

**The Pharmacy Industry Award—Plain language exposure draft was last published on 2 September 2019. Changes since that date are as follows:**

<b>Publication date</b>	<b>Reason for amendments</b>	<b>Clauses affected</b>
2 September 2019	<a href="#">Exposure Draft</a>	
21 February 2020	Incorporating changes resulting from <a href="#">[2019] FWCFB 3949</a> at [12]–[14]; <a href="#">PR709577</a> ; consequential renumbering of clause 19	16.1, 19.2, B.1.1, B.1.2, B.1.3, B.2.1, B.2.2
	Incorporating changes resulting from <a href="#">[2019] FWCFB 5409</a> at [6]	14.5, 21.3
	Incorporating changes resulting from <a href="#">[2019] FWCFB 7854</a> at [4] and [7]	Title, 1.1, 16.1, 16.5, B.1.1, B.1.2, B.1.3, B.2.1, B.2.2, C.2.1,
	Incorporating changes resulting from <a href="#">[2019] FWCFB 8157</a> at [16]; <a href="#">PR714923</a>	17.3
	Incorporating changes resulting from <a href="#">[2019] FWCFB 8491</a> ; <a href="#">PR715153</a>	G.2
	Incorporating changes resulting from <a href="#">[2019] FWCFB 4368</a> and <a href="#">[2019] FWCFB 8583</a> ; <a href="#">PR716604</a>	18, G.2(e), G.2(f)
	Administrative changes made by Modern Awards team	20.3, 20.4, 20.5, 21.1(a), 21.1(c), 22.3, B.1.2, B.1.3, B.2.2

## **PLAIN LANGUAGE EXPOSURE DRAFT**

### **Pharmacy Industry Award 20~~20~~<sup>20XX</sup>**

This plain language exposure draft has been prepared by staff of the Fair Work Commission based on the *Pharmacy Industry Award 2010* as at 22 July 2016 and incorporates award updates up 12 February 2020. This exposure draft does not seek to amend any entitlements under the *Pharmacy Industry Award 2010*. Instead, it has been prepared to address some of the structural issues identified in modern awards and to apply plain language drafting principles and techniques.

The review of this award in accordance with section 156 of the *Fair Work Act 2009* is being dealt with in matter [AM2016/15](#) and [AM2014/209](#). Additionally, a number of common issues and substantive claims are being dealt with as part of the 4 yearly review of modern awards which may affect this award. Some transitional provisions have been deleted as a result of decisions made during the review.

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

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## Part 1—Application and Operation of this Award

### 1. Title and commencement

Clause 1 updated in accordance with [\[2019\] FWCFB 7854](#) at [4] and [7].

- 1.1 This is the *Pharmacy Industry Award 20~~20XX~~*.
- 1.2 This modern award, as varied, commenced operation on 1 January 2010. The terms of the award have been varied since that date.
- 1.3 A variation to this award made by the Fair Work Commission does not affect any right, privilege, obligation or liability acquired, accrued or incurred under this award as in force before that variation.

### 2. Definitions

In this award:

**Act** means the [Fair Work Act 2009 \(Cth\)](#).

**community pharmacy**, see clause 4.1 (Coverage).

**dispensary assistant**, see Schedule A.3 (Classification Definitions).

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

**employee** means a national system employee as defined by section 13 of the [Act](#).

**employer** means a national system employer as defined by section 14 of the [Act](#).

**enterprise instrument** has the meaning given by subitem 2(1) of Schedule 6 to the [Fair Work \(Transitional Provisions and Consequential Amendments\) Act 2009 \(Cth\)](#).

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

**Fair Work Regulations** means the *Fair Work Regulations 2009 (Cth)*.

**immediate family** means a family member defined by section 12 of the [Act](#).

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

**National Employment Standards**, see Part 2-2 of the [Act](#). Divisions 3 to 12 of the [Act](#) constitute the **National Employment Standards**. An extract of section 61 of the [Act](#) is reproduced below.

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The National Employment Standards are minimum standards applying to employment of employees. The minimum standards relate to the following matters:

- (a) maximum weekly hours (Division 3);
- (b) requests for flexible working arrangements (Division 4);
- (c) parental leave and related entitlements (Division 5);
- (d) annual leave (Division 6);
- (e) personal/carer's leave and compassionate leave and unpaid family and domestic violence leave (Division 7);
- (f) community service leave (Division 8);
- (g) long service leave (Division 9);
- (h) public holidays (Division 10);
- (i) notice of termination and redundancy pay (Division 11);
- (j) Fair Work Information Statement (Division 12).

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

**standard rate** means the minimum rate for a **pharmacy assistant level 3** in clause 16—Minimum rates.

**State reference public sector modern award** has the meaning given by subitem 3(2) of Schedule 6A to the [\*Fair Work \(Transitional Provisions and Consequential Amendments\) Act 2009 \(Cth\)\*](#).

**State reference public sector transitional award** has the meaning given by subitem 2(1) of Schedule 6A to the [\*Fair Work \(Transitional Provisions and Consequential Amendments\) Act 2009 \(Cth\)\*](#).

**Table 1—Facilitative provisions** means the Table in clause 7.2.

**Table 2—Entitlements to meal and rest break(s)** means the Table in clause 15.2.

**Table 3—Minimum rates** means the Table in clause 0.

**Table 4—Junior rates (pharmacy assistants levels 1 and 2 only)** means the Table in clause 16.2.

**Table 5—Overtime rates** means the Table in clause 21.4.

**Table 6—Penalty rates** means the Table in clause 22.3.

**Table 7—Period of notice** means the Table in clause 32.1.

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

- 3.1 The [National Employment Standards](#) (NES) and this award contain the minimum conditions of employment for employees covered by this award.
- 3.2 Where this award refers to a condition of employment provided for in the [NES](#), the [NES](#) definition applies.
- 3.3 The employer must ensure that copies of 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.
- 3.4 Where a pharmacy does not have a notice board, the award and the [NES](#) may be kept at an alternative location on the premises that is accessible to employees, including being kept with the pharmacy communication book.

### 4. Coverage

- 4.1 In this industry award, **community pharmacy** means a business to which all of the following apply:
- (a) the business is established wholly or partly for compounding or dispensing prescriptions for, or selling medicines or drugs to, the general public from the premises on which the business is conducted, whether or not other goods are so sold from those premises; and
  - (b) if required to be registered under legislation for the regulation of pharmacies in force in the place in which the premises on which the business is conducted are located, the business is so registered; and
  - (c) the business is not owned by a hospital or other public institution or operated by government.
- 4.2 This industry award covers, to the exclusion of any other modern award:
- (a) employers in the community pharmacy industry throughout Australia; and
  - (b) employees (within a classification defined in Schedule A—Classification Definitions) of employers mentioned in clause 4.2(a).
- 4.3 This industry award also covers:
- (a) on-hire employees working in the community pharmacy industry (within a classification defined in Schedule A—Classification Definitions) and the on-hire employers of those employees; and
  - (b) trainees employed by a group training employer and hosted by a community pharmacy to work in the community pharmacy industry (within a classification defined in Schedule A—Classification Definitions) and the group training employers of those trainees.

**4.4** However, this industry award does not cover any of the following:

(a) employees excluded from award coverage by the [Act](#); or

NOTE: See section 143(7) of the [Act](#).

(b) employees covered by a modern enterprise award or an enterprise instrument; or

(c) employees covered by a State reference public sector modern award or a State reference public sector transitional award; or

(d) employers of employees mentioned in clauses 4.4(a), 4.4(b) or 4.4(c).

**4.5** If an employer is covered by more than one award, an employee of the employer is covered by the award containing the classification that is most appropriate to the work performed by the employee and the industry in which they work.

NOTE: An employee working in the community pharmacy industry who is not covered by this industry award may be covered by an award with occupational coverage.

## **5. Individual flexibility arrangements**

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

(a) arrangements for when work is performed; or

(b) overtime rates; or

(c) penalty rates; or

(d) allowances; or

(e) annual leave loading.

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

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

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

(a) give the employee a written proposal; and

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

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- 5.5** An agreement must result in the employee being better off overall at the time the agreement is made than if the agreement had not been made.
- 5.6** An agreement must do all of the following:
- (a) state the names of the employer and the employee; and
  - (b) identify the award term, or award terms, the application of which is to be varied; and
  - (c) set out how the application of the award term, or each award term, is varied; and
  - (d) set out how the agreement results in the employee being better off overall at the time the agreement is made than if the agreement had not been made; and
  - (e) state the date the agreement is to start.
- 5.7** An agreement must be:
- (a) in writing; and
  - (b) signed by the employer and the employee and, if the employee is under 18 years of age, by the employee's parent or guardian.
- 5.8** Except as provided in clause 5.7(b), an agreement must not require the approval or consent of a person other than the employer and the employee.
- 5.9** The employer must keep the agreement as a time and wages record and give a copy to the employee.
- 5.10** The employer and the employee must genuinely agree, without duress or coercion to any variation of an award provided for by an agreement.
- 5.11** An agreement may be terminated:
- (a) at any time, by written agreement between the employer and the employee; or
  - (b) by the employer or employee giving 13 weeks' written notice to the other party (reduced to 4 weeks if the agreement was entered into before the first full pay period starting on or after 4 December 2013).

