



24<sup>th</sup> June, 2016

Fair Work Commission  
Exhibition Street  
MELBOURNE VIC 3000

**By email: [amod@fwc.gov.au](mailto:amod@fwc.gov.au)**

Dear Sir/Madam,

**Re: AM2016/6: Real Estate Industry Award 2010**

We refer to the above matter and **enclose**, for filing, the document which identifies the variations to the Award (**Amended Exposure Draft**).

In filing the Amended Exposure Draft, we draw the Full Bench's attention to the following matter:

1. The Exposure Draft (amended on 29 April 2016) includes all changes arising from the Fair Work Commission's (**FWC**) proceedings up to 21 April 2016.
2. The front page of the Exposure Draft states "**Changes agreed to by parties appear in red text. Underlined text indicates new text that is to be included. Strikethrough text indicates existing text that is to be deleted.**" In the Amended Exposure Draft, in an attempt to distinguish the FWC's changes from those undertaken in accordance with the directions issued on 30 May 2016, we have identified changes to the Exposure Draft that are of a:
  - a. technical or consequential nature (**blue tracking**);
  - b. substantive nature and are agreed to by all parties (**green**);
  - c. substantive nature but that are not agreed to by all parties (one or more parties does not agree to the change) (**red**).

Should the FWC or the Full Bench wish to clarify any matters in this letter or the Amended Exposure Draft please do not hesitate to contact myself on (02) 9261 2666 or Sascha Cook of Service Industry Advisory Group on (03) 9644 1400.

Yours sincerely

  
**GREG PATERSON**  
Executive Director

The Exposure Draft was first published on 18 December 2015. Subsequent amendments to the draft are as follows:

Publication date	Reason for amendments	Clauses affected
29 April 2016	Incorporates changes agreed by the parties at the conference on 21 April 2016	8.3, 9.2, A.2.2(b)(xi), B.3.1, B.3.2
Changes agreed to by parties appear in red text. Underlined text indicates new text that is to be included. Strikethrough text indicates existing text that is to be deleted.		

## EXPOSURE DRAFT

### Real Estate Industry Award 2015

This exposure draft has been prepared by staff of the Fair Work Commission based on the *Real Estate Industry Award 2010* (the Real Estate award) as at 18 December 2015. This exposure draft does not seek to amend any entitlements under the Real Estate award but has been prepared to address some of the structural issues identified in modern awards.

The review of this award in accordance with s.156 of the *Fair Work Act 2009* is being dealt with in matter [AM2014/242](#). Additionally a number of common issues are being dealt with by the Commission which may affect this award. Transitional provisions have not been included in this exposure draft pending the outcome of the review.

This draft does not represent the concluded view of the Commission in this matter.

No examples have been included in this exposure draft. Parties are asked to submit [examples](#) that clarify the operation of particular provisions.

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## Part 1—Application and Operation

### 1. Title and commencement

- 1.1 This award is the *Real Estate Industry Award 2015*.
- 1.2 This modern award, as varied, commenced operation on 1 January 2010.
- 1.3 A variation to this award does not affect any right, privilege, obligation or liability that a person acquired, accrued or incurred under the award as it existed prior to that variation.
- 1.4 Schedule G—Definitions sets out definitions that apply in this award.
- 1.5 Neither the making of this award nor the operation of any transitional arrangements is intended to result in a reduction in the take-home pay of employees covered by the award. On application by or on behalf of an employee who suffers a reduction in take-home pay as a result of the making of this award or the operation of any transitional arrangements, the Fair Work Commission may make any order it considers appropriate to remedy the situation.

### 2. The National Employment Standards and this award

- 2.1 The [National Employment Standards](#) (NES) and this award contain the minimum conditions of employment for employees covered by this award.
- 2.2 Where this award refers to a condition of employment provided for in the NES, the NES definition applies.
- 2.3 The employer must ensure that copies of the award and the NES are available to all employees to whom they apply, either on a notice board which is conveniently located at or near the workplace or through accessible electronic means.

### 3. Coverage

- 3.1 This industry award covers employers in Australia engaged in the real estate industry in respect to their employees engaged in classifications in clause 8—Minimum wages to the exclusion of any other modern award.
- 3.2 **Real estate industry** means the provisions of services associated with sales, acquisitions, leasing and/or management of residential, commercial, retail, industrial, recreational, hotel, retirement and any other leasehold or real property and/or businesses. These services include:
- (a) real estate agency;
  - (b) business and hotel broking;
  - (c) strata and community title management (or similar service however described);
  - (d) stock and station agency;

- (e) buyers agency; and
- (f) real estate valuation.

**3.3** This award covers any employer which supplies labour on an on-hire basis in the industry set out in clauses 3.1 and 3.2 in respect of on-hire employees in classifications covered by this award, and those on-hire employees, while engaged in the performance of work for a business in that industry. This subclause operates subject to the exclusions from coverage in this award.

**3.4** This award covers employers which provide group training services for trainees engaged in the industry and/or parts of industry set out in clause 3.1 and 3.2 and those trainees engaged by a group training service hosted by a company to perform work at a location where the activities described herein are being performed. This subclause operates subject to the exclusions from coverage in this award.

**3.5** The award does not cover:

- (a) an employee excluded from award coverage by the Act;
- (b) employees who are covered by a modern enterprise award, or an enterprise instrument (within the meaning of the *Fair Work (Transitional Provisions and Consequential Amendments) Act 2009* (Cth)), or employers in relation to those employees; or
- (c) employees who are covered by a State reference public sector modern award, or a State reference public sector transitional award (within the meaning of the *Fair Work (Transitional Provisions and Consequential Amendments) Act 2009* (Cth)), or employers in relation to those employees.

**3.6** Where an employer is covered by more than one award, an employee of that employer is covered by the award classification which is most appropriate to the work performed by the employee and to the environment in which the employee normally performs the work.

NOTE: Where there is no classification for a particular employee in this award it is possible that the employer and that employee are covered by an award with occupational coverage.

## **4. Award flexibility**

**4.1** Notwithstanding any other provision of this award, an employer and an individual employee may agree to vary the application of certain terms of this award to meet the genuine individual needs of the employer and the individual employee. The terms the employer and the individual employee may agree to vary the application of, are those concerning:

- (a) arrangements for when work is performed;
- (b) overtime rates;
- (c) penalty rates;
- (d) allowances; and

- (e) leave loading.
- 4.2** The employer and the individual employee must have genuinely made the agreement without coercion or duress. An agreement under this clause can only be entered into after the individual employee has commenced employment with the employer.
- 4.3** The agreement between the employer and the individual employee must:
- (a) be confined to a variation in the application of one or more of the terms listed in clause 4.1; and
  - (b) result in the employee being better off overall at the time the agreement is made than the employee would have been if no individual flexibility agreement had been agreed to.
- 4.4** The agreement between the employer and the individual employee must also:
- (a) be in writing, name the parties to the agreement and be signed by the employer and the individual employee and, if the employee is under 18 years of age, the employee's parent or guardian;
  - (b) state each term of this award that the employer and the individual employee have agreed to vary;
  - (c) detail how the application of each term has been varied by agreement between the employer and the individual employee;
  - (d) detail how the agreement results in the individual employee being better off overall in relation to the individual employee's terms and conditions of employment; and
  - (e) state the date the agreement commences to operate.
- 4.5** The employer must give the individual employee a copy of the agreement and keep the agreement as a time and wages record.
- 4.6** Except as provided in clause 4.4(a) the agreement must not require the approval or consent of a person other than the employer and the individual employee.
- 4.7** An employer seeking to enter into an agreement must provide a written proposal to the employee. Where the employee's understanding of written English is limited the employer must take measures, including translation into an appropriate language, to ensure the employee understands the proposal.
- 4.8** The agreement may be terminated:
- (a) by the employer or the individual employee giving 13 weeks' notice of termination, in writing, to the other party and the agreement ceasing to operate at the end of the notice period; or
  - (b) at any time, by written agreement between the employer and the individual employee.

NOTE: If any of the requirements of [s.144\(4\)](#), which are reflected in the requirements of this clause, are not met then the agreement may be terminated by

either the employee or the employer, giving written notice of not more than 28 days (see [s.145](#) of the Act).

- 4.9** The notice provisions in clause 4.8(a) only apply to an agreement entered into from the first full pay period commencing on or after 4 December 2013. An agreement entered into before that date may be terminated in accordance with clause 4.8(a), subject to four weeks' notice of termination.
- 4.10** The right to make an agreement pursuant to this clause is in addition to, and is not intended to otherwise affect, any provision for an agreement between an employer and an individual employee contained in any other term of this award.

## Part 2—Types of Employment and Classifications

### 5. Types of employment

**5.1** At the time of engagement, the employer must advise the employee in writing of the terms and conditions of their employment, including whether the employee is engaged as a full-time, part-time or casual employee.

#### 5.2 Full-time employees

A full-time employee is engaged to work an average of 38 ordinary hours per week.

#### 5.3 Part-time employees

Part-time employment provisions may be affected by [AM2014/196](#)

- (a) A part-time employee:
- (i) works less than an average 38 hours per week; and
  - (ii) receives, on a pro rata basis, pay and conditions equivalent to those of full-time employees who do the same kind of work.

#### (b) Payment for part-time employment

Part-time employees who are not commission-only employees will be paid no less than 1/38th of the minimum weekly rate of pay for their relevant classification for each ordinary hour worked.

#### 5.4 Casual employees

Casual employment provisions may be affected by [AM2014/197](#)

- (a) A casual employee is engaged and paid as a casual employee.
- (b) The minimum engagement for a casual employee is three hours.
- (c) **Casual loading**
- (i) For each minimum hour worked, a casual employee must be paid:
    - the minimum hourly rate; and

- a loading of **25%** of the minimum hourly rate,  
for the classification in which they are employed.

- (ii) The casual loading is paid instead of annual leave, paid personal/carer's leave, notice of termination, redundancy benefits and other entitlements of full-time or part-time employment.
- (iii) The loading constitutes part of the casual employee's all-purpose rate.

## **6. Classifications**

- 6.1 Schedule A—Classification Definitions to this award contains a definition for each classification in clause 8.1.
- 6.2 At the time of engagement the employer must advise the employee in writing of their classification and also at any time when there is a change to an employee's classification.

## **Part 3—Hours of Work**

### **7. Ordinary hours of work and rostering**

- 7.1 Subject to clause 7.2, ordinary hours of work are 38 hours per week, which may be worked on any day of the week.

#### **7.2 Averaging of hours of work**

Hours of work may be averaged over an eight week period. The average weekly hours over the period must not exceed:

- (a) for a full-time employee—38 hours; or
- (b) for an employee who is not a full-time employee—the lesser of:
  - (i) 38 hours; and
  - (ii) the employee's ordinary hours of work in a week.

#### **7.3 Rostered time off**

- (a) An employee, other than a casual, will be allowed either one and a half or two rostered days free of duty each week.
- (b) Rostered time off may be taken in one of the following ways:
  - (i) one consecutive period;
  - (ii) two periods; or
  - (iii) three periods comprising one day and two half days.

#### **7.4 Unpaid meal break**

- (a) No employee will be required to work more than five hours without an unpaid meal break of at least 30 minutes duration.



- (b) If the employee’s rostered hours are not longer than six hours the employee may elect, with the employer’s approval, to not take a meal break.
- (c) Meal breaks are not treated as time worked.

**Part 4—Wages and Allowances**

**8. Minimum wages**

**8.1** An employer must pay adult employees the following minimum wages for ordinary hours worked by the employee:

**Item 2: RRESSA Application (Supported by APSA) Attachment 1 refers**

Employee classification	Minimum weekly rate	Minimum hourly rate
	\$	\$
Property Sales Associate – first six months of employment at this classification	656.90	17.29
Property Sales Associate—after six months of employment at this classification	679.90	17.89
Property Sales Representative	696.50	18.33
Property Sales Supervisor	801.10	21.08
Property Management Associate	702.30	18.48
Property Management Representative	742.10	19.53
Property Management Supervisor	852.10	22.42
Strata/Community Title Management Associate	702.30	18.48
Strata/Community Title Management Representative	742.10	19.53
Strata/Community Title Management Supervisor	852.10	22.42

See Schedule B for a summary of hourly rates of pay including overtime and penalties.

**8.2** The minimum weekly wage in clause 8.1 is not payable to an employee engaged on a commission-only basis pursuant to clause 9.7.

