

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
18 December 2015	<a href="#">Exposure draft</a>	
14 July 2017	Incorporates changes resulting from <a href="#">PR580863</a>	Schedule F
	Incorporates changes resulting from <a href="#">[2016] FWCFB 3500</a> , <a href="#">PR579893</a> , <a href="#">PR579610</a> and <a href="#">PR581528</a>	10, 11, Schedule A, Schedule B, Schedule C, Schedule E
	Incorporates changes resulting from <a href="#">PR583035</a>	15, Schedule H, Schedule I
	Incorporates changes resulting from <a href="#">PR584120</a>	13.3, Schedule J
	Incorporates changes resulting from <a href="#">[2017] FWCFB 3500</a> , <a href="#">PR592206</a> , <a href="#">PR592358</a> and <a href="#">PR592689</a> .	10, 11, Schedule A, Schedule B, Schedule C, Schedule E
	Incorporates changes resulting from <a href="#">[2017] FWCFB 3541</a>	6
	Incorporates changes resulting from <a href="#">[2017] FWCFB 3433</a>	1, 3,10, 15, Schedule G

Red text indicates changes made to the draft since the previous published version, or issues that remain unresolved. Underlined text indicates new text that is to be included. Strikethrough text indicates existing text that is to be deleted.

## EXPOSURE DRAFT

### Miscellaneous Award 2015

This exposure draft has been prepared by staff of the Fair Work Commission based on the *Miscellaneous Award 2010* as at 18 December 2015. This exposure draft does not seek to amend any entitlements under the *Miscellaneous 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 [AM2014/237](#). 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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Miscellaneous Award 2010

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DRAFT

## Part 1—Application and Operation

### 1. Title and commencement

1.1 This award is the Miscellaneous Award 2015.

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

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

~~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 Subject to clauses 3.2, 3.3 and 3.4 this award covers employers throughout Australia and their employees in the classifications listed in clause 7—Classifications who are not covered by any other modern award.

3.2 The award does not cover those classes of employees who, because of the nature or seniority of their role, have not traditionally been covered by awards including managerial employees and professional employees such as accountants and finance, marketing, legal, human resources, public relations and information technology specialists.

- 3.3** The award does not cover employees:
- (a) in an industry covered by a modern award who are not within a classification in that modern award; or
  - (b) in a class exempted by a modern award from its operation,
- or employers in relation to those employees.
- 3.4** This award does not cover:
- (a) employees excluded from award coverage by the ~~Act Fair Work Act 2009 (Cth) (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.
- 3.5** This award covers any employer which supplies on-hire employees in classifications set out in clause 7 and those on-hire employees, if the employer is not covered by another modern award containing a classification which is more appropriate to the work performed by the employee. This subclause operates subject to the exclusions from coverage in this award.
- 3.6** This award covers employers which provide group training services for apprentices and trainees under this award and those apprentices and 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. 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.

## **5. Facilitative provisions**

**5.1** 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.

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

<b>Clause</b>	<b>Provision</b>	<b>Agreement between an employer and:</b>
8.5	Ordinary hours of work	
19.2	Substitution of public holidays—NES	The majority of employees
19.3	Substitution of public holidays	An individual

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

### **6. Types of employment**

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

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

#### **6.2 Full-time employees**

The ordinary hours of full-time employees are an average of 38 per week.

#### **6.3 Part-time employees**

- (a) A part-time employee:
  - (i) is engaged to work less than full-time hours of 38 per week;
  - (ii) has predictable hours of work; and
  - (iii) receives, on a pro rata basis, equivalent pay and conditions to full-time employees in the same classification.

- (b) At the time of engagement the employer and the part-time employee must agree in writing on a regular pattern of work including the hours to be worked and the starting and finishing times on each day.
- (c) A part-time employee's hours once fixed can be varied at any time by agreement. Any agreed variation to the regular pattern of hours will be recorded in writing.

#### 6.4 Casual employees

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

A Full Bench found a model casual conversion clause should be inserted into modern awards without existing conversion clauses. Any further written submissions, including whether a conversion clause requires adaptation to meet the circumstances of particular awards, are to be filed on or before 2 August 2017. See [\[2017\] FWCFB 3541](#) at [381]-[382].

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

A Full Bench expressed the provisional view that there was to be a 2 hour minimum engagement for casual employees in awards that do not contain daily minimum engagement. Any further written submissions concerning this view are to be filed on or by 2 August 2017. See [\[2017\] FWCFB 3541](#) at [408].

A casual employee is an employee who is engaged and paid as a casual employee.

##### (a) Casual loading

- (i) For each ordinary 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 for which they are employed.
- (ii) The casual loading is instead of the paid leave to which full-time employees are entitled under the NES and this award.

