Term Employees

If you are already engaged on either a continuing or fixed term contract, you must not be also engaged on a separate casual employment contract. This applies to both part time and full time continuing and fixed term employment. Additional hours of work must be addressed through: a variation of the part time contract hours (up to 36.25 hours), reallocation of work within existing contract hours, applicable overtime (for PASO employees) or applicable supplementary work (for PASO staff only), not through a separate casual employment contract.

FORMAT OF THE GUIDE

Section 1: Applies to all Employees;

Section 2: Applies only to Academic Employees; and

Section 3: Applies only to Professional, Administration and Support Occupation (**PASO**) Employees.

SECTION 1 – ALL EMPLOYEES

1. Employment with the University

Although you may be engaged to perform work at a Divisional/Faculty level from time to time (sometimes with multiple engagements across the University), you have a single employer, the University, and casual terms and conditions of employment (e.g. minimum engagement, overtime, rates of pay, rostering hours of work, etc) will apply to you consistently across the University.

Each period of engagement is for discrete periods of time (e.g. a semester), without promise of ongoing work. The duration of the period and anticipated number of hours of casual work specified in your offer of casual employment are indicative only and the hours of work during the period of engagement are not guaranteed.

2. Workplace Rights

You are protected by the same workplace rights (General Protections) set out in the *Fair Work Act 2009* (Cth) as any other employee and it is unlawful for adverse action to be taken against you because you

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have exercised (or not) your workplace rights. So, even though casual employees are technically engaged on an hourly basis, it is adverse action to (for example):

- threaten them with cessation of future hours/ re-engagement for raising a query/grievance about payment of work; or
- end the casual engagement because of a disclosed medical condition; or
- substantively reduce scheduled hours of work due to you being active in the Union.

General Protections claims can be brought against the University and/or the individual (respondents) who allegedly engaged in the adverse action. A reverse onus of proof applies – which means it is presumed that the action is taken for the reasons alleged unless the respondents can prove otherwise.

For this reason, casual engagement and the allocation of hours must be based on:

- operational requirements; and/or
- performance.

3. Induction, Orientation and Training

It is the responsibility of your Supervisor to appropriately induct, train, develop and supervise you to carry out all duties and expectations of your role effectively and safely.

Induction, orientation and training will include all essential information about your employment obligations and rights and other information that you might reasonably be expected to not possess at the time of appointment (including the casuals employment entitlements, such as minimum rates of pay, minimum engagement period, the expectation that casuals record all hours of work per day and instructions on how to record additional hours of work).

You must complete at minimum the Core Compliance online programs (Appropriate Workplace Behaviour, Health and Safety – Roles and Responsibilities, and Managing Information) every two years, or sooner if and where required. The duration of the Core Compliance online programs may change from time to time.

All induction, orientation, training and development activities you are required to complete is work and you will be paid for the time scheduled to undertake these activities. Note, this type of work is subject to the minimum engagement requirements under the EA.

4. Scheduling/Record Keeping, Timecards and General Payment Information

4.1. Scheduling/Record keeping

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Your Supervisor is responsible for ensuring accurate records are kept on rostered, scheduled or requested casual hours of work – by date and start/finish time.

When scheduling your hours of work, your Supervisor will advise you that:

- regardless of when you choose to perform the work (not subject to a timetable), you are required to record and will be paid for the hours as scheduled (i.e. as directed); and
- you must obtain prior written authorisation from your Supervisor to perform work in excess of the scheduled hours.

University email is the recommended method of communication between you and your Supervisor in order to maintain good record keeping practices, particularly where directions are given by your Supervisor to you regarding work.

Where your Supervisor schedules you to carry out Sessional Teaching activities (other than Sessional Marking), you will be paid a Derived Sessional Teaching rate which is an agreed loaded rate to compensate for both the delivery and the performance of self-directed work associated with the delivery of the Sessional Teaching activity, as set out in the EA. The performance of self-directed associated work that is part of the Derived Sessional Teaching Rate is at your discretion and is not required to be monitored or recorded by the University.

