



# DRAFT DETERMINATION

*Fair Work Act 2009*

s.156—4 yearly review of modern awards

## **4 yearly review of modern awards**

(AM2014/236)

### **MARKET AND SOCIAL RESEARCH AWARD 2010**

[MA000030]

Market and business consultancy services

JUSTICE ROSS, PRESIDENT  
DEPUTY PRESIDENT CLANCY  
COMMISSIONER BISSETT

PLACE, XX MONTH YEAR

*4 yearly review of modern awards – Market and Social Research Award 2010 – modern award varied.*

A. Further to the decision [[YEAR] FWCFB XXXX] issued by the Full Bench of the Fair Work Commission on XX MONTH YEAR, the *Market and Social Research Award 2010* is varied as follows:

1. By deleting all clauses, schedules and appendices.
2. By inserting the clauses and schedules attached.

B: This determination comes into operation from [XX MONTH YEAR]. In accordance with s.165(3) of the *Fair Work Act 2009*, this determination does not take effect until the start of the first full pay period that starts on or after [XX MONTH YEAR].

PRESIDENT

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# Market and Social Research Award 20XX

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## Part 1—Application and Operation of this Award

### 1. Title and commencement

- 1.1 This award is the *Market and Social Research Award 20XX*.
- 1.2 This modern award commenced operation on 1 January 2010. The terms of the award have been varied since that date.
- 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.

### 2. Definitions

In this award, unless the contrary intention appears:

**Act** means the *Fair Work Act 2009* (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](#)

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

**market and social research** includes both qualitative and quantitative research, including the gathering, recording or analysing of information or data related to governments, markets, business consultancy, consumers or competitors, or any processes or activities incidental or ancillary to such work

**market and social research industry** has the meaning given in clause 4.2

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

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

**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 hourly rate for a Market research interviewer in clause 14.1

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

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

### 4. Coverage

- 4.1 This industry award covers employers throughout Australia who are engaged in the market and social research industry in respect of work by their employees in the classifications listed in clause 14—Minimum rates to the exclusion of any other modern award.

- 4.2 **Market and social research industry** means all market and social research including every process, trade, business or occupation on or in relation to or in connection with market and social research and all support work engaged in or in connection with market or social research, for both public and private purposes.

Market and social research includes both qualitative and quantitative research, including the gathering, recording or analysing of information or data related to governments, markets, business consultancy, consumers or competitors, or any processes or activities incidental or ancillary to such work.

- 4.3 This industry award does not cover:

- (a) an employer covered by the *Higher Education Industry—Academic Staff—Award 20XX*;
- (b) an employee excluded from award coverage by the [Act](#);
- (c) 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
- (d) employees who are covered by a State reference public sector modern award, or a State reference public sector transitional award (within the meaning of the *Fair Work (Transitional Provisions and Consequential Amendments) Act 2009* (Cth)), or employers in relation to those employees.

- 4.4 This award covers any employer which supplies labour on an on-hire basis in the market and social research industry in respect of on-hire employees in classifications covered by this award, and those on-hire employees, while engaged in the performance of work for a business in that industry. Clause 4.4 operates subject to the exclusions from coverage in this award.

- 4.5 This award covers employers which provide group training services for trainees engaged in the market and social research industry and/or parts of that industry and

those trainees engaged by a group training service hosted by a company to perform work at a location where the activities described herein are being performed. Clause 4.5 operates subject to the exclusions from coverage in this award.

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

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

## **5. Individual flexibility arrangements**

- 5.1** Despite anything else in this award, an employer and an individual employee may agree to vary the application of the terms of this award relating to any of the following in order to meet the genuine needs of both the employee and the employer:

- (a) arrangements for when work is performed; or
- (b) overtime rates; or
- (c) penalty rates; or
- (d) allowances; or
- (e) annual leave loading.

- 5.2** An agreement must be one that is genuinely made by the employer and the individual employee without coercion or duress.

- 5.3** An agreement may only be made after the individual employee has commenced employment with the employer.

- 5.4** An employer who wishes to initiate the making of an agreement must:

- (a) give the employee a written proposal; and
- (b) if the employer is aware that the employee has, or reasonably should be aware that the employee may have, limited understanding of written English, take reasonable steps (including providing a translation in an appropriate language) to ensure that the employee understands the proposal.

- 5.5** An agreement must result in the employee being better off overall at the time the agreement is made than if the agreement had not been made.

- 5.6** An agreement must do all of the following:

- (a) state the names of the employer and the employee; and
- (b) identify the award term, or award terms, the application of which is to be varied; and

- (c) set out how the application of the award term, or each award term, is varied; and
- (d) set out how the agreement results in the employee being better off overall at the time the agreement is made than if the agreement had not been made; and
- (e) state the date the agreement is to start.

**5.7** An agreement must be:

- (a) in writing; and
- (b) signed by the employer and the employee and, if the employee is under 18 years of age, by the employee's parent or guardian.

**5.8** Except as provided in clause 5.7(b), an agreement must not require the approval or consent of a person other than the employer and the employee.

**5.9** The employer must keep the agreement as a time and wages record and give a copy to the employee.

**5.10** The employer and the employee must genuinely agree, without duress or coercion to any variation of an award provided for by an agreement.

**5.11** An agreement may be terminated:

- (a) at any time, by written agreement between the employer and the employee; or
- (b) by the employer or employee giving 13 weeks' written notice to the other party (reduced to 4 weeks if the agreement was entered into before the first full pay period starting on or after 4 December 2013).

NOTE: If an employer and employee agree to an arrangement that purports to be an individual flexibility arrangement under this award term and the arrangement does not meet a requirement set out in section 144 then the employee or the employer may terminate the arrangement by giving written notice of not more than 28 days (see section 145 of the [Act](#)).

**5.12** An agreement terminated as mentioned in clause 5.11(b) ceases to have effect at the end of the period of notice required under that clause.

**5.13** The right to make an agreement under clause 5 is additional to, and does not affect, any other term of this award that provides for an agreement between an employer and an individual employee.

## **6. Requests for flexible working arrangements**

### **6.1 Employee may request change in working arrangements**

Clause 6 applies where an employee has made a request for a change in working arrangements under section 65 of the [Act](#).

NOTE 1: Section 65 of the [Act](#) provides for certain employees to request a change in their working arrangements because of their circumstances, as set out in

section 65(1A). Clause 6 supplements or deals with matters incidental to the [NES](#) provisions.

NOTE 2: An employer may only refuse a section 65 request for a change in working arrangements on ‘reasonable business grounds’ (see section 65(5) and (5A)).

NOTE 3: Clause 6 is an addition to section 65.

## **6.2 Responding to the request**

Before responding to a request made under section 65, the employer must discuss the request with the employee and genuinely try to reach agreement on a change in working arrangements that will reasonably accommodate the employee’s circumstances having regard to:

- (a) the needs of the employee arising from their circumstances;
- (b) the consequences for the employee if changes in working arrangements are not made; and
- (c) any reasonable business grounds for refusing the request.