## 7. Classifications

7.1 A description of the classifications under this award is set out below.

##### (a) Level 1

An employee at this level has been employed for a period of less than three months and is not carrying out the duties of a level 3 or level 4 employee.

##### (b) Level 2

An employee at this level has been employed for at least three months and is not carrying out the duties of a level 3 or level 4 employee.



(c) **Level 3**

An employee at this level has a trade qualification or equivalent and is carrying out duties requiring such qualifications.

(d) **Level 4**

An employee at this level has advanced trade qualifications and is carrying out duties requiring such qualifications or is a sub-professional employee.

## Part 3—Hours of Work

### 8. Ordinary hours of work and rostering

8.1 Ordinary hours are fixed in accordance with clause 6—Types of employment.

8.2 Ordinary hours for full-time and part-time employees are to be worked on a regular basis with fixed starting and finishing times over a maximum of six days per week.

8.3 On average a full-time or part-time employee must not be required to work ordinary hours on more than 20 days in any 28 day period.

8.4 Once fixed, the starting and finishing times can be varied by agreement at any time or by the employer on seven days' notice.

8.5 Ordinary hours are not to exceed 10 hours on any day or shift except by agreement in which case the maximum number of ordinary hours is 12.

### 9. Breaks

An employee must not be required to work for more than five hours without an unpaid meal break of at least 30 minutes.

## Part 4—Wages and Allowances

### 10. Minimum wages

Rates updated as a result of AWR 2017

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

Employee classification	Minimum weekly rate <b>(full-time employees)</b>	Minimum hourly rate
	\$	\$
Level 1	694.90	18.29
Level 2	742.30	19.53

Level 3	809.10	21.29
Level 4	882.80	23.23

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

## 10.2 Apprentice minimum wages

- (a) An apprentice (other than an adult apprentice) must be paid a minimum of the following percentage of the standard rate (Level 3):

Year of apprenticeship	% of Level 3
First	55
Second	65
Third	80
Fourth	95

- (b) An adult apprentice who commenced on or after 1 January 2014 and is in the first year of their apprenticeship must be paid:

- (i) 80% of the minimum hourly rate for Level 3 in clause 10.1; or
- (ii) the rate prescribed by clause 10.2(a) for the relevant year of the apprenticeship,

whichever is the greater.

- (c) An adult apprentice who commenced on or after 1 January 2014 and is in the second and subsequent years of their apprenticeship must be paid:

- (i) the rate for the lowest adult classification in clause 10.1; or
- (ii) the rate prescribed by clause 10.2(a) for the relevant year of the apprenticeship,

whichever is the greater.

- (d) A person employed by an employer under this award immediately prior to entering into a training agreement as an adult apprentice with that employer must not suffer a reduction in their minimum wage by virtue of entering into the training agreement, provided that:

- (i) the person has been an employee in that enterprise for at least six months as a full-time employee; or
- (ii) 12 months as a part-time or regular and systematic casual employee immediately prior to commencing the apprenticeship,

- (iii) For the purpose only of fixing a minimum wage, the adult apprentice must continue to receive the minimum wage that applies to the classification specified in clause 10.1 in which the adult apprentice was engaged immediately prior to entering into the training agreement.

### 10.3 Apprentice conditions of employment

Except as provided in this clause or where otherwise stated, all conditions of employment specified in this award apply to apprentices.

#### (a) Block release training

- (i) Where an apprentice is required to attend block release training for training identified in or associated with their training contract, and such training requires an overnight stay, the employer must pay for the excess reasonable travel costs incurred by the apprentice in the course of travelling to and from such training.
- (ii) Provided that this clause will not apply where the apprentice could attend an alternative Registered Training Organisation (RTO) and the use of the more distant RTO is not agreed between the employer and the apprentice.
- (iii) For the purposes of clause 10.3(a)(i), excess reasonable travel costs include the total costs of reasonable transportation (including transportation of tools where required), accommodation costs incurred while travelling (where necessary) and reasonable expenses incurred while travelling, including meals, which exceed those incurred in travelling to and from work.
- (iv) For the purposes of this subclause, excess travel costs do not include payment for travelling time or expenses incurred while not travelling to and from block release training.

#### (b) Reduction of payment

- (i) The amount payable by an employer under 10.3(a)(i) may be reduced by an amount the apprentice is eligible to receive for travel costs to attend block release training under a Government apprentice assistance scheme. This will only apply if an apprentice has either received such assistance or their employer has advised them in writing of the availability of such assistance.
- (ii) All training fees charged by an RTO for prescribed courses and the cost of all prescribed textbooks (excluding those textbooks which are available in the employer's technical library) for the apprenticeship, which are paid by an apprentice, shall be reimbursed by the employer:
  - within six months of the commencement of the apprenticeship or the relevant stage of the apprenticeship; or
  - within three months of the commencement of the training provided by the RTO,whichever is the later, unless there is unsatisfactory progress.
- (iii) An employer may meet its obligations under 10.3(b)(ii) by paying any fees and/or cost of textbooks directly to the RTO.