**8.3 Junior employees**

- (a) Where the law permits junior employees to perform the work covered by this award they will be entitled to the percentage of the applicable adult minimum weekly wage for their classification, as set out below:

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Age	% of adult rate
At 18 years <u>or less</u>	60
At 19 years	70

Age	% of adult rate
At 20 years	80
At 21 years	100

- (b) A junior employee must not be employed on a commission-only basis.

#### **8.4 Payment of wages**

##### **(a) Frequency of payment**

- (i) Wages and allowances will be paid by the employer on a weekly, fortnightly or monthly cycle, except as provided in clause 8.4(b).
- (ii) A casual employee will be paid at the end of the employer's usual pay cycle unless the parties agree to payment being made upon conclusion of the employee's shift.

NOTE: Regulations 3.33(3) and 3.46(1)(g) of *Fair Work Regulations 2009* set out the requirements for pay records and the content of payslips including the requirement to separately identify any allowance paid.

##### **(b) Commission, bonus or incentive payments**

- (i) If an employee is entitled to receive any commission, bonus or incentive payment in accordance with a written agreement made under clause 9, payment to the employee must be made within 14 days of the entitlement becoming payable.
- (ii) The employee's entitlement to commission, bonus or incentive payment only becomes payable once the employer has received cleared funds from its client for the transaction(s) to which the employee's entitlement relates.
- (c) Payment may be made by cash, cheque or electronic funds transfer (EFT), at the discretion of the employer.

#### **8.5 Supported wage system**

For employees who because of the effects of a disability are eligible for a supported wages, see Schedule D—Supported Wage System.

#### **8.6 National training wage**

For employees undertaking a traineeship, see Schedule E— National Training Wage.

### **9. Commission, bonus or incentive payments**

#### **9.1 Payment by wages with commission, bonus or incentive payments**

- (a) Where the employer and the employee agree that, in addition to the minimum weekly wage, the employee will be entitled to a portion of the commission paid to the employer, then any method of calculation or any formula for calculating

the amount of commission that will be payable to the employee must be evidenced in a written agreement between the employer and the employee.

- (b) Where it has been agreed between the employer and the employee that the employee will be entitled to a bonus or an incentive payment (as opposed to commission under clause 9.1(a)) particulars of the bonus or incentive payment entitlement must be evidenced in a written agreement between the employer and the employee.

## 9.2 Written agreements generally

- ~~(a) Once a written agreement has been made with respect to clauses 9.1 and 9.7, any subsequent agreement to vary the employee's commission, bonus or incentive payment arrangements must be evidenced in a further written agreement between the employer and the employee. Provided that where an employee agrees to a change in his or her commission, bonus or incentive arrangement, the employee will be entitled to receive sales commission, bonus or incentive payments calculated in accordance with the written agreement (whether made under this clause or clause 9.1) which was in force on the date the contract for sale or lease of property became legally enforceable~~
- ~~(b) A signed copy of every written agreement regarding commission, bonus or incentive payment arrangements must be provided by the employer to the employee.~~
- (a) Once a written agreement has been made with respect to clause 9.1—Payment by wages with commission, bonus or incentive payments or clause 9.7—Commission-only employment, any subsequent agreement to vary the employee's commission, bonus or incentive payment arrangements must be evidenced in a further written agreement between the employer and the employee.
- (b) Where an employee agrees with the employer to a change in his or her commission, bonus or incentive arrangement, the employee will be entitled to receive sales commission, bonus or incentive payments calculated in accordance with the written agreement (whether made under this clause or clause 9.1) which was in force on the date the contract for sale or lease of property became legally enforceable. Provided that in circumstances where a non-commission-only employee is changing to a commission-only agreement, then the commission-only agreement must not include any accountability the employee may have had under the commission agreement which was in force immediately prior to the commission-only agreement becoming operative.
- (c) A signed copy of every written agreement regarding commission, bonus or incentive payment arrangements must be provided by the employer to the employee.

**Item 5: RRESSA Application**

- (d) The written agreement must not contain any provision which permits the debiting from an employee's commission/bonus/ incentive entitlement, any amount relating to;
- (i) Vendor authorised advertising and/ or marketing expenses, how so ever described, or
  - (ii) An employee's entitlement to the relevant State or Territory Long Service Leave legislation, or superannuation payments made on the employee's behalf by the employer pursuant to clause 11 of this Award.

**9.3 Account to employee**

The employer must account to the employee in written form for any commission, bonus or incentive payment-based entitlement as it becomes due and payable in accordance with the terms of any written agreement.

**9.4 Entitlements after employment ends**

- ~~(a) — The employee is entitled to be credited with a portion of the commission paid to the employer, incentive payments or bonuses calculated in accordance with a written agreement, for any transaction where:~~
- ~~(i) — there was an existing legally enforceable contract either:
    - before the cessation of the employee's employment;
    - if the employer gave notice to the employee, during the notice period;  
or
    - if the employer asked the employee to waive the notice period and the employee agrees, during the notice period to which the employee would have been otherwise entitled; and~~
  - ~~(ii) — the employer is paid commission by the client in respect of the existing legally enforceable contract referred to in clause 9.4(a)(i); and~~
  - ~~(iii) — the commission payment referred to in clause 9.4(a)(ii) is cleared into the employer's bank account.~~
- ~~(b) — Unless the written agreement specifies otherwise, the portion of the commission referred to in clause 9.4(a) must be the same as that with which the employee would have been entitled to be credited if employment had continued.~~
- (a) Following cessation of employment, the employee is entitled to be credited with a portion of the commission, incentive payments or bonuses calculated in accordance with the terms of the written agreement made pursuant to clauses 9.1 or 9.7 of the award, but only in the following circumstances:
- (i) where the employee's employment is terminated for reason of the

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employee’s serious misconduct, there was a legally-enforceable contract in place for the sale or lease of the property before the cessation date of the employee’s employment; or

- (ii) where the employment is terminated for any other reason, there was a legally-enforceable contract in place for the sale or lease of the property prior to the expiration date of the exclusive agency period.

For the purpose of this sub-clause, “exclusive agency period” means the period for which the employer has the exclusive right to sell or lease a property under the executed and valid agency agreement that was in effect at the time the employee’s employment ceased. For avoidance of doubt, there will be no entitlement under this clause where the property for sale or lease has been listed other than on an exclusive agency basis.

- (b) Unless the written agreement made under either clause 9.1 or 9.7 of this award specifies otherwise, the portion of the commission, incentive payments or bonuses referred to in subclause 9.4(a) must be the same as that with which the employee would have been entitled to be credited if their employment had continued.
- (c) Any entitlement to commission, incentive payments or bonuses calculated under this sub-clause only arises once the employer is paid commission by the client in respect of the sale or lease of the property to which the legally enforceable contract relates and the commission payment is cleared into the employer’s bank account

**9.5 Disputes**

If there is a dispute between the employer and the employee as to whether all or any part of the commission is due to an employee pursuant to clauses 9.1 or 9.7, the matter will be dealt with in accordance with clause 21—Dispute resolution.

**9.6 Calculation of NES entitlements**

- (a) Any commission entitlement calculated in accordance with a commission-only agreement may also allow for annual leave and personal carer’s leave or any other entitlements under the NES to be paid in advance. Provided that the monetary component for each of those entitlements must always be in addition to the minimum commission-only rate.

In light of the Full Bench decision in *Canavan Building Pty Ltd* [2014] FWCFB 3202, parties are asked to comment on whether clause 9.6(a) is consistent with the NES.

- (b) Any inclusions as referred to in clause 9.6(a) must be clearly set out in a written agreement.

**Item 9: RRESSA Application**

Proposed deletion of Clause 9.6(a) and (b) and renumber subclauses (c) and (d) accordingly.

**Item 11: REEF NSW Application**

Opposing deletion of Clause 9.6(a) and (b).

- (c) The base rate of pay in relation to entitlements under the NES for an employee, who is paid on a commission-only basis, is the minimum wage in clause 8.1 for the employee's classification level.
- (d) The full rate of pay in relation to entitlements under the NES for an employee, who is paid on a commission-only basis, is:
  - (i) the minimum wage in clause 8 for the employee's classification level; or
  - (ii) the employee's average weekly remuneration over the 12 months (or, if the employee has been employed less than 12 months, that period) immediately prior to when the full rate of pay is to be calculated,

whichever is the greater.

## 9.7 Commission-only employment

- (a) Subject to clause 9.7(b), an employee engaged in a property sales classification may agree with the employer to be paid on a commission-only basis. Such an employee is considered a pieceworker, and is referred to in this award (and within the real estate industry) as a commission-only employee.

### (b) Minimum requirements for commission-only employment

A person may only be a commission-only employee when all of the following conditions have been satisfied:

- (i) the employee has agreed in writing with the employer to be remunerated on a commission-only basis and has entered into a written agreement (commission-only agreement) with the employer that sets out the basis upon which the entitlement to commission will be calculated;
- (ii) the employee has been issued with a real estate agent's licence or is registered or permitted to perform the duties of a real estate salesperson under real estate law;
- ~~(iii) the employee has been engaged as a real estate salesperson (with any licensed real estate agent) or was an active licensed real estate agent for an aggregate period of at least 12 months in the five years immediately prior to entering into the commission-only agreement;~~
- (iii) The employee has been engaged as a Property Sales Representative or a Property Sales Supervisor (with any licensed real estate agent) or was an active licensed real estate agent for at least 12 consecutive months in the 3 years immediately prior to entering into a commission only agreement.
- (iv) the employee is at least 21 years of age;
- (v) the employee is not engaged as a casual, a junior, a property sales associate or a trainee; and
- ~~(vi) the employee can demonstrate (with the present or any past employer) that they had achieved the minimum income threshold in clause 9.7(c). Provided that the minimum income threshold will not need to have been achieved if the employee has operated their own real estate business within~~

~~the last five years.~~

- (vi) For an employee employed on a commission-only basis after **[insert date of amendment]** the employee can establish (with the present or any past employer) that he or she has achieved the Minimum Income Threshold Amount (MITA) prescribed by clause 9.7(c) (as may be amended from time to time). Provided that, the MITA will not have to be achieved in circumstances where the employee has operated his or her own real estate business within the last 3 years.
- (vii) An employee who qualified to be employed on a commission only basis under this award prior to **[insert date of amendment]** will continue to be eligible for commission only employment under the terms of this award as long as the employment with that employer continues.

(c) **Minimum income threshold**

Parties are asked to comment on whether the award should contain a definition of ‘real estate sales’.

**Item 17: APSA Application**

The minimum income threshold referred to in clause 9.7(c)(i) herein shall not be pro-rata for part time or casual employees.

- ~~(i) — The minimum income threshold has been achieved if (and only if) the employee can establish that, if the lowest rate of commission to be applied under the commission only agreement had been applied to the employee’s real estate sales or commercial leasing transactions in any single 12 month period in the five years immediately prior to entering into the commission only agreement, the employee would have been entitled to be paid the following amount:
  - if the employee was not required to incur the costs of supplying and running a motor vehicle and/or the costs of supplying and using a mobile telephone, an amount at least equal to the employee’s wage specified in clause 8, calculated as an annual amount, based on the minimum weekly wage for the employee’s classification; or
  - if the employee was required to incur the costs of supplying and running a motor vehicle and/or the costs of supplying and using a mobile telephone, an amount at least equal to 110% of the employee’s wage specified in clause 8, calculated as an annual amount, based on the minimum weekly wage for the employee’s classification.~~
- ~~(ii) — The employer is entitled to rely on any data supplied by the employee from any past employer for the purpose of determining if the minimum income threshold has been achieved, provided that the employee provides the employer with a statutory declaration about the accuracy of such data.~~



**(c) Minimum income threshold amount (MITA)**

- (i)** The MITA has been achieved if the employee can establish that in any consecutive 12-month period in the 3 years immediately preceding entering into the commission-only agreement, the employee received a total gross salary of at least \$57,948.80<sup>1</sup> (including any commission or bonus payments) but excluding expense-related allowances, statutory superannuation and any non-monetary benefits. The minimum income threshold amount will be increased on 1 July each year by the same percentage or monetary increase (calculated as an annual amount) awarded by the Fair Work Commission in its National Wage Review decision based on the Property Sales Representative award classification.
- (ii)** The type of documents that an employer may rely upon to establish that the MITA is satisfied, may include but be not limited to the following:
  - (1) Individual Payment Summary;
  - (2) Pay Slips; and/or
  - (3) Commission statement records or other sales records.
- (iii)** The employer must be satisfied on reasonable grounds that the employee has established that he or she has achieved the MITA within the prescribed time period.
- (iv)** At the request of the employer, the employee will provide the employer with a statutory declaration which declares the accuracy and legitimacy of any documentation provided by the employee under sub-clause (ii) above.