NOTE 1: The employer must give the employee a written response to an employee’s section 65 request within 21 days, stating whether the employer grants or refuses the request (section 65(4)).

NOTE 2: If the employer refuses the request, then the written response must include details of the reasons for the refusal (section 65(6)).

## **6.3 What the written response must include if the employer refuses the request**

- (a) Clause 6.3 applies if the employer refuses the request and has not reached an agreement with the employee under clause 6.2.
- (b) The written response under section 65(4) must include details of the reasons for the refusal, including the business ground or grounds for the refusal and how the ground or grounds apply.
- (c) If the employer and employee could not agree on a change in working arrangements under clause 6.2, then the written response under section 65(4) must:
  - (i) state whether or not there are any changes in working arrangements that the employer can offer the employee so as to better accommodate the employee’s circumstances; and
  - (ii) if the employer can offer the employee such changes in working arrangements, set out those changes in working arrangements.

## **6.4 What the written response must include if a different change in working arrangements is agreed**

If the employer and the employee reached an agreement under clause 6.2 on a change in working arrangements that differs from that initially requested by the employee, then the employer must provide the employee with a written response to their request setting out the agreed change(s) in working arrangements.



**6.5 Dispute resolution**

Disputes about whether the employer has discussed the request with the employee and responded to the request in the way required by clause 6, can be dealt with under clause 28—Dispute resolution.

**7. Facilitative provisions**

**7.1** A facilitative provision provides that the standard approach in an award provision may be departed from by agreement between an employer and an individual employee, or an employer and the majority of employees in the enterprise or part of the enterprise concerned.

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

Clause	Provision	Agreement between an employer and:
13.2(b)	Ordinary hours—spread of hours	
13.3(d)	Ordinary hours—minimum engagement	An individual
13.8	Make-up time	An individual
15.1 & 15.2	Payment of wages	An individual
18.2	Time off instead of payment for overtime	An individual
19.2	Time off instead of payment of penalty rates	An individual
20.3	Annual leave in advance	An individual
20.4	Cashing out of annual leave	An individual

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

**8. Types of employment**

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

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

**8.2** An employee not specifically engaged on a part-time or casual basis is a full-time employee for the purposes of this award.

**9. Full-time employees**

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

## 10. Part-time employees

10.1 A part-time employee:

- (a) is engaged to work less than an average of 38 ordinary hours per week; and
- (b) receives, on a pro rata basis, equivalent pay and conditions to those of full-time employees who do the same kind of work.

## 11. Casual employees

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

11.2 A casual employee's ordinary hours of work are usually irregular and less than an average of 38 hours per week or the hours required to be worked by the employer.

### 11.3 Casual loading

- (a) 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 in which they are employed.
- (b) The casual loading is paid instead of annual leave, personal/carer's leave, notice of termination, redundancy benefits and the other attributes of full-time or part-time employment.

11.4 A casual employee must be engaged and paid for at least 2 consecutive hours of work on each occasion they are required to attend work.

### 11.5 Right to request casual conversion

- (a) A person engaged by a particular employer as a regular casual employee may request that their employment be converted to full-time or part-time employment.
- (b) A **regular casual employee** is a casual employee who has in the preceding period of 12 months worked a pattern of hours on an ongoing basis which, without significant adjustment, the employee could continue to perform as a full-time employee or part-time employee under the provisions of this award.
- (c) A regular casual employee who has worked equivalent full-time hours over the preceding period of 12 months' casual employment may request to have their employment converted to full-time employment.
- (d) A regular casual employee who has worked less than equivalent full time hours over the preceding period of 12 months' casual employment may request to have their employment converted to part-time employment consistent with the pattern of hours previously worked.
- (e) Any request under clause 11.5 must be in writing and provided to the employer.

- (f) Where a regular casual employee seeks to convert to full-time or part-time employment, the employer may agree to or refuse the request, but the request may only be refused on reasonable grounds and after there has been consultation with the employee.
- (g) Reasonable grounds for refusal include that:
  - (i) it would require a significant adjustment to the casual employee's hours of work in order for the employee to be engaged as a full-time or part-time employee in accordance with the provisions of this award – that is, the casual employee is not truly a regular casual employee as defined in clause 11.5(b);
  - (ii) it is known or reasonably foreseeable that the regular casual employee's position will cease to exist within the next 12 months;
  - (iii) it is known or reasonably foreseeable that the hours of work which the regular casual employee is required to perform will be significantly reduced in the next 12 months; or
  - (iv) it is known or reasonably foreseeable that there will be a significant change in the days and/or times at which the employee's hours of work are required to be performed in the next 12 months which cannot be accommodated within the days and/or hours during which the employee is available to work.
- (h) For any ground of refusal to be reasonable, it must be based on facts which are known or reasonably foreseeable.
- (i) Where the employer refuses a regular casual employee's request to convert, the employer must provide the casual employee with the employer's reasons for refusal in writing within 21 days of the request being made.
- (j) If the employee does not accept the employer's refusal, this will constitute a dispute that will be dealt with under the dispute resolution procedure in clause 28—Dispute resolution. Under that procedure, the employee or the employer may refer the matter to the Fair Work Commission if the dispute cannot be resolved at the workplace level.
- (k) Where it is agreed that a casual employee will have their employment converted to full-time or part-time employment as provided for in clause 11.5, the employer and employee must discuss and record in writing:
  - (i) the form of employment to which the employee will convert – that is, full-time or part-time employment; and
  - (ii) if it is agreed that the employee will become a part-time employee, the employee's hours of work fixed in accordance with clause 10—Part-time employees.
- (l) The conversion will take effect from the start of the next pay cycle following such agreement being reached unless otherwise agreed.

- (m) Once a casual employee has converted to full-time or part-time employment, the employee may only revert to casual employment with the written agreement of the employer.
- (n) A casual employee must not be engaged and re-engaged (which includes a refusal to re-engage), or have their hours reduced or varied, in order to avoid any right or obligation under clause 11.5.
- (o) Nothing in clause 11.5 obliges a regular casual employee to convert to full-time or part-time employment, nor permits an employer to require a regular casual employee to so convert.
- (p) Nothing in clause 11.5 requires an employer to increase the hours of a regular casual employee seeking conversion to full-time or part-time employment.
- (q) An employer must provide a casual employee, whether a regular casual employee or not, with a copy of the provisions of clause 11.5 within the first 12 months of the employee's first engagement to perform work. In respect of casual employees already employed as at 1 October 2018, an employer must provide such employees with a copy of the provisions of clause 11.5 by 1 January 2019.
- (r) A casual employee's right to request to convert is not affected if the employer fails to comply with the notice requirements in clause 11.5(q) .