#### (c) Attending training

- (i) An apprentice 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.

- (ii) Time spent by an apprentice in attending any training and/or 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 apprentice’s wages and determining the apprentice’s employment conditions. This subclause operates subject to the provisions of Schedule D—School-based Apprentices
- (d) No apprentice will, except in an emergency, work or be required to work overtime or shiftwork at times which would prevent their attendance at training consistent with their training contract.

See clause A.4 for a summary of hourly rates of pay for apprentice employees including overtime and penalties.

**10.4 Junior minimum wages**

The minimum wages for juniors are:

Age	% of relevant adult minimum rate
Under 16 years	36.8
16 years	47.3
17 years	57.8
18 years	68.3
19 years	82.5
20 years	97.7

See clause A.3 for a summary of hourly rates of pay for junior employees including overtime and penalties.

**10.5 Payment of wages**

Payment of wages is dealt with in s.323 of the Act.

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.

**10.6 Higher duties**

An employee engaged for more than four hours on any one day or shift in the duties of a higher classification must be paid the minimum hourly rate for that classification for the whole day or shift.

**10.7 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.

**10.8 School-based apprentices**

For school-based apprentices, see Schedule D—School-based Apprentices

**10.9 National training wage**

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

**11. Allowances**

**11.1** 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.

**11.2 Wage related allowances**

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

**(a) First aid allowance**

An employee who has been trained to provide first aid and who is the current holder of appropriate first aid qualifications, such as a certificate from St John Ambulance or similar body, must be paid an extra **\$16.18** per week if appointed by their employer to perform first aid duties.

**(b) Leading hand/in charge allowance**

A team leader or leading hand in charge of three or more employees must be paid:

In charge of	\$ per week
3–10 employees	35.60
11–20 employees	52.59
More than 20 employees	67.16

**11.3 Expense related allowances**

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

**(a) Clothing reimbursement**

An employee required to provide special clothing or a uniform must be reimbursed by the employer for the cost of such clothing.

**(b) Meal allowance**

**(i)** An employee required to work more than one hour of overtime after the employee’s ordinary time of ending work without being given 24 hours’ notice must be either provided with a meal or paid a meal allowance of **\$17.92**.

**(ii)** If the overtime exceeds four hours a further meal allowance of **\$16.23** must be paid.

**(c) Vehicle allowance**

An employee who agrees with their employer to use their own motor vehicle on the employer’s business must be paid an allowance of **\$0.78** per kilometre.

**(d) Reimbursement of expenses**

An employee must be reimbursed all reasonable expenses incurred at the direction of the employer.

See Schedule B for a summary of monetary allowances.

**12. Superannuation**

**12.1** 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.

**12.2 Superannuation contributions for defined benefit members**

An employer is permitted to make superannuation contributions to a superannuation fund or scheme in relation to a default fund employee who is a defined benefit member of the fund or scheme.

**Part 5—Penalties and Overtime**

**13. Overtime**

**13.1** All time worked in excess of an average of 38 hours per week by a full-time employee or in excess of the agreed number of hours per week by a part-time employee is overtime and must be paid at the following rates:

	<b>% of minimum hourly rate</b>
First 3 hours	150
After 3 hours	200

**13.2** In the case of part-time employees, the agreed number of hours means the number of hours agreed in writing either at the commencement of employment or subsequently.

**13.3 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 13.3.

- (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 J. There is no requirement to use the form of agreement set out at Schedule J. An agreement under clause 13.3 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 13.3 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 13.3 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 13.3 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 13.3 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 13.3 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 13.3.

## 14. Penalty rates

All work performed by an employee outside of ordinary hours, which is not overtime will be paid at the following rates:

	Full-time and part-time employees	Casual employees
	% of minimum hourly rate	
Monday to Friday—outside 7.00 am – 7.00 pm	120	145
Saturday—all day	120	145
Sunday—all day	150	175
Public holidays—all day	250	250

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

### 15. Annual leave

15 amended in accordance with [PR583035](#) (15.5 - 15.9 inserted)

15.1 Annual leave is provided for in the NES.

### 15.2 Definition of a shiftworker

For the purpose of the additional week of annual leave provided for in s.87(1)(b) of the Act, a **shiftworker** is an employee who works ordinary hours over seven days of the week and is regularly rostered to work on Sundays and public holidays.