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

- 5.12** An agreement terminated as mentioned in clause 5.11(b) ceases to have effect at the end of the period of notice required under that clause.
- 5.13** The right to make an agreement under clause 5 is additional to, and does not affect, any other term of this award that provides for an agreement between an employer and an individual employee.



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

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

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

NOTE 1: Section 65 of the [Act](#) provides for certain employees to request a change in their working arrangements because of their circumstances, as set out in section 65(1A). Clause 6 supplements or deals with matters incidental to the [NES](#) provisions.

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

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

### **6.2 Responding to the request**

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

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

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

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

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

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

- (ii) if the employer can offer the employee such changes in working arrangements, set out those changes in working arrangements.

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

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

#### **6.5 Dispute resolution**

Disputes about whether the employer has discussed the request with the employee and responded to the request in the way required by clause 6, can be dealt with under clause 31—Dispute resolution.

### **7. Facilitative provisions**

**7.1** This award contains facilitative provisions which allow agreement between an employer and an individual employee on how specific award provisions are to apply at the workplace.

**7.2** The following clauses have facilitative provisions:

**Table 1—Facilitative provisions**

<b>Clause</b>	<b>Provision</b>
21.5	Time off instead of payment for overtime
23.4	Annual leave in advance
23.5	Cashing out of annual leave
28.3	Substitution of public holidays by agreement

**7.3** The agreement must be kept by the employer as a time and wages record.

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

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

**8.1** An employee covered by this award must be one of the following:

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

**8.2** At the time of engaging an employee, the employer must inform the employee of the terms on which they are engaged, including whether they are engaged as a full-time, part-time or casual employee.

**8.3 Moving between types of employment**

- (a) A full-time or casual employee can only become a part-time employee with the employee's written consent.
- (b) Moving to part-time employment does not affect the continuity of any leave entitlements.
- (c) A full-time employee:
  - (i) may request to become a part-time employee; and
  - (ii) may return to full-time employment at a date agreed in writing with the employer.

**9. Full-time employees**

An employee who is engaged to work 38 ordinary hours per week (or 76 ordinary hours over 2 consecutive weeks) is a full-time employee.

**10. Part-time employees**

**10.1** An employee who is engaged to work for fewer ordinary hours than 38 per week (or 76 over 2 consecutive weeks) and whose hours of work are reasonably predictable, is a part-time employee.

**10.2** This award applies to a part-time employee in the same way that it applies to a full-time employee except as otherwise expressly provided by this award.

**10.3** A part-time employee is entitled to payments in respect of annual leave and personal/carer's leave, on a proportionate basis.

**10.4** At the time of engaging a part-time employee, the employer must agree in writing with the employee to all of the following:

- (a) the number of hours to be worked each day; and
- (b) the days of the week on which the employee will work; and
- (c) the times at which the employee will start and finish work each day; and
- (d) when meal breaks may be taken and their duration.

**10.5** Any agreement under clause 10.4 must state that any variation agreed by the employer and the employee to any of the matters mentioned in clauses 10.4(a) to 10.4(d) must be in writing and may be of a temporary or permanent nature.

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- 10.6** An agreement under clause 10.4 must also state that for each hour worked in excess of the number of ordinary hours agreed under clauses 10.4 and 10.12, the employee must be paid at the overtime rate in accordance with clause 21.2—Application of overtime.
- 10.7** An employer must roster a part-time employee on any shift for a minimum of 3 consecutive hours.
- 10.8** The employer must keep a copy of any agreement under clause 10.4 or variation of it and give another copy to the employee.
- 10.9** The roster of a part-time employee, but not the number of hours agreed under clause 10.4, may be changed by the employer giving the employee 7 days', or in an emergency 48 hours', written notice of the change.
- 10.10** The roster of a part-time employee, including the number of hours agreed under clause 10.4, may be changed at any time by the employer and employee by mutual agreement.
- 10.11** However, the roster of a part-time employee must not be changed:
- (a) from pay period to pay period; or
  - (b) so as to avoid any award entitlement.
- 10.12** A part-time employee who has worked on any day the number of hours agreed under clause 10.4 may agree to work additional hours on that day on the terms applicable to a casual employee. An agreement to work additional hours must be in writing.

NOTE: If the employer directs a part-time employee to work a reasonable number of hours in excess of the number of ordinary hours they are required to work per week, the employer must pay the employee at the overtime rate specified in clause 21—Overtime for those hours. Clause 10.12, however, allows a part-time employee to agree with their employer to work more than their rostered hours on a particular day and be paid the casual loading instead of the overtime rate for those hours. The overtime rate must, however, be paid for any hours worked in the circumstances specified in clause 21.2—Application of overtime.

EXAMPLE: After finishing her rostered hours for a day, Alice's boss, Catherine, asks her to stay and work an additional 2 hours. Catherine explains that Alice is not required to do so as she can arrange for a casual employee to perform the work. Alice is keen on earning some extra money so she agrees to work the additional hours at the casual rate.

- 10.13** However, the total number of hours agreed under clause 10.4 and 10.12 must not exceed the maximum daily hours specified in clause 13.3 (Ordinary hours of work) or full-time employment hours specified in clause 9—Full-time employees.

NOTE: See clause 21—Overtime for rates applicable when agreed additional hours exceed the maximum daily hours or full-time employment hours.

#### 10.14 School students

The minimum engagement period for a part-time employee will be 2 hours if all of the following circumstances apply:

- (a) the employee is a full-time secondary school student; and
- (b) the employee is engaged to work between the hours of 3.00 pm and 6.30 pm on a day which they are required to attend school; and
- (c) the employee agrees to work, and a parent or guardian of the employee agrees to allow the employee to work, a shorter period than 3 hours; and
- (d) there is at least one employee who is classified at level 3 or higher engaged over the same period to supervise the school student.

### 11. Casual employees

A Full Bench has been constituted in [AM2017/51](#) to deal with the issue of overtime for casuals.

**11.1** An employee who is not covered by clause 9—Full-time employees or clause 10—Part-time employees must be engaged and paid as a casual employee.

**11.2** The minimum number of hours for which a casual employee may be rostered to work on any day is 3 consecutive hours.

**11.3** An employer must pay a casual employee for each ordinary hour worked a loading of **25%** on top of the minimum hourly rate otherwise applicable under clause 16—Minimum rates.

NOTE: Column 2 of Table 3—Minimum rates shows the minimum hourly rate to which the casual loading applies. If an employee is classified as a Pharmacy Assistant, and aged under 21 years, see also clause 16.2—Junior rates (pharmacy assistants levels 1 and 2 only).

**11.4** An employer must pay a casual employee for each ordinary hour worked during periods specified in clause 22—Penalty rates the casual penalty rate (inclusive of casual loading) specified in column 3 of Table 6—Penalty rates.

NOTE: The **25%** loading for casual employees applies to ordinary hours worked. The casual loading is not payable on overtime worked as specified in clause 21—Overtime.

**11.5** The pay period of a casual employee is as determined under clause 17.1—Pay period.

#### 11.6 School Students

The minimum engagement period for an employee engaged on a casual basis will be 2 hours if all of the following circumstances apply:

- (a) the employee is a full-time secondary school student; and

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- (b) the employee is engaged to work between the hours of 3.00 pm and 6.30 pm on a day on which they are required to attend school; and
- (c) the employee agrees to work, and a parent or guardian of the employee agrees to allow the employee to work, a shorter period than 3 hours; and
- (d) there is at least one employee who is classified at level 3 or higher engaged over the same period to supervise the school student.

### 11.7 Right to request casual conversion

- (a) A person engaged by a particular employer as a regular casual employee may request that their employment be converted to full-time or part-time employment.
- (b) A **regular casual employee** is a casual employee who has in the preceding period of 12 months worked a pattern of hours on an ongoing basis which, without significant adjustment, the employee could continue to perform as a full-time employee or part-time employee under the provisions of this award.
- (c) A regular casual employee who has worked equivalent full-time hours over the preceding period of 12 months' casual employment may request to have their employment converted to full-time employment.
- (d) A regular casual employee who has worked less than equivalent full-time hours over the preceding period of 12 months' casual employment may request to have their employment converted to part-time employment consistent with the pattern of hours previously worked.
- (e) Any request under clause 11.7 must be in writing and provided to the employer.
- (f) Where a regular casual employee seeks to convert to full-time or part-time employment, the employer may agree to or refuse the request, but the request may only be refused on reasonable grounds and after there has been consultation with the employee.
- (g) Reasonable grounds for refusal include that:
  - (i) it would require a significant adjustment to the casual employee's hours of work in order for the employee to be engaged as a full-time or part-time employee in accordance with the provisions of this award—that is, the casual employee is not truly a regular casual employee as defined in clause 11.7(b);
  - (ii) it is known or reasonably foreseeable that the regular casual employee's position will cease to exist within the next 12 months;
  - (iii) it is known or reasonably foreseeable that the hours of work which the regular casual employee is required to perform will be significantly reduced in the next 12 months; or
  - (iv) it is known or reasonably foreseeable that there will be a significant change in the days and/or times at which the employee's hours of work are required to be performed in the next 12 months which cannot be

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accommodated within the days and/or hours during which the employee is available to work.