## **12. Classifications**

- 12.1 A description of the classifications under this award is set out in Schedule A—Classification Definitions.
- 12.2 All employees covered by this award must be classified according to the structure set out in Schedule A—Classification Definitions. Employers must advise their employees in writing of their classification and of any changes to their classification.
- 12.3 The classification by the employer must be according to the skill level or levels required to be exercised by the employee in order to carry out the principal functions of the employment as determined by the employer.

## **Part 3—Hours of Work**

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

- 13.1 The ordinary hours of work for a full-time employee are an average of 38 hours per week.
- 13.2 Ordinary hours for full-time and part-time employees may be worked:
  - (a) on any day Monday to Sunday over a work cycle; and
  - (b) during the daily spread of ordinary hours, 8.00 am to 8.00 pm, or as varied in respect of the whole or a section of an employer's operations by agreement in writing between the employer and the employees.

- 13.3** The ordinary hours of work for full-time and part-time employees will be determined in advance of a work cycle after consultation between the employer and employees affected in the whole of a section of the operations of their company, provided that:
- (a) the work cycle may extend over 7, 14, 21 or 28 consecutive days;
  - (b) the roster as it affects an individual employee may be varied at any time by agreement between the employee and their employer;
  - (c) there will not be more than 12 ordinary hours of work on any day; and
  - (d) except by agreement between an individual employee and their employer, a full-time and part-time employee rostered to work ordinary hours on any day will be paid for at least 3 hours' work on that day.
- 13.4** In the absence of agreement at the workplace level in respect of the implementation of the 38 hour week which best suits the business and the preferences of the employees concerned, the parties will apply the provisions of clause 28—Dispute resolution.
- 13.5** Casual employees may work on any day of the week for the hourly rate of pay set out in clause 1.3, except that no casual employee will be required against their wishes to work between the hours of midnight and 8.00 am or more than 8 hours in any day.
- 13.6** If an employee is required to commence work at a location away from the employee's usual work location, working time will include travel time between the employee's home and the work location and return, less one hour.
- 13.7** For the purposes of calculating leave entitlements of full-time employees, a day will be regarded as 7.6 hours and an ordinary working week will be regarded as 38 hours. Pro rata entitlements will apply for part-time employees.
- 13.8** **Make-up time**
- (a) An employee may elect, with the consent of their employer, to work make-up time, under which the employee takes time off ordinary hours, and works those hours at a later time, during the spread of ordinary hours provided in the award.
  - (b) On each occasion that the employee elects to use this provision the resulting agreement will be recorded in the time and wages records, personnel file or forms appropriate to the enterprise, at the time when the agreement is made.

## Part 4—Wages and Allowances

### 14. Minimum rates

14.1 An employer must pay an employee the following minimum rates for ordinary hours worked by the employee:

Employee classification	Minimum weekly rate (full-time employees)	Minimum annual salary	Minimum hourly rate
	\$	\$	\$
Market research trainee	776.10	40,357	20.42
Support employee first year	844.00	43,888	22.21
Support employee thereafter	868.00	45,136	22.84
Market research interviewer	868.00	45,136	22.84
Executive (face-to-face) interviewer and door-to-door interviewer	876.50	45,578	23.07
Editor/Coder/Keyboard operator	882.80	45,906	23.23
Team leader	924.20	48,058	24.32
Field supervisor	992.70	51,620	26.12
Research assistant	992.70	51,620	26.12
Field manager	1084.30	56,384	28.53
Research officer	1084.30	56,384	28.53
Research manager	1427.20	74,214	37.56

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

14.2 For the purposes of clause 14, any entitlement to a minimum wage expressed to be by the week means any entitlement which an employee would receive for performing 38 hours of work.

14.3 The minimum annual salary is calculated by multiplying the minimum weekly rate by 52.

#### **14.4 Payment on a total wage basis**

An employer may pay a full-time or part-time employee on a total wage basis instead of the wages and penalty payments set out in clauses 14—Minimum rates, 16—Allowances, 18—Overtime, 19—Penalty rates and 20.2, provided that the total wage is not less than the total minimum wages set out in clause 14.1, plus **25%**.

#### **14.5 Payment on a commission basis**

- (a) An employer may pay a full-time, part-time or casual employee on a total commission basis (such as a fee per placement) instead of the wages and penalty payments set out in clause 14.5, clauses 16—Allowances, 13—Ordinary hours of work, 18—Overtime and 19—Penalty rates provided that such commission payments:
  - (i) are reasonably expected to result in total payments to employees which are not less than the total wages and penalty payments otherwise payable for such work; and
  - (ii) have been agreed to by the employee in advance of the period of employment for the project(s).
- (b) Unless agreed otherwise between the employer and the employee, the employer will provide the employee with a form, including the following assurances by the employer:
  - (i) the details of the amount and terms of payments offered;
  - (ii) an assurance that the employer has previously conducted or trialed the same or a very similar project under very similar circumstances and times using similarly briefed and capable employees being paid wages and penalties for time worked;
  - (iii) an assurance that such prior actual experience is sufficient to objectively establish that the total commission payments in most cases will provide an average competent employee with payments not less than would be the case from payment of wages and penalties for time worked, plus a contingency margin of 10%; and
  - (iv) the form will be signed by the employee accepting the payment on the total commission basis offered and returned in advance of the period of employment for the project(s).

#### **14.6 Absence from work**

Employees who are not on approved leave and who do not attend for duty will not be paid for the actual time of the non-attendance.

#### **14.7 School-based apprentices**

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

#### **14.8 Supported wage system**

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

## 15. Payment of wages

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

- 15.1** Wages will be paid fortnightly. However, where the employer and the employee agree, wages may be paid weekly, 4-weekly or monthly.
- 15.2** Wages must be paid by electronic funds transfer. However, where the employer and the employee agree, wages may be paid by cash or by cheque.
- 15.3** Payment must be made within 14 days of the employer being notified of the hours which have been worked in a pay period.
- 15.4** When payment is made the employer must provide to each employee in writing:
- (a) a detailed statement of the nature and amount of the gross wage to which the employee is entitled;
  - (b) the nature and amounts of any deductions made;
  - (c) the precise nature of the deductions; and
  - (d) the net amount being paid to the employee.
- 15.5** An employer must keep time and wages records showing the:
- (a) name of each employee;
  - (b) rate of wages and commissions;
  - (c) hours worked;
  - (e) allowances paid in accordance with this award; and
  - (f) details of any deductions.
- 15.6 Payment on termination of employment**
- (a) The employer must pay an employee no later than 7 days after the day on which the employee's employment terminates:
    - (i) the employee's wages under this award for any complete or incomplete pay period up to the end of the day of termination; and
    - (ii) all other amounts that are due to the employee under this award and the [NES](#).
  - (b) An employer must, on request, provide to an employee on termination a detailed statement of outstanding entitlements.
  - (c) The requirement to pay wages and other amounts under clause 15.6(a) is subject to further order of the Commission and the employer making deductions authorised by this award or the [Act](#).