### 15.3 Annual leave loading

When taking a period of paid annual leave an employee must be paid a loading of **17.5%** in addition to the payment required by the NES or the ordinary pay they would have received for the period of the leave, whichever is the greater.

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).

#### **15.4 Annual close down**

- (a) Where an employer intends temporarily to close (or reduce to nucleus) the place of employment or a section of it for the purpose, amongst others, of allowing annual leave to the employees concerned or a majority of them, the employer must give those employees one month's notice in writing of an intention to apply the provisions of this clause.
- (b) In the case of any employee engaged after notice has been given, notice must be given to that employee on the date of their engagement.
- (c) Where an employee has been given notice pursuant to clause 15.4(a) and the employee has:
  - (i) accrued sufficient annual leave to cover the full period of closing, the employee must take paid annual leave for the full period of closing;
  - (ii) insufficient accrued annual leave to cover the full period of closing, the employee must take paid annual leave to the full amount accrued and leave without pay for the remaining period of the closing; or
  - (iii) no accrued annual leave, the employee must take leave without pay for the full period of closing.
- (d) Public holidays that fall within the period of close down will be paid as provided for in this award and will not count as a day of annual leave or leave without pay.

#### **15.5 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 15.5 is set out at Schedule H. There is no requirement to use the form of agreement set out at Schedule H.

- (c) The employer must keep a copy of any agreement under clause 15.5 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 15.5, 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.

## 15.6 Cashing out of annual leave

- (a) Paid annual leave must not be cashed out except in accordance with an agreement under clause 15.6.
- (b) Each cashing out of a particular amount of paid annual leave must be the subject of a separate agreement under clause 15.6.
- (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 15.6 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 15.6 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 15.6 as an employee record.

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

Note 1: Under section 344 of the ~~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 15.6.

Note 2: Under section 345(1) of the ~~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 15.6.

Note 3: An example of the type of agreement required by clause 15.6 is set out at Schedule I. There is no requirement to use the form of agreement set out at Schedule I.

## 15.7 Excessive leave accruals: general provision

Note: Clauses 15.7 to 15.9 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 ~~Fair Work Act~~.

- (a) An employee has an **excessive leave accrual** if the employee has accrued more than 8 weeks' paid annual leave (or 10 weeks' paid annual leave for a shiftworker, as defined by clause 15.2).
- (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 15.8 sets out how an employer may direct an employee who has an excessive leave accrual to take paid annual leave.
- (d) Clause 15.9 sets out how an employee who has an excessive leave accrual may require an employer to grant paid annual leave requested by the employee.

**15.8 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 15.7(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 15.7, 15.8 or 15.9 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 15.8(b)(i).

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

**15.9 Excessive leave accruals: request by employee for leave**

- (a) Clause 15.9 comes into operation from 29 July 2017.

- (b) If an employee has genuinely tried to reach agreement with an employer under clause 15.7(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.
- (c) However, an employee may only give a notice to the employer under paragraph (b) 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 15.8(a) that, when any other paid annual leave arrangements (whether made under clause 15.7, 15.8 or 15.9 or otherwise agreed by the employer and employee) are taken into account, would eliminate the employee's excessive leave accrual.
- (d) A notice given by an employee under paragraph (b) 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 15.7, 15.8 or 15.9 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.
- (e) An employee is not entitled to request by a notice under paragraph (b) more than 4 weeks' paid annual leave (or 5 weeks' paid annual leave for a shiftworker, as defined by clause 15.2) in any period of 12 months.
- (f) The employer must grant paid annual leave requested by a notice under paragraph (b).

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

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

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

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

## **18. Community service leave**

Community service leave is provided for in the NES.

## 19. Public holidays

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

- 19.1** Public holiday entitlements are provided for in the NES.
- 19.2** By agreement between an employer and the majority of employees in an enterprise another day may be substituted for a public holiday provided for in the NES.
- 19.3** An employer and an employee may agree on the substitution of another day for a day substituted under clause 19.2.
- 19.4** All worked performed by an employee on a public holiday will be paid in accordance with clause 14—Penalty rates.

### 19.5 Part-day public holiday

19.5 inserted on 21 September 2016

For provisions relating to part-day public holidays see Schedule F.

## 20. Termination of employment

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

### 20.2 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.

### 20.3 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.

## 21. Redundancy

- 21.1** Redundancy pay is provided for in the NES.

### 21.2 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.

### 21.3 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.

### 21.4 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 20.3.

## Part 7—Consultation and Dispute Resolution

### 22. Consultation

#### 22.1 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 22.1(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 22.1(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.

