

The Exposure Draft was first published on 3 November 2016. Subsequent amendments to the draft are as follows:

Publication date	Reason for amendments	Clauses affected
31 March 2017	Incorporates feedback following conference on 29 March 2017 ( <a href="#">Transcript</a> )	2, 7.2, 15.6, 18.4(c), 18.6(a), 19.1(b), 19.1(c), Schedule E
	<a href="#">Exposure draft</a>	
26 March 2018	Incorporates changes resulting from <a href="#">[2017] FWCFB 3500</a> , <a href="#">PR592207</a> , <a href="#">PR592359</a> , <a href="#">PR592689</a> , <a href="#">PR593878</a>	15.5, 16, Schedule A, Schedule B, Schedule C, Schedule D
	Incorporates change resulting from <a href="#">PR583006</a>	21.7(a)
	Incorporates changes resulting from <a href="#">[2017] FWCFB 3433</a>	1.2, 2, 4, 21, 28
	Incorporates changes resulting from <a href="#">[2017] FWCFB 3541</a>	11
	Incorporate changes resulting from <a href="#">PR598110</a>	Schedule I
	Incorporates change resulting from <a href="#">[2018] FWCFB 1548</a>	2, 15.6, 16, 18, 18.4, 18.6, 19, 20, Schedule E
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

### Funeral Industry Award 2016

This exposure draft has been prepared by staff of the Fair Work Commission based on the **Funeral Industry Award 2010** as at 16 November 2016. This exposure draft does not seek to amend any entitlements under the Funeral Industry Award 2010 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 [AM2014/269](#). 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 of this Award

### 1. Title and commencement

1.1 This award is the *Funeral Industry Award 2016*.

Clause 1.2 amended in accordance with [\[2017\] FWCFB 3433](#) at [328].

1.2 ~~This modern award, as varied, commenced operation on 1 January 2010. This modern award commenced operation on 1 January 2010. The terms of the award have been varied since that date.~~

1.3 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. Definitions

In this award, unless the contrary intention appears:

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

Definitions of 'arranging officer' and 'coffin maker' have been removed as per [425] of [2018] FWCFB 1548.

~~**arranging officer** means a full-time or part-time employee required to do the following work, and no other work covered by this award:~~

- ~~(a) make funeral arrangements;~~
- ~~(b) carry out any receptionist duties or any administrative functions connected with the arranging or planning of funerals and the supervision of viewing; and~~
- ~~(c) other duties connected with the conduct of any office or branch.~~

**coffin** without limiting its general meaning, will include any coffin irrespective of the material used in its construction and manufactured for the purpose of the transfer, cremation or interment of a deceased person

~~**coffin maker** means an employee, other than a shop person, wholly or partially engaged in the making, spraying, staining, lacquering, varnishing, and/or polishing of caskets and/or crematoria urns by hand or any mechanical process~~

**conductor** means an employee engaged for more than half of their working time to supervise the carrying out of funerals from any place to a cemetery or crematorium and the return from that place

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

**embalmer** means a full-time or part-time employee or a duly qualified casual employee engaged for more than half of their working time in the work of sterilisation and/or preservation of human remains and who may also be employed to do other work covered by this award

**embalmer qualified** means a person who is:

- (a) eligible for membership of the Australian Institute of Embalming or other equivalent institute; and
- (b) qualified to carry out tasks such as:
  - (i) reconstructive artistry;
  - (ii) cosmetic enhancements; and
  - (iii) embalming of bodies for funerals and transhipment within Australia and internationally

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

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

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

**funeral director's assistant** means an employee who performs tasks associated with:

- (a) preparing for funerals, including:
  - (i) assisting with the conduct of the funeral service,
  - (ii) collection and transfer of deceased persons; and
  - (iii) basic body preparation and other mortuary tasks;
- (b) cleaning duties, including mortuary cleaning; and
- (c) driving tasks; including driving hearses, mourning cars and transfer vehicles

Definition of **funeral industry** has been changed in accordance with [\[2017\] FWCFB 3433](#) at [339].

**funeral industry** has the meaning given in clause 4.2

~~means the provision of funeral services, coffin manufacturing, the removal of deceased human remains and any ancillary services~~

**funeral services** means the preparation, arrangement and assistance in conducting a ceremony to mark a person's death and/or disposing of a person's remains, including but not limited to the removal of human bodies and remains, preparing human bodies and remains for disposal, burial, or cremation

**mortuary assistant** means an employee who carries out embalming tasks under supervision

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

References to Fair Work Act changed to 'Act'. See [\[2017\] FWCFB 3433](#) at [350].

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

**removal** means the transfer, including a transfer requested by police, of deceased human remains to the mortuary of a funeral director from any of the following places:

- (a) the place of death;
- (b) a cemetery;
- (c) a hospital;
- (d) a crematorium; or
- (e) a city mortuary.

Removal does not include any subsequent transfer of remains between a funeral director's premises or confined remains to or from:

- (a) a funeral director's premises;
- (b) a church;
- (c) a chapel;
- (d) a residence; or
- (e) an airline, railway or shipping terminal.

**standard rate** means the minimum weekly wage for a Grade 5 in clause 15.1

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

- 3.1 The [NES](#) and this award contain the minimum conditions of employment for employees covered by this award.
- 3.2 Where this award refers to a condition of employment provided for in the NES, the NES definition applies.
- 3.3 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.

### 4. Coverage

- 4.1 This industry award covers employers throughout Australia in the funeral industry and their employees in the classifications listed in 12—Classifications to the exclusion of any other modern award.

Definition of **funeral industry** retained in coverage clause in accordance with [\[2017\] FWC/CFB 3433](#) at [339].

- 4.2 **Funeral industry** means the provision of funeral services, coffin manufacturing, the removal of deceased human remains and any ancillary services.
- 4.3 The award does not cover employers in the cemetery industry.
- 4.4 This 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.
- 4.5 This award covers any employer which supplies labour on an on-hire basis in the industry set out in clauses 4.1 and 4.2 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.
- 4.6 This award covers employers which provide group training services for trainees engaged in the industry and/or parts of industry set out at clauses 4.1 and 4.2 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.

- 4.7** 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.

## **5. Effect of variations made by the Fair Work Commission**

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.

## **6. Award flexibility for individual arrangements**

- 6.1** 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.

- 6.2** 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.

- 6.3** 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 6.1; 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.

- 6.4** 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.

**6.5** The employer must give the individual employee a copy of the agreement and keep the agreement as a time and wages record.

**6.6** Except as provided in clause 6.4(a) the agreement must not require the approval or consent of a person other than the employer and the individual employee.

**6.7** 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.

**6.8** 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).

**6.9** The notice provisions in clause 6.8(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 6.8(a), subject to four weeks' notice of termination.

**6.10** 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.

## **7. Facilitative provisions for flexible working practices**

**7.1** A facilitative provision provides that the standard approach in an award provision may be departed from by agreement between an employer and an individual

employee, or an employer and the majority of employees in the enterprise or part of the enterprise concerned.

18.4(a) inserted in table at clause 7.2 per [425] of [2018] FWCFB 1548.