NOTE 1: Section 117(2) of the [Act](#) provides that an employer must not terminate an employee's employment unless the employer has given the employee the required minimum period of notice or "has paid" to the employee payment instead of giving notice.

NOTE 2: Clause 15.6(b) allows the Commission to make an order delaying the requirement to make a payment under clause 15.6. For example, the Commission could make an order delaying the requirement to pay redundancy pay if an employer makes an application under section 120 of the [Act](#) for the Commission to reduce the amount of redundancy pay an employee is entitled to under the [NES](#).

NOTE 3: State and Territory long service leave laws or long service leave entitlements under section 113 of the [Act](#), may require an employer to pay an employee for accrued long service leave on the day on which the employee's employment terminates or shortly after.

## 16. Allowances

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.

Employers must pay to an employee the allowances the employee is entitled to under clause 16. See Schedule C—Summary of Monetary Allowances for a summary of monetary allowances and method of adjustment.

### 16.1 Motor vehicle allowance

An employee who is required by their employer to use their own motor vehicle in the performance of their duties will be paid an allowance of not less than **\$0.78** per kilometre subject to the following:

- (a) the travel will be restricted to on-the-job motor vehicle usage; and
- (b) where an employee is required to commence work at a location away from the employee's usual work location, the distance for motor vehicle allowance purposes will be the total distance travelled from the employee's home and return, including on-the-job motor vehicle usage. A deduction of 22 kilometres will be made from the distance travelled in respect of employees who are paid for at least 3 hours in that day.

### 16.2 Damage to or theft of personal effects

If, whilst on the employer's business, an employee suffers either damage to or theft of clothing or personal effects, the employer will reimburse the employee to a maximum of **\$501.20** for a single claim less any amount of reimbursement from other sources. Payment will not be made if the damage or theft is in any way caused by the employee's own wilful act or neglect.

### 16.3 Expenses reimbursement

- (a) In addition to the remuneration payable under clause 14—Minimum rates, an employer will reimburse an employee for all expenses which have been

actually and properly incurred by the employee as required by the employer in the discharge of the employee's duties.

- (b) Such expenses that can reasonably be anticipated will be payable in advance.

#### **16.4 Relocation allowance**

- (a) Where an employee is directed or required by the employer, in writing, to relocate residence to another area, the employer will reimburse the employee reasonable costs for relocating personal and household effects and members of the employee's immediate dependent family.
- (b) Reasonable costs expressed in clause 16.4 are to be the amount agreed upon, in writing, between the employer and the employee prior to relocation.

#### **16.5 Telephone allowance**

Where an employee is required by the employer, in writing, to have a private telephone as part of the employee's work duties, the employer will reimburse the employee:

- (a) the cost of rental and all telephone calls made as part of the employee's work duties; and
- (b) the cost of the installation if the employer has required in writing that the employee install a private telephone for use in connection with the employer's business.

### **17. Superannuation**

#### **17.1 Superannuation legislation**

- (a) Superannuation legislation, including the *Superannuation Guarantee (Administration) Act 1992* (Cth), the *Superannuation Guarantee Charge Act 1992* (Cth), the *Superannuation Industry (Supervision) Act 1993* (Cth) and the *Superannuation (Resolution of Complaints) Act 1993* (Cth), deals with the superannuation rights and obligations of employers and employees. Under superannuation legislation individual employees generally have the opportunity to choose their own superannuation fund. If an employee does not choose a superannuation fund, any superannuation fund nominated in the award covering the employee applies.
- (b) The rights and obligations in these clauses supplement those in superannuation legislation.

#### **17.2 Employer contributions**

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

### 17.3 Voluntary employee contributions

- (a) Subject to the governing rules of the relevant superannuation fund, an employee may, in writing, authorise their employer to pay on behalf of the employee a specified amount from the post-taxation wages of the employee into the same superannuation fund as the employer makes the superannuation contributions provided for in clause 17.2.
- (b) An employee may adjust the amount the employee has authorised their employer to pay from the wages of the employee from the first of the month following the giving of three months' written notice to their employer.
- (c) The employer must pay the amount authorised under clauses 17.3(a) or 17.3(b) no later than 28 days after the end of the month in which the deduction authorised under clauses 17.3(a) or 17.3(b) was made.

### 17.4 Superannuation fund

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

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

### 17.5 Absence from work

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

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

## Part 5—Overtime and Penalty Rates

### 18. Overtime

#### 18.1 Overtime payments—employees other than casuals

- (a) For a full-time or part-time employee, overtime is all time worked in excess of the employee's rostered ordinary hours of work.
- (b) Overtime must be paid at **125%** of the minimum hourly rate for each hour of overtime worked.

#### 18.2 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 18.2.
- (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 clause 18.2(c)(iii) must be made in the next pay period following the request.

NOTE: An example of the type of agreement required by clause 18.2 is set out at Schedule F—Agreement for Time Off Instead of Payment for Overtime. There is no requirement to use the form of agreement set out at Schedule F—Agreement for Time Off Instead of Payment for Overtime. An agreement under clause 18.2 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 18.2 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 18.2 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 clause 18.2(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 18.2 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 18.2 will apply, including the requirement for separate written agreements under clause 18.2(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 18.2 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 18.2.

## 19. Penalty rates

### 19.1 Out-of-hours penalty

In addition to the ordinary rates of pay set out in clause 14—Minimum rates, full-time and part-time employees will be paid an out-of-hours penalty for each ordinary hour of work as follows:

- (a) Saturday—**\$5.71** per hour;
- (b) Sunday or public holiday—**\$11.42** per hour;
- (c) Monday to Friday outside the daily spread of ordinary hours contained in clause 13.2(b)—**\$5.71** per hour.

- 19.2** Where agreement is reached between the employer and the full-time or part-time employee, the employer may grant time off instead of the payments prescribed in clause 19.

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

### **20. Annual leave**

- 20.1** Annual leave is provided for in the [NES](#). Annual leave does not apply to casual employees.

### **20.2 Annual leave loading**

In addition to the entitlements in the [NES](#), employees are entitled to a loading of **17.5%** of the appropriate rates prescribed in clause 14—Minimum rates, for each of the 4 weeks up to a maximum total payment equivalent to one week of average weekly earnings.

NOTE: Where an employee is receiving over-award 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 sections 16 and 90 of the [Act](#)).

### **20.3 Annual leave in advance**

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

NOTE: An example of the type of agreement required by clause 20.3 is set out at Schedule G—Agreement to Take Annual Leave in Advance. There is no requirement to use the form of agreement set out at Schedule G—Agreement to Take Annual Leave in Advance.