- (h) For any ground of refusal to be reasonable, it must be based on facts which are known or reasonably foreseeable.
- (i) Where the employer refuses a regular casual employee's request to convert, the employer must provide the casual employee with the employer's reasons for refusal in writing within 21 days of the request being made.
- (j) If the employee does not accept the employer's refusal, this will constitute a dispute that will be dealt with under the dispute resolution procedure in clause 31—Dispute resolution. Under that procedure, the employee or the employer may refer the matter to the Fair Work Commission if the dispute cannot be resolved at the workplace level.
- (k) Where it is agreed that a casual employee will have their employment converted to full-time or part-time employment as provided for in clause 11.7, the employer and employee must discuss and record in writing:
  - (i) the form of employment to which the employee will convert—that is, full-time or part-time employment; and
  - (ii) if it is agreed that the employee will become a part-time employee, the matters referred to in clause 10.4.
- (l) The conversion will take effect from the start of the next pay cycle following such agreement being reached unless otherwise agreed.
- (m) Once a casual employee has converted to full-time or part-time employment, the employee may only revert to casual employment with the written agreement of the employer.
- (n) A casual employee must not be engaged and re-engaged (which includes a refusal to re-engage), or have their hours reduced or varied, in order to avoid any right or obligation under clause 11.7.
- (o) Nothing in clause 11.7 obliges a regular casual employee to convert to full-time or part-time employment, nor permits an employer to require a regular casual employee to so convert.
- (p) Nothing in clause 11.7 requires an employer to increase the hours of a regular casual employee seeking conversion to full-time or part-time employment.
- (q) An employer must provide a casual employee, whether a regular casual employee or not, with a copy of the provisions of clause 11.7 within the first 12 months of the employee's first engagement to perform work. In respect of casual employees already employed as at 28 February 2019, an employer must provide such employees with a copy of the provisions of clause 11.7 by 28 March 2019.
- (r) A casual employee's right to request to convert is not affected if the employer fails to comply with the notice requirements in clause 11.7(q).

## 12. Classifications

- 12.1 An employer must classify an employee covered by this award in accordance with Schedule A—Classification Definitions.
- 12.2 The classification by the employer must be based on the skill level that the employee is required to exercise in order to carry out the principal functions of the employment.
- 12.3 Employers must notify employees in writing of their classification and of any change to it.

## Part 3—Hours of Work

### 13. Ordinary hours of work

- 13.1 Ordinary hours may be worked on any day between 7.00 am and midnight.
- 13.2 Ordinary hours of work are continuous, except for rest breaks and meal breaks as specified in clause 15—Breaks.
- 13.3 The maximum number of ordinary hours that can be worked on any day is 12.
- 13.4 The maximum number of ordinary hours of work per week for a full-time employee is 38 (or 76 ordinary hours over 2 consecutive weeks).
- 13.5 The maximum number of ordinary hours of work per week for a part-time employee are as agreed under clause 10—Part-time employees.

### 14. Rostering arrangements—full-time and part-time employees

Clause 14.5 updated in accordance with [\[2019\] FWCFB 5409](#) at [6].

- 14.1 The following rostering arrangements apply to full-time and part-time employees:
- (a) employees must be rostered to work ordinary hours in such a way that they have:
    - (i) 2 consecutive days off each week; or
    - (ii) 3 consecutive days off over 2 consecutive weeks;
  - (b) employees must not be rostered to work ordinary hours on more than 5 days in a week;
  - (c) despite clause 14.1(b), employees may be rostered to work ordinary hours on 6 days one week if they are rostered to work ordinary hours on no more than 4 days the following week;
  - (d) employees must not be rostered to work (whether ordinary hours or overtime) on more than 6 consecutive days;



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- (e) employees rostered to work (whether ordinary hours or overtime) on 3 Sundays in a 4 week cycle must be rostered to have 3 consecutive days off in that 4 week cycle, including a Saturday and Sunday.
- 14.2** Clause 14.1(e) does not apply to a part-time employee who has agreed under clause 10—Part-time employees to work Saturday or Sunday (or both) each week and have at least 2 consecutive days off.
- 14.3** At the written request of the employee, the employer and the employee may agree to rostering arrangements that are different to those in clause 0.
- 14.4** Different arrangements agreed under clause 14.3 must be recorded in the time and wages record.
- 14.5** The employee may end an agreement under clause 14.3 at any time by giving the employer 4 weeks’ notice unless the agreement was made under clause 10.4 (Part-time employeesemployment).
- 14.6** An agreement under clause 14.3 may provide that it ends on a particular day or at the end of a particular period.
- 14.7** An employee cannot be required, as a condition of employment, to agree to an arrangement under clause 14.3.

**15. Breaks**

- 15.1** Clause 15 gives an employee an entitlement to meal breaks and rest breaks.
- 15.2** An employee who works the number of hours on any one day specified in an item of column 1 of **Table 2—Entitlements to meal and rest break(s)** is entitled to a break or breaks as specified in column 2.

**Table 2—Entitlements to meal and rest break(s)**

<b>Column 1</b> <b>Hours worked per day</b>	<b>Column 2</b> <b>Breaks</b>
At least 4 hours but not more than 5	One 10-minute paid rest break
More than 5 hours but less than 7.6	One 10-minute paid rest break One 30 to 60-minute unpaid meal break
7.6 hours or more	Two 10-minute paid rest breaks (not to be taken in the first hour of work or in the first hour of resuming work after a meal break) One 30 to 60-minute unpaid meal break (to be taken within the first 5 hours of work but not before the first 2.5 hours)

## Part 4—Wages and Allowances

### 16. Minimum rates

Clause 16.1 updated in accordance with [\[2019\] FWCFB 3949](#) at [12]–[14]; [PR709577](#).

Clauses 16.1 and 16.5 updated in accordance with [\[2019\] FWCFB 7854](#) at [4] and [7].

#### 16.1 Adult rates

The issue relating to changes to terminology remains outstanding. The issue was discussed at the conference held on 26/11/19 (see [transcript](#) PNs 34–46).

A [report](#) with parties' comments was submitted by the PGA on 6/12/19. The plain language exposure draft has been provisionally updated with the parties' suggested amendments. A conference will be held in due course.

An employer must pay an employee the minimum hourly rate specified in column 3 (or for a full-time employee the minimum weekly rate specified in column 2) in accordance with the employee classification specified in column 1 of **Table 3—Minimum rates**.

NOTE 1: Provisions for calculating rates for an employee who is classified as a pharmacy assistant and aged under 21 years are at clause 16.2—Junior rates (pharmacy assistants levels 1 and 2 only).

**Table 3—Minimum rates**

<b>Column 1</b> <b>Employee classification</b>	<b>Column 2</b> <b>Minimum weekly rate</b> <b>(full-time employee)</b>	<b>Column 3</b> <b>Minimum hourly rate</b>
	\$	\$
<b>Pharmacy assistant</b>		
<del>Pharmacy assistant Level-</del> <del>level 1</del>	813.60	21.41
<del>Pharmacy assistant Level-</del> <del>level 2</del>	833.00	21.92
<del>Pharmacy assistant</del> <del>level</del> Level 3	862.50	22.70
<del>Pharmacy assistant Level-</del> <del>level 4</del>	898.00	23.63
<b>Pharmacy student</b>		
<del>Pharmacy student—</del> 1 <sup>st</sup> year <del>of course</del>	813.60	21.41
<del>Pharmacy student—</del> 2 <sup>nd</sup> year <del>of course</del>	833.00	21.92

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<b>Column 1</b>	<b>Column 2</b>	<b>Column 3</b>
<b>Employee classification</b>	<b>Minimum weekly rate (full-time employee)</b>	<b>Minimum hourly rate</b>
	\$	\$
<u>Pharmacy student</u> —3 <sup>rd</sup> year of course	862.50	22.70
<u>Pharmacy student</u> —4 <sup>th</sup> year of course	898.00	23.63
<b>Pharmacy intern</b>		
<u>Pharmacy intern</u> —1 <sup>st</sup> half of training	909.90	23.94
<u>Pharmacy intern</u> —2 <sup>nd</sup> half of training	940.90	24.76
Pharmacist	<del>1,091.00</del> 1117.60	<del>28.71</del> 29.41
Experienced pharmacist	<del>1,194.90</del> 1224.10	<del>31.44</del> 32.21
Pharmacist in charge	<del>1,223.00</del> 1252.90	<del>32.18</del> 32.97
Pharmacist manager	<del>1,362.80</del> 1396.10	<del>35.86</del> 36.74

NOTE 2: Provisions for calculating minimum hourly rates for casual employees are at clause 11—Casual employees. Overtime rates are specified in clause 21—Overtime and penalty rates are specified in clause 22—Penalty rates.

