

From: Christopher Nowland [mailto:christopher.nowland@harmers.com.au]
Sent: Wednesday, 29 November 2017 9:25 AM
To: Chambers - Hatcher VP
Cc: Michael Harmer; David Bates; Luis Izzo; Kyle Scott; 'Andrew Crabb'; Emily Slaytor; 'Muddagouni, Kamna'; 'Matt Galbraith'; AMOD
Subject: AM2016/30 Alpine Resorts Award [HWL-HARMERS.FID839861]

Dear Ms Hamburger,

Re: AM2016/30 Alpine Resorts Award

We write on behalf the Australian Ski Areas Association (“**Association**”) and refer to the recent Full Bench hearing in the above matter.

During the hearing, Vice President Hatcher directed the Association to file a consolidated Draft Determination (“**Determination**”) reflecting the following three variations to the Alpine Resorts Award 2010 (“**Award**”) proposed by the Association and the AWU:

1. the removal of seasonal loading from the Award;
2. the inclusion of casual overtime in the Award; and
3. the inclusion of annual leave loading in the Award.

In accordance with those directions, please find **attached**:

1. the Draft Determination; and
2. the Exposure Draft (as at 27 July 2017) incorporating the proposed variations to the Award.

In respect of the Association’s Determination you will note that we have, to the best of our ability, incorporated those aspects of the exposure draft of the Award which are entirely new but nonetheless require amendment (such as references to seasonal loadings).

Finally, please accept our sincerest apologies for the delay in filing this Determination with the Commission. The Association had hoped to review the AWU’s written submissions (due to be filed on or before 24 November 2017) prior to filing the Draft determination, however, those submissions have not yet been provided. Given we have been unable to ascertain when the AWU’s submissions will be lodged, we feel it is now appropriate to file the Draft Determination without any further delay.

If you have any questions about the above, please do not hesitate to contact our offices.

Yours faithfully,

Christopher Nowland
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DRAFT DETERMINATION

Fair Work Act 2009 (Cth)

s.156 – 4 yearly review of modern awards

4 yearly review of modern awards – Alpine Resorts Award 2010 (AM2016/30)

VICE PRESIDENT HATCHER
DEPUTY PRESIDENT DEAN
COMMISSIONER RIORDAN

SYDNEY, XX 2017

The Fair Work Commission makes the following determination:

Clause 1 Title

1 Delete the words in clause 1 and insert the following:

1. Title and commencement

1.1 This award is the Alpine Resorts Award 2016.

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. For the purpose of clarity, any entitlement to seasonal loading no longer exists.

1.4 Schedule H – 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.

Clause 11 Seasonal employment

2 Delete clause 11.5.

3 Renumber the remaining clauses accordingly.

Clause 16 Minimum hourly rates

- 4 Delete clause 16.1 and renumber the remaining clauses accordingly.
- 5 Delete the table and words at clause 16.2 and insert the following:

16.2 Alpine Resort Workers

An employer must pay adult employees (other than apprentices) the following minimum wages for ordinary hours worked by the employee:

<i>Classification</i>	<i>Minimum hourly rate</i> <i>\$</i>
<i>Training</i>	<i>18.29</i>
<i>Resort Worker Level 1</i>	<i>18.82</i>
<i>Resort Worker Level 2</i>	<i>19.54</i>
<i>Resort Worker Level 3</i>	<i>20.22</i>
<i>Resort Worker Level 4</i>	<i>21.28</i>
<i>Resort Worker Level 5</i>	<i>21.97</i>
<i>Resort Worker Level 6</i>	<i>22.63</i>
<i>Resort Worker Level 7</i>	<i>23.24</i>

- 6 Delete the table and words at clause 16.3 and insert the following:

16.3 Snowsports Instructors

An employer must pay adult employees (other than apprentices) the following minimum wages for ordinary hours worked by the employee:

<i>Classification</i>	<i>Minimum hourly rate</i> <i>\$</i>
<i>Instructor Category A</i>	<i>29.12</i>
<i>Instructor Category B</i>	<i>26.18</i>
<i>Instructor Category C</i>	<i>23.28</i>
<i>Instructor Category D</i>	<i>20.35</i>
<i>Instructor Category E</i>	<i>19.38</i>

Clause 17 Allowances

- 7 Delete clause 17.2 and insert the following:

17.2 Sewerage treatment plant allowance

*Employees will be paid an allowance of **\$9.53** for each shift they are engaged in work at a designated sewerage treatment plant.*

Clause 22 Ordinary hours of work and rostering

8 Renumber clause 22.4 as clause 22.5 and amend the numbering in the clause so it reads:

22.5 Rostered days off

(a) Clause 22.5 only applies to full-time employees other than seasonal employees.

(b) Notice

(i) An employer will give at least one week's notice of a rostered day off.

(ii) An employee may agree to a lesser period of notice than that specified in clause 22.5(b)(i).

(c) Substitute days

(i) An employer may require an employee to work on the employee's rostered day off in the event of an emergency.

(ii) In the circumstances addressed by clause 22.5(c)(i), the employee will be paid time and a half for all time worked on the rostered day off and will be granted another rostered day off.

9 Insert the following as a new sub-clause 22.4:

22.4 *The ordinary hours of casual employees are the lesser of an average of 38 hours per week over a maximum work cycle of four weeks or the hours required to be worked by the employer.*

10 Renumber the remaining clauses accordingly.

Clause 25 Overtime

11 Delete clause 25.2 and insert the following:

25.2 Overtime

An employee, other than a Snowsports Instructor, must be paid overtime rates for:

(a) any hours in excess of the ordinary hours per week that the employee is engaged to work;

(b) any hours in excess of 10 per day, excluding meal breaks; or

(c) any hours in excess of an average of 38 per week over the length of the cycle.

(d) The overtime rates are as follows:

<i>For overtime worked on</i>	<i>Overtime rate % of applicable hourly rate</i>
<i>Monday to Sunday—first 2 hours</i>	<i>150</i>
<i>Monday to Sunday—after 2 hours</i>	<i>200</i>

12 Delete clause 25.3 and renumber remaining clauses accordingly.

Clause 26 Annual leave

13 Delete the words in clause 26.1 and insert the following:

- 26.1 (a)** *Annual leave is provided for in the NES.*
- (b)** *When an employee takes a period of paid annual leave or is paid for accrued leave on termination, the employee will be paid an annual leave loading of 17.5% of the base rate of pay for the period in addition to the payment required to be made under Division 6 of the NES.*

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 ss.16 and 90 of the Act).

New Schedules

14 Insert the following new Schedule:

Schedule C – Summary of Hourly Rates of Pay

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

C.1 Alpine resort workers

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

	<i>Ordinary hours</i>	<i>Public holiday</i>
	<i>% of minimum hourly rate</i>	
	<i>100%</i>	<i>250%</i>
	<i>\$</i>	<i>\$</i>
<i>Training</i>	<i>18.29</i>	<i>45.73</i>
<i>Resort Worker Level 1</i>	<i>18.82</i>	<i>47.05</i>
<i>Resort Worker Level 2</i>	<i>19.54</i>	<i>48.85</i>
<i>Resort Worker Level 3</i>	<i>20.22</i>	<i>50.55</i>
<i>Resort Worker Level 4</i>	<i>21.28</i>	<i>53.20</i>
<i>Resort Worker Level 5</i>	<i>21.97</i>	<i>54.93</i>
<i>Resort Worker Level 6</i>	<i>22.63</i>	<i>56.58</i>
<i>Resort Worker Level 7</i>	<i>23.24</i>	<i>58.10</i>

C.1.2 Full-time and part-time employees—overtime rates

	<i>Monday to Sunday</i>		<i>Public holiday</i>
	<i>First 2 hours</i>	<i>After 2 hours</i>	
	<i>% of minimum hourly rate</i>		
	150%	200%	250%
	\$	\$	\$
<i>Training</i>	27.44	36.58	45.73
<i>Resort Worker Level 1</i>	28.23	37.64	47.05
<i>Resort Worker Level 2</i>	29.31	39.08	48.85
<i>Resort Worker Level 3</i>	30.33	40.44	50.55
<i>Resort Worker Level 4</i>	31.92	42.56	53.20
<i>Resort Worker Level 5</i>	32.96	43.94	54.93
<i>Resort Worker Level 6</i>	33.95	45.26	56.58
<i>Resort Worker Level 7</i>	34.86	46.48	58.10