- (c) The employer must keep a copy of any agreement under clause 20.3 as an employee record.
- (d) If, on the termination of the employee's employment, the employee has not accrued an entitlement to all of a period of paid annual leave already taken in accordance with an agreement under clause 20.3, the employer may deduct from any money due to the employee on termination an amount equal to the amount that was paid to the employee in respect of any part of the period of annual leave taken in advance to which an entitlement has not been accrued.

## 20.4 Cashing out of annual leave

- (a) Paid annual leave must not be cashed out except in accordance with an agreement under clause 20.4.
- (b) Each cashing out of a particular amount of paid annual leave must be the subject of a separate agreement under clause 20.4.
- (c) An employer and an employee may agree in writing to the cashing out of a particular amount of accrued paid annual leave by the employee.
- (d) An agreement under clause 20.4 must state:
  - (i) the amount of leave to be cashed out and the payment to be made to the employee for it; and
  - (ii) the date on which the payment is to be made.
- (e) An agreement under clause 20.4 must be signed by the employer and employee and, if the employee is under 18 years of age, by the employee's parent or guardian.
- (f) The payment must not be less than the amount that would have been payable had the employee taken the leave at the time the payment is made.
- (g) An agreement must not result in the employee's remaining accrued entitlement to paid annual leave being less than 4 weeks.
- (h) The maximum amount of accrued paid annual leave that may be cashed out in any period of 12 months is 2 weeks.
- (i) The employer must keep a copy of any agreement under clause 20.4 as an employee record.

NOTE 1: Under section 344 of the [Act](#), an employer must not exert undue influence or undue pressure on an employee to make, or not make, an agreement under clause 20.4.

NOTE 2: 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 20.4.

NOTE 3: An example of the type of agreement required by clause 20.4 is set out at Schedule H—Agreement to Cash Out Annual Leave. There is no requirement to use the form of agreement set out at Schedule H—Agreement to Cash Out Annual Leave.

## 20.5 Excessive leave accruals: general provision

NOTE: Clauses 20.5 to 20.7 contain provisions, additional to the [NES](#), about the taking of paid annual leave as a way of dealing with the accrual of excessive paid annual leave. See Part 2.2, Division 6 of the [Act](#).

- (a) An employee has an **excessive leave accrual** if the employee has accrued more than 8 weeks' paid annual leave.

- (b) If an employee has an excessive leave accrual, the employer or the employee may seek to confer with the other and genuinely try to reach agreement on how to reduce or eliminate the excessive leave accrual.
- (c) Clause 20.6 sets out how an employer may direct an employee who has an excessive leave accrual to take paid annual leave.
- (d) Clause 20.7 sets out how an employee who has an excessive leave accrual may require an employer to grant paid annual leave requested by the employee.

#### **20.6 Excessive leave accruals: direction by employer that leave be taken**

- (a) If an employer has genuinely tried to reach agreement with an employee under clause 20.5(a) 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 clause 20.6(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 20.5, 20.6 or 20.7 or otherwise agreed by the employer and employee) are taken into account; and
  - (ii) must not require the employee to take any period of paid annual leave of less than one week; and
  - (iii) must not require the employee to take a period of paid annual leave beginning less than 8 weeks, or more than 12 months, after the direction is given; and
  - (iv) must not be inconsistent with any leave arrangement agreed by the employer and employee.
- (c) The employee must take paid annual leave in accordance with a direction under clause 20.6(a) that is in effect.
- (d) An employee to whom a direction has been given under clause 20.6(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 clause 20.6(d) may result in the direction ceasing to have effect. See clause 20.6(b)(i).

NOTE 2: Under section 88(2) of the [Act](#), the employer must not unreasonably refuse to agree to a request by the employee to take paid annual leave.

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

- (a) If an employee has genuinely tried to reach agreement with an employer under clause 20.5(a) but agreement is not reached (including because the employer refuses to confer), the employee may give a written notice to the employer requesting to take one or more periods of paid annual leave.



- (b) However, an employee may only give a notice to the employer under clause 20.7(a) if:
  - (i) the employee has had an excessive leave accrual for more than 6 months at the time of giving the notice; and
  - (ii) the employee has not been given a direction under clause 20.6(a) that, when any other paid annual leave arrangements (whether made under clause 20.5, 20.6 or 20.7 or otherwise agreed by the employer and employee) are taken into account, would eliminate the employee's excessive leave accrual.
- (c) A notice given by an employee under clause 20.7(a) must not:
  - (i) if granted, result in the employee's remaining accrued entitlement to paid annual leave being at any time less than 6 weeks when any other paid annual leave arrangements (whether made under clause 20.5, 20.6 or 20.7 or otherwise agreed by the employer and employee) are taken into account; or
  - (ii) provide for the employee to take any period of paid annual leave of less than one week; or
  - (iii) provide for the employee to take a period of paid annual leave beginning less than 8 weeks, or more than 12 months, after the notice is given; or
  - (iv) be inconsistent with any leave arrangement agreed by the employer and employee.
- (d) An employee is not entitled to request by a notice under clause 20.7(a) more than 4 weeks' paid annual leave in any period of 12 months.
- (e) The employer must grant paid annual leave requested by a notice under clause 20.7(a).

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

Personal/carer's leave and compassionate leave are provided for in the [NES](#).

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

Parental leave and related entitlements are provided for in the [NES](#).

## **23. Community service leave**

Community service leave is provided for in the [NES](#).

## **24. Unpaid family and domestic violence leave**

Unpaid family and domestic violence leave is provided for in the [NES](#).

NOTE 1: Information concerning an employee's experience of family and domestic violence is sensitive and if mishandled can have adverse consequences for the employee. Employers should consult with such employees regarding the handling of this information.

NOTE 2: Depending upon the circumstances, evidence that would satisfy a reasonable person of the employee's need to take family and domestic violence leave may include a document issued by the police service, a court or family violence support service, or a statutory declaration.

## **25. Public holidays**

**25.1** Public holiday entitlements are provided for in the [NES](#).

**25.2** Where an employee works on a public holiday they will be paid in accordance with clauses 18—Overtime or 19—Penalty rates.

### **25.3 Part-day public holiday**

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

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

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

**26.1** If an employer makes a definite decision to make major changes in production, program, organisation, structure or technology that are likely to have significant effects on employees, the employer must:

- (a) give notice of the changes to all employees who may be affected by them and their representatives (if any); and
- (b) discuss with affected employees and their representatives (if any):
  - (i) the introduction of the changes; and
  - (ii) their likely effect on employees; and
  - (iii) measures to avoid or reduce the adverse effects of the changes on employees; and
- (c) commence discussions as soon as practicable after a definite decision has been made.

**26.2** For the purposes of the discussion under clause 26.1(b), the employer must give in writing to the affected employees and their representatives (if any) all relevant information about the changes including:

- (a) their nature; and

- (b) their expected effect on employees; and
- (c) any other matters likely to affect employees.