**Item 13 RRESSA Application** (RRESSA’s application includes insertion of the \$57,948.80 figure in sub-paragraph (c)(i) above and the insertion of the following note after sub-paragraph (c)(iv)).

*Note: for the purpose of sub paragraph (i) above, the “total gross income” is calculated as 160% of the annualised minimum award wage for an adult Property Sales Representative prescribed in clause 8 of the award.*

- (d)** The following clauses of this award do not apply to a commission-only employee:
  - (i)** clause 5.3(b)—Payment for part-time employment;
  - (ii)** clause 8—Minimum wages;
  - (iii)** clause 9.1—Payment by wages with commission, bonus or incentive payments

<sup>1</sup> As per the case management hearing of 20 May 2016, REEFWA contends that the total gross salary figure should remain as per the current Award provision “an amount at least equal to 110% of the employee’s wage specified in clause 8, calculated as an annual amount, based on the minimum weekly wage for the employee’s classification.” REEFWA proposed to submit that it is for those that seek the variation to satisfy the Fair Work Commission that the variation is appropriate.

- (iv) clause 10.2 to 10.7—Allowances; and
- (v) clause 12.1 and 12.2—Overtime.
- (e) **Minimum commission-only rate**
- (i) The minimum commission-only rate is calculated as **35%** of the employer's net commission.
- (ii) Subject to clauses 9.7(e)(iii) and (iv), a commission-only employee is always entitled to at least the minimum commission-only rate for each sales or commercial leasing transaction for which the employee was responsible.
- (iii) In the situation where:
- two or more employees are separately responsible for different components of a sales or commercial leasing transaction; and
  - the employee portion of the employer's net commission is to be split amongst the employees according to the component(s) for which the particular employee was responsible,
- any commission-only employee responsible for one or more component(s) is entitled to at least the minimum commission-only rate proportionate to the value of each component.
- (iv) With respect to clause 9.7(e)(iii), component(s) may include, but are not limited to:
- commercial leasing of a property;
  - listing a property or business;
  - managing the listing of a property or business;
  - selling a property or business; and/or
  - nurturing a legally-enforceable contract to completion,
- (v) The proportionate value of each component will be as agreed in writing between the employer and the employee.
- (f) Where it is agreed that an employee will also be entitled to a portion of the commission paid to the employer greater than the minimum commission-only rate prescribed in clause 9.7(e) then any method of calculation, or any formula for calculating what amount of commission will be payable to the employee in excess of the minimum commission-only rate, must be evidenced in a written agreement between the employer and the employee.

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Where an employee is engaged on a commission only employment method, either full time, part time or casual and does not in each 6 month period of employment earn the equivalent of the award wage as prescribed for in clause 8 of this award in commission payments, the employer shall pay the employee the difference between the earnings of commissions and the award wage for that 6 month period. For the purposes of this clause, 6 month period means each consecutive 6 month period from the date of commencement of commission only employment.

## 10. Allowances

**10.1** Employers must pay to an employee the allowances the employee is entitled to under this award. See Schedule C for a summary of monetary allowances and method of adjustment.

### 10.2 Motor vehicle allowance

(a) If the employer requires the employee to use the employee’s own motor vehicle in the course of employment, the employee must be reimbursed for the use of their motor vehicle in accordance with clauses 10.2(b), 10.2(c) or 10.3.

#### (b) Calculation of allowance

- (i) An employee must be paid a weekly standing charge allowance plus the amount per kilometre for the distance travelled in performing duties under this award as set out in the table at clause 10.2(b)(iii), calculated by reference to the age and engine capacity of the vehicle.
- (ii) If the employer and employee expressly agree in writing, a weekly lump sum payment as set out in the table calculated by reference to the engine capacity of the vehicle, may be applied instead of the standing charge and per kilometre rate.

#### (iii) Allowance rates

Age of vehicle	Engine capacity	Allowance	Rate \$
Up to five years old	Up to and including 1600cc	Standing charge	79.60
		Per kilometre	0.13
		Lump sum	146.15
	1601cc up to and including 2600cc	Standing charge	109.10
		Per kilometre	0.15
		Lump sum	187.91
Over five years old	Up to and including 1600cc	Standing charge	40.45
		Per kilometre	0.13
		Lump sum	109.61
	1601cc up to and including 2600cc	Standing charge	60.55
		Per kilometre	0.15
	<b>MA000106</b>		

Age of vehicle	Engine capacity	Allowance	Rate \$
		Lump sum	140.92
	Over 2600cc	Standing charge	66.03
		Per kilometre	0.19
		Lump sum	167.03

- (c) Part-time and casual employees entitled to be paid a motor vehicle allowance in accordance with this clause, will have the entitlement calculated on the basis of one fifth of the appropriate standing charge or lump sum rate for each day worked.
- (d) For the purpose of clauses 10.2(b) and 10.2(c), the age of the vehicle will be determined by reference to the date stamp on the compliance plate of the vehicle.
- (e) Notwithstanding any other provision of clause 10.2, a full-time employee may be reimbursed for the use of their vehicle for the days only where the vehicle is required to be used to perform duties under this award. In such instances, the employee will be entitled to receive one fifth of the weekly lump sum rate in accordance with the above tables for each day the vehicle is used at the direction of the employer. Provided that, where the vehicle is used on three or more days in any week, the full weekly rate will be payable for that week.
- (f) If an employee is entitled to a car allowance in accordance with this clause and the employee changes the motor vehicle thereby entitling the employee to either a higher or lower car allowance rate, the following shall apply:
  - (i) If the change in the vehicle provided by the employee entitles the employee to a higher car allowance rate, such rate will be payable from the first full pay period after the date the employee provides the employer with a true copy of the registration papers of the new motor vehicle; or
  - (ii) If the change in the vehicle provided by the employee entitles the employee to a lower car allowance rate, the employee must notify the employer within seven days of the change and provide a copy of the registration papers of the new motor vehicle
- (g) Provided that this sub-clause 10.2 does not apply in circumstances where the motor vehicle used by the employee in the course of employment is either a motor scooter or motor cycle.

### 10.3 Motor vehicle allowance—alternative

- (a) Instead of the provisions contained in clause 10.2, the employer may elect to pay the employee a **\$0.78** per kilometre allowance for all use of the employee's own motor vehicle in the course of employment, to a maximum of 400 km per week.
- (b) If the employee claims the motor vehicle allowance under this clause, the employee must keep a record of all such usage which will show:

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- (i) the date and odometer reading of the first such usage of the motor vehicle at the commencement of the log book;
- (ii) the date and commencement and final odometer reading for each day on which the allowance is claimed;
- (iii) total business kilometres each day;
- (iv) the purpose of each usage; and
- (v) the signature of the employee, certifying the usage.

**10.4 Motor cycle allowance**

- (a) Where the employer requires the employee to use the employee's own motor scooter or motor cycle in the course of employment, the employee will be entitled to be reimbursed for the use of the motor scooter or motor cycle at a rate of \$0.26 per kilometre for its use in the course of employment with a maximum payment as for 400kms per week. Where the employee claims the allowance under this clause, the employee must keep a record of all such usage which will show:
  - (i) the date and odometer reading of the first such usage of the motor scooter or motor cycle at the commencement of the log book;
  - (ii) the date and commencement and final odometer reading for each day on which the allowance is claimed;
  - (iii) total business kilometres each day;
  - (iv) the purpose of each usage; and
  - (v) the signature of the employee, certifying the usage

**10.54 Motor vehicle allowance not payable**

- (a) Nothing prescribed under clauses 10.1 or 10.3 shall entitle an employee to be paid any motor vehicle allowance where:
  - (i) the employee is absent from duty without the consent of the employer;
  - (ii) the employee is on any period of paid and/or unpaid leave;
  - (iii) the employee is unable to perform his or her duties under this award due to the loss of their driver's licence; or
  - (iv) the motor vehicle is unavailable due to accident or mechanical defect, provided that such payments will be payable for any day on which the employee provides an alternate motor vehicle for the purpose of performing their work-related duties.
- (b) In these circumstances the motor vehicle entitlement will be reduced by one-fifth of the weekly standing charge or lump sum rate, whichever is applicable, for each day the car is not used by the employee in the course of employment.

**10.65 Employer's motor vehicles**

- (a) If the employer provides a motor vehicle for the use of the employee when performing work-related duties, the expenses arising out of the provision, maintenance and lawful operation of such vehicle will be met by the employer.
- (b) The employee must adhere to the employer's lawful directions, conditions or policies in relation to the use of the employer's vehicle.

**10.76 Mobile telephone allowance**

- ~~(a) If the employer requires an employee to use the employee's own mobile telephone in the course of employment the employer and employee must, upon commencement of employment, agree in writing on a method of payment for reimbursement of the costs of using that mobile telephone in the course of their employment.~~
- ~~(b) Without limiting an agreed method of payment for reimbursement, an employee's salary in excess of the minimum weekly wage may be inclusive of reimbursement provided the reimbursement component of the salary is identified in the agreement.~~
- ~~(c) The agreement made in accordance with clauses 10.6(a) and/or (b) must be reasonable when considering the employee's use of their mobile telephone for work related duties.~~
- ~~(d) If a written agreement is not made as prescribed in clauses 10.6(a) and/or (b) and use of a mobile telephone is a requirement of the position, the employer must cover all the costs of ownership, network access, maintenance and payment of work related accounts for this telephone.~~
- ~~(e) The mobile telephone allowance is payable during the entire period of employment, except when the employee is on leave.~~
- (a) Where the employer requires the employee to use the employee's own mobile phone in the course of employment and:
  - (i) the mobile telephone is provided under a mobile phone plan from a telecommunications provider, the employer and employee must agree in writing on the amount of reasonable reimbursement payable by the employer to the employee for the use of the employee's mobile phone in the course of employment provided that such reimbursement must be no less than 50% of the cost of the employee's monthly mobile phone plan, up to maximum monthly mobile phone plan of \$100; or
  - (ii) the mobile phone is a pre-paid mobile phone, the employer and employee must agree in writing on the amount of reasonable reimbursement payable by the employer to the employee for the use of the employee's pre-paid mobile phone.
- (b) Without limiting an agreed method of payment for reimbursement, an employee's salary in excess of the minimum weekly wage may be inclusive of reimbursement providing the reimbursement component of the salary is identified in the agreement.

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The agreement must be reasonable when considering the employee's use of their mobile telephone for work-related duties.

- (c) The mobile phone allowance under clause 10.7(a) above is payable during the entire period of employment, except when the employee is on any period of leave either paid or unpaid.
- (d) If requested, the employee must provide the employer with a copy of the mobile phone plan associated with the mobile telephone to be used by the employee in the course of employment.
- (e) If the employee enters into a new mobile phone plan or arrangement with a telecommunications provider entitling the employee to a different allowance under this sub-clause 10.7(a), the new allowance will become payable from the first full pay period after the date the employee provides the employer with a true copy of the new mobile phone plan

### 10.87 Uniforms

- (a) If the employer requires the employee to wear a uniform, the employer will either pay for or provide the uniform.
- (b) The basis on which the uniform is provided, including what constitutes the uniform, will be at the discretion of the employer.
- (c) The uniform will remain the property of the employer and be returned upon termination of employment.
- (d) The care, laundering and dry cleaning of the uniform will be the responsibility of the employee.

### 10.98 Expenses

- (a) An employee who incurs any work-related expenses at the request of the employer will be reimbursed by the employer.
- (b) If reasonably practicable, expenses will be paid in advance.
- (c) Clause 10.8(a) will not apply where this award prescribes an allowance for the expense.

See Schedule C for a summary of monetary allowances.

## 11. Superannuation

### 11.1 Superannuation legislation

- (a) Superannuation legislation, including the *Superannuation Guarantee (Administration) Act 1992* (Cth), the *Superannuation Guarantee Charge Act 1992* (Cth), the *Superannuation Industry (Supervision) Act 1993* (Cth) and the *Superannuation (Resolution of Complaints) Act 1993* (Cth), deals with the superannuation rights and obligations of employers and employees. Under superannuation legislation individual employees generally have the opportunity to choose their own superannuation fund. If an employee does not choose a

superannuation fund, any superannuation fund nominated in the award covering the employee applies.

- (b) The rights and obligations in these clauses supplement those in superannuation legislation.