**7.2** Facilitative provisions in this award are contained in the following clauses:

<b>Clause</b>	<b>Provision</b>	<b>Agreement between an employer and:</b>
13.2(c)	Spread of ordinary hours of work – alteration to spread	The majority of employees
13.2(d)	Spread of ordinary hours of work – arrangement of ordinary hours in excess of eight hours	The majority of employees
13.3(b)	Rostered days off – substitute day	An individual or the majority of employers
13.3(d)	Rostered days off – banking system	Any or all employees
15.3(d)	Payment of wages – fortnightly pay periods	The majority of employees
18.2(b)	Ordinary hours of shiftworkers – period within which weekly average hours calculated	The majority of employees
18.2(d)	Ordinary hours of shiftworkers – arrangement of ordinary hours in excess of eight hours	An individual or the majority of employees
<u>18.4(a)</u>	<u>Method of working shifts</u>	<u>An individual or the majority of employees</u>
18.4(b)	Method of working shifts – time of commencing and finishing shifts	An individual or the majority of employees
19.5	Time off instead of payment for overtime	An individual
21.3	Annual leave in advance	An individual
21.4	Cashing out of annual leave	An individual

## **Part 2—Types of Employment and Classifications**

### **8. Types of employment**

**8.1** Employees under this award will be employed in one of the following employment categories:

- (a) full-time;
- (b) part-time; or
- (c) casual.

**8.2** At the time of engagement an employer will inform each employee in writing of the terms of their engagement and whether they are to be full-time, part-time or casual.

## **9. Full-time employment**

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

**9.2** Hours are to be arranged in accordance with Part 3—Hours of Work.

## **10. Part-time employment**

**10.1** An employer may employ part-time employees in any classification in this award.

**10.2** A part-time employee is an employee who:

- (a) works less than 38 hours per week;
- (b) has reasonably predictable hours of work; and
- (c) receives, on a pro rata basis, equivalent pay and conditions to those of full-time employees who do the same kind of work.

**10.3** At the time of engagement the employer and the part-time employee will agree in writing on a regular pattern of work, specifying at least:

- (a) the hours worked each day;
- (b) which days of the week the employee will work; and
- (c) the starting and finishing times each day.

**10.4** Any agreed variation to the regular pattern of work in clause 10.3 will be recorded in writing.

**10.5** A part-time employee must be rostered for a minimum of three consecutive hours on any shift.

**10.6** An employee who does not meet the definition of a part-time employee and who is not a full-time employee will be paid as a casual employee in accordance with clause 11.

**10.7** All time worked in excess of the hours as agreed under clause 10.3 or 10.4 will be overtime and paid for at the rates prescribed in clause 19—Overtime.

**10.8** A regular part-time employee employed under the provisions of this clause must be paid for ordinary hours worked at the minimum hourly rate prescribed for the class of work performed.

**10.9** Where a public holiday falls on a day an employee normally works, that employee will be paid the appropriate rate for the number of hours normally worked on that day. An employee's regular roster will not be altered to avoid this obligation.

## 11. Casual employment

Casual employment provisions may be affected by [AM2014/197](#) and [\[2017\] FWCFB 3541](#).

- 11.1** A casual employee is engaged by the hour and paid as a casual employee.
- 11.2** For each ordinary hour worked a casual employee must be paid:
- (a) the minimum hourly rate for the appropriate classification; and
  - (b) a loading of **25%** of the minimum hourly rate.
- 11.3** A casual employee must be paid for a minimum of four hours' work each time the employee is required to attend work, including when engaged more than once in any day.
- 11.4** The minimum payment in clause 11.3 is made whether the casual employee is required to work the full four hours or not.

## 12. Classifications

Employees must be classified in accordance with the classification descriptions set out in this clause.

### 12.1 Grade 1

- (a) Funeral director's assistant;
- (b) coffin draper; or
- (c) adult employee not mentioned elsewhere in any of Grades 2 to 6.

### 12.2 Grade 2

- (a) Funeral director's assistant engaged in preparation work;
- (b) unqualified embalmer in training or under supervision; or
- (c) adult employee engaged in coffin staining, including puttying, filling and sanding or buffing by mechanical means or operating a spray gun, applying stains, fillers and/or undercoats.

### 12.3 Grade 3

- (a) Funeral conductor;
- (b) funeral arranger; or
- (c) adult employee who operates a wood working machine but is not required to and does not perform the duties of a Grade 5 employee.

**12.4 Grade 4**

- (a) Embalmer; or
- (b) adult employee who does not possess appropriate qualifications and is engaged in and capable of performing functions in excess of Grade 3 skills.

**12.5 Grade 5**

An adult employee who:

- (a) is engaged in the polishing section and who is capable of performing all functions in that section including finishing off and pulling up and is not solely employed on the operations of a spray hand; or
- (b) is capable of operating all wood working machines in the factory and is required to grind cutters, sharpen knives and set knives or blades and set up and make necessary adjustments to such machinery; or
- (c) has appropriate qualifications and is engaged in and capable of performing all functions in the making of coffins.

**12.6 Grade 6—Embalmer qualified**

An adult employee who is eligible for membership of the Australian Institute of Embalming or other equivalent institute and is qualified to carry out tasks such as:

- (a) reconstructive artistry,
- (b) cosmetic enhancements; and
- (c) embalming of bodies for funerals and transhipment within Australia and internationally.

**Part 3—Hours of Work**

**13. Ordinary hours of work—other than shiftworkers**

**13.1** The ordinary hours of work will be an average of 38 hours per week to be worked on one of the following bases:

- (a) 38 hours within a work cycle not exceeding seven consecutive days;
- (b) 76 hours within a work cycle not exceeding 14 consecutive days;
- (c) 114 hours within a work cycle not exceeding 21 consecutive days; or
- (d) 152 hours within a work cycle not exceeding 28 consecutive days.

### 13.2 Spread of ordinary hours of work

- (a) The ordinary hours of work may be worked on Monday to Friday between 7.00 am and 7.00 pm.
- (b) The ordinary hours of work will be worked continuously, except for meal breaks, at the discretion of the employer.
- (c) The spread of hours may be altered by up to one hour at either end of the spread by agreement between an employer and the majority of employees concerned.
- (d) The number of ordinary hours worked in a day will not exceed 10 hours. Where the ordinary hours worked in a day exceed eight hours, the arrangement of hours will be subject to the agreement of the employer and a majority of employees concerned.

### 13.3 Rostered days off

- (a) Where an employee is entitled to a rostered day off during the work cycle, the employer will give the employee at least four weeks notice of the date they are entitled to take off.
- (b) An employer, with the agreement of the majority of employees concerned or with an individual employee, may substitute the day the employee is to take as a rostered day off for another day.
- (c) An employer, with the agreement of a majority of employees concerned or with an individual employee, may substitute the day an employee is to take as a rostered day off for another day in the case of:
  - (i) a breakdown in machinery;
  - (ii) a failure or shortage of electric power;
  - (iii) to meet the requirements of the business in the event of rush orders; or
  - (iv) some other emergency situation.
- (d) **Banking system**
  - (i) An employer and any or all of the employees in the establishment concerned may agree to a banking system of rostered day(s) off in order to cover peak demand.
  - (ii) Under the banking system, employees would work on what would normally have been their rostered day off and accrue an entitlement to bank a rostered day off over an agreed period not exceeding 10 months.
  - (iii) The day(s) off must be taken at a mutually convenient time for both the employee and the employer; provided that at least seven days' notice is given before taking the banked rostered day(s) off.