**26.3** Clause 26.2 does not require an employer to disclose any confidential information if its disclosure would be contrary to the employer's interests.

**26.4** The employer must promptly consider any matters raised by the employees or their representatives about the changes in the course of the discussion under clause 26.1(b).

**26.5** In clause 26 **significant effects**, on employees, includes any of the following:

- (a) termination of employment; or
- (b) major changes in the composition, operation or size of the employer's workforce or in the skills required; or
- (c) loss of, or reduction in, job or promotion opportunities; or
- (d) loss of, or reduction in, job tenure; or
- (e) alteration of hours of work; or
- (f) the need for employees to be retrained or transferred to other work or locations; or
- (g) job restructuring.

**26.6** Where this award makes provision for alteration of any of the matters defined at clause 26.5, such alteration is taken not to have significant effect.

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

**27.1** Clause 27 applies if an employer proposes to change the regular roster or ordinary hours of work of an employee, other than an employee whose working hours are irregular, sporadic or unpredictable.

**27.2** The employer must consult with any employees affected by the proposed change and their representatives (if any).

**27.3** For the purpose of the consultation, the employer must:

- (a) provide to the employees and representatives mentioned in clause 27.2 information about the proposed change (for example, information about the nature of the change and when it is to begin); and
- (b) invite the employees to give their views about the impact of the proposed change on them (including any impact on their family or caring responsibilities) and also invite their representative (if any) to give their views about that impact.

**27.4** The employer must consider any views given under clause 27.3(b).

**27.5** Clause 27 is to be read in conjunction with any other provisions of this award concerning the scheduling of work or the giving of notice.

## **28. Dispute resolution**

- 28.1** Clause 28 sets out the procedures to be followed if a dispute arises about a matter under this award or in relation to the [NES](#).
- 28.2** The parties to the dispute must first try to resolve the dispute at the workplace through discussion between the employee or employees concerned and the relevant supervisor.
- 28.3** If the dispute is not resolved through discussion as mentioned in clause 28.2, the parties to the dispute must then try to resolve it in a timely manner at the workplace through discussion between the employee or employees concerned and more senior levels of management, as appropriate.
- 28.4** If the dispute is unable to be resolved at the workplace and all appropriate steps have been taken under clauses 28.2 and 28.3, a party to the dispute may refer it to the Fair Work Commission.
- 28.5** The parties may agree on the process to be followed by the Fair Work Commission in dealing with the dispute, including mediation, conciliation and consent arbitration.
- 28.6** If the dispute remains unresolved, the Fair Work Commission may use any method of dispute resolution that it is permitted by the [Act](#) to use and that it considers appropriate for resolving the dispute.
- 28.7** A party to the dispute may appoint a person, organisation or association to support and/or represent them in any discussion or process under clause 28.
- 28.8** While procedures are being followed under clause 28 in relation to a dispute:
- (a) work must continue in accordance with this award and the [Act](#); and
  - (b) an employee must not unreasonably fail to comply with any direction given by the employer about performing work, whether at the same or another workplace, that is safe and appropriate for the employee to perform.
- 28.9** Clause 28.8 is subject to any applicable work health and safety legislation.

## **29. Dispute resolution procedure training leave**

- 29.1** Subject to clause 29.2, an eligible employee representative will be entitled to, and the employer will grant, up to 5 days' training leave with pay to attend courses which are directed at the enhancement of the operation of the dispute resolution procedure including its operation in connection with this award and with the [Act](#) or with any relevant agreement which provides it is to be read in conjunction with this award.
- 29.2** The employer will not be required in any calendar year to provide dispute resolution training leave across the whole workforce of that employer in excess of:
- (a) a total of 20 days' leave;
  - (b) leave for the lesser of 5 employees nationally or 3 employees in any one state or territory.
- 29.3** The granting of leave, pursuant to clause 29, will be subject to:

- (a) the employee or an eligible employee representative giving not less than 25 working days' written notice of the intention to attend such course, or such lesser period of notice as may be agreed by the employer. Such written notice must include the nature, content and duration of the course to be attended; and
- (b) the employer being able to make adequate staffing arrangements amongst current employees during the period of such leave. An employer will not use clause 29.3 to avoid an obligation under clause 29.

**29.4** Leave of absence granted pursuant to clause 29 will count as service for all purposes of this award.

**29.5** Each employee on leave approved in accordance with clause 29 will be paid all ordinary time earnings. For the purpose of clause 29.5 ordinary time earnings for an employee means the classification rate, over-award payment, superannuation and shift loading which otherwise would have been payable.

**29.6** All expenses (such as travel, accommodation and meals) associated with or incurred by the employee attending a training course as provided for in clause 29 will be the responsibility of the employee or, where relevant, the union.

**29.7** An employee may be required to satisfy the employer of attendance at the course to qualify for payment of leave, unless the employee would otherwise have been entitled to payment under clause 21—Personal/carer's leave and compassionate leave.

**29.8** In the event a scheduled rostered day off falls within a period of leave approved pursuant to clause 29, no alternative day of leave will be substituted instead.

**29.9** Employees will be allowed up to 2 hours of paid time per year to attend union meetings at the employer's premises which are designed to facilitate awareness and understanding of the dispute resolution procedure in this award.

## **Part 8—Termination of Employment and Redundancy**

### **30. Termination of employment**

NOTE: the [NES](#) sets out requirements for notice of termination by an employer. See sections 117 and 123 of the [Act](#).

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

- (a) Clause 30.1 applies to all employees except those identified in sections 123(1) and 123(3) of the [Act](#).
- (b) An employee must give the employer notice of termination in accordance with **Table 1—Period of notice** of at least the period specified in column 2 according to the period of continuous service of the employee specified in column 1.

**Table 1—Period of notice**

<b>Column 1</b> <b>Employee’s period of continuous service with the employer at the end of the day the notice is given</b>	<b>Column 2</b> <b>Period of notice</b>
Not more than 1 year	1 week
More than 1 year but not more than 3 years	2 weeks
More than 3 years but not more than 5 years	3 weeks
More than 5 years	4 weeks

NOTE: The notice of termination required to be given by an employee is the same as that required of an employer except that the employee does not have to give additional notice based on the age of the employee.

- (c) In clause 30.1(b) **continuous service** has the same meaning as in section 117 of the [Act](#).
- (d) If an employee who is at least 18 years old does not give the period of notice required under clause 30.1(b), then the employer may deduct from wages due to the employee under this award an amount that is no more than one week’s wages for the employee.
- (e) If the employer has agreed to a shorter period of notice than that required under clause 30.1(b), then no deduction can be made under clause 30.1(d).
- (f) Any deduction made under clause 30.1(d) must not be unreasonable in the circumstances.

