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## D Flexibility provisions in enterprise agreements

The table in this appendix reports information on the incidence of certain flexibility provisions in retail enterprise agreements and the average incidence for all industries. The information is sourced from the Department of Education, Employment and Workplace Relations Workplace Agreements Database (WAD). The data has informed the analysis in chapter 11 — Workplace relations regulation.

The WAD is a database on all known enterprise agreements that have operated in the federal workplace relations system since the introduction of the Enterprise Bargaining Principle in October 1991. The WAD covers general details (such as sector, ANZSIC, duration, number of employees covered), wage details (quantum and timing of increases) and employment conditions. Information entered on the WAD is derived from copies of federal agreements that are lodged with Fair Work Australia (FWA) or, formerly, the Workplace Authority or the Australian Industrial Relations Commission.

**Table D.1 Incidence of certain flexibility provisions in retail agreements: 1997, 2000, 2005 and 2010**

Proportion of agreements <sup>a</sup>

<i>Provision</i>	<i>1997</i>		<i>2000</i>		<i>2005</i>		<i>2010</i>	
	<i>Retail</i>	<i>All industries</i>	<i>Retail</i>	<i>All industries</i>	<i>Retail</i>	<i>All industries</i>	<i>Retail</i>	<i>All industries</i>
Competency-based wage movements (employees are automatically re-classified upon attainment of specified competencies)	**	**	11.8	28.2	8.5	7.8	9.2	5.6
Provides details of quantifiable KPIs	**	**	**	**	0.9	3.8	1.7	4.8
Work organisation/performance indicators — the agreement contains one or more work organisation or performance indicators provisions, e.g. benchmarking, new or revised classification structure, or multi-skilling/flexible deployment of labour	**	**	60.0	82.2	43.6	61.1	28.7	52.5
Performance pay/productivity-related bonuses	2.7	4.8	7.1	7.7	5.1	6.7	6.7	8.9
Contains a specific clause outlining a commitment to raising productivity <sup>b</sup>	**	**	**	**	**	**	16.7	38.6
Annualised salary – the agreement incorporates payments which are additional to the employee’s salary, such as penalty rates, overtime payments and allowances, into an annualised salary	0.0	5.1	5.9	4.0	5.1	6.8	18.2	9.6

<i>Provision</i>	<i>1997</i>		<i>2000</i>		<i>2005</i>		<i>2010</i>	
	<i>Retail</i>	<i>All industries</i>	<i>Retail</i>	<i>All industries</i>	<i>Retail</i>	<i>All industries</i>	<i>Retail</i>	<i>All industries</i>
Loaded hourly rate – the agreement incorporates both shift penalties and allowances into a higher hourly base rate	4.0	2.0	1.2	2.2	15.4	5.7	6.0	4.6
Allowances (regular payments of amounts in excess of minimum rates of pay) are absorbed or incorporated into base rates of pay	1.3	4.1	4.7	6.9	1.7	20.7	7.7	15.7
Make-up time — the agreement allows employees to take time off from work and, at a later date, make up the lost hours	**	**	21.2	6.8	26.5	6.4	7.7	12.1
Overtime: TOIL at ordinary time rates — the agreement allows employees time off in lieu of paid overtime and the time off in lieu accumulates at a rate of ‘time for time’— that is, one hour off for every one hour worked	17.3	8.5	20.0	10.8	21.4	14.8	14.5	25.4
Overtime: TOIL at penalty rates — the agreement allows employees time off in lieu of paid overtime and the time off in lieu accumulates at a rate greater than ‘time for time’, for example 1.5 hours off for every 1 hour worked	21.3	6.1	37.6	5.8	26.5	6.4	55.9	12.1