**13.4 Make-up time**

An employee may, with the consent of the employer elect to work make-up time, where the employee takes time off during ordinary hours and works those hours at a later time, during the spread of ordinary hours at ordinary rates.

**14. Breaks**

**14.1 Rest after early morning work**

An employee engaged for a period of four hours or more between midnight and 7.00 am is entitled to eight consecutive hours off duty after finishing work without loss of pay for ordinary hours occurring during this period.

**14.2 Rest periods**

Where practicable and where rest periods do not interfere with the normal running of funerals, all employees will be entitled to two paid rest periods each day as follows:

- (a) the first period of 10 minutes to be taken between the time of starting work and the usual meal break; and
- (b) the second period of 10 minutes to be taken between the usual meal break and the time of finishing work for the day.

**14.3 Meal break—other than shiftworkers**

- (a) A meal break of between 30 and 60 minutes will be allowed between the hours of 11.00 am and 2.30 pm.
- (b) An employee required to work during their normal meal break will be paid **150%** of the minimum hourly rate for all time worked during the meal break.

**Part 4—Wages and Allowances**

**15. Minimum wages**

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

Classification	Minimum weekly rate	Minimum hourly rate
	\$	\$
Grade 1	694.90	18.29
Grade 2	714.90	18.81
Grade 3	742.30	19.53
Grade 4	767.80	20.21

Classification	Minimum weekly rate	Minimum hourly rate
	\$	\$
Grade 5	809.10	21.29
Grade 6	834.40	21.96

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

## 15.2 Higher duties

- (a) An employee engaged for more than two hours during one day or shift on duties carrying a higher minimum wage than their ordinary classification must be paid the higher minimum wage for that day or shift.
- (b) An employee engaged on higher duties for two hours or less during one day or shift, must be paid the higher minimum wage for the time worked at that higher level.

## 15.3 Payment of wages

- (a) Wages will be paid weekly during ordinary working hours.
- (b) One day of each pay period will be recognised as pay day.
- (c) At the option of the employer, the method of payment will be by cash, electronic funds transfer or cheque drawn on an account with a local bank or financial institution.
- (d) Subject to agreement between the majority of employees and the employer, fortnightly pay periods may be introduced.

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.

## 15.4 Supported wage system

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

## 15.5 National training wage

Clause 15.5 substituted per [PR593878](#).

- (a) Schedule E to the *Miscellaneous Award 2010* sets out minimum wage rates and conditions for employees undertaking traineeships.
- (b) This award incorporates the terms of Schedule E to the *Miscellaneous Award 2010* as at 1 July 2017. Provided that any reference to “this award” in Schedule



E to the *Miscellaneous Award 2010* is to be read as referring to the *Funeral Industry Award 2010* and not the *Miscellaneous Award 2010*.

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

15.6 deleted as per [425] of [2018] FWCFB 1548

**15.6 School-based apprentices**

~~For school-based apprentices, see Schedule E—School-based Apprentices.~~

**16. Allowances**

Monetary amounts in this clause adjusted as a result of AWR 2017

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

**16.2 Wage-related allowances**

**(a) Stand-by allowance**

For each period an employee is required to stand-by the employee will be paid the following allowance:

- (i) between normal finishing and starting time Monday to Friday—**\$12.14** per stand-by period; and/or
- (ii) on a Saturday, Sunday or any public holiday—**\$25.89** per stand-by period.

**(b) Exhumations**

An employee required to assist in an exhumation will be paid an allowance of **\$86.57** for each body exhumed.

**(c) Leading hand allowance**

An employee who is appointed by their employer to be a leading hand will be paid an allowance each week as follows:

<b>In charge of</b>	<b>\$ per week</b>
3–10 employees	32.36
11–19 employees	48.55

**16.3 Expense-related allowances**

**(a) Meal allowance**

An employee will either be supplied with a meal by the employer or paid **\$12.62** for each meal where the employee is required to:

- (i) continue work for more than two hours after the normal finishing time, Monday to Friday, without being notified on the previous day or earlier that they would be required to work; or
- (ii) travel in excess of 80 kilometres each way, for a funeral or removal, and is unable to take their midday meal break within the hours prescribed in clause 14.3(a) at the place normally provided by the employer or at the employee's home.

**(b) Tool allowance**

Where an employer requires an employee engaged in coffin manufacturing to use their own tools and/or equipment, the employee must be paid a weekly tool allowance of **\$5.17** except where:

- (i) the employer provides an employee with all the tools reasonably required to perform all the functions of the employee's employment; or
- (ii) the employer reimburses the employee the cost of providing the tools and/or equipment.

**(c) Uniform allowance**

Parties are asked to confirm whether clause 16.3(c) applies to all employees (i.e. part-time and casual employees also). AWU [submitted](#) that the clause should be amended to cover all employees.

Full Bench to determine on the papers.

Where a full-time employee is required to wear a uniform, the employer will reimburse the employee for the cost of purchasing and laundering the uniform.

**(d) Vaccinations**

- (i) The employer will reimburse the employee for costs of receiving vaccinations from a qualified medical practitioner that are necessary for health and safety at work.
- (ii) Vaccinations will include but not be limited to injections for Tetanus and Hepatitis B.
- (iii) The employee must be allowed the necessary time off work without loss of pay but must, if required by the employer, establish by production of a medical certificate from a registered medical practitioner, that the employee was receiving vaccinations in order to receive payment and reimbursement.
- (iv) Should the employee refuse vaccinations on medical or personal grounds, the employer reserves the right to redeploy the employee.

**(e) Vehicle allowance**

- (i)** Vehicles (including hearses, mourning cars and transfer vehicles) provided by the employer will be fitted with air conditioning.
- (ii)** For the purpose of removals only, vehicles will as far as practicable have the front compartment sealed from the rear compartment.
- (iii)** Employees required by their employer to use their own motor vehicle in the performance of their duties will be paid **\$0.78** per kilometre.

See Schedule B for a summary of monetary allowances.

## **17. Superannuation**

### **17.1 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.

### **17.2 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.

### **17.3 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 17.2.
- (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 17.3(a) or (b) no later than 28 days after the end of the month in which the deduction authorised under clauses 17.3(a) or (b) was made.

#### 17.4 Superannuation fund

Unless, to comply with superannuation legislation, the employer is required to make the superannuation contributions provided for in clause 17.2 to another superannuation fund that is chosen by the employee, the employer must make the superannuation contributions provided for in clause 17.2 and pay the amount authorised under clauses 17.3(a) or (b) to one of the following superannuation funds or its successor:

- (a) AustralianSuper;
- (b) Sunsuper;
- (c) CareSuper;
- (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.