NOTE 3: Schedule B—Summary of Minimum Hourly Rates of Pay contains a summary of minimum hourly rates of pay including casual, overtime and penalty rates.

**16.2 Junior rates (pharmacy assistants levels 1 and 2 only)**

An employer must pay an employee, who is classified as a pharmacy assistant level 1 or level 2 and aged as specified in column 1 of **Table 4—Junior rates (pharmacy assistants levels 1 and 2 only)**, at least at the percentage specified in column 2 of the minimum rate that would otherwise be applicable under **Table 3—Minimum rates**:

**Table 4—Junior rates (pharmacy assistants levels 1 and 2 only)**

<b>Column 1</b>	<b>Column 2</b>
<b>Age</b>	<b>% of minimum rate</b>
Under 16 years of age	45%
16 years of age	50%
17 years of age	60%
18 years of age	70%
19 years of age	80%
20 years of age	90%

### 16.3 Pharmacy students

The following applies for determining which year of a course a pharmacy student is in for the purpose of **Table 3—Minimum rates**:

- (a) a year of a course begins on the first day of the relevant academic term; and
- (b) a pharmacy student in the first year of a Master of Pharmacy course is treated as being in the 3rd year of a course; and
- (c) progress through the pharmacy student classification rates is in line with progress through a course; and
- (d) progress through a course for the purpose of clause 16.3(c) is determined by completing and passing all subjects for a year of a course.

NOTE: A pharmacy student can progress to the next pharmacy student classification rate in less than one year if all subjects for a year of a course are completed and passed in less than one year. A pharmacy student remains at the wage specified for a year of a course until all the required subjects are completed and passed.

### 16.4 Supported wage system

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

### 16.5 National training wage

- (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 2019. For that purpose, any reference to “this award” in Schedule E to the [Miscellaneous Award 2010](#) is to be read as referring to the *Pharmacy Industry Award 2010* and not to the [Miscellaneous Award 2010](#).

## 17. Payment of wages

Frequency of payment of wages is being considered in matter [AM2016/8](#).

Clause 17.3 updated in accordance with [\[2019\] FWCFB 8157](#) at [16]; [PR714923](#)

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.

### 17.1 Pay period

- (a) The employer may determine the pay period of an employee as being either weekly or fortnightly.
- (b) Wages must be paid for a pay period according to the number of hours worked by the employee in the period.

NOTE 1: Hours of work may be measured over 2 consecutive weeks.

NOTE 2: The Fair Work Regulations set out the requirements for pay records and the content of payslips including the requirement to separately identify any allowance paid. See Part 3–6, Division 3—Employer obligations in relation to employee records and pay slips.

## 17.2 Pay day

- (a) Wages must be paid on a regular pay day no later than 4 days after the end of the pay period.
- (b) Employers must notify employees in writing about which day is the regular pay day.
- (c) The regular pay day of an employee may only be changed by the employer giving the employee 4 weeks' written notice.

## 17.3 Payment on termination of employment

- (a) The employer must pay an employee no later than 7 days after the day on which the employee's employment terminates:
  - (i) the employee's wages under this award for any complete or incomplete pay period up to the end of the day of termination; and
  - (ii) all other amounts that are due to the employee under this award and the NES.
- (b) The requirement to pay wages and other amounts under clause 17.3(a) is subject to further order of the Commission and the employer making deductions authorised by this award or the Act.

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

NOTE 2: Clause 17.3(b) allows the Commission to make an order delaying the requirement to make a payment under clause 17.3. For example, the Commission could make an order delaying the requirement to pay redundancy pay if an employer makes an application under section 120 of the Act for the Commission to reduce the amount of redundancy pay an employee is entitled to under the NES.

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

## **18. Annualised wage arrangements—pharmacist and pharmacy assistant level 4**

Clause 18 updated in accordance with [\[2019\] FWCFCB 4368](#) and [\[2019\] FWCFCB 8583](#); [PR716604](#)

**18.1** This clause applies to a pharmacist or a pharmacy assistant level 4.

### **18.2 Annualised wage instead of award provisions**

- (a)** An employer and a full-time employee may enter into a written agreement for the employee to be paid an annualised wage in satisfaction, subject to clause 18.2(c), of any or all of the following provisions of the award:
- (i)** clause 16—Minimum rates;
  - (ii)** clause 19.2—Home medicine reviews and residential medication management reviews;
  - (iii)** clause 19.3—Meal allowances;
  - (iv)** clause 19.4—On-premise meal allowance;
  - (v)** clause 21—Overtime;
  - (vi)** clause 22—Penalty rates;
  - (vii)** clause 23.3—Annual leave loading; and
  - (viii)** clause 28—Public holidays.
- (b)** Where a written agreement for an annualised wage agreement is entered into, the agreement must specify:
- (i)** the annualised wage that is payable;
  - (ii)** which of the provisions of this award will be satisfied by payment of the annualised wage;
  - (iii)** the method by which the annualised wage has been calculated, including specification of each separate component of the annualised wage and any overtime or penalty assumptions used in the calculation; and
  - (iv)** the outer limit number of ordinary hours which would attract the payment of a penalty rate under the award and the outer limit number of overtime hours which the employee may be required to work in a pay period or roster cycle without being entitled to an amount in excess of the annualised wage in accordance with clause 18.2(c).
- (c)** If in a pay period or roster cycle an employee works any hours in excess of either of the outer limit amounts specified in the agreement pursuant to clause 18.2(b)(iv), such hours will not be covered by the annualised wage and must separately be paid for in accordance with the applicable provisions of this award.

- (d) The employer must give the employee a copy of the agreement and keep the agreement as a time and wages record.
- (e) The agreement may be terminated:
  - (i) by the employer or the employee giving 12 months' notice of termination, in writing, to the other party and the agreement ceasing to operate at the end of the notice period; or
  - (ii) at any time, by written agreement between the employer and the individual employee.

### 18.3 Annualised wage not to disadvantage employees

- (a) The annualised wage must be no less than the amount the employee would have received under this award for the work performed over the year for which the wage is paid (or if the employment ceases or the agreement terminates earlier, over such lesser period as has been worked).
- (b) The employer must each 12 months from the commencement of the annualised wage arrangement or, within any 12 month period upon the termination of employment of the employee or termination of the agreement, calculate the amount of remuneration that would have been payable to the employee under the provisions of this award over the relevant period and compare it to the amount of the annualised wage actually paid to the employee. Where the latter amount is less than the former amount, the employer shall pay the employee the amount of the shortfall within 14 days.
- (c) The employer must keep a record of the starting and finishing times of work, and any unpaid breaks taken, of each employee subject to an annualised wage arrangement agreement for the purpose of undertaking the comparison required by clause 18.3(b). This record must be signed by the employee, or acknowledged as correct in writing (including by electronic means) by the employee, each pay period or roster cycle.

### 18.4 Base rate of pay for employees on annualised wage arrangements

For the purposes of the NES, the base rate of pay of an employee receiving an annualised wage under this clause comprises the portion of the annualised wage equivalent to the relevant rate of pay in clause 16—Minimum rates and excludes any incentive-based payments, bonuses, loadings, monetary allowances, overtime and penalties.

### ~~18.—Annualised salary (pharmacist and pharmacy assistant level 4 only)~~

~~18.1—A pharmacist or pharmacy assistant level 4 may agree in writing with their employer to be paid an annualised salary that satisfies this award in relation to all or any of the following matters:~~

- ~~(a)—overtime;~~
- ~~(b)—penalty rates;~~

~~(e) — payments for public holidays;~~

~~(d) — payments for annual leave;~~

~~(e) — annual leave loading;~~

~~(f) — meal allowances;~~

~~(g) — on-premise meal allowances.~~

~~18.2 — A pharmacist or pharmacy assistant level 4 may be represented by a union or other representative nominated by them in any discussion about the making of an agreement under clause 18.1.~~

~~18.3 — An annualised salary must not result in an employee being paid less over a year (or, if the employment is terminated before a year is completed, over the period of that employment) than would have been the case if an annualised salary had not been agreed.~~

~~18.4 — The employer must keep a copy of any agreement under clause 18.1 and give another copy to the employee.~~

~~18.5 — The employer must keep a record of hours worked each day by a pharmacist or pharmacy assistant level 4 who has entered into an agreement under clause 18.1 showing the times at which the pharmacist started and finished work that day.~~

~~18.6 — A record mentioned in clause 18.5 must be:~~

~~(a) — Countersigned by the employee; and~~

~~(b) — kept at the place of employment for at least 6 years.~~

## 19. Allowances

The issue relating to whether the new allowance at clause 19.2 is to be adjusted for movement in wage rates and if so, the mechanism for adjustment (s.149 of the [Act](#)) is outstanding.