## 11.2 Employer contributions

An employer must make such superannuation contributions to a superannuation fund for the benefit of an employee as will avoid the employer being required to pay the superannuation guarantee charge under superannuation legislation with respect to that employee.

## 11.3 Voluntary employee contributions

- (a) Subject to the governing rules of the relevant superannuation fund, an employee may, in writing, authorise their employer to pay on behalf of the employee a specified amount from the post-taxation wages of the employee into the same superannuation fund as the employer makes the superannuation contributions provided for in clause 11.2.
- (b) An employee may adjust the amount the employee has authorised their employer to pay from the wages of the employee from the first of the month following the giving of three months' written notice to their employer.
- (c) The employer must pay the amount authorised under clauses 11.3(a) or (b) no later than 28 days after the end of the month in which the deduction authorised under clauses 11.3(a) or (b) was made.

## 11.4 Superannuation fund

Unless, to comply with superannuation legislation, the employer is required to make the superannuation contributions provided for in clause 11.2 to another superannuation fund that is chosen by the employee, the employer must make the superannuation contributions provided for in clause 11.2 and pay the amount authorised under clauses 11.3(a) or (b) to one of the following superannuation funds or its successor:

- (a) REI Super;
- (b) CareSuper;
- (c) Tasplan;
- (d) any superannuation fund to which the employer was making superannuation contributions for the benefit of its employees before 12 September 2008, provided the superannuation fund is an eligible choice fund and is a fund that offers a MySuper product or is an exempt public sector superannuation scheme; or
- (e) a superannuation fund or scheme which the employee is a defined benefit member of.



## Part 5—Penalties and Overtime

### 12. Overtime

#### 12.1 Payment for overtime

- (a) Hours worked at the specific direction of the employer in excess of those prescribed in clause 7 other than on an employee’s rostered day or half day off work will be paid at the hourly rate of pay or taken as time off instead of payment for overtime as prescribed in clause 12.2 or paid at the following rates:

Day	% of minimum hourly rate
(i) Hours other than on a rostered day or half day off—all day	100
(ii) Hours on a rostered day or half day off—first two hours	150
(iii) Hours on a rostered day or half day off—after two hours	200

- (b) For the purpose of this clause, **specific direction** means that the employee was given an express instruction to perform work in excess of the hours prescribed under clause 7.
- (c) If the employee works hours in excess of those prescribed under clause 7 at their own initiative (i.e. without any express instruction from the employer to do so) the employee will not be entitled to payment in accordance with this clause.

#### 12.2 Time off instead of payment for overtime

This provision may be affected by [AM2014/300](#) – see [draft determination](#)

- (a) The employee may elect, with the consent of the employer, to take time off instead of payment for overtime that would otherwise be payable under clause 12.1, at a time or times agreed with the employer.
- (b) Overtime taken as time off during ordinary time hours must be taken at the ordinary time rate; that is, an hour for each hour worked.
- (c) Where time off instead of payment for overtime has not been taken within four weeks of accrual the employer must, if requested by the employee, pay the employee for any overtime worked, at the rate provided for the payment of overtime in clause 12.1(ii) and 12.1(iii).

#### 12.3 Stand-by and call-out

- (a) If the employer requires an employee under a property management or strata and community and title management classification to be on stand-by and/or to be called out outside of ordinary hours of work, the employer and employee

must, agree in writing on a method of payment for due compensation for the employee being on stand-by and/or call-out.

- (b) Without limiting an agreed method of payment for due compensation, an employee's salary in excess of the minimum weekly wage may be inclusive of due compensation provided that the due compensation component of the salary is identified in the agreement.
- (c) The agreement made in accordance with this clause must be reasonable when considering the extent to which the employee is required to be on stand-by and/or call-out.
- (d) If the employee is on stand-by and/or call-out outside of ordinary hours of work and:
  - (i) the employer and employee have agreed in writing under clauses 12.3(a) and 12.3(b) for the employee to be paid due compensation for being on stand-by and/or call-out, the time during which the employee is on stand-by and/or call-out will not count towards an accrual of ordinary hours of work; or
  - (ii) the employer and employee have not agreed in writing under clauses 12.3(a) and 12.3(b) for the employee to be paid due compensation for being on stand-by and/or call-out, the time during which the employee is on stand-by and/or call-out will count towards an accrual of ordinary hours of work.

## Part 6—Leave, Public Holidays and Other NES Entitlements

### 13. Annual leave

This annual leave provision may be affected by [AM2014/47 – see draft determination](#)

**13.1** Annual leave is provided for in the NES. This clause contains additional and supplementary provisions.

#### 13.2 Taking leave

- (a) The employer and employee may agree when and for what period the employee is to take the employee's accrued annual leave, having regard to the personal circumstances of the employee and the operational requirements of the employer.
- (b) The employer must not unreasonably refuse to agree to a request by the employee to take accrued annual leave.
- (c) Annual leave should be taken by the employee in the employee's anniversary year in which the entitlement accrues, except if agreed otherwise.

### **13.3 Excessive accrual of annual leave**

- (a) The employer may require the employee to take any portion of annual leave that has accrued in excess of four weeks. In such circumstances the employer must give the employee at least four weeks' notice of the requirement to take the excess period of accrued annual leave.

### **13.4 Shut-down**

- (a) If the employer has a business shut-down (which may include a partial shut-down) during the year, the employer may require the employee to take any or all accrued annual leave during the period of the shut-down.
- (b) In the event that the employee has insufficient accrued annual leave for the period of the shut-down, the employee may be granted annual leave in advance by the employer.

### **13.5 Payment for annual leave**

Subject to clause 9.6, payment for annual leave will be made either at the time the employee takes annual leave or on the employee's normal pay day(s) throughout the period of leave.

NOTE: Where an employee is receiving overaward payments such that the employee's base rate of pay is higher than the rate specified under this award, the employee is entitled to receive the higher rate while on a period of paid annual leave (see ss.16 and 90 of the Act).

### **13.6 Annual leave loading**

- (a) During a period of annual leave the employee will receive a loading of **17.5%** calculated on the minimum weekly wage for the employee's classification under this award.
- (b) Annual leave loading is:
  - (i) only payable on leave accrued and not when leave is taken in advance; and
  - (ii) not payable to commission-only employees.

## **14. Personal/carer's leave and compassionate leave**

Personal/carer's leave and compassionate leave are provided for in the NES.

## **15. Parental leave and related entitlements**

Parental leave and related entitlements are provided for in the NES.

## **16. Public holidays**

Public holidays provisions may be affected by [AM2014/301](#)

- 16.1** Public holiday entitlements are provided for in the NES.
- 16.2** Subject to the Act, the employer may require the employee to work on a public holiday.
- 16.3** An employee who works on a public holiday at the direction of the employer will be entitled to be paid **200%** of the minimum hourly rate for the hours worked, with a minimum payment for three hours work.

## **17. Community service leave**

Community service leave is provided for in the NES.

## **18. Termination of employment**

**18.1** Notice of termination is provided for in the NES.

### **18.2 Notice of termination by an employee**

An employee must give one week's notice to the employer to terminate employment. The employer may then elect to pay the employee one week's pay instead of notice. Unless the parties mutually agree in writing to a notice period greater than one week, employment will terminate one week from the date that the employee gives the employer notice to terminate employment. In the event that the required notice is not given, the employer may withhold from any monies due to the employee on termination an amount not exceeding the employee's full rate of pay in respect of the period of notice required by this clause, less any period of notice actually served by the employee.

### **18.3 Job search entitlement**

Where an employer has given notice of termination to an employee, an employee must be allowed up to one day's time off without loss of pay for the purpose of seeking other employment. The time off is to be taken at times that are convenient to the employee after consultation with the employer.

## **19. Redundancy**

**19.1** Redundancy pay is provided for in the NES.

### **19.2 Transfer to lower paid duties**

Where an employee is transferred to lower paid duties by reason of redundancy, the same period of notice must be given as the employee would have been entitled to if the employment had been terminated and the employer may, at the employer's option, make payment instead of an amount equal to the difference between the former ordinary time rate of pay and the ordinary time rate of pay for the number of weeks of notice still owing.

### **19.3 Employee leaving during notice period**

An employee given notice of termination in circumstances of redundancy may terminate their employment during the period of notice. The employee is entitled to receive the benefits and payments they would have received under this clause had they remained in employment until the expiry of the notice, but is not entitled to payment instead of notice.

### **19.4 Job search entitlement**

- (a) An employee given notice of termination in circumstances of redundancy must be allowed up to one day's time off without loss of pay during each week of notice for the purpose of seeking other employment.
- (b) If the employee has been allowed paid leave for more than one day during the notice period for the purpose of seeking other employment, the employee must, at the request of the employer, produce proof of attendance at an interview or they will not be entitled to payment for the time absent. For this purpose a statutory declaration is sufficient.
- (c) This entitlement applies instead of clause 18.3.

## **Part 7—Consultation and Dispute Resolution**

### **20. Consultation**

#### **20.1 Consultation regarding major workplace change**

##### **(a) Employers to notify**

- (i) Where an employer has made a definite decision to introduce major changes in production, program, organisation, structure or technology that are likely to have significant effects on employees, the employer must notify the employees who may be affected by the proposed changes and their representatives, if any.
- (ii) **Significant effects** include termination of employment; major changes in the composition, operation or size of the employer's workforce or in the skills required; the elimination or diminution of job opportunities, promotion opportunities or job tenure; the alteration of hours of work; the need for retraining or transfer of employees to other work or locations; and the restructuring of jobs. Provided that where this award makes provision for alteration of any of these matters an alteration is deemed not to have significant effect.

##### **(b) Employers to discuss change**

- (i) The employer must discuss with the employees affected and their representatives, if any, the introduction of the changes referred to in clause 20.1(a), the effects the changes are likely to have on employees and measures to avert or mitigate the adverse effects of such changes on

employees and must give prompt consideration to matters raised by the employees and/or their representatives in relation to the changes.

- (ii) The discussions must commence as early as practicable after a definite decision has been made by the employer to make the changes referred to in clause 20.1(a).
- (iii) For the purposes of such discussion, the employer must provide in writing to the employees concerned and their representatives, if any, all relevant information about the changes including the nature of the changes proposed, the expected effects of the changes on employees and any other matters likely to affect employees provided that no employer is required to disclose confidential information the disclosure of which would be contrary to the employer's interests.

## **20.2 Consultation about changes to rosters or hours of work**

- (a) Where an employer proposes to change an employee's regular roster or ordinary hours of work, the employer must consult with the employee or employees affected and their representatives, if any, about the proposed change.
- (b) The employer must:
  - (i) provide to the employee or employees affected and their representatives, if any, information about the proposed change (for example, information about the nature of the change to the employee's regular roster or ordinary hours of work and when that change is proposed to commence);
  - (ii) invite the employee or employees affected and their representatives, if any, to give their views about the impact of the proposed change (including any impact in relation to their family or caring responsibilities); and
  - (iii) give consideration to any views about the impact of the proposed change that are given by the employee or employees concerned and/or their representatives.
- (c) The requirement to consult under this clause does not apply where an employee has irregular, sporadic or unpredictable working hours.
- (d) These provisions are to be read in conjunction with other award provisions concerning the scheduling of work and notice requirements.

## **21. Dispute resolution**

- 21.1** In the event of a dispute about a matter under this award, or a dispute in relation to the NES, in the first instance the parties must attempt to resolve the matter at the workplace by discussions between the employee or employees concerned and the relevant supervisor. If such discussions do not resolve the dispute, the parties will endeavour to resolve the dispute in a timely manner by discussions between the employee or employees concerned and more senior levels of management as appropriate.
- 21.2** If a dispute about a matter arising under this award or a dispute in relation to the NES is unable to be resolved at the workplace, and all appropriate steps under clause 21.1 have been taken, a party to the dispute may refer the dispute to the Fair Work Commission.
- 21.3** The parties may agree on the process to be utilised by the Fair Work Commission including mediation, conciliation and consent arbitration.
- 21.4** Where the matter in dispute remains unresolved, the Fair Work Commission may exercise any method of dispute resolution permitted by the Act that it considers appropriate to ensure the settlement of the dispute.
- 21.5** An employer or employee may appoint another person, organisation or association to accompany and/or represent them for the purposes of this clause.
- 21.6** While the dispute resolution procedure is being conducted, work must continue in accordance with this award and the Act. Subject to applicable occupational health and safety legislation, an employee must not unreasonably fail to comply with a direction by the employer to perform work, whether at the same or another workplace, that is safe and appropriate for the employee to perform.