#### 17.5 Absence from work

Subject to the governing rules of the relevant superannuation fund, the employer must also make the superannuation contributions provided for in clause 17.2 and pay the amount authorised under clauses 17.3(a) or (b):

- (a) **Paid leave**—while the employee is on any paid leave;
- (b) **Work-related injury or illness**—for the period of absence from work (subject to a maximum of 52 weeks) of the employee due to work-related injury or work-related illness provided that:
  - (i) the employee is receiving workers compensation payments or is receiving regular payments directly from the employer in accordance with the statutory requirements; and
  - (ii) the employee remains employed by the employer.

## Part 5—Overtime and Penalty Rates

### 18. Shiftwork

#### 18.1 Definitions

- (a) **Afternoon shift** means any shift finishing after 7.00 pm and at or before midnight, Monday to Friday.
- (b) **Non-continuing afternoon shift** means any afternoon shift which does not continue:
  - (i) for at least five successive afternoons; or
  - (ii) for at least the number of ordinary hours prescribed by one of the alternative arrangements in clause 18.2.
- (c) **Rostered shift** means a shift for which the employee concerned has had at least 48 hours' notice.

#### 18.2 Ordinary hours of shiftworkers

- (a) The ordinary hours of shiftworkers will not, subject to clause 18.2(c), exceed an average of 38 hours per week over a cycle of up to four weeks.
- (b) By agreement between the employer and a majority of employees concerned, a roster system may operate on the basis that the weekly average of 38 ordinary hours is achieved over a period which exceeds four weeks.
- (c) The maximum hours worked in a shift will not exceed 10 hours.
- (d) Where the ordinary working hours will exceed eight on any shift, the arrangement of hours will be subject to the agreement of the employer and a majority of employees concerned or between the employer and an individual employee.

#### 18.3 Rosters

Shift rosters will specify the commencing and finishing times of ordinary working hours of the respective shifts.

#### 18.4 Method of working shifts

- (a) Subject to clause 18.2, the method of working shifts may be varied by agreement between the employer and a majority of employees or between the employer and an individual employee.
- (b) The time of starting and finishing shifts may be varied by agreement between the employer and a majority of employees to suit the circumstances of the establishment or in the absence of agreement, by the employer giving the employees seven days' notice of the variation.

18.4(c) varied per [425] of [2018] FWCFB 1548.

- (c) Changes to an employee's regular roster or ordinary hours of work will be subject to clause 27—Consultation about changes to rosters or hours of work

### 18.5 Afternoon shift penalties

- (a) A shiftworker whilst on afternoon shift will be paid **120%** of the minimum hourly rate.
- (b) A shiftworker on a non-continuing afternoon shift will be paid **150%** of the minimum hourly rate for all ordinary hours worked during the shift.

### 18.6 Overtime for shiftworkers

18.6(a) varied per [425] of [2018] FWCFB 1548.

- (a) All time worked in excess of, or outside the ordinary working hours in clause 18.2, or on a shift other than a rostered shift, will be paid ~~for~~ at **150%** of the applicable rate for the first three hours and **200%** thereafter.
- (b) When less than 7 hours 36 minutes' notice has been given to the employer by a relief employee that they will be absent from work, and the employee whom the relief employee should relieve is not relieved and is required to continue to work on the employee's rostered day off, the unrelieved employee will be paid **200%** of the applicable rate.

Parties are asked to comment on the provisional views regarding the overtime provisions by **19 April 2018**. See [453]-[454] of [2018] FWCFB 1548.

### 18.7 Rest periods on afternoon shift

A shiftworker working on afternoon shift will be entitled to rest periods in accordance with clause 14.2.

### 18.8 Unpaid meal break

An employee who works for more than five consecutive hours will be given an unpaid meal break of at least 30 minutes' duration.

### 18.9 Public holidays

For work performed on a rostered shift on a public holiday, shiftworkers will be paid in accordance with clause 20.1(c).

## 19. Overtime

Parties are asked to comment on the provisional views regarding the interaction between overtime and shift lengths by **19 April 2018**. See [469]-[470], [472], [478], [481] and [499]-[500] of [2018] FWCFB 1548.

### 19.1 Payment for overtime—other than shiftworkers

- (a) For work performed outside the hours fixed as the times for starting and finishing work in clause 13.2, an employee will be paid **150%** of the minimum hourly rate for the first three hours worked and **200%** of the minimum hourly rate thereafter.

19.1(b) varied per [425] of [2018] FWCFB 1548.

- (b) Where an employee is recalled to work before 7.00 am or after 7.00 pm for other than arranged overtime, the employee will be paid a minimum of one hour's pay at the applicable overtime or penalty rate specified in either clause 19.1(a) or clause 20.1 on each occasion the employee is recalled to work overtime.
- (c) The base hourly rate for calculating overtime will be the employee's minimum hourly rate in clause ~~15.1~~ ~~16.1~~.

### 19.2 Work on a rostered day off—other than shiftworkers

An employee will be paid **150%** of the minimum hourly rate for work performed on an employee's rostered day off.

### 19.3 Overtime for shiftworkers

Overtime for shiftworkers will be paid in accordance with clause 18.6.

### 19.4 Removals

- (a) Where an employee is called to undertake removals between the hours of 7.00 pm and midnight and work is completed at or prior to midnight, the employee will be paid **150%** of the minimum hourly rate for the first three hours of work and **200%** of the minimum hourly rate thereafter with a minimum payment of two hours.
- (b) Where an employee is called to undertake a removal, any portion of which occurs between the hours of midnight and 7.00 am, the employee will be paid **200%** of the minimum hourly rate with a minimum payment of two hours.
- (c) If a removal starts between the starting and finishing times as prescribed in clause 13.2, the employee will be paid at the rate prescribed in clause 19.1. If a subsequent removal is requested after 7.00 pm, although the original removal started before that time, the employee will be paid at the rate as prescribed in clause 19.4, for the subsequent removal.

### 19.5 Time off instead of payment for overtime

- (a) An employee and employer may agree in writing to the employee taking time off instead of being paid for a particular amount of overtime that has been worked by the employee.

- (b) Any amount of overtime that has been worked by an employee in a particular pay period and that is to be taken as time off instead of the employee being paid for it must be the subject of a separate agreement under clause 19.5.
- (c) An agreement must state each of the following:
  - (i) the number of overtime hours to which it applies and when those hours were worked;
  - (ii) that the employer and employee agree that the employee may take time off instead of being paid for the overtime;
  - (iii) that, if the employee requests at any time, the employer must pay the employee, for overtime covered by the agreement but not taken as time off, at the overtime rate applicable to the overtime when worked;
  - (iv) that any payment mentioned in subparagraph (iii) must be made in the next pay period following the request.

Note: An example of the type of agreement required by this clause is set out at Schedule F. There is no requirement to use the form of agreement set out at Schedule F. An agreement under clause 19.5 can also be made by an exchange of emails between the employee and employer, or by other electronic means.

- (d) The period of time off that an employee is entitled to take is the same as the number of overtime hours worked.

EXAMPLE: By making an agreement under clause 19.5 an employee who worked 2 overtime hours is entitled to 2 hours' time off.