## **22.2 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.

## **23. Dispute resolution**

**23.1** 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.

**23.2** 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 23.1 have been taken, a party to the dispute may refer the dispute to the Fair Work Commission.

- 23.3** The parties may agree on the process to be utilised by the Fair Work Commission including mediation, conciliation and consent arbitration.
- 23.4** 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.
- 23.5** An employer or employee may appoint another person, organisation or association to accompany and/or represent them for the purposes of this clause.
- 23.6** 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.

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## Schedule A—Summary of Hourly Rates of Pay

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

Rates updated as a result of AWR 2017

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

#### A.1.1 Adult full-time and part-time employees—ordinary and penalty rates

	Ordinary hours	Monday to Friday <sup>1</sup>	Saturday – ordinary hours	Sunday – ordinary hours	Public holiday
	<b>% of minimum hourly rate</b>				
	<b>100%</b>	<b>120%</b>	<b>120%</b>	<b>150%</b>	<b>250%</b>
	<b>\$</b>	<b>\$</b>	<b>\$</b>	<b>\$</b>	<b>\$</b>
Level 1	18.29	21.95	21.95	27.44	45.73
Level 2	19.53	23.44	23.44	29.30	48.83
Level 3	21.29	25.55	25.55	31.94	53.23
Level 4	23.23	27.88	27.88	34.85	58.08

<sup>1</sup> All worked performed outside hours of 7.00 am and 7.00 pm.

#### A.1.2 Adult full-time and part-time employees—overtime rates

	First 3 hours	After 3 hours	Public holiday
	<b>% of minimum hourly rate</b>		
	<b>150%</b>	<b>200%</b>	<b>250%</b>
	<b>\$</b>	<b>\$</b>	<b>\$</b>
Level 1	27.44	36.58	45.73
Level 2	29.30	39.06	48.83
Level 3	31.94	42.58	53.23
Level 4	34.85	46.46	58.08

### A.2 Adult casual employees

#### A.2.1 Adult casual employees—ordinary and penalty rates

	Ordinary hours	Monday to Friday <sup>1</sup>	Saturday – ordinary hours	Sunday – ordinary hours	Public holiday
	<b>% of minimum hourly rate</b>				
	<b>125%</b>	<b>145%</b>	<b>145%</b>	<b>175%</b>	<b>250%</b>
	<b>\$</b>	<b>\$</b>	<b>\$</b>	<b>\$</b>	<b>\$</b>
Level 1	22.86	26.52	26.52	32.01	45.73
Level 2	24.41	28.32	28.32	34.18	48.83
Level 3	26.61	30.87	30.87	37.26	53.23

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	Ordinary hours	Monday to Friday <sup>1</sup>	Saturday – ordinary hours	Sunday – ordinary hours	Public holiday
	% of minimum hourly rate				
	125%	145%	145%	175%	250%
	\$	\$	\$	\$	\$
Level 4	29.04	33.68	33.68	40.65	58.08
<sup>1</sup> All worked performed outside hours of 7.00 am and 7.00 pm.					

### A.3 Junior employees

The **junior hourly rate** is based on a percentage of the appropriate adult rate in accordance with clause 10.4. Adult rates apply from 21 years of age in accordance with clause 10.4.

#### A.3.1 Full-time and part-time junior employees—ordinary and penalty rates

Age	Junior hourly rate – ordinary hours	Monday to Friday <sup>1</sup>	Saturday – ordinary hours	Sunday – ordinary hours	Public holiday
	% of junior hourly rate				
	100%	120%	120%	150%	250%
	\$	\$	\$	\$	\$
<b>Level 1</b>					
16 years or under	6.73	8.08	8.08	10.10	16.83
16 years	8.65	10.38	10.38	12.98	21.63
17 years	10.57	12.68	12.68	15.86	26.43
18 years	12.49	14.99	14.99	18.74	31.23
19 years	15.09	18.11	18.11	22.64	37.73
20 years	17.87	21.44	21.44	26.81	44.68
<b>Level 2</b>					
16 years or under	7.19	8.63	8.63	10.79	17.98
16 years	9.24	11.09	11.09	13.86	23.10
17 years	11.29	13.55	13.55	16.94	28.23
18 years	13.34	16.01	16.01	20.01	33.35
19 years	16.11	19.33	19.33	24.17	40.28
20 years	19.08	22.90	22.90	28.62	47.70
<b>Level 3</b>					
16 years or under	7.83	9.40	9.40	11.75	19.58
16 years	10.07	12.08	12.08	15.11	25.18
17 years	12.31	14.77	14.77	18.47	30.78
18 years	14.54	17.45	17.45	21.81	36.35
19 years	17.56	21.07	21.07	26.34	43.90