## Schedule A—Classification Definitions

### A.1 Property Sales Classifications

#### A.1.1 Property Sales Associate

(a) **Role definition**

~~The Property Sales Associate is engaged to assist Property Sales Representative(s) in the listing and/or sale of real property or businesses and/or alternatively, in the leasing of commercial, industrial or retail property.~~

The Property Sales Associate is engaged to assist Property Sales Representative(s) and/or Property Sales Supervisor(s) in the listing and/or sale of real property or businesses and/or alternatively, in the leasing of commercial, industrial or retail property.

(b) **Indicative tasks**

The indicative tasks for a Property Sales Associate are as follows:

- (i) Follow-up enquiries with sellers or buyers of real property, or property owners or potential tenants of commercial property;
- (ii) Prepare contracts of sale, commercial leases or agreements to enter into commercial leases;
- (iii) Prepare correspondence with sellers or buyers;
- (iv) Assist with property inspections including placement of sign boards, maintaining attendee lists from property inspections, opening and closing homes after inspection;
- (v) Assist with auctions of real property or businesses to the extent permitted under real estate law;
- (vi) Organise advertising for properties for sale or commercial lease;
- (vii) Sale process follow-up activities including building and pest inspections, searches and progress of the conveyance process; and
- (viii) Provide general operational support under the direction of authorised personnel such as Property Sales Representative(s).

#### A.1.2 Property Sales Representative

(a) **Role definition**

- (i) A Property Sales Representative is engaged in the listing and/or sale of real property or businesses, either by way of private treaty, auction or tender.
- (ii) The Property Sales Representative may alternatively be responsible for the leasing of commercial, industrial or retail property, or act on behalf of a buyer of real property.

(b) **Indicative tasks**



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The indicative tasks for a Property Sales Representative are as follows:

- (i) Perform market appraisals for sales of real property, businesses or commercial leasing;
- (ii) Use personal initiative, source prospective sellers or buyers of real property or businesses, or prospective property owners or tenants in relation to the leasing of commercial property;
- (iii) Supervise the necessary listing and sales documentation for real property or businesses, or leases or agreements to lease associated with commercial property;
- (iv) Conduct market research and provide marketing advice to customers of the real estate business;
- (v) Conduct negotiations between the prospective buyer and seller of real property or businesses, or between a prospective tenant and the property owner;
- (vi) Conduct inspections with interested parties for real property or businesses that are for sale (including open homes), or commercial property that is for lease;
- (vii) Organise advertising, sign boards, searches, etc.;
- (viii) Conduct auction(s) of real property; and
- (ix) Liaise with conveyancers or solicitors involved in the sale or commercial leasing process.

### A.1.3 Property Sales Supervisor

#### (a) Role definition

- (i) A Property Sales Supervisor is employed to perform a broad range of skilled applications and the provision of leadership and guidance to others engaged in Property Sales classifications.
- (ii) The role involves significant initiative, judgment, decision-making and problem solving in relation to the listing, marketing and selling or commercial leasing of real property or businesses.
- (iii) This person is responsible for the overall leadership and supervision of a sales team in accordance with legislative and business requirements.
- (iv) The position may also involve contribution towards the development of a broad business plan/strategies and budgets and having the accountability and responsibility for self and others in achieving the outcomes.

#### (b) Indicative tasks

The indicative tasks for a Property Sales Supervisor are as follows:

- (i) Provide leadership in the workplace;
- (ii) Supervise and/or manage work team(s);

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- (iii) Ensure compliance with the various obligations imposed under relevant real estate law;
- (iv) Implement and/or supervise quality customer service;
- (v) Develop and/or supervise operational plans;
- (vi) Manage personal work priorities and professional development of self and others in the work team(s);
- (vii) Facilitate change and innovation;
- (viii) Resolve customer complaints;
- (ix) Develop and implement customer service strategies;
- (x) Involvement in selling of real property or businesses, or leasing of commercial property; and
- (xi) Responsibility for the overall supervision of the office as a licensed real estate agent and as required under real estate law.

## **A.2 Property Management Classifications**

### **A.2.1 Property Management Associate**

In this classification, the term more senior person means a Property or Strata Management Supervisor or Property Management Representative, or the employer.

#### **(a) Role definition**

- (i) A Property Management Associate works under the supervision of, and assists and/or carries out duties and functions as directed by a more senior person, in the management of real property.
- (ii) The Property Management Associate may be responsible for a single function (e.g. property inspections, or organisation of repairs).

#### **(b) Indicative tasks**

The indicative tasks for a Property Management Associate are as follows:

- (i) Provide support to a more senior person in a range of functions associated with the tenancy and maintenance of property, in accordance with property owners' instructions;
- (ii) Respond to general enquiries from potential tenants;
- (iii) Under instruction from a more senior person, conduct single portfolio tasks;
- (iv) Prepare property condition reports (ingoing, outgoing and periodic) under the direction of a more senior person;
- (v) Prepare and confirm tenancy agreements;
- (vi) Act as liaison between tenants and property owners regarding prospective tenants, agreements, repairs and tenancy termination;

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- (vii) Collect rents from tenants and issue rental receipts;
- (viii) Investigate and arrange for the collection of rental arrears;
- (ix) In consultation with a more senior person, arrange maintenance and repairs to properties under management;
- (x) Generate property status reports as required by a more senior person;
- (xi) Prepare and update rental lists and websites; and
- (xii) Prepare advertising material and brochures for properties to be tenanted.

**A.2.2 Property Management Representative**

**(a) Role definition**

- (i) A Property Management Representative is engaged, on behalf of the employer, in the management of a portfolio of properties (either residential, commercial, industrial or retail).
- (ii) The person carries out duties under limited supervision and is responsible and accountable for their work under the broad scrutiny and direction of the employer, or a Property Management Supervisor.
- (iii) The Property Management Representative would need to possess a sound knowledge of the applicable State or Territory real estate legislation in relation to property management.

**(b) Indicative tasks**

The indicative tasks for a Property Management Representative are as follows:

- (i) Prospect for and secure new property managements;
- (ii) Complete documentation including agency agreements, tenancy agreements and rental bond documents;
- (iii) Organise property repairs and maintenance, including property condition reports;
- (iv) Provide advice to property owners and tenants on preventative and planned maintenance;
- (v) Assess and process tenancy applications;
- (vi) Control tenancies;
- (vii) Collect rents;
- (viii) Account for rents and expenses to property owners;
- (ix) Manage rental arrears;
- (x) Conduct property inspections and prepare inventory and condition reports;

- (xi) Appear before, and provide advice to property owners on, state and territory Residential Tenancy Tribunal matters (including termination of tenancies);
- (xii) Liaise with and report to property owners;
- (xiii) Attend and/or conduct strata management meetings;
- (xiv) Complete strata management documentation; and
- (xv) Carry out all duties and functions required for strata management.

### A.2.3 Property Management Supervisor

#### (a) Role definition

- (i) A Property Management Supervisor is responsible, on behalf of the employer, for supervising Property Management Representatives and the overall supervision of a rent roll or portfolio of strata title managements.
- (ii) The role involves significant initiative, judgment, decision making and problem solving in relation to landlord and tenant or strata title management matters.
- (iii) It may also involve contribution towards the development of departmental business plans or strategies and budgets, and/or having the accountability and responsibility for self and others in achieving the outcomes.

#### (b) Indicative tasks

The indicative tasks for a Property Management Supervisor are as follows:

- (i) Provide leadership in the workplace;
- (ii) Supervise and/or manage work team(s);
- (iii) Ensure compliance with the various obligations imposed under relevant real estate law;
- (iv) Implement and/or supervise quality customer service;
- (v) Develop and/or supervise operational plans;
- (vi) Manage personal work priorities and professional development of self and others in the work team(s);
- (vii) Facilitate change and innovation;
- (viii) Resolve customer complaints;
- (ix) Develop and implement customer service strategies; and
- (x) Supervise a portfolio of rental properties.

### **A.3 Strata and Community Title Management Classifications**

Strata and Community Title Management employees are concerned with the day-to-day operations and management of common property on behalf of owner's corporations or bodies corporate under relevant community title and/or strata schemes legislation. They are not real estate property managers in the context of real estate agency practice.

#### **A.3.1 Strata/Community Title Management Associate**

In this classification, the term **more senior person** means a Strata/Community Title Management Supervisor or Strata/Community Title Management Representative, or the employer.

##### **(a) Role definition**

- (i)** A Strata/Community Title Management Associate works under the supervision of, and assists and/or carries out duties and functions as directed by a more senior person, in the management of owners' corporations' common property.
- (ii)** The Strata/Community Title Management Associate may be responsible for strata management function (e.g. collecting and processing information, monitoring building facilities or and assisting with organisation of maintenance issues). They would need to possess a basic knowledge of the applicable State or Territory strata and community titles legislation and other specific property related disciplines.

##### **(b) Indicative tasks**

The indicative tasks for a Strata/Community Title Management Associate are as follows:

- (i)** Provide support to a more senior person in a range of functions associated with strata and community title management, in accordance with owners' corporations instructions;
- (ii)** Respond to general enquiries from the owner's corporation of strata and community title schemes;
- (iii)** Under instruction from a more senior person, conduct various tasks to meet clients' needs and expectations;
- (iv)** Assist in the preparation of Strata/Community Title management agreements etc;
- (v)** Investigate and arrange for the collection of maintenance and sinking fund arrears;
- (vi)** In consultation with a more senior person, arrange maintenance and repairs to properties under strata management;
- (vii)** Assist with organising and conducting strata management meetings including meetings of owner's corporation(s);

- (viii) Collect and process property information and reports as required by a more senior person; and
- (ix) Maintain business resources.

### **A.3.2 Strata/Community Title Management Representative**

#### **(a) Role definition**

- (i) A Strata/Community Title Management Representative is engaged, on behalf of the employer, in the management of a portfolio of owners' corporations, strata and or community title common properties (residential, commercial, industrial, retail, special use and resort accommodation, etc).
- (ii) The person carries out duties under limited supervision and is responsible and accountable for their work under the broad scrutiny and direction of the employer, or a Strata/Community Title Management Supervisor.
- (iii) The Strata/Community Title Management Representative would need to possess a sound knowledge of the applicable State or Territory strata and community titles legislation and other specific property related disciplines.

#### **(b) Indicative tasks**

The indicative tasks for a Strata/Community Title Management Representative are as follows:

- (i) Prospect for and secure new strata/community title schemes;
- (ii) Implement compliance with the various obligations imposed under relevant strata and community title legislation and associated legislation;
- (iii) Assess and implement strata/community management agreements;
- (iv) Coordinate maintenance and repairs of properties and facilities;
- (v) Implement and monitor procurement processes;
- (vi) Participate in developing and establishing property and facilities contracts;
- (vii) Liaise with and report to owners corporations executives;
- (viii) Facilitate and report on meetings;
- (ix) Complete strata management documentation;
- (x) Carry out all duties and functions required for strata/community management;
- (xi) Manage conflicts and disputes;
- (xii) Select and appoint contractors;

- (xiii) Monitor and report on financial activities and maintain business records;  
and
- (xiv) Implement customer service strategies.

### A.3.3 Strata/Community Title Management Supervisor

#### (a) Role definition

- (i) A Strata/Community Title Management Supervisor is responsible, on behalf of the employer, for supervising Strata/Community Title Management Representative(s) and the overall supervision of a portfolio of strata and community title managements.
- (ii) The role involves significant initiative, judgment, decision making and problem solving in relation to owners corporations strata and or community title management matters.
- (iii) It may also involve contribution towards the development of organisational business plans or strategies and budgets, and/or having the accountability and responsibility for self and others in achieving the outcomes.
- (iv) The Strata/Community Title Management Supervisor would need to possess in depth knowledge of the applicable State or Territory strata and community titles legislation and other specific property related disciplines, and those affecting general business practices.

#### (b) Indicative tasks

The indicative tasks for a Strata/Community Management Supervisor are as follows:

- (i) Provide leadership in the workplace;
- (ii) Supervise and/or manage work team(s);
- (iii) Ensure and manage compliance with the various obligations imposed under relevant strata and community title legislation and associated legislation;
- (iv) Manage the owners corporation processes for legislative compliance;
- (v) Implement and/or supervise quality customer service;
- (vi) Develop and/or supervise operational plans;
- (vii) Manage and develop teams and individuals;
- (viii) Plan and manage business finances for the organisation and clients;
- (ix) Manage and resolve customer complaints;
- (x) Develop and implement customer service strategies;
- (xi) Supervise and manage a portfolio of strata/community title schemes;

- (xiii) Develop and manage property or facilities contracts,  
etc;
- (xiv) Manage and monitor safe workplace practices;  
and
- (xv) Develop and manage an ethical framework for business operations.