- (e) Time off must be taken:
  - (i) within the period of 6 months after the overtime is worked; and
  - (ii) at a time or times within that period of 6 months agreed by the employee and employer.
- (f) If the employee requests at any time, to be paid for overtime covered by an agreement under clause 19.5 but not taken as time off, the employer must pay the employee for the overtime, in the next pay period following the request, at the overtime rate applicable to the overtime when worked.
- (g) If time off for overtime that has been worked is not taken within the period of 6 months mentioned in paragraph (e), the employer must pay the employee for the overtime, in the next pay period following those 6 months, at the overtime rate applicable to the overtime when worked.
- (h) The employer must keep a copy of any agreement under clause 19.5 as an employee record.
- (i) An employer must not exert undue influence or undue pressure on an employee in relation to a decision by the employee to make, or not make, an agreement to take time off instead of payment for overtime.



- (j) An employee may, under section 65 of the Act, request to take time off, at a time or times specified in the request or to be subsequently agreed by the employer and the employee, instead of being paid for overtime worked by the employee. If the employer agrees to the request then clause 19.5 will apply, including the requirement for separate written agreements under paragraph (b) for overtime that has been worked.

Note: If an employee makes a request under section 65 of the Act for a change in working arrangements, the employer may only refuse that request on reasonable business grounds (see section 65(5) of the Act).

- (k) If, on the termination of the employee's employment, time off for overtime worked by the employee to which clause 19.5 applies has not been taken, the employer must pay the employee for the overtime at the overtime rate applicable to the overtime when worked.

Note: Under section 345(1) of the Act, a person must not knowingly or recklessly make a false or misleading representation about the workplace rights of another person under clause 19.5.

## 20. Penalty rates

Parties are asked to comment on the provisional view regarding work on weekends by **19 April 2018**. See [491] of [2018] FWCFB 1548.

### 20.1 Work on Saturday, Sunday or public holidays

With the exception of removals, payment for work performed on a Saturday, Sunday or public holiday (or day substituted for a public holiday) will be as follows:

#### (a) Saturday

- (i) For work performed on a Saturday, employees will be paid **150%** of the minimum hourly rate for the first three hours worked, and **200%** of the minimum hourly rate thereafter, with a minimum of two hours' pay.
- (ii) Where an employee is engaged in the carrying out of a funeral on a Saturday, the employee will receive a minimum of four hours' pay at the following rates:
- if the work is completed in three hours or less, the total minimum payment will be paid at **150%** of the minimum hourly rate; and/or
  - if the work exceeds three hours, all additional time will be paid at **200%** of the minimum hourly rate.

#### (b) Sunday

For all time worked on a Sunday an employee will be paid **200%** of the minimum hourly rate, with a minimum payment of two hours' pay.

**(c) Public holidays**

- (i)** 200% of the employee’s minimum hourly rate will be paid for all work performed on a public holiday.
- (ii)** The rates prescribed in clause 20.1(c) for shiftworkers are in substitution for, and not cumulative on, the shift penalty prescribed in clause 18.5.

20.1(d) inserted per [490] of [2018] FWCFB 1548. Parties are asked to comment on the provisional provision by **19 April 2018**. See [491] of [2018] FWCFB 1548.

- (d)** Work performed by part-time and casual employees, as prescribed in clauses 20.1(a)-(c), is subject to the applicable minimum engagement periods prescribed at clauses 10.5 and 11.3.

## **Part 6—Leave and Public Holidays**

### **21. Annual leave**

21 amended in accordance with [PR583006](#). (21.7(a) deleted)

**21.1** Annual leave is provided for in the NES.

#### **21.2 Leave loading**

During a period of annual leave an employee will receive a loading of **17.5%** of the appropriate rate prescribed in clause 15—Minimum wages.

#### **21.3 Annual leave in advance**

- (a)** An employer and employee may agree in writing to the employee taking a period of paid annual leave before the employee has accrued an entitlement to the leave.
- (b)** An agreement must:
  - (i)** state the amount of leave to be taken in advance and the date on which leave is to commence; and
  - (ii)** be signed by the employer and employee and, if the employee is under 18 years of age, by the employee’s parent or guardian.

Note: An example of the type of agreement required by clause 21.3 is set out at Schedule G. There is no requirement to use the form of agreement set out at Schedule G.

- (c)** The employer must keep a copy of any agreement under clause 21.3 as an employee record.
- (d)** If, on the termination of the employee’s employment, the employee has not accrued an entitlement to all of a period of paid annual leave already taken in accordance with an agreement under clause 21.3, the employer may deduct

from any money due to the employee on termination an amount equal to the amount that was paid to the employee in respect of any part of the period of annual leave taken in advance to which an entitlement has not been accrued.

#### **21.4 Cashing out of annual leave**

- (a) Paid annual leave must not be cashed out except in accordance with an agreement under clause 21.4.
- (b) Each cashing out of a particular amount of paid annual leave must be the subject of a separate agreement under clause 21.4.
- (c) An employer and an employee may agree in writing to the cashing out of a particular amount of accrued paid annual leave by the employee.
- (d) An agreement under clause 21.4 must state:
  - (i) the amount of leave to be cashed out and the payment to be made to the employee for it; and
  - (ii) the date on which the payment is to be made.
- (e) An agreement under clause 21.4 must be signed by the employer and employee and, if the employee is under 18 years of age, by the employee's parent or guardian.
- (f) The payment must not be less than the amount that would have been payable had the employee taken the leave at the time the payment is made.
- (g) An agreement must not result in the employee's remaining accrued entitlement to paid annual leave being less than 4 weeks.
- (h) The maximum amount of accrued paid annual leave that may be cashed out in any period of 12 months is 2 weeks.
- (i) The employer must keep a copy of any agreement under clause 21.4 as an employee record.

Note 1: Under section 344 of ~~the Act Fair Work Act~~, an employer must not exert undue influence or undue pressure on an employee to make, or not make, an agreement under clause 21.4.

Note 2: Under section 345(1) of ~~the Act Fair Work Act~~, a person must not knowingly or recklessly make a false or misleading representation about the workplace rights of another person under clause 21.4.

Note 3: An example of the type of agreement required by clause 21.4 is set out at Schedule H. There is no requirement to use the form of agreement set out at Schedule H.

## 21.5 Excessive leave accruals: general provision

Note: Clauses 21.5 to 21.7 contain provisions, additional to the National Employment Standards, about the taking of paid annual leave as a way of dealing with the accrual of excessive paid annual leave. See Part 2.2, Division 6 of [the Act Fair Work Act](#).

- (a) An employee has an **excessive leave accrual** if the employee has accrued more than 8 weeks' paid annual leave.
- (b) If an employee has an excessive leave accrual, the employer or the employee may seek to confer with the other and genuinely try to reach agreement on how to reduce or eliminate the excessive leave accrual.
- (c) Clause 21.6 sets out how an employer may direct an employee who has an excessive leave accrual to take paid annual leave.
- (d) Clause 21.7 sets out how an employee who has an excessive leave accrual may require an employer to grant paid annual leave requested by the employee.