Exposure draft – Miscellaneous Award 2015

Age	Junior hourly rate – ordinary hours	Monday to Friday <sup>1</sup>	Saturday – ordinary hours	Sunday – ordinary hours	Public holiday
	<b>% of junior hourly rate</b>				
	<b>100%</b>	<b>120%</b>	<b>120%</b>	<b>150%</b>	<b>250%</b>
	<b>\$</b>	<b>\$</b>	<b>\$</b>	<b>\$</b>	<b>\$</b>
20 years	20.80	24.96	24.96	31.20	52.00
<b>Level 4</b>					
16 years or under	8.55	10.26	10.26	12.83	21.38
16 years	10.99	13.19	13.19	16.49	27.48
17 years	13.43	16.12	16.12	20.15	33.58
18 years	15.87	19.04	19.04	23.81	39.68
19 years	19.16	22.99	22.99	28.74	47.90
20 years	22.70	27.24	27.24	34.05	56.75

<sup>1</sup> All worked performed outside hours of 7.00 am and 7.00 pm

**A.3.2 Full-time and part-time junior employees—overtime rates**

Age	First 3 hours	After 3 hours	Public holidays
	<b>% of junior hourly rate</b>		
	<b>150%</b>	<b>200%</b>	<b>250%</b>
	<b>\$</b>	<b>\$</b>	<b>\$</b>
<b>Level 1</b>			
16 years or under	10.10	13.46	16.83
16 years	12.98	17.30	21.63
17 years	15.86	21.14	26.43
18 years	18.74	24.98	31.23
19 years	22.64	30.18	37.73
20 years	26.81	35.74	44.68
<b>Level 2</b>			
16 years or under	10.79	14.38	17.98
16 years	13.86	18.48	23.10
17 years	16.94	22.58	28.23
18 years	20.01	26.68	33.35
19 years	24.17	32.22	40.28
20 years	28.62	38.16	47.70
<b>Level 3</b>			
16 years or under	11.75	15.66	19.58

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Age	First 3 hours	After 3 hours	Public holidays
	% of junior hourly rate		
	150%	200%	250%
	\$	\$	\$
16 years	15.11	20.14	25.18
17 years	18.47	24.62	30.78
18 years	21.81	29.08	36.35
19 years	26.34	35.12	43.90
20 years	31.20	41.60	52.00
<b>Level 4</b>			
16 years or under	12.83	17.10	21.38
16 years	16.49	21.98	27.48
17 years	20.15	26.86	33.58
18 years	23.81	31.74	39.68
19 years	28.74	38.32	47.90
20 years	34.05	45.40	56.75

**A.3.3 Casual junior employees—ordinary and penalty rates**

Age	Junior hourly rate – Ordinary hours	Monday to Friday <sup>1</sup>	Saturday – ordinary hours	Sunday – ordinary hours	Public holiday
	% of junior hourly rate				
	125%	145%	145%	175%	250%
	\$	\$	\$	\$	\$
<b>Level 1</b>					
16 years or under	8.41	9.76	9.76	11.78	16.83
16 years	10.81	12.54	12.54	15.14	21.63
17 years	13.21	15.33	15.33	18.50	26.43
18 years	15.61	18.11	18.11	21.86	31.23
19 years	18.86	21.88	21.88	26.41	37.73
20 years	22.34	25.91	25.91	31.27	44.68
<b>Level 2</b>					
16 years or under	8.99	10.43	10.43	12.58	17.98
16 years	11.55	13.40	13.40	16.17	23.10
17 years	14.11	16.37	16.37	19.76	28.23
18 years	16.68	19.34	19.34	23.35	33.35

**Exposure draft – Miscellaneous Award 2015**

<b>Age</b>	<b>Junior hourly rate – Ordinary hours</b>	<b>Monday to Friday<sup>1</sup></b>	<b>Saturday – ordinary hours</b>	<b>Sunday – ordinary hours</b>	<b>Public holiday</b>
	<b>% of junior hourly rate</b>				
	<b>125%</b>	<b>145%</b>	<b>145%</b>	<b>175%</b>	<b>250%</b>
	<b>\$</b>	<b>\$</b>	<b>\$</b>	<b>\$</b>	<b>\$</b>
19 years	20.14	23.36	23.36	28.19	40.28
20 years	23.85	27.67	27.67	33.39	47.70
<b>Level 3</b>					
16 years or under	9.79	11.35	11.35	13.70	19.58
16 years	12.59	14.60	14.60	17.62	25.18
17 years	15.39	17.85	17.85	21.54	30.78
18 years	18.18	21.08	21.08	25.45	36.35
19 years	21.95	25.46	25.46	30.73	43.90
20 years	26.00	30.16	30.16	36.40	52.00
<b>Level 4</b>					
16 years or under	10.69	12.40	12.40	14.96	21.38
16 years	13.74	15.94	15.94	19.23	27.48
17 years	16.79	19.47	19.47	23.50	33.58
18 years	19.84	23.01	23.01	27.77	39.68
19 years	23.95	27.78	27.78	33.53	47.90
20 years	28.38	32.92	32.92	39.73	56.75
<sup>1</sup> All worked performed outside hours of 7.00 am and 7.00 pm					