The issue was discussed at the conference held on 26/11/19 (see [transcript](#) PNs 94–122). The PGA made a [submission](#) to the substantive Full Bench. The issue remains outstanding.

Clause 19.2 updated in accordance with [\[2019\] FWCFB 3949](#) at [12]–[14]; [PR709577](#); subsequent clauses renumbered accordingly

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.

**19.1** Clause 19 gives employees an entitlement to monetary allowances of specified kinds in specified circumstances.



NOTE: Schedule C—Summary of Monetary Allowances contains a summary of monetary allowances and methods of adjustment.

## **19.2 Home medicine reviews and residential medication management reviews**

An employee classified as a Pharmacist, Experienced Pharmacist, Pharmacist in Charge or Pharmacist Manager who is required by the employer to perform home medicine reviews or residential medication management reviews shall be paid an additional allowance of \$106.40 per week.

### **19.219.3 Meal allowances**

- (a) Clause 19.3 applies to an employee to whom all of the following apply:
  - (i) the employee has worked 6 or more ordinary hours on any day; and
  - (ii) the employee is required to work on that day, overtime, or more than 1.5 hours beyond the time at which the employee ordinarily finishes work for the day, unless the hours worked were agreed under clause 10—Part-time employees; and
  - (iii) the employee was not advised of the requirement mentioned in clause 19.3(a)(ii) on or before the previous day; and
  - (iv) the employee cannot reasonably return home for a meal within the period of the meal break.
- (b) The employer must:
  - (i) pay the employee a meal allowance of **\$18.99**; or
  - (ii) supply the employee with an adequate meal.
- (c) If the number of hours worked under a requirement mentioned in clause 19.3(a)(ii) exceeds 4, the employer must pay the employee a further meal allowance of **\$17.01**.

### **19.319.4 On-premise meal allowance**

- (a) Clause 19.4 applies to a pharmacist who is required to take a meal break on the premises so as to attend to urgent matters requiring the involvement of a pharmacist.
- (b) The employer must pay the pharmacist at the penalty rate for the period of the meal break, regardless of other penalty rates to which the pharmacist is entitled.
- (c) In clause 19.4(b), the penalty rate means **150%** of the minimum hourly rate of the pharmacist. See column 2 of **Table 3—Minimum rates**.

### **19.419.5 Clothing allowance**

- (a) The employer must reimburse an employee who is required to wear special clothing, such as a uniform or protective clothing, for the cost of purchasing any

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such clothing (including purchasing replacement clothing due to normal wear and tear) that is not supplied or paid for by the employer.

- (b) If special clothing that is required to be worn by an employee needs to be laundered, the employer must undertake the laundering at no cost to the employee or pay the employee an allowance of:
  - (i) **\$6.25** each week for a full-time employee; or
  - (ii) **\$1.25** each shift for a part-time or casual employee.

### **19.519.6** Moving expenses

- (a) Clause 19.6 applies if an employer transfers an employee from one township to another and, as a consequence, the employee moves residence.
- (b) The employer must pay the total cost (including fares and other transport charges) of moving the employee and member(s) of the employee's immediate family who reside in the employee's household.

### **19.619.7** Motor vehicle allowance

If an employer requests an employee to use their own motor vehicle in performing their duties, the employer must pay the employee an allowance of **\$0.78** for each kilometre travelled.

### **19.719.8** Transport reimbursement

- (a) Clause 19.8 applies to an employee to whom all of the following apply:
  - (i) the employee starts work before 7.00 am or starts or finishes work after 10.00 pm; and
  - (ii) the employee's regular means of transport is not available; and
  - (iii) the employee is unable to arrange their own alternative means of transport; and
  - (iv) a proper means of transport to or from the employee's usual place of residence is not provided to, or arranged for, the employee by the employer at no cost to the employee.
- (b) The employer must reimburse the employee the cost they reasonably incurred in taking a commercial passenger vehicle from the employee's usual place of residence to the place of employment or from the place of employment to the employee's usual place of residence, whichever is applicable.

### **19.819.9** Broken Hill allowance

The employer must pay an employee at a workplace within the County of Yancowinna in New South Wales (Broken Hill) an allowance of **\$36.92** per week.

## 20. Superannuation

Administrative changes made by Modern Awards team to clauses 20.3, 20.4 and 20.5 in accordance with the current award.

### 20.1 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.

### 20.2 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.

### 20.3 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 20.2.
- (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 20.3(a) or 20.3(b)~~20.3(a)~~ no later than 28 days after the end of the month in which the deduction authorised under clauses 20.3(a) or 20.3(b)~~20.3(a)~~ was made.

### 20.4 Superannuation fund

Unless, to comply with superannuation legislation, the employer is required to make the superannuation contributions provided for in clause 20.2 to another superannuation fund that is chosen by the employee, the employer must make the superannuation contributions provided for in clause 20.2 and pay the amount authorised under clauses 20.3(a) or 20.3(b)~~20.3(a)~~ to one of the following superannuation funds or its successor:

- (a) Retail Employees Superannuation Trust (REST);

- (b) Guildsuper;
- (c) 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
- (d) a superannuation fund or scheme which the employee is a defined benefit member of.

## 20.5 Absence from work

Subject to the governing rules of the relevant superannuation fund, the employer must also make the superannuation contributions provided for in clause 20.2 and pay the amount authorised under clauses 20.3(a) or 20.3(b)~~20.3(a)~~.

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

## Part 5—Overtime and Penalty Rates

### 21. Overtime

Administrative changes made by Modern Awards team to clause 21.1(a) and (c).

Clause 21.3 updated in accordance with [\[2019\] FWCFB 5409](#) at [6].

#### 21.1 Reasonable overtime

- (a) Subject to section 62 of the [Act](#) and clause 21.1~~21.1(a)~~, an employer may require an employee to work reasonable overtime hours at overtime rates.
- (b) An employee may refuse to work overtime hours if they are unreasonable.
- (c) In determining whether overtime hours are reasonable or unreasonable for the purpose of clause 21.1~~21.1(a)~~ the following must be taken into account:
  - (i) any risk to employee health and safety from working the additional hours;
  - (ii) the employee's personal circumstances, including family responsibilities;
  - (iii) the needs of the workplace or enterprise in which the employee is employed;

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- (iv) whether the employee is entitled to receive overtime payments, penalty rates or other compensation for, or a level of remuneration that reflects an expectation of, working additional hours;
- (v) any notice given by the employer of any request or requirement to work the additional hours;
- (vi) any notice given by the employee of his or her intention to refuse to work the additional hours;
- (vii) the usual patterns of work in the industry, or the part of an industry, in which the employee works;
- (viii) the nature of the employee's role, and the employee's level of responsibility;
- (ix) whether the additional hours are in accordance with averaging terms in this award inserted pursuant to section 63 of the [Act](#), that applies to the employee; and
- (x) any other relevant matter.

### 21.2 Application of overtime

An employer must pay an employee at the overtime rate, as specified in clause 21.4, for any hours worked at the direction of the employer:

- (a) in excess of 38 hours per week (or 76 ordinary hours over 2 consecutive weeks); or
- (b) in excess of 12 hours on any day as specified in clause 13.3 (Ordinary hours of work); or
- (c) that are not continuous, except for rest breaks and meal breaks to which the employee is entitled under clause 15—Breaks; or
- (d) between midnight and 7.00 am; or
- (e) outside the rostering arrangements specified in clause 0 (Rostering arrangements—full-time and part-time employees).

**21.3** An employer must pay a part-time employee at the overtime rate for each hour worked in excess of the number of hours that the employee has agreed to work under clauses 10.4 and 10.12 (Part-time [employeesemployment](#)).

### 21.4 Payment of overtime

The issue relating to changes to terminology remains outstanding. The issue was discussed at the conference held on 26/11/19 (see [transcript](#) PNs 34–46).

A [report](#) with parties' comments was submitted by the PGA on 6/12/19. The plain language exposure draft has been provisionally updated with the parties' suggested amendments. A conference will be held in due course.

- (a) An employer must pay an employee for all overtime worked as prescribed in clause 21.2 and 21.3 the overtime rate specified in column 2 of **Table 5—Overtime rates** in accordance with when the overtime was worked as specified in column 1 of that table.
- (b) The overtime rate specified in column 2 of **Table 5—Overtime rates** must be applied to the applicable minimum hourly rate for the employee classification in accordance with clause 16—Minimum rates.