## 21.6 Excessive leave accruals: direction by employer that leave be taken

- (a) If an employer has genuinely tried to reach agreement with an employee under clause 21.5(b) but agreement is not reached (including because the employee refuses to confer), the employer may direct the employee in writing to take one or more periods of paid annual leave.
- (b) However, a direction by the employer under paragraph (a):
  - (i) is of no effect if it would result at any time in the employee's remaining accrued entitlement to paid annual leave being less than 6 weeks when any other paid annual leave arrangements (whether made under clause 21.5, 21.6 or 21.7 or otherwise agreed by the employer and employee) are taken into account; and
  - (ii) must not require the employee to take any period of paid annual leave of less than one week; and
  - (iii) must not require the employee to take a period of paid annual leave beginning less than 8 weeks, or more than 12 months, after the direction is given; and
  - (iv) must not be inconsistent with any leave arrangement agreed by the employer and employee.
- (c) The employee must take paid annual leave in accordance with a direction under paragraph (a) that is in effect.
- (d) An employee to whom a direction has been given under paragraph (a) may request to take a period of paid annual leave as if the direction had not been given.

Note 1: Paid annual leave arising from a request mentioned in paragraph (d) may result in the direction ceasing to have effect. See clause 21.6(b)(i).

Note 2: Under section 88(2) of the Act Fair Work Act, the employer must not unreasonably refuse to agree to a request by the employee to take paid annual leave.

## **21.7 Excessive leave accruals: request by employee for leave**

~~(a) Clause 21.7 comes into operation from 29 July 2017.~~

- (a) If an employee has genuinely tried to reach agreement with an employer under clause 21.5(b) but agreement is not reached (including because the employer refuses to confer), the employee may give a written notice to the employer requesting to take one or more periods of paid annual leave.
- (b) However, an employee may only give a notice to the employer under paragraph (a) if:
  - (i) the employee has had an excessive leave accrual for more than 6 months at the time of giving the notice; and
  - (ii) the employee has not been given a direction under clause 21.6(a) that, when any other paid annual leave arrangements (whether made under clause 21.5, 21.6 or 21.7 or otherwise agreed by the employer and employee) are taken into account, would eliminate the employee's excessive leave accrual.
- (c) A notice given by an employee under paragraph (a) must not:
  - (i) if granted, result in the employee's remaining accrued entitlement to paid annual leave being at any time less than 6 weeks when any other paid annual leave arrangements (whether made under clause 21.5, 21.6 or 21.7 or otherwise agreed by the employer and employee) are taken into account; or
  - (ii) provide for the employee to take any period of paid annual leave of less than one week; or
  - (iii) provide for the employee to take a period of paid annual leave beginning less than 8 weeks, or more than 12 months, after the notice is given; or
  - (iv) be inconsistent with any leave arrangement agreed by the employer and employee.
- (d) An employee is not entitled to request by a notice under paragraph (a) more than 4 weeks' paid annual leave in any period of 12 months.
- (e) The employer must grant paid annual leave requested by a notice under paragraph (a).

## **22. Personal/carer’s leave and compassionate leave**

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

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

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

## **24. Public holidays**

**24.1** Public holiday entitlements are provided for in the NES.

**24.2** An employee who works on a public holiday will be paid in accordance with clause 20.1(c)—Public holidays.

### **24.3 Part-day Public Holidays**

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

For provisions relating to part-day public holidays see Schedule I—2017 Part-day Public Holidays.

## **25. Community service leave**

Community service leave is provided for in the NES.

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

### **26. Consultation about major workplace change**

#### **26.1 Employers to notify**

- (a)** 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.
- (b)** **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.

**26.2 Employers to discuss change**

- (a) The employer must discuss with the employees affected and their representatives, if any, the introduction of the changes referred to in clause 26.1, 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.
- (b) 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 26.1.
- (c) 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.

**27. Consultation about changes to rosters or hours of work**

**27.1** 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.

**27.2** The employer must:

- (a) 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);
- (b) 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
- (c) 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.

**27.3** The requirement to consult under this clause does not apply where an employee has irregular, sporadic or unpredictable working hours.

**27.4** These provisions are to be read in conjunction with other award provisions concerning the scheduling of work and notice requirements.

## 28. Dispute resolution

- 28.1** 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.
- 28.2** 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 28.1 have been taken, a party to the dispute may refer the dispute to the Fair Work Commission.
- 28.3** The parties may agree on the process to be utilised by the Fair Work Commission including mediation, conciliation and consent arbitration.
- 28.4** 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.
- 28.5** An employer or employee may appoint another person, organisation or association to accompany and/or represent them for the purposes of this clause.

Parties are to consider the proposed variations regarding 'occupational health and safety'. See [\[2017\] FWCFB 3433](#) at [382].

- 28.6** While the dispute resolution procedure is being conducted, work must continue in accordance with this award and the Act. Subject to applicable occupational work 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.

## Part 8—Termination of Employment and Redundancy

### 29. Termination of employment

- 29.1** Notice of termination is provided for in the NES.

#### 29.2 Notice of termination by an employee

The notice of termination required to be given by an employee is the same as that required of an employer except that there is no requirement on the employee to give additional notice based on the age of the employee concerned. If an employee fails to give the required notice the employer may withhold from any monies due to the employee on termination under this award or the NES, an amount not exceeding the amount the employee would have been paid under this award in respect of the period



of notice required by this clause less any period of notice actually given by the employee.

### **30. Redundancy**

Redundancy pay is provided for in the NES.

### **31. Transfer to lower paid job on redundancy**

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.

### **32. Employee leaving during redundancy 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 clause 30—Redundancy had they remained in employment until the expiry of the notice, but is not entitled to payment instead of notice.

### **33. Job search entitlement**

#### **33.1 Job search entitlement for notice of termination of employment**

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.

#### **33.2 Job search entitlement—redundancy**

##### **(a) Time off for seeking other employment**

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) Proof of attendance**

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.

## Schedule A—Summary of Hourly Rates of Pay

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

Monetary amounts in this clause adjusted as a result of AWR 2017

### A.1 Full-time and part-time employees

#### A.1.1 Full-time and part-time employees other than shiftworkers—ordinary and penalty rates

	Ordinary hours	Employees undertaking removals			Public holiday – all employees other than employees undertaking removals
		7.00 pm to midnight and 7.00 am to 7.00 pm		Midnight to 7.00 am – all hours worked	
		First 3 hours	After first 3 hours		
% of minimum hourly rate					
	100%	150%	200%	200%	200%
	\$	\$	\$	\$	\$
Grade 1	18.29	27.43	36.57	36.57	36.57
Grade 2	18.81	28.22	37.63	37.63	37.63
Grade 3	19.53	29.30	39.07	39.07	39.07
Grade 4	20.21	30.31	40.41	40.41	40.41
Grade 5	21.29	31.94	42.58	42.58	42.58
Grade 6	21.96	32.94	43.92	43.92	43.92

#### A.1.2 Full-time and part-time employees other than shiftworkers—overtime rates

	Monday to Saturday – first 3 hours	Monday to Saturday – after 3 hours	Sunday – all day	Public holiday – all day
% of minimum hourly rate				
	150%	200%	200%	200%
	\$	\$	\$	
Grade 1	27.43	36.57	36.57	36.57
Grade 2	28.22	37.63	37.63	37.63
Grade 3	29.30	39.07	39.07	39.07
Grade 4	30.31	40.41	40.41	40.41