<i>Provision</i>	<i>1997</i>		<i>2000</i>		<i>2005</i>		<i>2010</i>	
	<i>Retail</i>	<i>All industries</i>	<i>Retail</i>	<i>All industries</i>	<i>Retail</i>	<i>All industries</i>	<i>Retail</i>	<i>All industries</i>
No restriction on days of the week during which ordinary hours can be worked. Ordinary hours are the hours during which an employee can expect to be rostered for work	24.0	5.4	41.2	9.5	57.3	23.1	33.4	11.8
Hours averaging — the agreement averages weekly hours of work over an extended period (usually longer than a month)	9.3	4.5	8.2	2.8	11.1	3.6	26.2	12.3
Compressed week — the agreement provides that the hours worked in a day can be increased so that the number of days worked in a week will be less	9.3	1.9	9.4	2.4	2.6	1.5	1.2	2.3
Hours of work may be negotiated — the agreement allows for the employer and employees or union to negotiate the hours that employees will work	5.3	6.8	16.5	16.2	2.6	4.3	75.6	43.1
Hours of work varied by employer after consultation — the agreement provides that management may change employee hours but only after consultation with employees	8.0	5.1	22.4	6.0	0.9	2.9	15.0	30.4
Management may alter hours — the agreement allows management to change the actual hours an employee must work, without consultation	2.7	2.2	7.1	3.2	5.1	2.4	71.3	31.4

<i>Provision</i>	<i>1997</i>		<i>2000</i>		<i>2005</i>		<i>2010</i>	
	<i>Retail</i>	<i>All industries</i>	<i>Retail</i>	<i>All industries</i>	<i>Retail</i>	<i>All industries</i>	<i>Retail</i>	<i>All industries</i>
Flextime — the agreement gives employees options regarding the distribution (but not the amount) of hours they work	4.0	5.3	3.5	3.8	5.1	4.2	**	**
12 hour shift — the agreement either provides for 12-hour shifts or states that employees can work up to 12 hours in a shift	**	**	7.1	7.5	4.3	28.1	**	**
RDOs may be banked/accrued — the agreement allows employees to work on a rostered day off and ‘save’ the day off for use at a later time. Some agreements allow the accrual of up to five rostered days off which can be taken consecutively at a mutually convenient time. To differentiate from ‘time off in lieu for working on a rostered day off’, the emphasis here is on providing more choice for the employee	26.7	25.0	17.6	38.9	17.1	38.5	5.2	37.7
TOIL for working on an RDO — the agreement allows employees to work on their rostered day off whether by choice or employer compulsion, but in return they receive time off work in the future. To differentiate from ‘banking/accrual of rostered days off’, the emphasis here is on the organisation’s needs	17.3	10.4	9.4	8.0	4.3	4.1	0.7	15.8

<i>Provision</i>	<i>1997</i>		<i>2000</i>		<i>2005</i>		<i>2010</i>	
	<i>Retail</i>	<i>All industries</i>	<i>Retail</i>	<i>All industries</i>	<i>Retail</i>	<i>All industries</i>	<i>Retail</i>	<i>All industries</i>
RDOs may be varied by mutual agreement — the agreement requires the employer and employee or union to agree to any change in the days that rostered days off are taken	25.3	29.3	12.9	43.6	9.4	40.5	4.7	34.6
Breaks not to interrupt continuity of work — the agreement stipulates that breaks may only be taken in a way that allows for an uninterrupted workflow	**	**	8.2	9.7	11.1	11.2	43.1	35.5
Management may alter break — management may direct employees to delay or shorten their break	**	**	9.4	3.6	12.0	10.2	55.4	20.5
Public holidays may be varied by mutual agreement — the agreement contains provisions allowing the parties (that is, the employer, employee and/or union) to mutually agree to change the day that a public holiday will be taken, or whether or not an employee will work on that day	18.7	4.2	25.9	8.2	21.4	13.1	**	**
Fixed/short-term employment — the agreement contains provisions relating to fixed term employment, short-term employment or temporary employment <sup>c</sup>	**	**	37.6	12.9	41.9	21.7	32.7	31.2