C.1.3 Casual employees—ordinary and penalty rates

	<i>Ordinary hours</i>	<i>Public holiday</i>
		<i>% of minimum hourly rate</i>
	125%	250%
	\$	\$
<i>Training</i>	22.86	45.73
<i>Resort Worker Level 1</i>	23.53	47.05
<i>Resort Worker Level 2</i>	24.43	48.85
<i>Resort Worker Level 3</i>	25.28	50.55
<i>Resort Worker Level 4</i>	26.60	53.20
<i>Resort Worker Level 5</i>	27.46	54.93
<i>Resort Worker Level 6</i>	28.29	56.58
<i>Resort Worker Level 7</i>	29.05	58.10

C.1.4 Casual employees – overtime rates

	<i>Monday to Sunday</i>		<i>Public holiday</i>
	<i>First 2 hours</i>	<i>After 2 hours</i>	
	<i>% of minimum hourly rate</i>		
	150%	200%	250%
	\$	\$	\$
<i>Training</i>	27.44	36.58	45.73

	<i>Monday to Sunday</i>		<i>Public holiday</i>
	<i>First 2 hours</i>	<i>After 2 hours</i>	
	<i>% of minimum hourly rate</i>		
	<i>150%</i>	<i>200%</i>	<i>250%</i>
	<i>\$</i>	<i>\$</i>	<i>\$</i>
<i>Resort Worker Level 1</i>	28.23	37.64	47.05
<i>Resort Worker Level 2</i>	29.31	39.08	48.85
<i>Resort Worker Level 3</i>	30.33	40.44	50.55
<i>Resort Worker Level 4</i>	31.92	42.56	53.20
<i>Resort Worker Level 5</i>	32.96	43.94	54.93
<i>Resort Worker Level 6</i>	33.95	45.26	56.58
<i>Resort Worker Level 7</i>	34.86	46.48	58.10

C.2 Snowsports Instructors

C.2.1 Full-time and part-time snowsports instructors

<i>Classification</i>	<i>Snowsports Instructor hourly rate</i>
	<i>\$</i>
<i>Instructor Category A</i>	29.12
<i>Instructor Category B</i>	26.18
<i>Instructor Category C</i>	23.28
<i>Instructor Category D</i>	20.35
<i>Instructor Category E</i>	19.38

C.2.2 Casual snowsports instructors

<i>Classification</i>	<i>Snowsports Instructor hourly rate</i>
	<i>\$</i>
<i>Instructor Category A</i>	36.40
<i>Instructor Category B</i>	32.73
<i>Instructor Category C</i>	29.10
<i>Instructor Category D</i>	25.44
<i>Instructor Category E</i>	24.23

15 Insert the following new Schedule:

Schedule D — Summary of Monetary Allowances

See clause 15 for full details of allowances payable under this award.

D.1 Wage related allowances

The wage related allowances in clause 17.2 of this award are based on the standard rate as defined in Schedule H as the minimum hourly rate for a Resort Worker Level 2 in clause 16.2= **\$21.17**

Allowance	Clause	% of standard rate \$21.17	\$ per shift
Sewerage treatment plant allowance	17.2	50	9.53

D.1.1 Adjustment of wage related allowances

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

D.2 Expense related allowances

The expense related allowances in this award will be payable to employees in accordance with clause 17:

Allowance	Clause	\$
Meal allowance—overtime for more than two hours without notice	17.1	12.71 per occasion
Boot allowance—specific footwear not supplied	17.3	0.16 per hour
Equipment allowance	17.4	0.33 per hour
Airfare reimbursement—Snowsports Instructors—Categories A, B or C	17.6	Up to 840.62 per occasion

D.3 Adjustment of allowances

D.3.1 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.

16 Insert the following new Schedule:

Schedule H - Definitions

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

alpine resort has the meaning given in clause 3.1

applicable hourly rate means the relevant rate for the classification the employee is working under as set out in clause 16 – Minimum wages

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)

junior employee means an employee who is less than 19 years old

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

rostered day off (RDO) means any day on which an employee, by virtue of the employee's roster, is not rostered to attend for rostered hours of work and does not include non-working days

seasonal employee means an employee engaged to perform work for the duration of a specified season

shiftworker means an employee who:

- is employed by an employer which has shifts continuously rostered 24 hours a day for seven days a week; and
- is regularly rostered to work those shifts; and
- regularly works on Sundays and public holidays

snowsports instructor is an employee whose primary role is teaching skiing or boarding including race and specialist program coaches

standard rate means the minimum hourly rate for a Resort Worker Level 2 in clause 16.2

17 Retain current Schedule C but rename accordingly.

18 This determination will operate on and from....

The Exposure Draft was first published on 8 December 2014. Subsequent amendments to the draft are as follows:

Publication date	Reason for amendments	Clauses affected
8 December 2015	Amend the Resort Worker Level 1, minimum seasonal hourly rate from \$18.80 to \$18.81 consistent with current award.	13
	Incorporate changes resulting from [2015] FWCFB 3500 , PR566771 , PR566901 and PR568050	13, 15, Schedule C, Schedule D, Schedule F
	Incorporate changes resulting from [2014] FWCFB 9412	1.2, 1.5, 2.1, 2.3, 3.5, 5.1, 6.5, 13.10, 18, 19, 20, 21, 23, Schedule E, Schedule H
	Incorporate changes resulting from [2015] FWCFB 4658	1.1, 1.2, 6.5, 13, 18, Schedule C
	Incorporate changes resulting from [2015] FWCFB 6656	1
	Incorporate changes resulting from [2014] FWCFB 9156 , PR559266	8.4, 8.5, 8.6, 8.7, 8.8, 8.9, 8.10, 8.11, 8.12
	Incorporate changes resulting from [2015] FWCFB 7236	Schedule E
19 April 2016	Incorporate agreed changes from Report [PR572877] , not previously incorporated in 8 December 2015 version.	6, 7, 8, 9, 10, 13, 17, 18, Schedule A, Schedule B, Schedule C, Schedule D, Schedule H
	Corrected error	23.2
4 November 2016	Incorporate changes resulting from [2016] FWCFB 3500 , PR579878 , PR579598 and PR581528	13, 15, Schedule C, Schedule D, Schedule F
	Incorporate changes resulting from [2016] FWCFB 3953 and PR582957	5.2, 18, Schedule I, Schedule J
	Incorporate changes resulting from [2016] FWCFB 4258 and PR584070	5.2, 17.3, Schedule K
	Incorporate changes resulting from [2016] FWCFB 7254	6.5, 6.6, 6.7, 9, 10.5, 13.6, 14, 15.2(a), Schedule A, Schedule B, Schedule D, Schedule H
13 June 2017	Correct error	5.2, 13.6, D.1, Schedule H
	Changes based on submissions re: further revised ED Exposure draft	6.4(a)(iii)
27 July 2017	Incorporates changes resulting from [2017] FWCFB 3500 , PR592193 , PR592347 , PR593867 , PR592689	13, 15, Schedule C, Schedule D, Schedule E, Schedule F
	Incorporates changes resulting from [2017]	1.2, 18.4, 26.6, Schedule H

	FWCFB 3433	
	Incorporates changes resulting from [2017] FWCFB 3541	6.6
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

Alpine Resorts Award 2016

This exposure draft has been prepared by staff of the Fair Work Commission based on the *Alpine Resorts Award 2010* (the Alpine award) as at 8 December 2014. This exposure draft does not seek to amend any entitlements under the Alpine award but has been prepared to address some of the structural issues identified in modern awards.

The review of this award in accordance with s.156 of the *Fair Work Act 2009* is being dealt with in matter [AM2014/198](#). 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.

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Part 1—

Part 2—Application and Operation

1. Title and commencement

1.1 This award is the *Alpine Resorts Award 2016*.

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

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

1.3 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. ~~For the purpose of clarity, any entitlement to seasonal loading no longer exists.~~

1.4 Schedule H—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 this award and the NES are available to all employees to whom they apply, either on a notice board which is conveniently located at or near the workplace or through accessible electronic means.

3. Coverage

3.1 This industry award covers employers throughout Australia who operate an alpine resort and their employees in the classifications within Schedule A—Classification Definitions to the exclusion of any other modern award.

Coverage being considered as part of [AM2016/30](#)

Definition of **alpine resort** retained in coverage clause in accordance with [\[2017\] FWCFCB 3433](#) at [339].