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	Monday to Saturday – first 3 hours	Monday to Saturday – after 3 hours	Sunday – all day	Public holiday – all day
	<b>% of minimum hourly rate</b>			
	<b>150%</b>	<b>200%</b>	<b>200%</b>	<b>200%</b>
	<b>\$</b>	<b>\$</b>	<b>\$</b>	
Grade 5	31.94	42.58	42.58	42.58
Grade 6	32.94	43.92	43.92	43.92

**A.1.3 Full-time and part-time shiftworkers—ordinary and penalty rates**

	Day shift	Afternoon	Non-continuing afternoon <sup>1</sup>	Public holiday
	<b>% of minimum hourly rate</b>			
	<b>100%</b>	<b>120%</b>	<b>150%</b>	<b>200%</b>
	<b>\$</b>	<b>\$</b>	<b>\$</b>	<b>\$</b>
Grade 1	18.29	21.94	27.43	36.57
Grade 2	18.81	22.58	28.22	37.63
Grade 3	19.53	23.44	29.30	39.07
Grade 4	20.21	24.25	30.31	40.41
Grade 5	21.29	25.55	31.94	42.58
Grade 6	21.96	26.35	32.94	43.92

<sup>1</sup> **Non-continuing afternoon shift** means any afternoon shift which does not continue for at least five successive afternoons or for at least the number of ordinary hours prescribed by one of the alternative arrangements in clause 18.2 (see clause 18.5(b)).

**A.1.4 Full-time and part-time shiftworkers—overtime**

	Afternoon shift	Non-continuing afternoon shift <sup>1</sup>	Monday to Friday – first 3 hours	Monday to Friday – after 3 hours
	<b>% of minimum hourly rate</b>			
	<b>120%</b>	<b>150%</b>	<b>150%</b>	<b>200%</b>
	<b>\$</b>	<b>\$</b>	<b>\$</b>	<b>\$</b>
Grade 1	21.94	27.43	27.43	36.57
Grade 2	22.58	28.22	28.22	37.63
Grade 3	23.44	29.30	29.30	39.07
Grade 4	24.25	30.31	30.31	40.41
Grade 5	25.55	31.94	31.94	42.58

	Afternoon shift	Non-continuing afternoon shift <sup>1</sup>	Monday to Friday – first 3 hours	Monday to Friday – after 3 hours
	<b>% of minimum hourly rate</b>			
	<b>120%</b>	<b>150%</b>	<b>150%</b>	<b>200%</b>
Grade 6	26.35	32.94	32.94	43.92

<sup>1</sup> **Non-continuing afternoon shift** means any afternoon shift which does not continue for at least five successive afternoons or for at least the number of ordinary hours prescribed by one of the alternative arrangements in clause 18.2. (see clause 18.5(b)).

## A.2 Casual employees

### A.2.1 Casual employees other than shiftworkers—ordinary and penalty rates

	Ordinary hours	Employees undertaking removals			Public holiday – all employees other than employees undertaking removals
		7.00 pm to midnight and 7.00 am to 7.00 pm		Midnight to 7.00 am – all hours worked	
		First 3 hours	After first 3 hours		
	<b>% of minimum hourly rate</b>				
	<b>125%</b>	<b>175%</b>	<b>225%</b>	<b>225%</b>	<b>225%</b>
	<b>\$</b>	<b>\$</b>	<b>\$</b>	<b>\$</b>	<b>\$</b>
Grade 1	22.86	32.00	41.15	41.15	41.15
Grade 2	23.52	32.92	42.33	42.33	42.33
Grade 3	24.42	34.18	43.95	43.95	43.95
Grade 4	25.26	35.36	45.46	45.46	45.46
Grade 5	26.62	37.26	47.91	47.91	47.91
Grade 6	27.45	38.43	49.41	49.41	49.41

**A.2.2 Casual shiftworkers—ordinary and penalty rates**

	<b>Day shift</b>	<b>Afternoon shift</b>	<b>Non-continuing afternoon shift<sup>1</sup></b>	<b>Monday to Friday – first 3 hours</b>	<b>Monday to Friday – after 3 hours</b>
	<b>% of minimum hourly rate</b>				
	<b>125%</b>	<b>145%</b>	<b>175%</b>	<b>175%</b>	<b>225%</b>
	<b>\$</b>	<b>\$</b>	<b>\$</b>	<b>\$</b>	<b>\$</b>
Grade 1	22.86	26.52	32.00	32.00	41.15
Grade 2	23.52	27.28	32.92	32.92	42.33
Grade 3	24.42	28.32	34.18	34.18	43.95
Grade 4	25.26	29.30	35.36	35.36	45.46
Grade 5	26.62	30.87	37.26	37.26	47.91
Grade 6	27.45	31.84	38.43	38.43	49.41

<sup>1</sup> **Non-continuing afternoon shift** means any afternoon shift which does not continue for at least five successive afternoons or for at least the number of ordinary hours prescribed by one of the alternative arrangements in clause 18.2. (see clause 18.5(b)).

## Schedule B — Summary of Monetary Allowances

See clause 16—Allowances for full details of allowances payable under this award.

Monetary amounts in this clause adjusted as a result of AWR 2017

### B.1 Wage-related allowances:

The wage-related allowances in this award are based on the standard rate as defined in clause 2 as the minimum weekly wage for a Grade 5 in clause 15.1 = **\$809.10**

Allowance	Clause	% of standard rate \$809.10	\$ per week unless stated otherwise
Stand-by allowance:	16.2(a)		
Between normal finishing and starting time—Monday to Friday	16.2(a)(i)	1.5	12.14 per stand-by period
Saturday, Sunday and public holidays	16.2(a)(ii)	3.2	25.89 per stand-by period
Exhumation allowance	16.2(b)	10.7	86.57 per body
Leading hand, in charge of:	16.2(c)		
3 to 10 employees	16.2(c)	4.0	32.36
11 to 19 employees	16.2(c)	6.0	48.55

#### B.1.1 Adjustment of wage-related allowances

Wage-related allowances are adjusted in accordance with increases to wages and are based on a percentage of the standard rate as specified.

### B.2 Expense-related allowances

The following expense-related allowances will be payable to employees in accordance with clause 16.3:

Allowance	Clause	\$
Meal allowance—overtime of more than two hours after normal ceasing time without notice	16.3(a)(i)	12.62 per meal
Travelling meal allowance	16.3(a)(ii)	12.62 per meal
Tool allowance—employee engaged in coffin manufacturing	16.3(b)	5.17 per week
Vehicle allowance	16.3(e)	0.78 per km

**B.2.1 Adjustment of expense-related allowances**

- (c) 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.
- (d) 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:

<b>Allowance</b>	<b>Applicable Consumer Price Index figure</b>
Meal allowances	Take away and fast foods sub-group
Tool allowance	Tools and equipment for house and garden component of the household appliances, utensils and tools sub-group
Vehicle allowance	Private motoring sub-group

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## Schedule C—Supported Wage System

Monetary amounts adjusted as a result of [PR592689](#)

**C.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.

**C.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

### **C.3 Eligibility criteria**

**C.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.

**C.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.



## C.4 Supported wage rates

C.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 C.5)	Relevant minimum wage
%	%
10	10
20	20
30	30
40	40
50	50
60	60
70	70
80	80
90	90

C.4.2 Provided that the minimum amount payable must be not less than **\$84** per week.