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- (xii) Establish business networks;

## Schedule B—Summary of Hourly Rates of Pay

NOTE: Employers who meet their obligations under this schedule are meeting their obligations under the award.

### B.1 Adult full-time and part-time employees

#### B.1.1 Adult full-time and part-time employees—ordinary, penalty and overtime rates

	Ordinary hours	Public holiday	Overtime on rostered day off		
			Monday to Sunday – first 2 hours	Monday to Sunday – after 2 hours	Public holiday
	\$	\$	\$	\$	\$
	% of minimum hourly rate				
	100%	200%	150%	200%	200%
Property Sales Associate—first six months of employment at this classification	17.29	34.58	25.94	34.58	34.58
Property Sales Associate—after six months of employment at this classification	17.89	35.78	26.84	35.78	35.78
Property Sales Representative	18.33	36.66	27.50	36.66	36.66
Property Sales Supervisor	21.08	42.16	31.62	42.16	42.16
Property Management Associate	18.48	36.96	27.72	36.96	36.96
Property Management Representative	19.53	39.06	29.30	39.06	39.06
Property Management Supervisor	22.42	44.84	33.63	44.84	44.84
Strata/Community Title Management Associate	18.48	36.96	27.72	36.96	36.96
Strata/Community Title Management Representative	19.53	39.06	29.30	39.06	39.06
Strata/Community Title Management Supervisor	22.42	44.84	33.63	44.84	44.84

## B.2 Adult casual employees

**B.2.1 Adult casual hourly rate** includes the casual loading which is payable for all purposes.

### B.2.2 Adult casual employees—ordinary, penalty and overtime rates

	Ordinary hours	Public holiday	Overtime on rostered day off		
			Monday to Sunday first 2 hours	Monday to Sunday – after 2 hours	Public holiday
	\$	\$	\$	\$	\$
	% of casual hourly rate				
	100%	200%	150%	200%	200%
Property Sales Associate—first six months of employment at this classification	21.61	43.22	32.42	43.22	43.22
Property Sales Associate—after six months of employment at this classification	22.36	44.72	33.54	44.72	44.72
Property Sales Representative	22.91	45.82	34.37	45.82	45.82
Property Sales Supervisor	26.35	52.70	39.53	52.70	52.70
Property Management Associate	23.10	46.20	34.65	46.20	46.20
Property Management Representative	24.41	48.82	36.62	48.82	48.82
Property Management Supervisor	28.03	56.06	42.05	56.06	56.06
Strata/Community Title Management Associate	23.10	46.20	34.65	46.20	46.20
Strata/Community Title Management Representative	24.41	48.82	36.62	48.82	48.82
Strata/Community Title Management Supervisor	28.03	56.06	42.05	56.06	56.06

## B.3 Junior employees

### B.3.1 Full-time and part-time junior employees—ordinary, penalty and overtime rates

The **junior hourly rate** is based on a percentage of the appropriate adult rate in accordance with clause 8.3. Adult rates apply from 21 years of age

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Age	Junior hourly rate—ordinary hours	Public holidays—ordinary hours	Overtime—Monday to Sunday on a rostered day off		Overtime—public holidays
			First 2 hours	After 2 hours	
	% of junior hourly rate				
	100%	200%	150%	200%	200%
	\$	\$	\$	\$	\$
<b>Property sales associate—first six months</b>					
18 years <u>or less</u>	10.37	20.74	15.56	20.74	20.74
19 years	12.10	24.20	18.15	24.20	24.20
20 years	13.83	27.66	20.75	27.66	27.66
<b>Property sales associate—after six months</b>					
18 years <u>or less</u>	10.74	21.48	16.11	21.48	21.48
19 years	12.52	25.04	18.78	25.04	25.04
20 years	14.31	28.62	21.47	28.62	28.62
<b>Property sales representative</b>					
18 years <u>or less</u>	11.00	22.00	16.50	22.00	22.00
19 years	12.83	25.66	19.25	25.66	25.66
20 years	14.66	29.32	21.99	29.32	29.32
<b>Property sales supervisor</b>					
18 years <u>or less</u>	12.65	25.30	18.98	25.30	25.30
19 years	14.76	29.52	22.14	29.52	29.52
20 years	16.87	33.74	25.31	33.74	33.74
<b>Property management associate</b>					
18 years <u>or less</u>	11.09	22.18	16.64	22.18	22.18
19 years	12.94	25.88	19.41	25.88	25.88

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Age	Junior hourly rate—ordinary hours	Public holidays—ordinary hours	Overtime—Monday to Sunday on a rostered day off		Overtime—public holidays
			First 2 hours	After 2 hours	
	% of junior hourly rate				
	100%	200%	150%	200%	200%
	\$	\$	\$	\$	\$
20 years	14.79	29.58	22.19	29.58	29.58
<b>Property management representative</b>					
18 years <u>or less</u>	11.72	23.44	17.58	23.44	23.44
19 years	13.67	27.34	20.51	27.34	27.34
20 years	15.62	31.24	23.43	31.24	31.24
<b>Property management supervisor</b>					
18 years <u>or less</u>	13.45	26.90	20.18	26.90	26.90
19 years	15.70	31.40	23.55	31.40	31.40
20 years	17.94	35.88	26.91	35.88	35.88
<b>Strata/community title management associate</b>					
18 years <u>or less</u>	11.09	22.18	16.64	22.18	22.18
19 years	12.94	25.88	19.41	25.88	25.88
20 years	14.79	29.58	22.19	29.58	29.58
<b>Strata/community title management representative</b>					
18 years <u>or less</u>	11.72	23.44	17.58	23.44	23.44
19 years	13.67	27.34	20.51	27.34	27.34
20 years	15.62	31.24	23.43	31.24	31.24
<b>Strata/community title management supervisor</b>					

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Age	Junior hourly rate—ordinary hours	Public holidays—ordinary hours	Overtime—Monday to Sunday on a rostered day off		Overtime—public holidays
			First 2 hours	After 2 hours	
	% of junior hourly rate				
	100%	200%	150%	200%	200%
	\$	\$	\$	\$	\$
18 years <u>or less</u>	13.45	26.90	20.18	26.90	26.90
19 years	15.70	31.40	23.55	31.40	31.40
20 years	17.94	35.88	26.91	35.88	35.88

**B.3.2 Casual junior employees—ordinary and penalty rates**

The **junior casual hourly rate** is based on a percentage of the appropriate adult rate and includes the casual loading which is payable for all purposes.

Age	Junior hourly rate—ordinary hours	Public holidays
	% of junior casual hourly rate	
	100%	200%
	\$	\$
<b>Property sales associate—first six months</b>		
18 years <u>or less</u>	12.96	25.92
19 years	15.13	30.26
20 years	17.29	34.58
<b>Property sales associate—after six months</b>		
18 years <u>or less</u>	13.43	26.86
19 years	15.65	31.30
20 years	17.89	35.78
<b>Property sales representative</b>		
18 years <u>or less</u>	13.75	27.50
19 years	16.04	32.08

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Age	Junior hourly rate— ordinary hours	Public holidays
	% of junior casual hourly rate	
	100%	200%
	\$	\$
20 years	18.33	36.66
<b>Property sales supervisor</b>		
18 years <u>or less</u>	15.81	31.62
19 years	18.45	36.90
20 years	21.09	42.18
<b>Property management associate</b>		
18 years <u>or less</u>	13.86	27.72
19 years	16.18	32.36
20 years	18.49	36.98
<b>Property management representative</b>		
18 years <u>or less</u>	14.65	29.30
19 years	17.09	34.18
20 years	19.53	39.06
<b>Property management supervisor</b>		
18 years <u>or less</u>	16.81	33.62
19 years	19.63	39.26
20 years	22.43	44.86
<b>Strata/community title management associate</b>		
18 years <u>or less</u>	13.86	27.72
19 years	16.18	32.36
20 years	18.49	36.98
<b>Strata/community title management representative</b>		

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Age	Junior hourly rate— ordinary hours	Public holidays
	% of junior casual hourly rate	
	100%	200%
	\$	\$
18 years <u>or less</u>	14.65	29.30
19 years	17.09	34.18
20 years	19.53	39.06
<b>Strata/community title management supervisor</b>		
18 years <u>or less</u>	16.81	33.62
19 years	19.63	39.26
20 years	22.43	44.86

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## Schedule C—Summary of Monetary Allowances

### C.1 Expense related allowances

The following expense related allowances will be payable to employees in accordance with clause 10:

Allowance	Clause	\$
Motor vehicle allowance:		
Vehicle up to five years of age:	10.2(b)(iii)	
Up to and including 1600cc:		
• Standing charge		79.60 per week
• Per kilometre		0.13 per km
• Lump sum		146.15 per week
1601cc up to and including 2600cc		
• Standing charge		109.10 per week
• Per kilometre		0.15 per km
• Lump sum		187.91 per week
Over 2600cc		
• Standing charge		113.52 per week
• Per kilometre		0.17 per km
• Lump sum		203.57 per week
Vehicle over five years of age	10.2(b)(iii)	
Up to and including 1600cc:		
• Standing charge		40.45 per week
• Per kilometre		0.13 per km
• Lump sum		103.61 per week
1601cc up to and including 2600cc		
• Standing charge		60.55 per week
• Per kilometre		0.15 per km
• Lump sum		140.92 per week
Over 2600cc		
• Standing charge		66.03 per week
• Per kilometre		0.19 per km



Allowance	Clause	\$
• Lump sum		167.03 per week
Vehicle allowance (alternative)—to a maximum of 400 kilometres per week	10.3(a)	0.78 per km

## C.2 Adjustment of expense related allowances

At the time of any adjustment to the standard rate, each expense related allowance will be increased by the relevant adjustment factor. The relevant adjustment factor for this purpose is the percentage movement in the applicable index figure most recently published by the Australian Bureau of Statistics since the allowance was last adjusted.

The applicable index figure is the index figure published by the Australian Bureau of Statistics for the Eight Capitals Consumer Price Index (Cat No. 6401.0), as follows:

Allowance	Applicable Consumer Price Index figure
Motor vehicle allowance	Private motoring sub-group

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## Schedule D—Supported Wage System

**D.1** This schedule defines the conditions which will apply to employees who because of the effects of a disability are eligible for a supported wage under the terms of this award.

**D.2** In this schedule:

**approved assessor** means a person accredited by the management unit established by the Commonwealth under the supported wage system to perform assessments of an individual's productive capacity within the supported wage system

**assessment instrument** means the tool provided for under the supported wage system that records the assessment of the productive capacity of the person to be employed under the supported wage system

**disability support pension** means the Commonwealth pension scheme to provide income security for persons with a disability as provided under the *Social Security Act 1991* (Cth), as amended from time to time, or any successor to that scheme

**relevant minimum wage** means the minimum wage prescribed in this award for the class of work for which an employee is engaged

**supported wage system (SWS)** means the Commonwealth Government system to promote employment for people who cannot work at full award wages because of a disability, as documented in the Supported Wage System Handbook. The Handbook is available from the following website: [www.jobaccess.gov.au](http://www.jobaccess.gov.au)

**SWS wage assessment agreement** means the document in the form required by the Department of Social Services that records the employee's productive capacity and agreed wage rate

### **D.3 Eligibility criteria**

**D.3.1** Employees covered by this schedule will be those who are unable to perform the range of duties to the competence level required within the class of work for which the employee is engaged under this award, because of the effects of a disability on their productive capacity and who meet the impairment criteria for receipt of a disability support pension.

**D.3.2** This schedule does not apply to any existing employee who has a claim against the employer which is subject to the provisions of workers compensation legislation or any provision of this award relating to the rehabilitation of employees who are injured in the course of their employment.

## D.4 Supported wage rates

D.4.1 Employees to whom this schedule applies will be paid the applicable percentage of the relevant minimum wage according to the following schedule:

Assessed capacity (clause D.5)	Relevant minimum wage
%	%
10	10
20	20
30	30
40	40
50	50
60	60
70	70
80	80
90	90

D.4.2 Provided that the minimum amount payable must be not less than \$81 per week.

D.4.3 Where an employee's assessed capacity is **10%**, they must receive a high degree of assistance and support.

## D.5 Assessment of capacity

D.5.1 For the purpose of establishing the percentage of the relevant minimum wage, the productive capacity of the employee will be assessed in accordance with the Supported Wage System by an approved assessor, having consulted the employer and employee and, if the employee so desires, a union which the employee is eligible to join.