4.2. Timecards

When recording your time and attendance, you must ensure adherence to the following:

- Hours worked are recorded via the University's timecard system.
- Hours entered in timecards accurately align to the date and time the work was performed as scheduled by your Supervisor.
 - Manipulating time and attendance entries is not permitted and must not occur. By way of example, you must not average out your hours (such as sessional teaching) across a certain period. Further, you must not accumulate your hours and enter them in bulk at the end of a specified period.
- Hours entered in timecards accurately align to the relevant pay code for the work performed. Your Supervisor will check your timecards for this prior to approval. For example, if your Supervisor schedules you to perform PASO work on a Saturday, but you have selected the PASO rate for Monday to Friday, this will be changed to reflect the rate for working on a Saturday.
- A timecard is submitted each fortnight within directed timeframes that allow proper verification against the scheduled hours/payment codes and authorisation of the hours worked by your Supervisor.
- Purposely withholding time and attendance beyond the fortnightly cycle and submitting a single aggregated timesheet is not permitted.

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- Recording artificially manipulated hours of work to conform to a dollar figure to be paid is not permitted. The hours of work you record for the purposes of time and attendance must be the hours worked and must be recorded on the days the hours are worked and as directed.

5. Access to Facilities and Resources

You will be provided with reasonable access to available facilities and resources commensurate with the work required and with the flexible nature of your employment. This includes (amongst other things authorised by the University) access to:

- on-campus facilities;
- on-campus meeting rooms;
- the University's wi-fi, phone network, and email systems when on campus; and
- library facilities.

6. Breaks

Where your Supervisor schedules you to work more than five (5) continuous hours, you will receive a 30 minute unpaid break to be taken no later than 4.5 hours into your casual shift.

If you are a casual academic employee, where your Supervisor schedules you to work a full day (i.e., 7.25 hours or more), in addition to the unpaid break above, you will also receive two 10-minute paid rest breaks (one in the morning and one in the afternoon).

You may have multiple engagements in a day across the University. As such, you must advise your Supervisor what hours you have worked throughout the day and across the University, and confirm that you have taken the required breaks.

7. Meeting Attendance

Attendance at meetings is work and you will be paid for any work-related meetings they are directed to attend.

Your Supervisor will also consider and verify your minimum engagement entitlement when requesting you to attend a meeting and ensure that either:

- The meeting is scheduled around other work activities to satisfy minimum engagement requirements; or
- Your attendance is recorded for payment includes times at the meeting (which is not covered by the derived sessional teaching rates) plus any applicable minimum engagement top up.

8. Casual Working Hours | Weekly Hours

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When scheduling casual hours of work, your Supervisor will ensure that your total hours of work (in all categories of work) across the University and across the week do not unreasonably exceed 38 hours. You have the right to refuse to work unreasonable additional hours in excess of 38 hours under the provisions of the *Fair Work Act 2009* (Cth).

If you are a casual PASO employee, you will be paid overtime for all hours approved by your Supervisor and worked by you in excess of 36.25 hours per week (Monday to Friday).

9. Casual Working Hours | Travel Time

You will not be paid for time to commute to and from your usual location of work.

Where your Supervisor requires you to travel to another location to perform work (e.g. mobile medical demonstrating, field trips, and the like), you will be directed to attend your usual work location at commencement of your casual shift. From there University arranged transport (which may include the use of your vehicle) will take you to the external location and from the external location back to the your usual work location. All hours away from your usual work location are paid as casual hours inclusive of applicable minimum engagement and time in transit, but excluding an unpaid meal break (if applicable).

10. Casual Working Hours | Field Trips

The same supervisory and Occupational Health and Safety obligations exist on a field trip as in the workplace. You will only be directed by your Supervisor to perform duties commensurate with the category of work you have been engaged to perform.

The framework of the EA is such that non-sessional teaching activities are assumed to be performed Monday to Friday inclusive. The EA does not otherwise make provision for overtime or weekend penalty rates for casual academic employees. As such, if you are a casual academic employee, you must not perform non sessional activities on a weekend field trip, and must only perform sessional teaching activities on a weekend field trip.

Your Supervisor will stated your scheduled hours of work on the field trip ahead of the trip and there will be precision about the category of work you are being engaged to perform.

Reminder: While attending a field trip you must only:

- a) perform work during the hours your Supervisor has scheduled and you have agreed to work (including the time within the paid minimum engagement); and
- b) record time and attendance for the performance of work as scheduled/directed.