- 3.2** **Alpine resort** means an establishment whose business, among other things, includes alpine lifting.
- 3.3** This award covers any employer which supplies labour on an on-hire basis in the industry set out in clause 3.1 in respect of on-hire employees in classifications covered by this award, and those on-hire employees, while engaged in the performance of work for a business in that industry. This subclause operates subject to the exclusions from coverage in this award.
- 3.4** This award covers employers which provide group training services for apprentices and trainees engaged in the industry and/or parts of industry set out at clause 3.1 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 in clause 3.1 are being performed. This subclause operates subject to the exclusions from coverage in this award.
- 3.5** This award does not cover:
- (a) employees excluded from award coverage by the *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.
- 3.6** Where an employer is covered by more than one award, an employee of that employer is covered by the award classification which is most appropriate to the work performed by the employee and to the environment in which the employee normally performs the work.

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

4. Award flexibility

- 4.1** Notwithstanding any other provision of this award, an employer and an individual employee may agree to vary the application of certain terms of this award to meet the genuine individual needs of the employer and the individual employee. The terms the employer and the individual employee may agree to vary the application of, are those concerning:
- (a) arrangements for when work is performed;

- (b) overtime rates;
- (c) penalty rates;
- (d) allowances; and
- (e) leave loading.

4.2 The employer and the individual employee must have genuinely made the agreement without coercion or duress. An agreement under this clause can only be entered into after the individual employee has commenced employment with the employer.

4.3 The agreement between the employer and the individual employee must:

- (a) be confined to a variation in the application of one or more of the terms listed in clause 4.1; and
- (b) result in the employee being better off overall at the time the agreement is made than the employee would have been if no individual flexibility agreement had been agreed to.

4.4 The agreement between the employer and the individual employee must also:

- (a) be in writing, name the parties to the agreement and be signed by the employer and the individual employee and, if the employee is under 18 years of age, the employee's parent or guardian;
- (b) state each term of this award that the employer and the individual employee have agreed to vary;
- (c) detail how the application of each term has been varied by agreement between the employer and the individual employee;
- (d) detail how the agreement results in the individual employee being better off overall in relation to the individual employee's terms and conditions of employment; and
- (e) state the date the agreement commences to operate.

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

4.6 Except as provided in clause 4.4(a) the agreement must not require the approval or consent of a person other than the employer and the individual employee.

4.7 An employer seeking to enter into an agreement must provide a written proposal to the employee. Where the employee's understanding of written English is limited the employer must take measures, including translation into an appropriate language, to ensure the employee understands the proposal.

4.8 The agreement may be terminated:

- (a) by the employer or the individual employee giving 13 weeks' notice of termination, in writing, to the other party and the agreement ceasing to operate at the end of the notice period; or

- (b) at any time, by written agreement between the employer and the individual employee.

NOTE: If any of the requirements of [s.144\(4\)](#), which are reflected in the requirements of this clause, are not met then the agreement may be terminated by either the employee or the employer, giving written notice of not more than 28 days (see [s.145](#) of the Act).

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

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:

5.2 amended to correct cross-referencing error

Clause	Provision	Agreement between an employer and:
17.3	Time off instead of payment for overtime	An individual
18.2	Annual leave in advance (b) — When an employee takes a period of paid annual leave or is paid for accrued leave on termination, the employee will be paid an annual leave loading of 17.5% of the base rate of pay for the period in addition to the payment required to be made under Division 6 of the NES. 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 ss.16 and 90 of the Act). Annual leave in advance	An individual

18.7	Cashing out of annual leave	An individual
21.3	Substitution of public holidays by agreement	The majority of employees

Part 3—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 At the time of engagement, an employer will inform each employee of the terms of their engagement and, in particular, whether they are to be full-time, part-time or casual.

6.3 Full-time employment

A full-time employee is engaged to work:

- (a) 38 ordinary hours per week; or
- (b) an average of 38 ordinary hours per week over a maximum work cycle of four weeks.

6.4 Part-time employment

Proposed change in 6.4(a)(ii) referred to Full Bench see para [17] of [\[2016\] FWCFB 7254](#) - being considered as part of [AM2016/30](#)

- (a) A part-time employee:
 - (i) is paid the minimum hourly rate applicable to their classification as set out in clause 13—Minimum wages for the hours worked in any week;
 - (ii) is engaged to work an average of at least eight and no more than ~~38~~ 35 hours per week over a work cycle of four weeks; and
 - (iii) receives, on a pro rata basis, pay and conditions equivalent to those of full-time employees ~~who do the same kind of work.~~
- (b) At the time of engagement, the employer and the part-time employee will agree in writing on a regular pattern of work specifying at least:
 - (i) the number of hours to be worked each day;
 - (ii) which days of the week the employee will work; and
 - (iii) the start and finish times each day.

6.5 Casual employment

- (a) A casual employee is an employee who is engaged and paid as a casual employee in any classification in this award.
- (b) **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 in which they are employed.
- (ii) A casual employee is an employee engaged as such in any classification in this award and must be paid a casual loading of 25%. This loading is paid as compensation for annual leave, paid personal/carer's leave, paid compassionate leave, notice of termination, redundancy benefits and the other entitlements from which they are excluded by the terms of this award and the NES.

6.6 Casual conversion to full-time or part-time employment

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. This award has an existing casual conversion clause; the Full Bench is seeking submissions on whether the notification requirement should be amended. See [\[2017\] FWCFB 3541](#) at [378].

(a) Eligible casual employee

An **eligible casual employee** is a casual employee:

- (i) who works on a regular and systematic basis;
- (ii) who is employed for a sequence of periods of 12 months; and
- (iii) whose employment is to continue beyond the period of 12 months.

An eligible casual employee has the right, after 12 months, to elect to have their contract of employment converted to full-time or part-time employment.

(b) Notice and election of casual conversion

- (i) An employer of an eligible casual employee must give the employee notice in writing of the provisions of clause 6.6 within four weeks of the employee having reached the 12 month period.
- (ii) The eligible casual employee retains their right of election under clause 6.6 if the employer fails to comply with clause 6.6(b)(i).
- (iii) An eligible casual employee may give four weeks' notice in writing to the employer that they seek to elect to convert their contract of employment to full-time or part-time employment either:
- upon receiving notice under clause 6.6(b)(i); or

- after the expiry of the time for giving notice.

(iv) An eligible casual employee who does not elect to convert their contract of employment to full-time or part-time employment within four weeks of receiving written notice is deemed to have elected against any conversion.

(c) Full-time or part-time conversion

(i) An eligible casual employee who has worked on a full-time basis throughout their period of employment has the right to elect to convert their contract of employment to full-time employment.

(ii) An eligible casual employee who has worked on a part-time basis during the period of casual employment has the right to elect to convert their contract of employment to part-time employment, on the basis of the same number of hours and times of work as previously worked.

(iii) However, the employer and the employee may agree on an alternative arrangement.

(iv) If an eligible casual employee has elected to have their contract of employment converted to full-time or part-time employment in accordance with clause 6.6(b)(iii) the employer and employee must, subject to clause 6.6(c)(i) and (ii), discuss and agree on:

- which form of employment the employee will convert to, being full-time or part-time; and
- if the employee will become a part-time employee, the number of hours and the pattern of hours that will be worked, as set out in clause 6.4(b).

(v) Following agreement being reached, the employee converts to full-time or part-time employment.

(d) Employer consent or refusal to casual conversion

(i) The employer must consent or refuse the election within four weeks of receiving notice of the eligible casual employee's election. The employer must not unreasonably refuse consent to the election.

(ii) Any dispute about a refusal of an election to convert a contract of employment will be dealt with as far as practicable with expedition through the dispute settlement procedure.

(iii) Where an employer refuses an election to convert, the reasons for doing so must be fully stated to and discussed with the employee concerned and a genuine attempt made to reach agreement.

(iv) After an employee has converted to a full-time or part-time employee, they may only revert to casual employment by written agreement with the employer.

(e) Any dispute about the arrangements to apply to an employee converting from casual employment to full-time or part-time employment will be dealt with as far as practicable with expedition through the dispute settlement procedure

(f) An employee must not be engaged and re-engaged to avoid any obligation under this award.

(g) **Irregular casual**

An **irregular casual employee** is one who has been engaged to perform work on an occasional or non-systematic or irregular basis. The provisions of clause 6.6 do not apply to irregular casual employees.