D.5.2 All assessments made under this schedule must be documented in an SWS wage assessment agreement, and retained by the employer as a time and wages record in accordance with the Act.

## D.6 Lodgement of SWS wage assessment agreement

D.6.1 All SWS wage assessment agreements under the conditions of this schedule, including the appropriate percentage of the relevant minimum wage to be paid to the employee, must be lodged by the employer with the Fair Work Commission.

D.6.2 All SWS wage assessment agreements must be agreed and signed by the employee and employer parties to the assessment. Where a union which has an interest in the award is not a party to the assessment, the assessment will be referred by the Fair Work Commission to the union by certified mail and the agreement will take effect unless an objection is notified to the Fair Work Commission within 10 working days.

## **D.7 Review of assessment**

The assessment of the applicable percentage should be subject to annual or more frequent review on the basis of a reasonable request for such a review. The process of review must be in accordance with the procedures for assessing capacity under the supported wage system.

## **D.8 Other terms and conditions of employment**

Where an assessment has been made, the applicable percentage will apply to the relevant minimum wage only. Employees covered by the provisions of this schedule will be entitled to the same terms and conditions of employment as other workers covered by this award on a pro rata basis.

## **D.9 Workplace adjustment**

An employer wishing to employ a person under the provisions of this schedule must take reasonable steps to make changes in the workplace to enhance the employee's capacity to do the job. Changes may involve re-design of job duties, working time arrangements and work organisation in consultation with other workers in the area.

## **D.10 Trial period**

- D.10.1** In order for an adequate assessment of the employee's capacity to be made, an employer may employ a person under the provisions of this schedule for a trial period not exceeding 12 weeks, except that in some cases additional work adjustment time (not exceeding four weeks) may be needed.
- D.10.2** During that trial period the assessment of capacity will be undertaken and the percentage of the relevant minimum wage for a continuing employment relationship will be determined.
- D.10.3** The minimum amount payable to the employee during the trial period must be no less than \$81 per week.
- D.10.4** Work trials should include induction or training as appropriate to the job being trialled.
- D.10.5** Where the employer and employee wish to establish a continuing employment relationship following the completion of the trial period, a further contract of employment will be entered into based on the outcome of assessment under clause D.5.

## Schedule E— National Training Wage

### E.1 Title

This is the *National Training Wage Schedule*.

### E.2 Definitions

In this schedule:

**adult trainee** is a trainee who would qualify for the highest minimum wage in Wage Level A, B or C if covered by that wage level

**approved training** means the training specified in the training contract

**Australian Qualifications Framework (AQF)** is a national framework for qualifications in post-compulsory education and training

**out of school** refers only to periods out of school beyond Year 10 as at the first of January in each year and is deemed to:

- (a) include any period of schooling beyond Year 10 which was not part of or did not contribute to a completed year of schooling;
- (b) include any period during which a trainee repeats in whole or part a year of schooling beyond Year 10; and
- (c) not include any period during a calendar year in which a year of schooling is completed

**relevant State or Territory training authority** means the bodies in the relevant State or Territory which exercise approval powers in relation to traineeships and register training contracts under the relevant State or Territory vocational education and training legislation

**relevant State or Territory vocational education and training legislation** means the following or any successor legislation:

Australian Capital Territory: *Training and Tertiary Education Act 2003*;

New South Wales: *Apprenticeship and Traineeship Act 2001*;

Northern Territory: *Northern Territory Employment and Training Act 1991*;

Queensland: *Vocational Education, Training and Employment Act 2000*;

South Australia: *Training and Skills Development Act 2008*;

Tasmania: *Vocational Education and Training Act 1994*;

Victoria: *Education and Training Reform Act 2006*; or

Western Australia: *Vocational Education and Training Act 1996*

**trainee** is an employee undertaking a traineeship under a training contract

**traineeship** means a system of training which has been approved by the relevant State or Territory training authority, which meets the requirements of a training package developed by the relevant Industry Skills Council and endorsed by the National Quality Council, and which leads to an AQF certificate level qualification

**training contract** means an agreement for a traineeship made between an employer and an employee which is registered with the relevant State or Territory training authority

**training package** means the competency standards and associated assessment guidelines for an AQF certificate level qualification which have been endorsed for an industry or enterprise by the National Quality Council and placed on the National Training Information Service with the approval of the Commonwealth, State and Territory Ministers responsible for vocational education and training, and includes any relevant replacement training package

**Year 10** includes any year before Year 10

### **E.3 Coverage**

**E.3.1** Subject to clauses E.3.2 to E.3.6 of this schedule, this schedule applies in respect of an employee covered by this award who is undertaking a traineeship whose training package and AQF certificate level is allocated to a wage level by clause E.7 to this schedule or by clause E.5.4 of this schedule.

**E.3.2** This schedule only applies to AQF Certificate Level IV traineeships for which a relevant AQF Certificate Level III traineeship is listed in clause E.7 to this schedule.

**E.3.3** This schedule does not apply to:

- (a) the apprenticeship system;
- (b) qualifications not identified in training packages; or
- (c) qualifications in training packages which are not identified as appropriate for a traineeship.

Parties are asked to identify “any training program which applies to the same occupation and achieves essentially the same training outcome as an existing apprenticeship in an award as at 25 June 1997” that they consider should not be covered by this Schedule.

**E.3.4** This schedule does not apply to qualifications not identified in training packages or to qualifications in training packages which are not identified as appropriate for a traineeship.

**E.3.5** Where the terms and conditions of this schedule conflict with other terms and conditions of this award dealing with traineeships, the other terms and conditions of this award prevail.

**E.3.6** At the conclusion of the traineeship, this schedule ceases to apply to the employee.

## E.4 Types of Traineeship

The following types of traineeship are available under this schedule:

- E.4.1** a full-time traineeship based on 38 ordinary hours per week, with 20% of ordinary hours being approved training; and
- E.4.2** a part-time traineeship based on less than 38 ordinary hours per week, with 20% of ordinary hours being approved training solely on-the-job or partly on-the-job and partly off-the-job, or where training is fully off-the-job.

## E.5 Minimum Wages

### E.5.1 Minimum wages for full-time traineeships

#### (a) Wage Level A

Subject to clause E.5.3 of this schedule, the minimum wages for a trainee undertaking a full-time AQF Certificate Level I–III traineeship whose training package and AQF certificate levels are allocated to Wage Level A by clause E.7.1 are:

	Highest year of schooling completed		
	Year 10	Year 11	Year 12
	per week	per week	per week
	\$	\$	\$
School leaver	295.10	325.00	387.20
Plus 1 year out of school	325.00	387.20	450.60
Plus 2 years out of school	387.20	450.60	524.40
Plus 3 years out of school	450.60	524.40	600.40
Plus 4 years out of school	524.40	600.40	
Plus 5 or more years out of school	600.40		

#### (b) Wage Level B

Subject to clause E.5.3 of this schedule, the minimum wages for a trainee undertaking a full-time AQF Certificate Level I–III traineeship whose training package and AQF certificate levels are allocated to Wage Level B by clause E.7.2 are:

	Highest year of schooling completed		
	Year 10	Year 11	Year 12
	per week	Per week	per week
	\$	\$	\$
School leaver	295.10	325.00	376.80
Plus 1 year out of school	325.00	376.80	433.40
Plus 2 years out of school	376.80	433.40	508.20
Plus 3 years out of school	433.40	508.20	579.70

	<b>Highest year of schooling completed</b>		
	<b>Year 10</b>	<b>Year 11</b>	<b>Year 12</b>
	<b>per week</b>	<b>Per week</b>	<b>per week</b>
	<b>\$</b>	<b>\$</b>	<b>\$</b>
Plus 4 years out of school	508.20	579.70	
Plus 5 or more years out of school	579.70		

**(c) Wage Level C**

Subject to clause E.5.3 of this schedule, the minimum wages for a trainee undertaking a full-time AQF Certificate Level I–III traineeship whose training package and AQF certificate levels are allocated to Wage Level C by clause E.7.3 are:

	<b>Highest year of schooling completed</b>		
	<b>Year 10</b>	<b>Year 11</b>	<b>Year 12</b>
	<b>per week</b>	<b>per week</b>	<b>per week</b>
	<b>\$</b>	<b>\$</b>	<b>\$</b>
School leaver	295.10	325.00	376.80
Plus 1 year out of school	325.00	376.80	424.10
Plus 2 years out of school	376.80	424.10	473.80
Plus 3 years out of school	424.10	473.80	527.90
Plus 4 years out of school	473.80	527.90	
Plus 5 or more years out of school	527.90		

**(d) AQF Certificate Level IV traineeships**

- (i) Subject to clause E.5.3 of this schedule, the minimum wages for a trainee undertaking a full-time AQF Certificate Level IV traineeship are the minimum wages for the relevant full-time AQF Certificate Level III traineeship with the addition of 3.8% to those minimum wages.
- (ii) Subject to clause E.5.3 of this schedule, the minimum wages for an adult trainee undertaking a full-time AQF Certificate Level IV traineeship are as follows, provided that the relevant wage level is that for the relevant AQF Certificate Level III traineeship:

<b>Wage level</b>	<b>First year of traineeship</b>	<b>Second and subsequent years of traineeship</b>
	<b>per week</b>	<b>per week</b>
	<b>\$</b>	<b>\$</b>
Wage Level A	623.50	647.70
Wage Level B	601.60	624.70
Wage Level C	547.50	568.20



**E.5.2 Minimum wages for part-time traineeships**

**(a) Wage Level A**

Subject to clauses E.5.2(f) and E.5.3 of this schedule, the minimum wages for a trainee undertaking a part-time AQF Certificate Level I–III traineeship whose training package and AQF certificate levels are allocated to Wage Level A by clause E.7.1 are:

	<b>Highest year of schooling completed</b>		
	<b>Year 10</b>	<b>Year 11</b>	<b>Year 12</b>
	<b>per hour</b>	<b>per hour</b>	<b>per hour</b>
	<b>\$</b>	<b>\$</b>	<b>\$</b>
School leaver	9.71	10.70	12.74
Plus 1 year out of school	10.70	12.74	14.83
Plus 2 years out of school	12.74	14.83	17.25
Plus 3 years out of school	14.83	17.25	19.74
Plus 4 years out of school	17.25	19.74	
Plus 5 or more years out of school	19.74		

**(b) Wage Level B**

Subject to clauses E.5.2(f) and E.5.3 of this schedule, the minimum wages for a trainee undertaking a part-time AQF Certificate Level I–III traineeship whose training package and AQF certificate levels are allocated to Wage Level B by clause E.7.2 are:

	<b>Highest year of schooling completed</b>		
	<b>Year 10</b>	<b>Year 11</b>	<b>Year 12</b>
	<b>per hour</b>	<b>per hour</b>	<b>per hour</b>
	<b>\$</b>	<b>\$</b>	<b>\$</b>
School leaver	9.71	10.70	12.40
Plus 1 year out of school	10.70	12.40	14.26
Plus 2 years out of school	12.40	14.26	16.73
Plus 3 years out of school	14.26	16.73	19.08
Plus 4 years out of school	16.73	19.08	
Plus 5 or more years out of school	19.08		

**(c) Wage Level C**

Subject to clauses E.5.2(f) and E.5.3 of this schedule, the minimum wages for a trainee undertaking a part-time AQF Certificate Level I–III traineeship whose training package and AQF certificate levels are allocated to Wage Level C by clause E.7.3 are:

	<b>Highest year of schooling completed</b>		
	<b>Year 10</b>	<b>Year 11</b>	<b>Year 12</b>
	<b>per hour</b>	<b>per hour</b>	<b>per hour</b>
	<b>\$</b>	<b>\$</b>	<b>\$</b>
School leaver	9.71	10.70	12.40
Plus 1 year out of school	10.70	12.40	13.95
Plus 2 years out of school	12.40	13.95	15.58
Plus 3 years out of school	13.95	15.58	17.36
Plus 4 years out of school	15.58	17.36	
Plus 5 or more years out of school	17.36		

**(d) School-based traineeships**

Subject to clauses E.5.2(f) and E.5.3 of this schedule, the minimum wages for a trainee undertaking a school-based AQF Certificate Level I–III traineeship whose training package and AQF certificate levels are allocated to Wage Levels A, B or C by clause E.7 are as follows when the trainee works ordinary hours:

<b>Year of schooling</b>	
<b>Year 11 or lower</b>	<b>Year 12</b>
<b>per hour</b>	<b>per hour</b>
<b>\$</b>	<b>\$</b>
9.71	10.70

**(e) AQF Certificate Level IV traineeships**

(i) Subject to clauses E.5.2(f) and E.5.3 of this schedule, the minimum wages for a trainee undertaking a part-time AQF Certificate Level IV traineeship are the minimum wages for the relevant part-time AQF Certificate Level III traineeship with the addition of 3.8% to those minimum wages.