11. Agreed Casual Base Rates

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The EA sets out the minimum rates of pay for categories of work performed by a casual employee. On occasion you may be paid a higher hourly base casual rate of pay to perform the work required.

On all such occasions it is necessary to document and prove that the agreed casual hourly base rate is higher than the minimum casual hourly base rate published in the EA by recording in the letter of engagement:

- a) the substantive classification/category of work to be performed as set out in the EA;
- b) the hourly casual base rate of pay set out in the EA for the classification/category of work to be performed;
- c) the higher agreed hourly casual base rate; and
- d) other information/evidence in support of how you are better off overall with the payment of agreed base rate in comparison to the applicable EA base rate.

To be clear:

- The agreed base casual rate is not a loaded hourly rate and, as such, the 25% casual loading and other applicable casual loadings/penalties are not incorporated in the rate -- they will be applied separately to the rate;
- The agreed base casual rate (plus separate and applicable casual loadings/penalties) will be applied to the actual hours requested and worked – hours of work must not be fabricated to derive a total net outcome.

12. Dispute Resolution

If you have any concerns and/or grievances, you are expected to address them in same manner as those for any other employee. In particular you and your Supervisor are obliged through the Grievance and Dispute Settlement Procedure at clause 1.38 of the EA to genuinely attempt to resolve a grievance.

SECTION 2 – ACADEMIC EMPLOYEES

13. Minimum Engagement

13.1. Sessional Teaching

There is no minimum engagement period for Sessional Teaching activities described in the EA as either:

- Lecturing;
- Tutoring
- Marking;

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- Musical accompanying with special education services; or
- Undergraduate clinical nurse education.

13.2. Non-Sessional Academic Work

Where your Supervisor schedules you to perform non-sessional academic activities, you will be engaged:

- for a minimum period of two hours for each discrete period of employment within a day (regardless of whether or not you are already attending the workplace);
- to perform this category of work only between Monday and Friday; and
- at a rate of pay commensurate with the type of work to be performed.

Although Sessional Teaching activities do not require minimum engagement, your Supervisor may schedule non-sessional teaching activities immediately prior to, or after, a scheduled Sessional Teaching activity to satisfy the minimum engagement requirement.

Where a non-sessional activity has a duration of less than two hours and cannot be scheduled adjacent to another activity, your Supervisor may assign you other work to make up the two-hour minimum engagement.

14. Delivery of Tutorials and Lectures | Initials and Repeats

The EA sets out at clauses 2.8.4.2(d) and clause 2.8.4.3(c) the definitions of repeat lecture and repeat tutorial.

You will not be rostered or paid the repeat lecture or tutorial rate without an initial lecture or tutorial having been delivered in **substantially the same** lecture or tutorial on the **same subject matter within a period of 7 days of the repeat lecture/tutorial being taught**. That is, there cannot be a repeat tutorial or lecture without there first being an initial lecture or tutorial.

You must not choose the initial or repeat lecture and tutorial rates based on an assessment of the preparation time, or because you have "taught the subject before" (e.g. in an earlier semester).

Where subjects are taught in intensive mode, the correct initial/repeat lecture and tutorial rates also need to be selected and paid for the delivery of the subject. By way of example, if the content is new, the second or third hour cannot be considered to be a 'repeat'.

15. Recording Sessional Teaching (other than Marking)

Sessional Teaching (other than marking) must be recorded in timecards based on actual hours of delivery. For example, the delivery of a 1.5 hour lecture should be recorded as 1.5 hours at the derived sessional lecturing rate.

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16. Tutorial Guidelines

The EA sets out at clause 2.8.4.3 (b), as a minimum requirement, that a tutorial is conducted in accordance with guidelines issued by the “lecturer in charge” (typically the Subject Coordinator and/or Supervisor). These guidelines will be issued to tutors and will include detailed plans for the delivery of each tutorial, assessment rubrics and/or model answers for assessment pieces, seeking to ensure consistency across tutorials and equitable outcomes for students.

Tutorial guidelines should set out what is expected of tutors in each tutorial throughout the subject.

17. Lecture Attendance

In addition to receiving the tutorial guidelines, your Supervisor may require you to attend one or more lectures. Where this is the case, you will be paid for doing so. Payment for attending a lecture will only be as and when you are required and scheduled by your Supervisor to attend the lecture.