6.7 Minimum engagement

(a) At the time of engagement, an employer must inform a casual employee:

- (i) that they are employed on a casual basis;
- (ii) who they are employed by;
- (iii) the job they will perform;
- (iv) their classification level;
- (v) the actual or likely number of hours they will work; and
- (vi) their rate of pay.

(b) A casual employee, other than a Snowsport Instructor, is entitled to a minimum payment of two hours' work on each occasion they are required to work.

(c) In order to meet their personal circumstances a casual employee may request and the employer may agree to an engagement for less than the minimum hours.

7. Seasonal employment

Clause and proposed changes in red to be referred to Full Bench see para [17] of [\[2016\] FWCFB 7254](#).

7.1 An employer may employ seasonal employees in any classification in this award.

7.2 A seasonal employee may be engaged on either a full-time or part-time basis.

7.3 A full-time seasonal employee is a seasonal employee who is engaged to work 38 ordinary hours per week (or an average of 38 ordinary hours over the anticipated length of their employment).

7.4 A part-time seasonal employee is a seasonal employee who is engaged to work less than 38 ordinary hours per week (or an average of less than 38 ordinary hours over the anticipated length of their employment).

7.5 ~~The hourly rate of seasonal employees will include an 8.33% loading of the applicable hourly rate instead of annual leave.~~

7.6 Seasonal employees will be paid the hourly rate applicable to their classification as set out in clause 13—Minimum wages ~~plus the loading in clause 7.5~~.

7.7 In the event of adverse climatic conditions a seasonal employee may have their anticipated period of seasonal employment reduced.

7.8 The employer will advise each seasonal employee either in writing or verbally prior to the end of the season whether that employee's employment will be terminated at the end of the season.

8. Apprentices

8.1 Apprentices will be engaged in accordance with relevant apprenticeship legislation and be paid in accordance with clause 13.4, 13.5 and 13.6.

8.2 An apprentice under the age of 18 years must not, without their consent, be required to work overtime or shiftwork.

8.3 An apprentice will be engaged for a minimum of four hours per shift.

8.4 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. 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.

8.5 For the purposes of clause 8.4, 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. 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.

8.6 The amount payable by an employer under clause 8.4 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.

8.7 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.

8.8 An employer may meet its obligations under clause 8.7 by paying any fees and/or cost of textbooks directly to the RTO.

8.9 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.

- 8.10** 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 G—School-based Apprentices.
- 8.11** 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.
- 8.12** Except as provided in this clause or where otherwise stated, all conditions of employment specified in this award apply to apprentices.

9. Classifications

The definitions of the classification levels under this award are set out in Schedule A—Classification Definitions.

Part 4—Hours of Work

10. Ordinary hours of work

Clause requires further consideration and determination.

- 10.1** Ordinary hours may be worked on any five days of the week with a maximum of 10 hours per day.
- 10.2** A full-time employee’s ordinary hours of will average 38 per week over a maximum work cycle of four weeks.
- 10.3** The ordinary hours of part-time employees will average at least eight and no more than ~~38~~ 35-hours per week over a maximum work cycle of four weeks.
- 10.4** The ordinary hours of casual employees are the lesser of an average of 38 hours per week over a maximum work cycle of four weeks or the hours required to be worked by the employer.

10.5 Make-up time

Notwithstanding provisions elsewhere in this award, the employer and the majority of employees at an enterprise may agree to establish a system of make-up time provided that:

- (a) with the consent of the employer, an employee may elect to work make-up time where the employee takes time off during ordinary hours, and works those hours at a later time, during the spread of ordinary hours provided in this award;
- (b) with the consent of the employer, an employee on shiftwork may elect to work make-up time where the employee takes time off during ordinary hours and works those hours at a later time, at the shiftwork rate which would have been applicable to the hours taken off.

11. Rostering

11.1 The employer must prepare a roster showing the name of each employee and their days of work and starting and finishing times and post it on a noticeboard which is conveniently located at or near the workplace or through electronic means, whichever makes it more accessible.

11.2 The roster will be alterable:

- (a) at any time by mutual consent;
- (b) by the employer on the day before the shift was originally scheduled; or
- (c) as soon as is reasonably practicable when notice is unable to be given on the day before the shift.

11.3 Rostered days off

(a) Clause 11.3 only applies to full-time employees other than seasonal employees.

(b) **Notice**

- (i) An employer will give at least one week's notice of a rostered day off.
- (ii) An employee may agree to a lesser period of notice than that specified in clause 11.3(b)(i).

(c) **Substitute days**

- (i) An employer may require an employee to work on the employee's rostered day off in the event of an emergency.
- (ii) In the circumstances addressed by clause 11.3(c)(i), the employee will be paid at **150%** of the applicable hourly rate for all time worked on the rostered day off and will be granted another rostered day off.

12. Breaks

12.1 If an employee, including a casual employee, is required to work for five or more hours in a day they must be given an unpaid meal break of no less than 30 minutes.

12.2 The break must be given no earlier than one hour after starting work and no later than six hours after starting work.

12.3 Where operational requirements do not allow time for an unpaid meal break in accordance with clause 12.1, the employee will be given a paid meal break of 20 minutes.

12.4 If the unpaid meal break is rostered to be taken five hours after starting work, the employee must be given an additional 20 minute paid meal break. The employer must allow the employee to take this additional meal break no earlier than two hours after starting work and no later than five hours after starting work.

12.5 If an employee is not given a meal break in accordance with clauses 12.1 or 12.4 the employer must pay the employee overtime rates from the end of six hours until either the meal break is given or the shift ends.

- 12.6 An employee is entitled to receive an additional 30 minute unpaid meal break for each additional five hours worked per day. The taking of any additional meal breaks is to be as per clauses 12.4 and 12.5 above.

Part 5—Wages and Allowances

13. Minimum wages

Clause and proposed changes in red to be referred to Full Bench see para [17] of [\[2016\] FWCFCB 7254](#).

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

13.1 Alpine resort workers

An employer must pay adult employees (other than apprentices) the following minimum wages for ordinary hours worked by the employee:

Classification	Minimum hourly rate \$	Minimum seasonal hourly rate ¹ \$
Training	18.29	19.81
Resort Worker Level 1	18.82	20.39
Resort Worker Level 2	19.54	21.17
Resort Worker Level 3	20.22	21.90
Resort Worker Level 4	21.28	23.05
Resort Worker Level 5	21.97	23.80
Resort Worker Level 6	22.63	24.52
Resort Worker Level 7	23.24	25.18

¹Minimum seasonal hourly rate is based on the minimum hourly rate and includes a loading of 8.33% of the minimum rate in accordance with clause 7.5.

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

13.2 Snowsports Instructors

An employer must pay adult employees (other than apprentices) the following minimum wages for ordinary hours worked by the employee:

Classification	Minimum hourly rate \$	Minimum seasonal hourly rate ¹ \$
Instructor Category A	29.12	31.55

Instructor Category B	26.18	28.36
Instructor Category C	23.28	25.22
Instructor Category D	20.35	22.05
Instructor Category E	19.38	20.99
<p>¹Minimum seasonal hourly rate is based on the minimum hourly rate and includes a loading of 8.33% of the minimum rate in accordance with clause 7.5.</p>		

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

13.3 Junior employees

- (a) The minimum wages for junior employees are the following percentages of the minimum hourly rate prescribed for the appropriate adult classification:

Age	%
17 years and under	70
18 years	80
19 years and over	100

- (b) Junior employees working in roles that undertake liquor service must be paid at the relevant adult minimum wage.
- (c) An employer may require an employee to provide proof of their age such as a birth certificate or other satisfactory evidence. The employer must cover the cost of obtaining a birth certificate if required.
- (d) An employee under the age of 18 years will not be required to work more than 10 hours in a shift.

13.4 Apprentices

An apprentice will be paid the following percentage of the minimum wage for the appropriate adult classification:

Year	%
First year	55
Second year	65
Third year	80
Fourth year	95

- 13.5 All percentages prescribed in this clause will be calculated to the nearest 10 cents. Any amount less than five cents will be round down, any amount five cents or more will be rounded up to the higher 10 cents.