<i>Provision</i>	<i>1997</i>		<i>2000</i>		<i>2005</i>		<i>2010</i>	
	<i>Retail</i>	<i>All industries</i>	<i>Retail</i>	<i>All industries</i>	<i>Retail</i>	<i>All industries</i>	<i>Retail</i>	<i>All industries</i>
Multi-hire — agreement allows for employees to work under more than one employment type e.g. allows full-time employees to work as casuals	**	**	**	**	**	**	1.2	1.4
Casual employment — the agreement contains one or more casual employment provisions. A casual employee is defined as someone who is not entitled to permanent employment benefits, such as leave, but usually receives an additional loading in lieu of these benefits. Casual employees may work full time or part time and are engaged on a day-by-day basis	74.7	35.5	78.8	68.8	79.5	81.4	97.8	92.6
Provisions allowing casual employees to work up to full time hours	**	**	**	**	**	**	21.9	8.5
Conversion of casual engagement to permanent engagement after a defined period	10.7	5.3	8.2	17.5	19.7	32.9	13.5	17.4
Part-time employment — the agreement contains one or more part-time employment provisions. A part-time employee is defined as a continuing employee who works fewer than full-time hours, and is entitled to permanent employment benefits such as sick leave and annual leave on a pro-rata basis	69.3	16.4	82.4	22.4	84.6	53.4	96.5	64.2

<i>Provision</i>	<i>1997</i>		<i>2000</i>		<i>2005</i>		<i>2010</i>	
	<i>Retail</i>	<i>All industries</i>	<i>Retail</i>	<i>All industries</i>	<i>Retail</i>	<i>All industries</i>	<i>Retail</i>	<i>All industries</i>
Paid parental leave, return to work on a part-time basis after parental leave, or a right to request flexibility for caring purposes greater than the provisions of the NES	**	**	3.5	7.2	9.4	16.7	5.2	18.2
Training provisions for general staff	41.3	66.7	56.5	79.1	43.6	80.6	63.1	72.7
Training provisions for apprentices and formal trainees	49.3	39.5	47.1	52.4	68.4	64.2	90.3	67.3
Training obligations — the agreement notes the importance of training and/or provides a commitment to training. It may specify employer obligations to provide employees with training and/or may outline the obligation of the employee to participate in training for the benefit of the employer	**	**	28.2	52.5	17.9	57.5	**	**
Recognition of prior learning — the agreement provides for the recognition of prior learning. This is a process whereby an employee's competencies, skills and knowledge are assessed and recognised for the purpose of award classification. This is useful where an employee may not have a formal qualification that identifies their skills, knowledge or competence	1.3	1.5	1.2	20.1	0.0	23.2	0.2	13.1





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	<i>Retail</i>	<i>All industries</i>	<i>Retail</i>	<i>All industries</i>	<i>Retail</i>	<i>All industries</i>	<i>Retail</i>	<i>All industries</i>
How training is provided — the agreement provides for training and specifies when and where it is to take place (e.g. on-the-job training or off-the-job training, and training within or outside of normal work hours)	14.7	31.4	18.8	37.0	13.7	47.3	**	**
Training leave — the agreement provides for (paid or unpaid) leave for an employee to attend training. Provisions might relate to obligations on the employer to release an employee for defined training purposes, training obligations of the employee in relation to their attendance and attention to the training, or provisions may be associated with study/examination leave	10.7	26.6	16.5	34.2	12.8	16.3	7.5	21.3
Skills assessment — the agreement allows a review to be taken of employees' skills. Details from the process may be recorded, for example in a skills register	**	**	9.4	27.7	6.0	6.2	**	**
Consultative arrangements — the agreement contains one or more provisions on consultative arrangements (e.g. a joint consultative committee or a specific committee to monitor the agreement)	49.3	64.1	34.1	73.4	23.9	56.9	9.2	44.2

<sup>a</sup> Figures are based on new agreements approved in the applicable year. <sup>b</sup> The collection of this data only commenced from 1 January 2010. Figures are based on 401 retail agreements approved by Fair Work Australia in 2010. <sup>c</sup> 2010 definition also includes seasonal workers. <sup>\*\*</sup> Data unavailable.  
Source: DEEWR Workplace Agreements Database.