**Table 5—Overtime rates**

<b>Column 1</b> <b>For overtime worked on</b>	<b>Column 2</b> <b>Overtime rate</b> <b>% of minimum rate</b>
Monday to Saturday—first 2 hours	150%
Monday to Saturday—after 2 hours	200%
Sunday—all day	200%
Public holiday—all day	250%

NOTE: Schedule B—Summary of Minimum Hourly Rates of Pay sets out the minimum hourly overtime rate for all employee classifications according to when overtime is worked.

- (c) Casual loading is not payable on overtime worked by a casual employee.

**21.5 Time off instead of payment for overtime**

- (a) An employee and employer may agree to the employee taking time off instead of being paid for a particular amount of overtime that has been worked by the employee.
- (b) The period of time off that an employee is entitled to take is equivalent to the overtime payment that would have been made.

EXAMPLE: By making an agreement under clause 21.5 an employee who worked 2 overtime hours at the rate of time and a half is entitled to 3 hours’ time off.

- (c) 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.
- (d) If the employee requests at any time, to be paid for overtime covered by an agreement under clause 21.5 but not taken as time off, the employer must pay the employee for the overtime, in the next pay period following the request, at the overtime rate applicable to the overtime when worked.
- (e) If time off for overtime that has been worked is not taken within the period of 6 months mentioned in clause 21.5(c), 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.

- (f) 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.
- (g) 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 21.5 will apply, in relation to 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](#)).

- (h) If, on the termination of the employee's employment, time off for overtime worked by the employee to which clause 21.5 applies has not been taken, the employer must pay the employee for the overtime at the overtime rate applicable to the overtime when worked.

NOTE: Under section 345(1) of the [Act](#), a person must not knowingly or recklessly make a false or misleading representation about the workplace rights of another person under clause 21.5.

## 22. Penalty rates

Administrative changes made by Modern Awards team to clause 22.3.

- 22.1 Clause 22 sets out penalty rates for ordinary hours worked at specified times or on specified days.

NOTE: Clause 21—Overtime prescribes overtime rates for hours worked in excess of, or outside, ordinary hours.

- 22.2 Penalty rates are not cumulative on overtime rates.

### 22.3 Payment of penalty rates

The issue relating to changes to terminology remains outstanding. The issue was discussed at the conference held on 26/11/19 (see [transcript](#) PNs 34–46).

A [report](#) with parties' comments was submitted by the PGA on 6/12/19. The plain language exposure draft has been provisionally updated with the parties' suggested amendments. A conference will be held in due course.

- (a) An employer must pay a full-time or part-time employee in accordance with column 2 of **Table 6—Penalty rates**, and a casual employee in accordance with column 3 of that table, for hours worked by the employee during a period specified in column 1 of that table.

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- (b) The penalty rate specified in column 2 or 3 of **Table 6—Penalty rates** must be applied to the applicable minimum hourly rate for the employee classification in accordance with clause 16—Minimum rates.

NOTE 1: **Table 3—Minimum rates** shows the minimum hourly rate applicable under clause 16—Minimum rates. If an employee is classified as a pharmacy assistant and aged under 21, see also clause 16.2—Junior rates (pharmacy assistants levels 1 and 2 only).

**Table 6—Penalty rates**

<b>Column 1</b> <b>For hours worked on</b>	<b>Column 2</b> <b>Full-time and part-time penalty rate</b> <b>% of minimum <u>hourly</u> rate</b>	<b>Column 3</b> <b>Casual penalty rate (inclusive of casual loading)</b> <b>% of minimum <u>hourly</u> rate</b>
<b>Monday to Friday</b>		
Between 7.00 am and 8.00 am	150%	175%
Between 7.00 pm and 9.00 pm	125%	150%
Between 9.00 pm and midnight	150%	175%
<b>Saturday</b>		
Between 7.00 am and 8.00 am	200%	225%
Between 8.00 am and 6.00 pm	125%	150%
Between 6.00 pm and 9.00 pm	150%	175%
Between 9.00 pm and midnight	175%	200%
<b>Sunday</b>		
<del>Between 7.00 am and 9.00 pm (1 July 2018 to 30 June 2019)</del>	<del>180%</del>	<del>205%</del>
Between 7.00 am and 9.00 pm (1 July 2019 to 30 June 2020)	165%	190%
Between 7.00 am and 9.00 pm (From 1 July 2020)	150%	175%
<b>Sunday</b>		
Before 7.00 am and after 9.00 pm	200%	225%
<b>Public holidays—all day</b>	225%	250%

NOTE 2: Schedule B—Summary of Minimum Hourly Rates of Pay sets out the minimum hourly penalty rate for all employee classifications.



## Part 6—Leave and Public Holidays

### 23. Annual leave

The issue relating to changes to terminology remains outstanding. The issue was discussed at the conference held on 26/11/19 (see [transcript](#) PNs 34–46).

A [report](#) with parties' comments was submitted by the PGA on 6/12/19. The plain language exposure draft has been provisionally updated with the parties' suggested amendments. A conference will be held in due course.

NOTE: Where an employee is receiving over-award payments such that the employee's ~~base rate of pay~~ minimum rate in clause 23 and 23.3 is higher than the rate specified under this award, the employee is entitled to receive the higher rate while on a period of paid annual leave (see sections 16 and 90 of the [Act](#)).

**23.1** Annual leave is provided for in the [NES](#).

#### 23.2 Additional leave for certain shiftworkers

A **shiftworker**, for the purposes of the [NES](#), is an employee who is a 7 day shiftworker who is regularly rostered to work on Sundays and public holidays in a business in which shifts are continuously rostered 24 hours a day for 7 days a week.

#### 23.3 Annual leave loading

(a) During a period of annual leave an employee will receive a loading calculated on the rate prescribed in clause 16—Minimum rates of this award in addition to their minimum hourly rate of pay. Annual leave loading payment is payable on leave accrued.

(b) The loading will be as follows:

(i) **Day work**

Employees who would have worked on day work only had they not been on leave—**17.5%** or the relevant weekend penalty rates, whichever is the greater but not both.

(ii) **Shiftwork**

Employees who would have worked on shiftwork had they not been on leave—**17.5%** or the shift loading (including relevant weekend penalty rates) whichever is the greater but not both.

#### 23.4 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:

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- (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 23.4 is set out at Schedule E—Agreement to Take Annual Leave in Advance. There is no requirement to use the form of agreement set out at Schedule E—Agreement to Take Annual Leave in Advance.

- (c) The employer must keep a copy of any agreement under clause 23.4 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 23.4, 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.

### 23.5 Cashing out of annual leave

- (a) Paid annual leave must not be cashed out except in accordance with an agreement under clause 23.5.
- (b) Each cashing out of a particular amount of paid annual leave must be the subject of a separate agreement under clause 23.5.
- (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 23.5 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 23.5 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 23.5 as an employee record.

NOTE 1: Under section 344 of the [Act](#), an employer must not exert undue influence or undue pressure on an employee to make, or not make, an agreement under clause 23.5.

NOTE 2: Under section 345(1) of the [Act](#), a person must not knowingly or recklessly make a false or misleading representation about the workplace rights of another person under clause 23.5.

NOTE 3: An example of the type of agreement required by clause 23.5 is set out at Schedule F—Agreement to Cash Out Annual Leave. There is no requirement to use the form of agreement set out Schedule F—Agreement to Cash Out Annual Leave.

### **23.6 Excessive leave accruals: general provision**

NOTE: Clauses 23.6 to 23.8 contain provisions, additional to the [NES](#), about the taking of paid annual leave as a way of dealing with the accrual of excessive paid annual leave. See Part 2.2, Division 6 of the [Act](#).

- (a) An employee has an **excessive leave accrual** if the employee has accrued more than 8 weeks' paid annual leave (or 10 weeks' paid annual leave for a shiftworker, as defined by clause 23.2).
- (b) If an employee has an excessive leave accrual, the employer or the employee may seek to confer with the other and genuinely try to reach agreement on how to reduce or eliminate the excessive leave accrual.
- (c) Clause 23.7 sets out how an employer may direct an employee who has an excessive leave accrual to take paid annual leave.
- (d) Clause 23.8 sets out how an employee who has an excessive leave accrual may require an employer to grant paid annual leave requested by the employee.

### **23.7 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 23.6(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 clause 23.7(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 23.6, 23.7 or 23.8 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

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- (iv) must not be inconsistent with any leave arrangement agreed by the employer and employee.
- (c) The employee must take paid annual leave in accordance with a direction under clause 23.7(a) that is in effect.
- (d) An employee to whom a direction has been given under clause 23.7(a) may request to take a period of paid annual leave as if the direction had not been given.

NOTE 1: Paid annual leave arising from a request mentioned in clause 23.7(d) may result in the direction ceasing to have effect. See clause 23.7(b)(i).