13.6 Adult apprentices

13.6 amended to correct cross-referencing error

- (a) The minimum rate for an adult apprentice who commenced on or after 1 January 2014 and is in the first year of their apprenticeship must be 80% of the Resort Worker Level 4 rate in clause 13.1, or the rate prescribed by clause 13.4 for the relevant year of the apprenticeship, whichever is the greater.
- (b) The minimum rate for an adult apprentice who commenced on or after 1 January 2014 and is in the second and subsequent years of their apprenticeship must be the rate for the lowest adult classification in clause 13.1 or the rate prescribed by clause 13.4 for the relevant year of the apprenticeship, whichever is the greater.
- (c) An adult apprentice must not suffer a reduction in their minimum wage under this award because they have entered into a training agreement if they were employed by the employer at that enterprise immediately before entering into a training agreement, either:
 - (i) on a full-time basis for at least six months; or
 - (ii) on a part-time or regular and systematic casual basis for at least 12 months.
- (d) If an employee meets the requirements set out in clause 13.6(c) they must continue to receive the minimum wage that applied to their classification immediately before entering into the training agreement.

13.7 School based apprentices

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

13.8 National training wage

Clause 13.8 substituted per [PR593867](#)

- (a) Schedule E to the *Miscellaneous Award 2010* sets out minimum wage rates and conditions for employees undertaking traineeships.
- (b) This award incorporates the terms of Schedule E to the *Miscellaneous Award 2010* as at 1 July 2017. Provided that any reference to “this award” in Schedule E to the *Miscellaneous Award 2010* is to be read as referring to the *Alpine Resorts Award 2010* and not the *Miscellaneous Award 2010*.

13.9 Supported wage system

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

13.10 Payment of wages

- (a) Wages will be paid either weekly, fortnightly or monthly.
- (b) Wages will be paid into the employee’s nominated bank account by electronic funds transfer without cost to the employee.

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.

14. Higher duties, dual-role employment and multi-hiring arrangement

14.1 Higher duties

- (a) An employee engaged on work for more than a total of two hours on any day or shift at a higher level than their ordinary classification, must be paid the higher rate for the whole day or shift.
- (b) An employee engaged on work for a total of two hours or less on any day or shift, at a higher level than their ordinary classification must be paid the higher rate for the time worked at the higher level.
- (c) Where clause 14.1 applies, clauses 14.2 and 14.3 do not apply.

14.2 Dual-role employment

- (a) Due to the unique nature of most positions under this award, in that they are generally only available during that part of the year when alpine lifting is being provided, employees may be offered dual-role employment (where operational requirements allow) in which the employee may have two distinct roles.
- (b) In these circumstances any offer of employment will set out the terms and conditions for each role and these will be mutually agreed between the two parties prior to the commencement of this type of employment.
- (c) Where clause 14.2 applies, clause 14.1 only applies to work within each role.

14.3 Multi-hiring arrangement

- (a) An employee may agree to be engaged on a multi-hiring arrangement as an alternative, or in addition to, dual-role employment.
- (b) If an employer and an employee enter into a multi-hiring arrangement, the parties must agree on the primary role of the employee.
- (c) The employer may then offer the employee, and the employee may undertake, a non-primary role (or roles) in any level or classification within Schedule A— Classification Definitions that they are qualified for, provided that:
 - (i) any non-primary role is to be undertaken, and paid for, on a casual basis; and
 - (ii) any hours worked by an employee in a non-primary role do not count toward ordinary hours or overtime in the employee's primary role.
- (d) Where clause 14.3 applies, clause 14.1 only applies to work within each role.

15. Allowances

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

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

15.2 Wage related allowances

(a) Sewerage treatment plant allowance

Employees will be paid an allowance of **\$9.53** for each shift they are engaged in work at a designated sewerage treatment plant.

15.3 Expense related allowances

(a) Meal allowance

An employee must be supplied with a meal or paid an allowance of **\$12.71** if required to work overtime for more than two hours per shift without being notified on the previous day or earlier.

(b) Boot allowance

An employee will be paid an allowance of **\$0.16** per hour if directed to wear specific outdoor footwear as part of their employment and this footwear is not supplied by the employer. This does not include items such as black shoes for service staff.

(c) Equipment allowance

An employee will be paid an allowance of **\$0.33** per hour if required to provide ski/board equipment as part of their employment, and this equipment is not supplied by the employer. An employee entitled to the equipment allowance will be entitled to this instead of the boot allowance.

(d) Protective clothing reimbursement

(i) The employer must provide all employees who are outdoor workers, including Snowsports Instructors, with appropriate wet weather and protective clothing free of charge, or must reimburse the employee the cost of purchasing such clothing.

(ii) Where protective clothing, uniforms and/or other tools and equipment are supplied without cost to the employee or the cost has been reimbursed to the employee:

- it will remain the property of the employer and will be returned to the employer when requested on termination of the employee's employment;
- any loss or damage through misuse by the employee will be charged against the employee's wages; and
- a deduction at a reasonable rate may be made by the employer, provided that no deduction will be made for reasonable wear and tear.

(e) Airfare reimbursement

(i) Snowsports Instructors, who are in Category A, B or C as set out in Schedule A, are entitled to an airfare reimbursement of up to **\$840.62** where they are:

- engaged overseas in the Northern Hemisphere in the preceding season as part of an exchange program or working as a full-time instructor for a full season at a snowsports school in the Northern Hemisphere approved by prior arrangement with the school director; or
 - engaged overseas in the Northern Hemisphere in the preceding season and enter Australia as temporary non-residents.
- (ii) In order to qualify for an airfare reimbursement the employee will be required to:
- prove that a minimum of eight weeks has been worked on a full-time basis at an approved snowsports school in the Northern Hemisphere; and
 - produce the original airline ticket in order to prove that the expense has been incurred.

16. Superannuation

16.1 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.

16.2 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.

16.3 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 16.2.
- (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 16.3(a) or (b) no later than 28 days after the end of the month in which the deduction authorised under clauses 16.3(a) or (b) was made.

16.4 Superannuation fund

Unless, to comply with superannuation legislation, the employer is required to make the superannuation contributions provided for in clause 16.2 to another superannuation fund that is chosen by the employee, the employer must make the superannuation contributions provided for in clause 16.2 and pay the amount authorised under clauses 16.3(a) or (b) to one of the following superannuation funds or its successor:

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

Part 6—Penalties and overtime

17. Penalty rates

17.1 Payment for work performed on public holidays

Clause to be referred to Full Bench see para [17] of [\[2016\] FWCFB 7254](#).

- (a) Employees other than Snowsports Instructors must be paid for at 250% of the applicable hourly rate of pay for all time worked on a public holiday.
- (b) In the case of casual employees this rate includes the casual loading of 25%.

17.2 Overtime

An employee, other than ~~a casual employee or~~ a Snowsports Instructor, must be paid overtime rates for:

- (a) any hours in excess of the ordinary hours per week that the employee is engaged to work;
- (b) any hours in excess of 10 per day, excluding meal breaks; or
- (c) any hours in excess of an average of 38 per week over the length of the cycle.
- (d) The overtime rates are as follows:

For overtime worked on	Overtime rate % of applicable hourly rate
Monday to Sunday—first 2 hours	150
Monday to Sunday—after 2 hours	200

17.3 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 17.3.
- (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 K. There is no requirement to use the form of agreement set out at Schedule K. An agreement under clause 17.3 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 17.3 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 17.3 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 17.3 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 17.3 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 17.3 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 17.3.

Part 7—Leave, Public Holidays and Other NES Entitlements

18. Annual leave

Clause referred to Full Bench see para [17] of [\[2016\] FWCFB 7254](#).

- 18.1 (a) Annual leave is provided for in the NES.
- (b) When an employee takes a period of paid annual leave or is paid for accrued leave on termination, the employee will be paid an annual leave loading of 17.5% of the base rate of pay for the period in addition to the payment required to be made under Division 6 of the NES.

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 ss.16 and 90 of the Act).

18.2 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 18.2 is set out at Schedule I. There is no requirement to use the form of agreement set out at Schedule I.

- (c) The employer must keep a copy of any agreement under clause 18.2 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 18.2, 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.

18.3 Close-down

An employer may require an employee to take annual leave by giving at least four weeks' notice as part of a close-down of its operations.

18.4 Excessive leave accruals: general provision

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

Note: Clauses 18.4 to 18.6 contain provisions, additional to the National Employment Standards, about the taking of paid annual leave as a way of dealing with the accrual of excessive paid annual leave. See Part 2.2, Division 6 of [the Act](#) ~~Fair Work Act~~.