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

## C.5 Assessment of capacity

C.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.

C.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.

## C.6 Lodgement of SWS wage assessment agreement

C.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.

C.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.

## **C.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.

## **C.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.

## **C.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.

## **C.10 Trial period**

- C.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.
- C.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.
- C.10.3** The minimum amount payable to the employee during the trial period must be no less than \$84 per week.
- C.10.4** Work trials should include induction or training as appropriate to the job being trialled.
- C.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 C.5.

**Schedule D—~~National Training Wage~~**

The National Training Wage schedule may be affected by [AM2016/17](#)

Schedule deleted by [PR593878](#).

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## Schedule E—School-based Apprentices

~~Parties are asked whether a school-based apprentices schedule is required as the award does not provide for the employment of apprentices.~~

- ~~E.1 — This schedule applies to school based apprentices. A school based apprentice is a person who is undertaking an apprenticeship in accordance with this schedule while also undertaking a course of secondary education.~~
- ~~E.2 — A school based apprenticeship may be undertaken in the trades covered by this award under a training agreement or contract of training for an apprentice declared or recognised by the relevant State or Territory authority.~~
- ~~E.3 — The relevant minimum wages for full time junior and adult apprentices provided for in this award, calculated hourly, will apply to school based apprentices for total hours worked including time deemed to be spent in off the job training.~~
- ~~E.4 — For the purposes of clause E.3, where an apprentice is a full time school student, the time spent in off the job training for which the apprentice must be paid is 25% of the actual hours worked each week on the job. The wages paid for training time may be averaged over the semester or year.~~
- ~~E.5 — A school based apprentice must be allowed, over the duration of the apprenticeship, the same amount of time to attend off the job training as an equivalent full time apprentice.~~
- ~~E.6 — For the purposes of this schedule, off the job training is structured training delivered by a Registered Training Organisation separate from normal work duties or general supervised practice undertaken on the job.~~
- ~~E.7 — The duration of the apprenticeship must be as specified in the training agreement or contract for each apprentice but must not exceed six years.~~
- ~~E.8 — School based apprentices progress through the relevant wage scale at the rate of 12 months progression for each two years of employment as an apprentice.~~
- ~~E.9 — The apprentice wage scales are based on a standard full time apprenticeship of four years (unless the apprenticeship is of three years duration). The rate of progression reflects the average rate of skill acquisition expected from the typical combination of work and training for a school based apprentice undertaking the applicable apprenticeship.~~
- ~~E.10 — If an apprentice converts from school based to full time, all time spent as a full time apprentice will count for the purposes of progression through the relevant wage scale in addition to the progression achieved as a school based apprentice.~~
- ~~E.11 — School based apprentices are entitled pro rata to all of the other conditions in this award.~~

## Schedule F—Agreement for Time Off Instead of Payment for Overtime

Link to PDF copy of [Agreement for Time Off Instead of Payment for Overtime](#).

Name of employee: \_\_\_\_\_

Name of employer: \_\_\_\_\_

**The employer and employee agree that the employee may take time off instead of being paid for the following amount of overtime that has been worked by the employee:**

Date and time overtime started: \_\_\_/\_\_\_/20\_\_\_ \_\_\_ am/pm

Date and time overtime ended: \_\_\_/\_\_\_/20\_\_\_ \_\_\_ am/pm

Amount of overtime worked: \_\_\_\_\_ hours and \_\_\_\_\_ minutes

**The employer and employee further agree that, if requested by the employee at any time, the employer must pay the employee for overtime covered by this agreement but not taken as time off. Payment must be made at the overtime rate applying to the overtime when worked and must be made in the next pay period following the request.**

Signature of employee: \_\_\_\_\_

Date signed: \_\_\_/\_\_\_/20\_\_\_

Name of employer representative: \_\_\_\_\_

Signature of employer representative: \_\_\_\_\_

Date signed: \_\_\_/\_\_\_/20\_\_\_

## Schedule G—Agreement to Take Annual Leave in Advance

Link to PDF copy of [Agreement to Take Annual Leave in Advance](#).

Name of employee: \_\_\_\_\_

Name of employer: \_\_\_\_\_

**The employer and employee agree that the employee will take a period of paid annual leave before the employee has accrued an entitlement to the leave:**

The amount of leave to be taken in advance is: \_\_\_\_ hours/days

The leave in advance will commence on: \_\_\_\_/\_\_\_\_/20\_\_\_\_

Signature of employee: \_\_\_\_\_

Date signed: \_\_\_\_/\_\_\_\_/20\_\_\_\_

Name of employer representative: \_\_\_\_\_

Signature of employer representative: \_\_\_\_\_

Date signed: \_\_\_\_/\_\_\_\_/20\_\_\_\_

[If the employee is under 18 years of age - include:]

**I agree that:**

**if, on termination of the employee's employment, the employee has not accrued an entitlement to all of a period of paid annual leave already taken under this agreement, then the employer may deduct from any money due to the employee on termination an amount equal to the amount that was paid to the employee in respect of any part of the period of annual leave taken in advance to which an entitlement has not been accrued.**

Name of parent/guardian: \_\_\_\_\_

Signature of parent/guardian: \_\_\_\_\_

Date signed: \_\_\_\_/\_\_\_\_/20\_\_\_\_

## Schedule H—Agreement to Cash Out Annual Leave

Link to PDF copy of [Agreement to Cash Out Annual Leave](#).

Name of employee: \_\_\_\_\_

Name of employer: \_\_\_\_\_

**The employer and employee agree to the employee cashing out a particular amount of the employee's accrued paid annual leave:**

The amount of leave to be cashed out is: \_\_\_\_\_ hours/days

The payment to be made to the employee for the leave is: \$\_\_\_\_\_ subject to deduction of income tax/after deduction of income tax (strike out where not applicable)

The payment will be made to the employee on: \_\_\_/\_\_\_/20\_\_\_

Signature of employee: \_\_\_\_\_

Date signed: \_\_\_/\_\_\_/20\_\_\_

Name of employer representative: \_\_\_\_\_

Signature of employer representative: \_\_\_\_\_

Date signed: \_\_\_/\_\_\_/20\_\_\_

*Include if the employee is under 18 years of age:*

Name of parent/guardian: \_\_\_\_\_

Signature of parent/guardian: \_\_\_\_\_

Date signed: \_\_\_/\_\_\_/20\_\_\_

## Schedule I—2017 Part-day Public Holidays

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

Schedule I amended in accordance with [PR598110](#)

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

- I.1** Where a part-day public holiday is declared or prescribed between 7.00 pm and midnight on Christmas Eve (24 December 2017) or New Year’s Eve (31 December 2017) 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 I.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.



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- (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 I.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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