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

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

- (a) If an employee has genuinely tried to reach agreement with an employer under clause 23.6(b) but agreement is not reached (including because the employer refuses to confer), the employee may give a written notice to the employer requesting to take one or more periods of paid annual leave.
- (b) However, an employee may only give a notice to the employer under clause 23.8(a) if:
  - (i) the employee has had an excessive leave accrual for more than 6 months at the time of giving the notice; and
  - (ii) the employee has not been given a direction under clause 23.7(a) that, when any other paid annual leave arrangements (whether made under clause 23.6, 23.7 or 23.8 or otherwise agreed by the employer and employee) are taken into account, would eliminate the employee's excessive leave accrual.
- (c) A notice given by an employee under clause 23.8(a) must not:
  - (i) if granted, result in the employee's remaining accrued entitlement to paid annual leave being at any time less than 6 weeks when any other paid annual leave arrangements (whether made under clause 23.6, 23.7 or 23.8 or otherwise agreed by the employer and employee) are taken into account; or
  - (ii) provide for the employee to take any period of paid annual leave of less than one week; or
  - (iii) provide for the employee to take a period of paid annual leave beginning less than 8 weeks, or more than 12 months, after the notice is given; or
  - (iv) be inconsistent with any leave arrangement agreed by the employer and employee.

- (d) An employee is not entitled to request by a notice under clause 23.8(a) more than 4 weeks' paid annual leave (or 5 weeks' paid annual leave for a shiftworker, as defined by clause 23.2) in any period of 12 months.
- (e) The employer must grant paid annual leave requested by a notice under clause 23.8(a).

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

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

### **24.2 Evidence requirements**

- (a) For the purposes of section 107(3) of the [Act](#), an employee is entitled to one day's absence per year for leave of the kind in section 97(a) of the [Act](#) (unfit for work because of personal illness or injury) without being required to provide a statutory declaration as to the reasons for the absence.
- (b) Where any absence exceeds 3 consecutive days, the employer may require the production of a medical certificate from a legally qualified medical practitioner.

### **24.3 Casual employees**

- (a) A casual employee is entitled to be unavailable for work or to leave work to care for a person who requires care or support because of:
  - (i) illness or an injury; or
  - (ii) an emergency.
- (b) 48 hours' absence is allowed by right, with additional absence by agreement.
- (c) The employer must not fail to re-engage a casual employee because the employee has accessed the entitlement under clause 24.3.
- (d) Casual employees are not entitled to paid leave under clause 24.1.

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

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

## **26. Community service leave**

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

## 27. Unpaid family and domestic violence leave

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

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

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

## 28. Public holidays

The issue relating to changes to terminology remains outstanding. The issue was discussed at the conference held on 26/11/19 (see [transcript](#) PNs 34–46).

A [report](#) with parties' comments was submitted by the PGA on 6/12/19. The plain language exposure draft has been provisionally updated with the parties' suggested amendments. A conference will be held in due course.

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

28.2 Where an employee works on a public holiday they will be paid in accordance with clause 22.3—Payment of penalty rates.

**NOTE:** Schedule B—Summary of [Minimum](#) Hourly Rates of Pay [sets out the minimum hourly penalty rate for all employee classifications](#).

### 28.3 Substitution of public holidays by agreement

(a) An employer and employee may agree to substitute another day for a day that would otherwise be a public holiday under the [NES](#).

(b) An employer and employee may agree to substitute another part-day for a part-day that would otherwise be a part-day public holiday under the [NES](#).

### 28.4 Part-day public holidays

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

## Part 7—Consultation and Dispute Resolution

### 29. Consultation about major workplace change

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

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

**29.2** For the purposes of the discussion under clause 29.1(b), the employer must give in writing to the affected employees and their representatives (if any) all relevant information about the changes including:

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

**29.3** Clause 29.2 does not require an employer to disclose any confidential information if its disclosure would be contrary to the employer's interests.

**29.4** The employer must promptly consider any matters raised by the employees or their representatives about the changes in the course of the discussion under clause 29.1(b).

**29.5** In clause 29 **significant effects**, on employees, includes any of the following:

- (a) termination of employment; or
- (b) major changes in the composition, operation or size of the employer's workforce or in the skills required; or
- (c) loss of, or reduction in, job or promotion opportunities; or
- (d) loss of, or reduction in, job tenure; or
- (e) alteration of hours of work; or

- (f) the need for employees to be retrained or transferred to other work or locations; or
- (g) job restructuring.

**29.6** Where this award makes provision for alteration of any of the matters defined at clause 29.5, such alteration is taken not to have significant effect.

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

**30.1** Clause 30 applies if an employer proposes to change the regular roster or ordinary hours of work of an employee, other than an employee whose working hours are irregular, sporadic or unpredictable.

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

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

- (a) provide to the employees and representatives mentioned in clause 30.2 information about the proposed change (for example, information about the nature of the change and when it is to begin); and
- (b) invite the employees to give their views about the impact of the proposed change on them (including any impact on their family or caring responsibilities) and also invite their representative (if any) to give their views about that impact.

**30.4** The employer must consider any views given under clause 30.3(b).

**30.5** Clause 30 is to be read in conjunction with any other provisions of this award concerning the scheduling of work or the giving of notice.

## **31. Dispute resolution**

**31.1** Clause 31 sets out the procedures to be followed if a dispute arises about a matter under this award or in relation to the [NES](#).

**31.2** The parties to the dispute must first try to resolve the dispute at the workplace through discussion between the employee or employees concerned and the relevant supervisor.

**31.3** If the dispute is not resolved through discussion as mentioned in clause 31.2, the parties to the dispute must then try to resolve it in a timely manner at the workplace through discussion between the employee or employees concerned and more senior levels of management, as appropriate.

**31.4** If the dispute is unable to be resolved at the workplace and all appropriate steps have been taken under clauses 31.2 and 31.3, a party to the dispute may refer it to the Fair Work Commission.



- 31.5** The parties may agree on the process to be followed by the Fair Work Commission in dealing with the dispute, including mediation, conciliation and consent arbitration.
- 31.6** If the dispute remains unresolved, the Fair Work Commission may use any method of dispute resolution that it is permitted by the [Act](#) to use and that it considers appropriate for resolving the dispute.
- 31.7** A party to the dispute may appoint a person, organisation or association to support and/or represent them in any discussion or process under clause 31.
- 31.8** While procedures are being followed under clause 31 in relation to a dispute:
- (a) work must continue in accordance with this award and the [Act](#); and
  - (b) an employee must not unreasonably fail to comply with any direction given by the employer about performing work, whether at the same or another workplace, that is safe and appropriate for the employee to perform.
- 31.9** Clause 31.8 is subject to any applicable work health and safety legislation.

## Part 8—Termination of employment and Redundancy

### 32. Termination of employment

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

#### 32.1 Notice of termination by an employee

- (a) Clause 32 applies to all employees except those identified in sections 123(1) and 123(3) of the [Act](#).
- (b) An employee must give the employer notice of termination in accordance with **Table 7—Period of notice** of at least the period specified in column 2 according to the period of continuous service of the employee specified in column 1.

**Table 7—Period of notice**

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

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

- (c) In clause 32.1(b) **continuous service** has the same meaning as in section 117 of the [Act](#).
- (d) If an employee who is at least 18 years old does not give the period of notice required under clause 32.1(b), then the employer may deduct from wages due to the employee under this award an amount that is no more than one week's wages for the employee.
- (e) If the employer has agreed to a shorter period of notice than that required under clause 32.1(b), then no deduction can be made under clause 32.1(d).
- (f) Any deduction made under clause 32.1(d) must not be unreasonable in the circumstances.

### 32.2 Job search entitlement

- (a) Where an employer has given notice of termination to an employee, the employee must be allowed time off without loss of pay of up to one day for the purpose of seeking other employment.
- (b) The time off under clause 32.2 is to be taken at times that are convenient to the employee after consultation with the employer.

## 33. Redundancy

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

### 33.1 Transfer to lower paid duties on redundancy

- (a) Clause 33.1 applies if, because of redundancy, an employee is transferred to new duties to which a lower ordinary rate of pay applies.
- (b) The employer may:
  - (i) give the employee notice of the transfer of at least the same length as the employee would be entitled to under section 117 of the [Act](#) as if it were a notice of termination given by the employer; or
  - (ii) transfer the employee to the new duties without giving notice of transfer or before the expiry of a notice of transfer, provided that the employer pays the employee as set out in clause 33.1(c).
- (c) If the employer acts as mentioned in clause 33.1(b)(ii), the employee is entitled to a payment of an amount equal to the difference between the ordinary rate of pay of the employee (inclusive of all-purpose allowances and penalty rates applicable to ordinary hours) for the hours of work the employee would have worked in the first role, and the ordinary rate of pay (also inclusive of all-purpose

allowances and penalty rates applicable to ordinary hours) of the employee in the second role for the period for which notice was not given.