- (a) An employee has an **excessive leave accrual** if the employee has accrued more than 8 weeks' paid annual leave (or 10 weeks' paid annual leave for a shiftworker, as defined by Schedule H).
- (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 18.5 sets out how an employer may direct an employee who has an excessive leave accrual to take paid annual leave.
- (d) Clause 18.6 sets out how an employee who has an excessive leave accrual may require an employer to grant paid annual leave requested by the employee.

18.5 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 18.4(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 18.4, 18.5 or 18.6 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 18.5(b)(i).

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

18.6 Excessive leave accruals: request by employee for leave

- (a) Clause 18.6 comes into operation from 29 July 2017.
- (b) If an employee has genuinely tried to reach agreement with an employer under clause 18.4(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 18.5(a) that, when any other paid annual leave arrangements (whether made under clause 18.4, 18.5 or 18.6 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 18.4, 18.5 or 18.6 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 Schedule H) in any period of 12 months.
- (f) The employer must grant paid annual leave requested by a notice under paragraph (b).

18.7 Cashing out of annual leave

- (a) Paid annual leave must not be cashed out except in accordance with an agreement under clause 18.7.
- (b) Each cashing out of a particular amount of paid annual leave must be the subject of a separate agreement under clause 18.7.
- (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 18.7 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 18.7 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 18.7 as an employee record.

Note 1: Under section 344 of the Act Fair Work Act, an employer must not exert undue influence or undue pressure on an employee to make, or not make, an agreement under clause 18.7.

Note 2: Under section 345(1) of the Act Fair Work Act, a person must not knowingly or recklessly make a false or misleading representation about the workplace rights of another person under clause 18.7.

Note 3: An example of the type of agreement required by clause 18.7 is set out at Schedule J. There is no requirement to use the form of agreement set out at Schedule J.

19. Personal/carer's leave and compassionate leave

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

20. Parental leave and related entitlements

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

21. Public holidays

21.1 Public holidays are provided for in the NES.

21.2 Where an employee other than a Snowsports Instructor works on a public holidays they will be paid in accordance with clause 17.1.

21.3 Substitution of public holidays by agreement

The employer and the majority of employees in an enterprise or section of an enterprise may agree to substitute another day for a public holiday.

21.4 Additional arrangements for employees other than casuals

An employee whose rostered day off falls on a public holiday must, subject to clause 21.3, either:

- (a) be paid an extra day's pay; or
- (b) be provided with an alternative day off within 28 days; or
- (c) receive an additional day's annual leave.

- 21.5** A permanent or seasonal employee who works on a public holiday which is subject to substitution as provided for in clause 21.3 will be entitled to the benefit of the substitute day.

22. Community service leave

Community service leave is provided for in the NES.

23. Termination of employment

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

23.2 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.

23.3 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.

24. Redundancy

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

24.2 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 if the employment had been terminated and the employer may, at the employer's option, make payment instead. The payment will be 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.

24.3 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.

24.4 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 23.3.

Part 8—Consultation and Dispute Resolution

25. Consultation

25.1 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 25.1(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 25.1(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.

25.2 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.

26. Dispute resolution

- 26.1** 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.
- 26.2** 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 26.1 have been taken, a party to the dispute may refer the dispute to the Fair Work Commission.
- 26.3** The parties may agree on the process to be utilised by the Fair Work Commission including mediation, conciliation and consent arbitration.

- 26.4** 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.
- 26.5** An employer or employee may appoint another person, organisation or association to accompany and/or represent them for the purposes of this clause.

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

- 26.6** While the dispute resolution procedure is being conducted, work must continue in accordance with this award and the Act. Subject to applicable ~~occupational work~~ health and safety legislation, an employee must not unreasonably fail to comply with a direction by the employer to perform work, whether at the same or another workplace, that is safe and appropriate for the employee to perform.

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Schedule A—Classification Definitions

A.1 Training level

A.1.1 Training Level is the level at which staff are undergoing training prior to being deemed competent to undertake their substantive role at the appropriate Resort Worker Level, excluding those who are being trained in Plant Operators role. It is also the rate to be paid to staff while attending orientation or induction programs.

A.1.2 The maximum period of time on which an employee may be engaged at the Training Level is seven weeks.

A.2 Resort Worker Level 1

A.2.1 Resort Worker Level 1 means an employee who is engaged in a role that requires no previous experience, some on-the-job training and who works under supervision in roles including:

- Carparking duties
- Outdoor and Indoor Assistant roles including Race Event Workers, Snowsports Assistants, Painters and Lift Attendants whose roles are primarily focused on specific labouring tasks
- General unskilled labour tasks
- Bar Assistant who is employed primarily in non-service duties
- Food Service Assistant—duties including removing food plates, setting and/or wiping down tables, cleaning and tidying of associated areas
- Kitchenhand duties
- Housekeeping duties assisting under supervision in the servicing of resort property and cleaning thereof
- Laundry duties assisting in laundry service

A.3 Resort Worker Level 2

A.3.1 Resort Worker Level 2 means an employee who is engaged in a role that requires some previous relevant experience or qualifications, detailed on-the-job training for the specific employer's requirements and work under supervision.

A.3.2 The following roles are examples:

- An employee who is engaged in general clerical or office duties
- Guest Service roles including Ticket and Pass sales, Hire sales and service, Retail Sales, Concourse Attendants and Tour Guides
- Trainee Plant Operator roles (including Trainee Train Drivers) who are undergoing training and assessment and are yet to be deemed competent

- A person involved in the coordination and instruction of other staff involved in Carparking operations
- Unqualified Child Care Workers
- Municipal Services (garbage collection etc.)
- Pool attendants with lifeguard qualifications
- Ticket Checkers, Uniform Room Attendants and Mountain Awareness staff
- Snowsports administrative staff who are responsible for the booking of lessons
- Bar duties including service, cellar and bottle sales
- Food Service duties including service, cashier and waiting duties
- Housekeeping involved in the servicing and cleaning of resort property
- A Cook being an unqualified person involved in the preparation, butchering or cooking of food
- An employee who is engaged in reception/reservations duties including night auditing, telephonist, receptionist, cashier, information services, portering or reservations.
- Laundry duties involved in laundry production duties such as machine operation

A.4 Resort Worker Level 3

A.4.1 Resort Worker Level 3 means an employee who is engaged in a role that requires significant previous experience in the field in which they are to be employed or who will be involved in roles that require specialist training by the employer.

A.4.2 The following roles are examples:

- A Lift Operator who is responsible for the safe operation of aerial and surface lifting, the loading and unloading of guests, maintaining the lift station and reporting of mechanical faults to appropriate trades and supervisory staff
- An employee involved in Mountain operation roles such as Assistant Ski Patrol and Trail Crew
- Trades Assistants in Electrical, Mechanical, Fitting & Machinery and Building disciplines including (but not limited to) Electrical Assistants, Track Maintenance Assistants, Fitters and Machinists, Carpentry Assistants and Leading Hand Labourers
- Beauty Therapist and Spa Attendant
- Storeperson or Cellar person with forklift qualifications and who is engaged as such
- Food Service & Bar staff who supervise staff of a lower grade and who work without supervision

- A Kitchen attendant who has the responsibility for the supervision, training and coordination of kitchen attendants of a lower grade
- An employee in a Housekeeping, Porter or Laundry role who has the appropriate level of training and who is employed to supervise employees of a lower grade
- An employee who is engaged in night auditing, Hotel reception or reservations who has more than three years' experience in a similar role in a Hotel or Travel Reservations business

A.5 Resort Worker Level 4

A.5.1 Resort Worker Level 4 means an employee who is engaged in a role that requires specialist skills built on previous experience and qualifications or who provides direction for staff at a lower level.

A.5.2 The following roles are examples:

- An employee who is engaged in the supervision of other staff involved in reception/reservations duties including night auditing, telephonist, receptionist, cashier, information services or reservations
- An employee who is engaged in the supervision of Guest Service roles including Ticket and Pass sales, Hire sales and service, Retail Sales, Concourse Attendants and Information and Tour Guides
- An employee engaged in Cashroom, Treasury or other similar back office cash reconciliation roles
- Experienced Painters
- Qualified Fitness Instructor with lifeguard qualifications
- Bar and Food Service staff who supervise staff of a lower grade in running a particular section, restaurant or bar
- A Qualified Chef, who has completed an apprenticeship in this discipline
- An employee who is engaged as an Inventory Controller or Uniform Room Coordinators

A.6 Resort Worker Level 5

A.6.1 Resort Worker Level 5 means an employee who has the appropriate level of training and who is employed to supervise and/or train employees of a lower grade.