## A.4 Apprentice rates

**A.4.1** The **junior apprentice hourly rate** is based on a percentage of the Level 3 adult weekly rate in accordance with clause 10.2(a).

**A.4.2** The **adult apprentice hourly rate** is calculated in accordance with clause 10.2(c).

### A.4.3 Junior apprentices—ordinary and penalty rates

Year	Junior apprentice hourly rate – ordinary hours	Monday to Friday <sup>1</sup>	Saturday – ordinary hours	Sunday – ordinary hours	Public holiday
	<b>% of junior apprentice hourly rate</b>				
	<b>100%</b>	<b>120%</b>	<b>120%</b>	<b>150%</b>	<b>250%</b>
	<b>\$</b>	<b>\$</b>	<b>\$</b>	<b>\$</b>	<b>\$</b>
1st year	11.71	14.05	14.05	17.57	29.28
2nd year	13.84	16.61	16.61	20.76	34.60
3rd year	17.03	20.44	20.44	25.55	42.58
4th year	20.23	24.28	24.28	30.35	50.58

<sup>1</sup> All worked performed outside hours of 7.00 am and 7.00 pm

### A.4.4 Junior apprentices—overtime rates

Year	First 3 hours	After 3 hours	Public holiday
	<b>% of junior apprentice hourly rate</b>		
	<b>150%</b>	<b>200%</b>	<b>250%</b>
	<b>\$</b>	<b>\$</b>	<b>\$</b>
1st year	17.57	23.42	29.28
2nd year	20.76	27.68	34.60
3rd year	25.55	34.06	42.58
4th year	30.35	40.46	50.58

### A.4.5 Adult apprentices who commenced on or after 1 January 2014—ordinary and penalty rates

Year	Adult apprentice hourly rate – ordinary hours	Monday to Friday <sup>1</sup>	Saturday – ordinary hours	Sunday – ordinary hours	Public holiday
	<b>% of adult apprentice hourly rate</b>				
	<b>100%</b>	<b>120%</b>	<b>120%</b>	<b>150%</b>	<b>250%</b>
	<b>\$</b>	<b>\$</b>	<b>\$</b>	<b>\$</b>	<b>\$</b>
1st year	17.03	20.44	20.44	25.55	42.58
2nd year	18.29	21.95	21.95	27.44	45.73

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3rd year	18.29	21.95	21.95	27.44	45.73
4th year	20.23	24.28	24.28	30.35	50.58
<sup>1</sup> All worked performed outside of hours of 7.00 am and 7.00 pm					

**A.4.6 Adult apprentices who commenced on or after 1 January 2014—overtime rates**

<b>Year</b>	<b>First 3 hours</b>	<b>After 3 hours</b>	<b>Public holiday</b>
	<b>% of adult apprentice hourly rate</b>		
	<b>150%</b>	<b>200%</b>	<b>250%</b>
	<b>\$</b>	<b>\$</b>	<b>\$</b>
1st year	25.55	34.06	42.58
2nd year	27.44	36.58	45.73
3rd year	27.44	36.58	45.73
4th year	30.35	40.46	50.58

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## Schedule B—Summary of Monetary Allowances

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

See clause 11 for full details of allowances payable under this award.

### B.1 Wage related allowances

The wage related allowances in this award are based on the standard rate as defined in Schedule G as the minimum weekly wage rate for Level 3 in clause 10.1 = **\$ 809.10**.

Allowance	Clause	% of standard rate \$809.10	\$ per week
First aid allowance	11.2(a)	2.0	16.18
Leading hand/in charge allowance—in charge of:	11.2(b)		
3–10 employees		4.4	35.60
11–20 employees		6.5	52.59
More than 20 employees		8.3	67.16

### B.2 Expense related allowances

The following expense related allowances will be payable to employees in accordance with clause 11.3:

Allowance	Clause	\$
Meal allowances	11.3(b)	
Overtime of more than one hour without 24 hours' notice		17.92 per occasion
Overtime exceeding four hours		16.23 per occasion
Vehicle allowance	11.3(c)	0.78 per km