### **30.2 Job search entitlement**

- (a) Where an employer has given notice of termination to an employee, the employee must be allowed time off without loss of pay of up to one day for the purpose of seeking other employment.
- (b) The time off under clause 30.2 is to be taken at times that are convenient to the employee after consultation with the employer.

## **31. Redundancy**

NOTE: Redundancy pay is provided for in the [NES](#). See sections 119 to 123 of the [Act](#).

### **31.1 Transfer to lower paid duties on redundancy**

- (a) Clause 31.1 applies if, because of redundancy, an employee is transferred to new duties to which a lower ordinary rate of pay applies.
- (b) The employer may:
  - (i) give the employee notice of the transfer of at least the same length as the employee would be entitled to under section 117 of the [Act](#) as if it were a notice of termination given by the employer; or

- (ii) transfer the employee to the new duties without giving notice of transfer or before the expiry of a notice of transfer, provided that the employer pays the employee as set out in clause 31.1(c).
- (c) If the employer acts as mentioned in clause 31.1(b)(ii), the employee is entitled to a payment of an amount equal to the difference between the ordinary rate of pay of the employee (inclusive of all-purpose allowances and penalty rates applicable to ordinary hours) for the hours of work the employee would have worked in the first role, and the ordinary rate of pay (also inclusive of all-purpose allowances and penalty rates applicable to ordinary hours) of the employee in the second role for the period for which notice was not given.

### **31.2 Employee leaving during redundancy notice period**

- (a) An employee given notice of termination in circumstances of redundancy may terminate their employment during the minimum period of notice prescribed by section 117(3) of the [Act](#).
- (b) The employee is entitled to receive the benefits and payments they would have received under clause 31 or under sections 119 to 123 of the [Act](#) had they remained in employment until the expiry of the notice.
- (c) However, the employee is not entitled to be paid for any part of the period of notice remaining after the employee ceased to be employed.

### **31.3 Job search entitlement**

- (a) Where an employer has given notice of termination to an employee in circumstances of redundancy, the employee must be allowed time off without loss of pay of up to one day each week of the minimum period of notice prescribed by section 117(3) of the [Act](#) for the purpose of seeking other employment.
- (b) If an employee is allowed time off without loss of pay of more than one day under clause 31.3(a), the employee must, at the request of the employer, produce proof of attendance at an interview.
- (c) A statutory declaration is sufficient for the purpose of clause 31.3(b).
- (d) An employee who fails to produce proof when required under clause 31.3(b) is not entitled to be paid for the time off.
- (e) This entitlement applies instead of clause 31.2.

## **Schedule A—Classification Definitions**

### **A.1 Market research trainee**

Includes a Market research interviewer, Editor, Coder, Keyboard operator and/or other support employee who is allocated to less complex tasks and who usually requires extensive assistance and supervision during their first 6 work sessions.

An employee may be classified as a trainee until they have earned a maximum of \$4907 or completed 300 hours (whichever is greater) provided that this will include all work for the employer during the previous 3 years and provided that once an employee has completed this training with one employer they will not then be employed at less than the rate of pay for the classification of interviewer unless the employee has left the industry for 3 years.

A trainee will undergo at least 8 hours' training at the employer's expense.

### **A.2 Support employee**

Includes employees engaged principally on other market research support activities, including group recruitment. The employee will qualify for the full rate after they have completed the requirements of a Market research trainee.

### **A.3 Market research interviewer**

Undertakes interviews with all types of respondents by telephone or face-to-face, prepares and submits all fieldwork associated documentation and attends briefing and de-briefing meetings where required. The interviewer may, where required from time to time, assist in the preparation of materials prior to or during a survey. Interviewers will qualify for the full Market research interviewer rate of pay when they have completed the requirements of a Market research trainee.

### **A.4 Executive (face-to-face) interviewer**

Refers to a Market research interviewer who is conducting direct face-to-face interviews targeted to executive and professional interviewees covering matters relating to the special expertise of the interviewees.

### **A.5 Door-to-door interviewer**

Refers to a Market research interviewer who is conducting multiple direct face-to-face interviews by calling on interviewees at the interviewee's own premises, but does not include interviewing at central locations such as shopping centres.

### **A.6 Editor, Coder and Keyboard operator**

Includes employees engaged on examining market research fieldwork interviews or questionnaire results so as to ensure consistency, accuracy and validity, classifying interview and questionnaire results so as to be suitable for keyboard entry and for subsequent analysis as required by clients, and entering and manipulating the presentation of data on a computer or similar machine (including as required interacting with the computer, limited programming and data manipulation to ensure that file maintenance and integrity are achieved and results are presented as required for the client report).



### **A.7 Team leader**

Includes interviewers who undertake interviews with all types of respondents by telephone or face-to-face and perform a role of providing experienced guidance, assistance and leadership by example to interviewers (including some supervision and limited practical field training).

A Team leader may also be an employee providing similar leadership role in relation to a team of other market research employees, including Auditors, Editors, Coders and/or Keyboard operators. The Team leader may also be required to liaise between Interviewers and Field managers (including checking and counting the number of interviews obtained, communicating the researcher's instructions to the interviewer team and from time to time where required assisting and coordinating the activities of a small group of less experienced interviewers).

A Team leader will be responsible for no more than 8 employees.

### **A.8 Field supervisor**

Co-ordinates and supervises the fieldwork activities of Team leaders and Market research interviewers engaged on specific market research projects, including being responsible for the quality of the output, the training and the productivity of the field team. An employee providing a similar supervisory role in relation to other employees, including Editors, Coders and/or Keyboard operators, will be paid at the Field supervisor rate.

An employee whilst in charge of a telephone room will be employed in a classification not less than Field supervisor.

### **A.9 Research assistant**

Assists with the duties of a Research officer.

### **A.10 Field manager**

Schedules fieldwork and coordinates the activities of supervisors and interviewers and is responsible for the hiring and training of all field personnel, maintenance of company procedures and fieldwork standards. The Field manager will generally be involved in coordinating a range of fieldwork projects and allocating fieldwork across an organisation.

### **A.11 Research officer**

May be engaged in the duties of:

- writing questionnaires;
- briefing field teams;
- moderating group discussions;
- conducting in-depth interviews;
- preparing computer specifications;

- analysing data and preparing written reports;
- writing proposals; and
- liaising with, and presenting data to, clients.

#### **A.12 Research manager**

Initiates, plans and directs projects, and has responsibilities for generating business and/or managing an organisation.