(ii) Subject to clauses E.5.2(f) and E.5.3 of this schedule, the minimum wages for an adult trainee undertaking a part-time AQF Certificate Level IV traineeship are as follows, provided that the relevant wage level is that for the relevant AQF Certificate Level III traineeship:

<b>Wage level</b>	<b>First year of traineeship</b>	<b>Second and subsequent years of traineeship</b>
	<b>per hour</b>	<b>per hour</b>
	<b>\$</b>	<b>\$</b>
Wage Level A	20.51	21.31
Wage Level B	19.77	20.54
Wage Level C	18.01	18.70

**(f) Calculating the actual minimum wage**

- (i)** Where the full-time ordinary hours of work are not 38 or an average of 38 per week, the appropriate hourly minimum wage is obtained by multiplying the relevant minimum wage in clauses E.5.2(a)–(e) of this schedule by 38 and then dividing the figure obtained by the full-time ordinary hours of work per week.
- (ii)** Where the approved training for a part-time traineeship is provided fully off-the-job by a registered training organisation, for example at school or at TAFE, the relevant minimum wage in clauses E.5.2(a)–(e) of this schedule applies to each ordinary hour worked by the trainee.
- (iii)** Where the approved training for a part-time traineeship is undertaken solely on-the-job or partly on-the-job and partly off-the-job, the relevant minimum wage in clauses E.5.2(a)–(e) of this schedule minus 20% applies to each ordinary hour worked by the trainee.

**E.5.3 Other minimum wage provisions**

- (a)** An employee who was employed by an employer immediately prior to becoming a trainee with that employer must not suffer a reduction in their minimum wage per week or per hour by virtue of becoming a trainee. Casual loadings will be disregarded when determining whether the employee has suffered a reduction in their minimum wage.
- (b)** If a qualification is converted from an AQF Certificate Level II to an AQF Certificate Level III traineeship, or from an AQF Certificate Level III to an AQF Certificate Level IV traineeship, then the trainee must be paid the next highest minimum wage provided in this schedule, where a higher minimum wage is provided for the new AQF certificate level.

**E.5.4 Default wage rate**

The minimum wage for a trainee undertaking an AQF Certificate Level I–III traineeship whose training package and AQF certificate level are not allocated to a wage level by clause E.7 is the relevant minimum wage under this schedule for a trainee undertaking an AQF Certificate to Level I–III traineeship whose training package and AQF certificate level are allocated to Wage Level B.

**E.6 Employment conditions**

- E.6.1** A trainee undertaking a school-based traineeship may, with the agreement of the trainee, be paid an additional loading of 25% on all ordinary hours worked instead of paid annual leave, paid personal/carer’s leave and paid absence on public holidays, provided that where the trainee works on a public holiday then the public holiday provisions of this award apply.
- E.6.2** A trainee is entitled to be released from work without loss of continuity of employment and to payment of the appropriate wages to attend any training and assessment specified in, or associated with, the training contract.
- E.6.3** Time spent by a trainee, other than a trainee undertaking a school-based traineeship, in attending any training and assessment specified in, or associated with, the training

contract is to be regarded as time worked for the employer for the purposes of calculating the trainee’s wages and determining the trainee’s employment conditions.

**Note:** The time to be included for the purpose of calculating the wages for part-time trainees whose approved training is fully off-the-job is determined by clause E.5.2(f)(ii) and not by this clause.

**E.6.4** Subject to clause E.3.5 of this schedule, all other terms and conditions of this award apply to a trainee unless specifically varied by this schedule.

## **E.7 Allocation of Traineeships to Wage Levels**

Parties are asked to review the packages listed to ensure the lists are complete and up-to-date.

The wage levels applying to training packages and their AQF certificate levels are:

### **E.7.1 Wage Level A**

<b>Training package</b>	<b>AQF certificate level</b>
Aeroskills	II
Aviation	I, II, III
Beauty	III
Business Services	I, II, III
Chemical, Hydrocarbons and Refining	I, II, III
Civil Construction	III
Coal Training Package	II, III
Community Services	II, III
Construction, Plumbing and Services Integrated Framework	I, II, III
Correctional Services	II, III
Drilling	II, III
Electricity Supply Industry—Generation Sector	II, III (III in Western Australia only)
Electricity Supply Industry—Transmission, Distribution and Rail Sector	II
Electrotechnology	I, II, III (III in Western Australia only)
Financial Services	I, II, III
Floristry	III
Food Processing Industry	III
Gas Industry	III
Information and Communications Technology	I, II, III
Laboratory Operations	II, III

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<b>Training package</b>	<b>AQF certificate level</b>
Local Government (other than Operational Works Cert I and II)	I, II, III
Manufactured Mineral Products	III
Manufacturing	I, II, III
Maritime	I, II, III
Metal and Engineering (Technical)	II, III
Metalliferous Mining	II, III
Museum, Library and Library/Information Services	II, III
Plastics, Rubber and Cablemaking	III
Public Safety	III
Public Sector	II, III
Pulp and Paper Manufacturing Industries	III
Retail Services (including wholesale and Community pharmacy)	III
Telecommunications	II, III
Textiles, Clothing and Footwear	III
Tourism, Hospitality and Events	I, II, III
Training and Assessment	III
Transport and Logistics	III
Water Industry (Utilities)	III

**E.7.2 Wage Level B**

<b>Training package</b>	<b>AQF certificate level</b>
Animal Care and Management	I, II, III
Asset Maintenance	I, II, III
Australian Meat Industry	I, II, III
Automotive Industry Manufacturing	II, III
Automotive Industry Retail, Service and Repair	I, II, III
Beauty	II
Caravan Industry	II, III
Civil Construction	I
Community Recreation Industry	III
Entertainment	I, II, III
Extractive Industries	II, III

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<b>Training package</b>	<b>AQF certificate level</b>
Fitness Industry	III
Floristry	II
Food Processing Industry	I, II
Forest and Forest Products Industry	I, II, III
Furnishing	I, II, III
Gas Industry	I, II
Health	II, III
Local Government (Operational Works)	I, II
Manufactured Mineral Products	I, II
Metal and Engineering (Production)	II, III
Outdoor Recreation Industry	I, II, III
Plastics, Rubber and Cablemaking	II
Printing and Graphic Arts	II, III
Property Services	I, II, III
Public Safety	I, II
Pulp and Paper Manufacturing Industries	I, II
Retail Services	I, II
Screen and Media	I, II, III
Sport Industry	II, III
Sugar Milling	I, II, III
Textiles, Clothing and Footwear	I, II
Transport and Logistics	II
Visual Arts, Craft and Design	I, II, III
Water Industry	I, II

**E.7.3 Wage Level C**

<b>Training package</b>	<b>AQF certificate level</b>
Agri-Food	I
Amenity Horticulture	I, II, III
Conservation and Land Management	I, II, III
Funeral Services	I, II, III
Music	I, II, III
Racing Industry	I, II, III
Rural Production	I, II, III

Seafood Industry

I, II, III

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## Schedule F —2015 Part-day Public Holidays

The part-day public holidays schedule may be affected by [AM2014/301](#)

This schedule operates where this award otherwise contains provisions dealing with public holidays that supplement the NES.

- F.1** Where a part-day public holiday is declared or prescribed between 7.00 pm and midnight on Christmas Eve (24 December 2015) or New Year’s Eve (31 December 2015) the following will apply on Christmas Eve and New Year’s Eve and will override any provision in this award relating to public holidays to the extent of the inconsistency:
- (a) All employees will have the right to refuse to work on the part-day public holiday if the request to work is not reasonable or the refusal is reasonable as provided for in the NES.
  - (b) Where a part-time or full-time employee is usually rostered to work ordinary hours between 7.00 pm and midnight but as a result of exercising their right under the NES does not work, they will be paid their ordinary rate of pay for such hours not worked.
  - (c) Where a part-time or full-time employee is usually rostered to work ordinary hours between 7.00 pm and midnight but as a result of being on annual leave does not work, they will be taken not to be on annual leave between those hours of 7.00 pm and midnight that they would have usually been rostered to work and will be paid their ordinary rate of pay for such hours.
  - (d) Where a part-time or full-time employee is usually rostered to work ordinary hours between 7.00 pm and midnight, but as a result of having a rostered day off (RDO) provided under this award, does not work, the employee will be taken to be on a public holiday for such hours and paid their ordinary rate of pay for those hours.
  - (e) Excluding annualised salaried employees to whom clause F.1(f) applies, where an employee works any hours between 7.00 pm and midnight they will be entitled to the appropriate public holiday penalty rate (if any) in this award for those hours worked.
  - (f) Where an employee is paid an annualised salary under the provisions of this award and is entitled under this award to time off in lieu or additional annual leave for work on a public holiday, they will be entitled to time off in lieu or pro-rata annual leave equivalent to the time worked between 7.00 pm and midnight.
  - (g) An employee not rostered to work between 7.00 pm and midnight, other than an employee who has exercised their right in accordance with clause F.1(a), will not be entitled to another day off, another day’s pay or another day of annual leave as a result of the part-day public holiday.

This schedule is not intended to detract from or supplement the NES.



This schedule is an interim provision and subject to further review.

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## Schedule G—Definitions

In this award, unless the contrary intention appears:

**Act** means *Fair Work Act 2009* (Cth)

**casual hourly rate** includes the casual loading which is payable for all purposes

**conjunctive agent fee** means the proportion of commission received from a client from a sales or commercial leasing transaction and paid to a real estate agent external to the employer's business in respect of that transaction

**defined benefit member** has the meaning given by the *Superannuation Guarantee (Administration) Act 1992* (Cth)

**employee** means national system employee within the meaning of the Act

**employer** means national system employer within the meaning of the Act

**employer's gross commission** for a commission-only employee means the commission received by the employer from a client for a sales or leasing transaction less GST and conjunctive agent fees

**employer's net commission** for a commission-only employee means the employer's gross commission (as defined) less an amount of no greater than **10%**

**exchange** in relation to a real estate sales transaction means that a contract for the sale of a property or business is a legally-enforceable contract

**exempt public sector superannuation scheme** has the meaning given by the *Superannuation Industry (Supervision) Act 1993* (Cth)

**existing employee** means a person who was employed by the employer prior to 1 January 2010 and who is still employed on 1 January 2010

**junior casual hourly rate** is based on a percentage of the appropriate adult rate and includes the casual loading which is payable for all purposes.

**junior hourly rate** is based on a percentage of the appropriate adult rate in accordance with clause 8.3. Adult rates apply from 21 years of age.

**legally-enforceable contract** means a contract of sale, lease or agreement to lease that is signed by both the property owner and the intending buyer or lessee

**MySuper product** has the meaning given by the *Superannuation Industry (Supervision) Act 1993* (Cth)

**NES** means the National Employment Standards as contained in [sections 59 to 131](#) of the *Fair Work Act 2009* (Cth)

**on-hire** means the on-hire of an employee by their employer to a client, where such employee works under the general guidance and instruction of the client or a representative of the client

**operational employee** means an employee who is engaged under a property sales classification or a property or strata management classification, as defined in Schedule A—Classification

**real estate industry** means the provisions of services associated with sales, acquisitions, leasing and/or management of residential, commercial, retail, industrial, recreational, hotel, retirement and any other leasehold or real property and/or businesses. Such services include:

- real estate agency;
- business and hotel broking;
- strata and community title management (or similar service however described);
- stock and station agency;
- buyers agency; and
- real estate valuation.

**real estate law** means legislation enacted by a State or Territory government for the purposes of regulating the conduct of the real estate industry

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**Attachment 1:**

RRESSA Application (Supported by APSA)

<b>Classification</b>	<b>Minimum weekly wage</b>
	<b>\$</b>
Property Sales Associate—first six months of employment at this classification	698.40
Property Sales Associate—after six months of employment at this classification	733.40
Property Sales Representative	764.90
Property Sales Supervisor	882.80
Property Management Associate	733.40
Property Management Representative	807.90
Property Management Supervisor	882.80
Strata/Community Title Management Associate	733.40
Strata/Community Title Management Representative	807.90
Strata/Community Title Management Supervisor	882.90