A.6.2 The following roles are examples:

- An employee who is engaged in the supervision of Lift Operators
- Treasury/Cashroom staff

A.7 Resort Worker Level 6

A.7.1 Resort Worker Level 6 means an employee who is engaged in a role that requires the completion of a recognised qualification in the field in which they are employed and have been deemed competent to fulfil the following roles:

- A Plant Operator who has been deemed competent in the operation of plant and equipment including (but not limited to) Transport vehicles, Groomers, Excavators, Cranes, Trains, Snowmaking or Sewerage Plant equipment
- Railway Track Inspectors
- A Child Care Worker who has completed as a minimum an AQF Certificate 3 or 4 in Children's Services (or equivalent)
- A qualified Ski Patroller
- Trade qualified staff who have completed an apprenticeship in an Electrical, Fitting, Mechanical, Painting, Spray Painting, Carpentry or Building discipline and are undertaking work in their relevant discipline
- An employee who is employed to Supervise staff undertaking Trail Crew or Snowsports Reservations duties
- Qualified Beauty Therapist
- Media Staff such as Reporters, Editors and Camera Operators
- A Hospitality supervisor in any area of hospitality including but not limited to food and beverage, housekeeping, front office and reservations, laundry, stores, duty supervisors and the like

A.8 Resort Worker Level 7

A.8.1 Resort Worker Level 7 means an employee who is engaged in any of the following roles:

- A Child Care Worker who is engaged as a supervisor and who has completed as a minimum an AQF Diploma in Children's Services
- An employee who is engaged in the supervision of other staff involved in Plant Operation
- A Qualified Chef who supervises or trains other kitchen staff, undertakes ordering and stock control and is solely responsible for other cooks and other kitchen employees in a single kitchen establishment

A.9 Instructors Category A

Instructors Category A means an employee who is engaged as a Snowsports Instructor (as defined), is a fully certified Instructor, and has obtained their APSI Level 4 Qualification or international equivalent (as currently contained in Table 5 in Schedule B) or the recognised current equivalent and has a minimum of 10 full-time seasons of practical experience. Full-time season for the purposes of this category of employment will be a minimum of 12 successive weeks at a recognised snowsports school.

A.10 Instructors Category B

Instructors Category B means an employee who is engaged as a Snowsports Instructor (as defined) and has an intermediate level of certification, being their APSI Level 3 Qualification or international equivalent (as currently contained in Table 4 in

Schedule B) or the recognised current equivalent and has full-time practical teaching experience.

A.11 Instructors Category C

Instructors Category C means an employee who is engaged as a Snowsports Instructor (as defined) and has a fundamental level of certification, being the APSI Level 2 Qualification or international equivalent (as currently contained in Table 3 in Schedule B) or the recognised current equivalent and has full-time practical teaching experience.

A.12 Instructors Category D

Instructors Category D means an employee who is engaged as a Snowsports Instructor (as defined) and has some teaching experience with an entry level qualification, being the APSI Level 1 Qualification or international equivalent (as currently contained in Table 2 in Schedule B) or the recognised current equivalent.

A.13 Instructors Category E

Instructors Category E means an employee who is engaged as a Snowsports Instructor (as defined) and has either no experience or a low level qualification (as currently contained in Table 1 in Schedule B) or the recognised current equivalent.

Schedule B—Equivalency of Snowsports Qualifications**Table 1**

Country	Association Certification Level
Australia	APSI (Ski & SB) Level 1
Austria	ÖSSV (Ski & SB) Anwärter
Canada	CSIA (Ski) CSIA Level 1 CASI (SB) CASI Level 1 CSCF (Coaching) Entry Level (1)
Korea	KSIA (Ski & SB) Level 1
New Zealand	NZSIA (Ski) SBINZ (SB) Level 1
Switzerland	SSSA (Ski & SB) Kinderlehrer (Child Tutor)
United Kingdom	BASI (Ski) Level 1—Dry Slope Specific BASI (SB) Level 1—Dry Slope Specific
USA	PSIA (Ski) Level 1 AASI (SB) Level 1

Table 2

Country	Association Certification Level
Australia	APSI (Ski & SB) Level 1
Canada	CSCF (Coaching) Level 1 Advanced Certification
USA	PSIA (Ski) AASI (SB) Level 1 plus PSIA children's specialist 1

Table 3

Country	Association Certification Level
Australia	APSI (Ski & SB) Level 2
Austria	ÖSSV (Ski & SB) Landeslehrer 1 (Aufnahmsprüfung)
Canada	CSIA (Ski) Level 2 CASI (SB) Level 2 CSCF (Coaching) Development Level (2)
Czech Republic	APUL (Ski & SB) APUL C
Japan	SIA (Ski & SB) IT I (Bronze Medal)
Korea	KSIA (Ski & SB) Level 2
Netherlands	NVVS (Ski & SB) A-Diploma
New Zealand	NZSIA (Ski) SBINZ (SB) Level 2
Slovakia	SAPUL (Ski & SB) C Qualification
Slovenia	ZUTS (Ski & SB) Level 1
Switzerland	SSSA (Ski & SB) Stufe 1

Country	Association Certification Level
United Kingdom	BASI (Ski) Level 2 BASI (SB) Level 2
USA	AASI (SB) Level 2 plus children's specialist 1 PSIA (Ski) Level 2 plus children's specialist 1

Table 4

Country	Association Certification Level
Australia	APSI (Ski & SB) Level 3
Austria	ÖSSV (Ski & SB) Landeslehrer (completed) or Landeslehrer 2
Canada	CSIA (Ski) Level 3 CASI (SB) Level 3 CSCF (Coaching) Performance Level (3)
Czech Republic	APUL (Ski & SB) APUL B
Italy	AMSI (Ski & SB) Maestro di Sci/Snowboard
Japan	SIA (Ski & SB) IT II (Silver Medal)
Korea	KSIA (Ski & SB) Level 3
New Zealand	NZSIA (Ski & SB) Level 3
Netherlands	NVVS (Ski & SB) B-Diploma
Slovakia	SAPUL (Ski & SB) B Qualification
Slovenia	ZUTS (Ski & SB) Level 2
Switzerland	SSSA (Ski & SB) Stufe 2
United Kingdom	BASI (Ski) Level 3 BASI (SB) Level 3
USA	PSIA (Ski) AASI (SB) Level 2 plus PSIA children's specialist 2 PSIA (Ski) AASI (SB) Level 3 USSA (Coaching) Level 200 State Coach

Table 5

Country	Association Certification Level
Australia	APSI (Ski & SB) Level 4
Austria	ÖSSV (Ski & SB) Staatlich geprüfter Schilehrer
Canada	CSIA (Ski)-CASI (SB) CSIA Level 4 CSCF (Coaching) Program Director (4)
Czech Republic	APUL (Ski & SB) APUL A

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Country	Association Certification Level
Italy	AMSI (Ski & SB) Maestro di Sci/Snowboard (Gold Level)
Japan	SIA IT III (Ski & SB) (Gold Medal)
Netherlands	NVVS (Ski & SB) C-Diploma
New Zealand	NZSIA (Ski & SB) Level 3 plus Trainer
Slovakia	SAPUL (Ski & SB) A Qualification
Slovenia	ZUTS (Ski & SB) Level 3
Sweden	ESS (Ski & SB) Examinerad Svensk Skidlarare (Level 3)
Switzerland	SSSA (Ski & SB) Stufe 3 (ISIA)
United Kingdom	BASI (Ski & SB) Level 4 ISTD BASI (Ski Coach) Level 4 Coach
USA	PSIA (Ski) AASI (SB) Level 3 ISIA plus Trainer Cert (Education Staff, i.e. DCL, TA)

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Schedule C—Summary of Hourly Rates of Pay

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

Clause and proposed changes in red referred to Full Bench see para [17] of [\[2016\] FWCFB 7254](#).