The direction to attend or not attend a lecture will be clearly stated by the lecturer in charge (or subject coordinator) via University email.

It is important to note the following:

- Attendance at lectures as required and directed by your Supervisor is work for which you will be paid and is subject to the two hour minimum engagement for non sessional teaching activities.
- Attendance at lectures is separate to self-directed work associated with delivery of a Sessional Teaching tutorial activity.
- When you are required by your Supervisor to attend a lecture, you will be paid an appropriate hourly rate contemplated at clause 2.8.3 of the EA (typically the A.2 rate).
- If you choose to attend a lecture as a part of the self-directed preparation for Sessional Teaching activity, you will not be paid.

18. Marking

Where your Supervisor schedules you to perform marking, you will be paid for all actual authorised hours worked.

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You must not perform marking work where the hours have not been authorised. If you have not completed the required work within the hours scheduled by your Supervisor, you must raise this with your Supervisor. Your Supervisor may then authorise in writing extra hours to be scheduled to facilitate the completion of the marking work, or assign the work to another University employee for completion. This will be communicated to you when the work is scheduled.

There is an expectation that the marking work will be performed by you on the day and hours scheduled by your Supervisor – unless otherwise authorised in writing by your Supervisor.

Performance measures such as (but not limited to) marking rubrics will not be used in any way (directly, indirectly, or passively) to determine the payment of casual marking work.

Performance expectations are set for marking so that you have a clear understanding of what is expected of you and to ensure that you are producing similar marking outputs. Your Supervisor will provide clear guidelines and any appropriate training required on how to assess and mark students' work (inclusive of rubrics) and performance expectations are there to inform supervisory/coaching discussions between you and your Supervisor. Your Supervisor will actively monitor and manage your performance.

19. Scheduling Student Consultation

Where your Supervisor schedules you to perform student consultation on a particular day and time, you will be paid for the time worked at an appropriate hourly rate contemplated at clause 2.8.3 of the EA (typically the A.2 rate and with the two-hour minimum engagement period applied, as it is non sessional teaching activity (refer to minimum engagement section)).

Your Supervisor may authorise extra hours to be scheduled to facilitate student consultation where the demand for student consultation reasonably exceeds the consultation contemplated in the self-directed associated work. This will be communicated in writing by your Supervisor to you when the work is scheduled.

Your Supervisor will also take steps to minimise the number of individual queries arising from students by providing answers to Frequently Asked Questions to all students through the Learning Management System (LMS).

20. Alternative Teaching Delivery

Your Supervisor may schedule you to carry out a teaching delivery approach/model that does not clearly reflect a Sessional Teaching category of work set out in the EA. Where this is the case, the teaching delivery approach/model will be properly described and applied in accordance with the EA prior to implementation.

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It is important that the characterisation and labelling of class formats appropriately reflect the nature of the work being performed and that the work aligns to a rate in the EA.

21. Demonstrators

The phrase Demonstrator has no formal definition in the EA and is referred to across the University to describe varying types of work. Where your Supervisor schedules you to perform work as a “Demonstrator”, the class and category of work will be appropriately categorised in accordance with the EA prior to the work being scheduled.

For example, some demonstrators in the University effectively perform tutorial work, which should be paid at the relevant Sessional Tutorial Rate; meanwhile other demonstrators may act mostly as an assistant in a practical class, which should be paid at the relevant Casual Academic Support rate.

SECTION 3 – PROFESSIONAL, ADMINISTRATION AND SUPPORT OCCUPATION (PASO) EMPLOYEES

22. Minimum Engagement

As outlined in the introduction, minimum engagement is subject to a University directive that is more generous than the entitlements outlined in the EA. That is, for all PASO work scheduled by your Supervisor, you will be engaged for a minimum period of three hours (with the exception of if you are engaged in the occupation of gym or fitness instructors, where you may be engaged for a minimum period of one hour).

23. Overtime

Where your Supervisor schedules or directs you to perform PASO work in excess of 36.25 hours in a week (Monday – Friday) or on a weekend or National Employment Standards (**NES**) public holiday, then you will be paid at the relevant overtime rates set out in the EA (clause 3.20.8).

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