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**Schedule B—Summary of Hourly Rates of Pay**

**B.1 Full-time and part-time employees**

**B.1.1 Full-time and part-time employees—ordinary and penalty rates**

	<b>Ordinary hours</b>	<b>Monday- Friday outside daily spread of hours</b>	<b>Saturday</b>	<b>Sunday</b>	<b>Public holiday</b>
	<b>% of minimum hourly rate</b>				
	<b>100%</b>	<b>100% + \$5.71</b>	<b>100% + \$5.71</b>	<b>100% + \$11.42</b>	<b>100% + \$11.42</b>
	<b>\$</b>	<b>\$</b>	<b>\$</b>	<b>\$</b>	<b>\$</b>
Market research trainee	20.42	26.13	26.13	31.84	31.84
Support employee first year	22.21	27.92	27.92	33.63	33.63
Support employee thereafter	22.84	28.55	28.55	34.26	34.26
Market research interviewer	22.84	28.55	28.55	34.26	34.26
Executive (face-to-face) interviewer and door-to-door interviewer	23.07	28.78	28.78	34.49	34.49
Editor/Coder/Keyboard operator	23.23	28.94	28.94	34.65	34.65
Team leader	24.32	30.03	30.03	35.74	35.74
Field supervisor	26.12	31.83	31.83	37.54	37.54
Research assistant	26.12	31.83	31.83	37.54	37.54
Field manager	28.53	34.24	34.24	39.95	39.95
Research officer	28.53	34.24	34.24	39.95	39.95
Research manager	37.56	43.27	43.27	48.98	48.98

**B.1.2 Full-time and part-time employees—overtime rates**

	<b>All hours in excess of rostered ordinary hours</b>
	<b>% of minimum hourly rate</b>
	<b>125%</b>
	<b>\$</b>
Market research trainee	25.53
Support employee first year	27.76
Support employee thereafter	28.55
Market research interviewer	28.55
Executive (face-to-face) interviewer and door-to-door interviewer	28.84
Editor/Coder/Keyboard operator	29.04
Team leader	30.40
Field supervisor	32.65
Research assistant	32.65
Field manager	35.66
Research officer	35.66
Research manager	46.95

**B.2 Casual employees**

A Full Bench has been constituted in [AM2017/51](#) to deal with the issue of overtime for casuals. The rates in the tables below dealing with overtime for casuals will not become operative until a decision is made in that matter and only to the extent that they are consistent with the decision.

**B.2.1 Casual employees—ordinary rates**

	<b>All ordinary hours</b>
	<b>% of minimum hourly rate</b>
	<b>125%</b>
	<b>\$</b>
Market research trainee	25.53
Support employee first year	27.76
Support employee thereafter	28.55

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	<b>All ordinary hours</b>
	<b>% of minimum hourly rate</b>
	<b>125%</b>
Market research interviewer	28.55
Executive (face-to-face) interviewer and door-to-door interviewer	28.84
Editor/Coder/Keyboard operator	29.04
Team leader	30.40
Field supervisor	32.65
Research assistant	32.65
Field manager	35.66
Research officer	35.66
Research manager	46.95

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## Schedule C—Summary of Monetary Allowances

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

### C.1 Expense-related allowances

C.1.1 The following expense-related allowances will be payable to employees in accordance with clause 16—Allowances:

Allowance	Clause	\$	Payable
Motor vehicle allowance	16.1	0.78	per km
Damage to or theft of personal effects—an amount of up to	16.2	501.20	per single claim

### C.1.2 Adjustment of expense-related allowances

- (a) 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) 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
Damage to or theft of personal effects	Clothing and footwear group
Motor vehicle allowance	Private motoring sub-group

### C.2 Wage-related penalties

C.2.1 The wage-related penalties in clause 19—Penalty rates of this award are based on the standard rate as defined in clause 2—Definitions as the minimum hourly rate for a Market research interviewer in clause 14—Minimum rates= **\$22.84**

Penalty	Clause	% of standard rate	\$ per hour
Saturday	19.1(a)	25	5.71
Sunday or public holiday	19.1(b)	50	11.42
Monday to Friday outside daily spread of ordinary hours	19.1(c)	25	5.71

### C.2.2 Adjustment of wage-related penalties

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

## 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 6 years.
- D.8** School-based apprentices progress through the relevant wage scale at the rate of 12 months progression for each 2 years of employment as an apprentice.
- D.9** The apprentice wage scales are based on a standard full-time apprenticeship of 4 years (unless the apprenticeship is of 3 years duration). The rate of progression reflects the average rate of skill acquisition expected from the typical combination of work and training for a school-based apprentice undertaking the applicable apprenticeship.
- D.10** If an apprentice converts from school-based to full-time, all time spent as a full-time apprentice will count for the purposes of progression through the relevant wage scale in addition to the progression achieved as a school-based apprentice.
- D.11** School-based apprentices are entitled pro rata to all of the other conditions in this award.

## Schedule E—Supported Wage System

**E.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.

**E.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*, 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

### **E.3 Eligibility criteria**

**E.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.

**E.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.



## E.4 Supported wage rates

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

E.4.2 Provided that the minimum amount payable must be not less than **\$87** per week.

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

## E.5 Assessment of capacity

E.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 SWS 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.

E.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](#).

## E.6 Lodgement of SWS wage assessment agreement

E.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.

E.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.

## **E.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 SWS.

## **E.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.

## **E.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.

## **E.10 Trial period**

- E.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 4 weeks) may be needed.
- E.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.
- E.10.3** The minimum amount payable to the employee during the trial period must be no less than \$87 per week.
- E.10.4** Work trials should include induction or training as appropriate to the job being trialled.
- E.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 E.5.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

**I agree that:**

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

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

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

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

## Schedule H—Agreement to Cash Out Annual Leave

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

## Schedule I—Part-day Public Holidays

- I.1** This schedule operates where this award otherwise contains provisions dealing with public holidays that supplement the [NES](#).
- I.2** Where a part-day public holiday is declared or prescribed between 7.00 pm and midnight on Christmas Eve (24 December in each year) or New Year's Eve (31 December in each year) the following will apply on Christmas Eve and New Year's Eve and will override any provision in this award relating to public holidays to the extent of the inconsistency:
- (a) All employees will have the right to refuse to work on the part-day public holiday if the request to work is not reasonable or the refusal is reasonable as provided for in the [NES](#).
  - (b) Where a part-time or full-time employee is usually rostered to work ordinary hours between 7.00 pm and midnight but as a result of exercising their right under the [NES](#) does not work, they will be paid their ordinary rate of pay for such hours not worked.
  - (c) Where a part-time or full-time employee is usually rostered to work ordinary hours between 7.00 pm and midnight but as a result of being on annual leave does not work, they will be taken not to be on annual leave between those hours of 7.00 pm and midnight that they would have usually been rostered to work and will be paid their ordinary rate of pay for such hours.
  - (d) Where a part-time or full-time employee is usually rostered to work ordinary hours between 7.00 pm and midnight, but as a result of having a rostered day off (RDO) provided under this award, does not work, the employee will be taken to be on a public holiday for such hours and paid their ordinary rate of pay for those hours.
  - (e) Excluding annualised salaried employees to whom clause I.2(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 I.2(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.
- I.3** This schedule is not intended to detract from or supplement the [NES](#).