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

C.1 Alpine resort workers

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

	Ordinary hours	Public holiday
	% of minimum hourly rate	
	100%	250%
	\$	\$
Training	18.29	45.73
Resort Worker Level 1	18.82	47.05
Resort Worker Level 2	19.54	48.85
Resort Worker Level 3	20.22	50.55
Resort Worker Level 4	21.28	53.20
Resort Worker Level 5	21.97	54.93
Resort Worker Level 6	22.63	56.58
Resort Worker Level 7	23.24	58.10

C.1.2 Full-time and part-time employees—overtime rates

	Monday to Sunday		Public holiday
	First 2 hours	After 2 hours	
	% of minimum hourly rate		
	150%	200%	250%
	\$	\$	\$
Training	27.44	36.58	45.73
Resort Worker Level 1	28.23	37.64	47.05
Resort Worker Level 2	29.31	39.08	48.85
Resort Worker Level 3	30.33	40.44	50.55
Resort Worker Level 4	31.92	42.56	53.20
Resort Worker Level 5	32.96	43.94	54.93

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	Monday to Sunday		Public holiday
	First 2 hours	After 2 hours	
	% of minimum hourly rate		
	150%	200%	250%
	\$	\$	\$
Resort Worker Level 6	33.95	45.26	56.58
Resort Worker Level 7	34.86	46.48	58.10

C.1.3 Casual employees—ordinary and penalty rates

	Ordinary hours	Public holiday
	% of minimum hourly rate	
	125%	250%
	\$	\$
Training	22.86	45.73
Resort Worker Level 1	23.53	47.05
Resort Worker Level 2	24.43	48.85
Resort Worker Level 3	25.28	50.55
Resort Worker Level 4	26.60	53.20
Resort Worker Level 5	27.46	54.93
Resort Worker Level 6	28.29	56.58
Resort Worker Level 7	29.05	58.10

C.1.4 Casual employees – overtime rates

	Monday to Sunday		Public holiday
	First 2 hours	After 2 hours	
	% of minimum hourly rate		
	150%	200%	250%
	\$	\$	\$
<i>Training</i>	<i>27.44</i>	<i>36.58</i>	<i>45.73</i>
<i>Resort Worker Level 1</i>	<i>28.23</i>	<i>37.64</i>	<i>47.05</i>
<i>Resort Worker Level 2</i>	<i>29.31</i>	<i>39.08</i>	<i>48.85</i>
<i>Resort Worker Level 3</i>	<i>30.33</i>	<i>40.44</i>	<i>50.55</i>
<i>Resort Worker Level 4</i>	<i>31.92</i>	<i>42.56</i>	<i>53.20</i>
<i>Resort Worker Level 5</i>	<i>32.96</i>	<i>43.94</i>	<i>54.93</i>
<i>Resort Worker Level 6</i>	<i>33.95</i>	<i>45.26</i>	<i>56.58</i>
<i>Resort Worker Level 7</i>	<i>34.86</i>	<i>46.48</i>	<i>58.10</i>

C.1.5 — Full-time and part-time seasonal employees — ordinary and penalty rates

	Ordinary hours	Public holiday
	% of minimum seasonal hourly rate	
	100%	250%
	\$	\$
Training	19.81	49.53
Resort Worker Level 1	20.39	50.98
Resort Worker Level 2	21.17	52.93
Resort Worker Level 3	21.90	54.75
Resort Worker Level 4	23.05	57.63
Resort Worker Level 5	23.80	59.50
Resort Worker Level 6	24.52	61.30
Resort Worker Level 7	25.18	62.95

¹~~Minimum seasonal hourly rate~~ is based on the minimum hourly rate and includes a loading of 8.33% of the minimum rate in accordance with clause 7.5

C.1.6 — Full-time and part-time seasonal employees — overtime rates

	Monday to Sunday		Public holiday
	First 2 hours	After 2 hours	
	% of minimum seasonal hourly rate ¹		
	150%	200%	250%
	\$	\$	\$
Training	29.72	39.62	49.53
Resort Worker Level 1	30.59	40.78	50.98
Resort Worker Level 2	31.76	42.34	52.93
Resort Worker Level 3	32.85	43.80	54.75
Resort Worker Level 4	34.58	46.10	57.63
Resort Worker Level 5	35.70	47.60	59.50
Resort Worker Level 6	36.78	49.04	61.30
Resort Worker Level 7	37.77	50.36	62.95

¹~~Minimum seasonal hourly rate~~ is based on the minimum hourly rate and includes a loading of 8.33% of the minimum rate in accordance with clause 7.5

C.2 Snowsports Instructors

C.2.1 Full-time and part-time snowsports instructors

Classification	Snowsports Instructor hourly rate	Snowsports Instructor Seasonal hourly rate¹
	\$	\$
Instructor Category A	29.12	31.55
Instructor Category B	26.18	28.36
Instructor Category C	23.28	25.22
Instructor Category D	20.35	22.05
Instructor Category E	19.38	20.99

~~¹Minimum seasonal hourly rate is based on the minimum hourly rate and includes a loading of 8.33% of the minimum rate in accordance with clause 7.5~~

C.2.2 Casual snowsports instructors

Classification	Snowsports Instructor hourly rate \$
Instructor Category A	36.40
Instructor Category B	32.73
Instructor Category C	29.10
Instructor Category D	25.44
Instructor Category E	24.23

Schedule D—Summary of Monetary Allowances

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

See clause 15 for full details of allowances payable under this award.

D.1 Wage related allowances

D.1 amended to correct cross-referencing error and to update standard rate in accordance with AWR 2016

The wage related allowances in clause 15.2 of this award are based on the standard rate as defined in Schedule H as the minimum hourly rate for a Resort Worker Level 2 in clause 13.1 = **\$21.17**

Allowance	Clause	% of <u>standard rate</u> \$21.17	\$ per shift
Sewerage treatment plant allowance	15.2(a)	50	9.53

D.1.1 Adjustment of wage related allowances

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

D.2 Expense related allowances

The expense related allowances in this award will be payable to employees in accordance with clause 15.3:

Allowance	Clause	\$
Meal allowance—overtime for more than two hours without notice	15.3(a)	12.71 per occasion
Boot allowance—specific footwear not supplied	15.3(b)	0.16 per hour
Equipment allowance	15.3(c)	0.33 per hour
Airfare reimbursement—Snowsports Instructors—Categories A, B or C	15.3(e)	Up to 840.62 per occasion

D.3 Adjustment of allowances

D.3.1 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.

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- (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
Meal allowance	Take away and fast foods sub-group
Boot and equipment allowances	Clothing and footwear group
Airfare reimbursement	Domestic holiday travel and accommodation sub-group

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Schedule E—National Training Wage

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

Schedule deleted by [PR593867](#)

DRAFT

Schedule F—Supported Wage System

Monetary amounts in this clause have been adjusted as a result of [PR592689](#)

- F.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.
- F.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
- 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
- F.3 Eligibility criteria**
- F.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.
- F.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.
- F.4 Supported wage rates**
- F.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 F.5)	Relevant minimum wage
%	%
10	10
20	20
30	30
40	40
50	50
60	60
70	70
80	80
90	90

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

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

F.5 Assessment of capacity

F.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.

F.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.

F.6 Lodgement of SWS wage assessment agreement

F.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.

F.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.

F.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.

F.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.

F.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.

F.10 Trial period

F.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.

F.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.

F.10.3 The minimum amount payable to the employee during the trial period must be no less than **\$84** per week.

F.10.4 Work trials should include induction or training as appropriate to the job being trialled.

F.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 F.5.

Schedule G—School-based Apprentices

- G.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.
- G.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.
- G.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.
- G.4** For the purposes of G.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.
- G.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.
- G.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.
- G.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.
- G.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.
- G.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.
- G.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.
- G.11** School-based apprentices are entitled pro rata to all of the other conditions in this award.

Schedule H—Definitions

Schedule H amended to correct cross-referencing error

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

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

~~**alpine resort** has the meaning given in 3.2~~

~~means an establishment whose business, among other things, includes alpine lifting~~

applicable hourly rate means the relevant rate for the classification the employee is working under as set out in clause 13—Minimum wages

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)

junior employee means an employee who is less than 19 years old

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~~ *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

rostered day off (RDO) means any day on which an employee, by virtue of the employee's roster, is not rostered to attend for rostered hours of work and does not include non-working days

seasonal employee means an employee engaged to perform work for the duration of a specified season

shiftworker means an employee who:

- is employed by an employer which has shifts continuously rostered 24 hours a day for seven days a week; and
- is regularly rostered to work those shifts; and
- regularly works on Sundays and public holidays

snowsports instructor is an employee whose primary role is teaching skiing or boarding including race and specialist program coaches

standard rate means the minimum hourly rate for a Resort Worker Level 2 in clause 13.1

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Schedule I—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 J—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 K—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___