#### B.2.1 Adjustment of expense related allowances

**B.2.2** 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.

**B.2.3** 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
Meal allowance	Take away and fast foods sub-group
Vehicle allowance	Private motoring sub-group



## Schedule C—Supported Wage System

Schedule C updated in accordance with [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—School-based Apprentices**

- D.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.
- D.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.
- D.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.
- D.4** For the purposes of clause D.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.
- D.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.
- D.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.
- D.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.
- D.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 or at the rate of competency based progression if provided for in this award.
- D.9** The apprentice wage scales are based on a standard full-time apprenticeship of four years (unless the apprenticeship is of three years duration) or stages of competency based progression (if provided for in this award). 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.
- D.10** If an apprentice converts from school-based to full-time, the successful completion of competencies (if provided for in this award) and 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.
- D.11** School-based apprentices are entitled pro rata to all of the other conditions in this award.

## Schedule E—National Training Wage

This schedule is being reviewed in matter [AM2016/17](#)

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

### 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.

**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:

	<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	312.20	343.80	409.60
Plus 1 year out of school	343.80	409.60	476.60
Plus 2 years out of school	409.60	476.60	554.70
Plus 3 years out of school	476.60	554.70	635.10
Plus 4 years out of school	554.70	635.10	
Plus 5 or more years out of school	635.10		

**(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:

	<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	312.20	343.80	398.50
Plus 1 year out of school	343.80	398.50	458.40
Plus 2 years out of school	398.50	458.40	537.60
Plus 3 years out of school	458.40	537.60	613.20
Plus 4 years out of school	537.60	613.20	
Plus 5 or more years out of school	613.20		

**(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	312.20	343.80	398.50
Plus 1 year out of school	343.80	398.50	448.60
Plus 2 years out of school	398.50	448.60	501.20
Plus 3 years out of school	448.60	501.20	558.40
Plus 4 years out of school	501.20	558.40	
Plus 5 or more years out of school	558.40		

**(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	659.60	685.10
Wage Level B	636.30	660.80
Wage Level C	579.10	601.00

**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	10.27	11.32	13.48
Plus 1 year out of school	11.32	13.48	15.69
Plus 2 years out of school	13.48	15.69	18.24
Plus 3 years out of school	15.69	18.24	20.88
Plus 4 years out of school	18.24	20.88	
Plus 5 or more years out of school	20.88		

**(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	10.27	11.32	13.12
Plus 1 year out of school	11.32	13.12	15.08
Plus 2 years out of school	13.12	15.08	17.70
Plus 3 years out of school	15.08	17.70	20.18
Plus 4 years out of school	17.70	20.18	
Plus 5 or more years out of school	20.18		

**(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	10.27	11.32	13.12
Plus 1 year out of school	11.32	13.12	14.75
Plus 2 years out of school	13.12	14.75	16.48
Plus 3 years out of school	14.75	16.48	18.37

	Highest year of schooling completed		
	Year 10	Year 11	Year 12
	per hour	per hour	per hour
	\$	\$	\$
Plus 4 years out of school	16.48	18.37	
Plus 5 or more years out of school	18.37		

**(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:

Year of schooling	
Year 11 or lower	Year 12
per hour	per hour
\$	\$
10.27	11.32

**(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:

Wage level	First year of traineeship	Second and subsequent years of traineeship
	per hour	per hour
	\$	\$
Wage Level A	21.69	22.54
Wage Level B	20.91	21.72
Wage Level C	19.05	19.78

**(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

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
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

<b>Training package</b>	<b>AQF certificate level</b>
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
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

<b>Training package</b>	<b>AQF certificate level</b>
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

## Schedule F—2016 Part-day Public Holidays

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

Schedule F amended in accordance with [PR580863](#)

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 2016) or New Year's Eve (31 December 2016) 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.

## Schedule G—Definitions

Placement of the *definitions* to be determined by Plain Language Process. See [\[2017\] FWCFB 3433](#) at [333].

In this award, unless the contrary intention appears:

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

**adult apprentice** means an apprentice who is 21 years of age or over at the commencement of their apprenticeship

**default fund employee** means an employee who has no chosen fund within the meaning of the *Superannuation Guarantee (Administration) Act 1992* (Cth)

**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

**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

**standard rate** means the minimum weekly wage for Level 3 in clause 10.1



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

Schedule H—Agreement to Take Annual Leave in Advance inserted in accordance with [PR583035](#).

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 I—Agreement to Cash Out Annual Leave

Schedule I—Agreement to Cash Out Annual Leave inserted in accordance with [PR583035](#)

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 J—Agreement for Time Off Instead of Payment for Overtime**

Schedule J— Agreement for time off instead of payment for overtime inserted in accordance with [PR584120](#)

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\_\_\_