**33.2 Employee leaving during redundancy notice period**

- (a) An employee given notice of termination in circumstances of redundancy may terminate their employment during the minimum period of notice prescribed by section 117(3) of the [Act](#).
- (b) The employee is entitled to receive the benefits and payments they would have received under clause 33 or under sections 119 to 123 of the [Act](#) had they remained in employment until the expiry of the notice.
- (c) However, the employee is not entitled to be paid for any part of the period of notice remaining after the employee ceased to be employed.

**33.3 Job search entitlement**

- (a) Where an employer has given notice of termination to an employee in circumstances of redundancy, the employee must be allowed time off without loss of pay of up to one day each week of the minimum period of notice prescribed by section 117(3) of the [Act](#) for the purpose of seeking other employment.
- (b) If an employee is allowed time off without loss of pay of more than one day under clause 33.3(a), the employee must, at the request of the employer, produce proof of attendance at an interview.
- (c) A statutory declaration is sufficient for the purpose of clause 33.3(b).
- (d) An employee who fails to produce proof when required under clause 33.3(b) is not entitled to be paid for the time off.
- (e) This entitlement applies instead of clause 32.2.

## Schedule A—Classification Definitions

**A.1 Pharmacy assistant level 1** is an employee working as a pharmacy assistant in a community pharmacy who has not acquired the competencies required to hold a qualification in Community Pharmacy and is not covered by any other classification in this Schedule.

**A.2 Pharmacy assistant level 2** is an employee who has acquired the competencies required to be the holder of a Certificate II in Community Pharmacy, as determined by the National Quality Council or a successor body.

**A.3 Pharmacy assistant level 3/Dispensary assistant level 3** is an employee who has acquired the competencies required to be the holder of a Certificate III in Community Pharmacy, as determined by the National Quality Council or a successor body, and who is required by the employer to work at this level.

A pharmacy assistant/dispensary assistant level 3 may be required by the employer to:

- (a) supervise pharmacy assistants levels 1 or 2; or
- (b) perform the duties of a dispensary assistant, that is:
  - (i) work in the dispensary performing dispensing duties under the direct supervision of a pharmacist; or
  - (ii) work in a compounding lab or compounding section of a community pharmacy assisting with extemporaneous preparations as the major part of their duties.

**A.4 Pharmacy assistant level 4** is an employee who has acquired the competencies required to be the holder of a Certificate IV in Community Pharmacy, as determined by the National Quality Council or a successor body, and who is required by the employer to work at this level.

A pharmacy assistant level 4 may be required by the employer to supervise pharmacy assistants levels 1, 2 or 3.

**A.5 Pharmacy student** is an employee who is undertaking training as part of an approved program of study, as defined by the Health Practitioner Regulation National Law.

**A.6 Pharmacy intern** is an employee who has satisfied the examination requirements of an accredited program of study, as defined by the Health Practitioner Regulation National Law, and who is undertaking clinical training.

**A.7 Pharmacist** is an employee registered under the Health Practitioner Regulation National Law to practise in the pharmacy profession (other than as a student).

**A.8 Experienced pharmacist** is an employee who is a pharmacist with at least 4 years full-time experience (or the part-time equivalent) in a community pharmacy.

**A.9 Pharmacist in charge** is an employee who is a pharmacist who assumes responsibility for the day to day supervision and functioning of the community pharmacy.

**A.10 Pharmacist manager** is an employee who is a pharmacist who is responsible to the owner of the community pharmacy for all aspects of the business.

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

The issue relating to changes to terminology remains outstanding. The issue was discussed at the conference held on 26/11/19 (see [transcript](#) PNs 34–46).

A [report](#) with parties' comments was submitted by the PGA on 6/12/19. The plain language exposure draft has been provisionally updated with the parties' suggested amendments. A conference will be held in due course.

Clauses B.1.1, B.1.2, B.1.3, B.2.1 and B.2.2 updated in accordance with [\[2019\] FWCFB 3949](#) at [12]–[14]; [PR709577](#) and [\[2019\] FWCFB 7854](#) at [4] and [7].

Clauses B.1.2 and B.2.1 updated in accordance with the [Full Bench Report](#) at [4] dated 29/11/19 (movement of columns in tables not tracked).

Administrative change made by Modern Awards team to clauses B.1.2, B.1.3 and B.2.2.

See also Part 4—Wages and Allowances and Part 5—Overtime and Penalty Rates

### B.1 Full-time and part-time adult employees

#### B.1.1 Full-time and part-time adult employees—Monday to Friday penalty rates

	Ordinary hours Monday to Friday			
	8.00 am to 7.00 pm	Morning— 7.00 am to 8.00 am	Evening— 7.00 pm to 9.00 pm	Evening— 9.00 pm to midnight
	% of minimum hourly rate			
	100%	150%	125%	150%
	\$	\$	\$	\$
Pharmacy <del>A</del> assistant <del>L</del> level 1	21.41	32.12	26.76	32.12
Pharmacy <del>A</del> assistant <del>L</del> level 2	21.92	32.88	27.40	32.88
Pharmacy <del>A</del> assistant <del>L</del> level 3	22.70	34.05	28.38	34.05
Pharmacy <del>A</del> assistant <del>L</del> level 4	23.63	35.45	29.54	35.45
Pharmacy <del>S</del> students —1st year of course	21.41	32.12	26.76	32.12
Pharmacy <del>S</del> students —2nd year of course	21.92	32.88	27.40	32.88
Pharmacy <del>S</del> students —3rd year of course	22.70	34.05	28.38	34.05
Pharmacy <del>S</del> students —4th year of course	23.63	35.45	29.54	35.45
Pharmacy <del>I</del> intern— —1st half of training	23.94	35.91	29.93	35.91
Pharmacy <del>I</del> intern— —2nd half of training	24.76	37.14	30.95	37.14
Pharmacist	<del>29.41</del> 28.71	<del>44.12</del> 43.07	<del>36.76</del> 35.89	<del>44.12</del> 43.07

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	Ordinary hours Monday to Friday			
	8.00 am to 7.00 pm	Morning— 7.00 am to 8.00 am	Evening— 7.00 pm to 9.00 pm	Evening— 9.00 pm to midnight
	% of minimum hourly rate			
	100%	150%	125%	150%
	\$	\$	\$	\$
Experienced <b>P</b> harmacist	<u>32.21</u> <u>31.44</u>	<u>48.32</u> <u>47.16</u>	<u>40.26</u> <u>39.30</u>	<u>48.32</u> <u>47.16</u>
Pharmacist in <b>C</b> harge	<u>32.97</u> <u>32.18</u>	<u>49.46</u> <u>48.27</u>	<u>41.21</u> <u>40.23</u>	<u>49.46</u> <u>48.27</u>
Pharmacist <b>M</b> anager	<u>36.74</u> <u>35.86</u>	<u>55.11</u> <u>53.79</u>	<u>45.93</u> <u>44.83</u>	<u>55.11</u> <u>53.79</u>

**B.1.2 Full-time and part-time adult employees—penalty rates for Saturday, Sunday and public holidays<sup>s</sup>—rates**

	Saturday				Sunday		Public holidays <sup>2</sup> All day
	Between 8.00 am and 6.00 pm	<b>Before</b> <b>Between</b> <b>7.00 am</b> <b>and</b> <b>8.00 am</b>	Between 6.00 pm and 9.00 pm	9.00 pm to midnight	Before 7.00 am and after 9.00 pm	Between 7.00 am and 9.00 pm <sup>1</sup>	
	% of minimum hourly rate						
	125%	200%	150%	175%	200%	165%	225%
	\$	\$	\$	\$	\$	\$	\$
Pharmacy <b>A</b> ssistant <b>L</b> evel 1	26.76	42.82	32.12	37.47	42.82	35.33	48.17
Pharmacy <b>A</b> ssistant <b>L</b> evel 2	27.40	43.84	32.88	38.36	43.84	36.17	49.32
Pharmacy <b>A</b> ssistant <b>L</b> evel 3	28.38	45.40	34.05	39.73	45.40	37.46	51.08
Pharmacy <b>A</b> ssistant <b>L</b> evel 4	29.54	47.26	35.45	41.35	47.26	38.99	53.17
Pharmacy <b>S</b> tudents —1st year of course	26.76	42.82	32.12	37.47	42.82	35.33	48.17
Pharmacy <b>S</b> tudents —2nd year of course	27.40	43.84	32.88	38.36	43.84	36.17	49.32

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	Saturday				Sunday		Public holidays <sup>2</sup> All day
	Between 8.00 am and 6.00 pm	<del>Before</del> <del>Between</del> <del>7.00 am</del> <del>and</del> <del>8.00 am</del>	Between 6.00 pm and 9.00 pm	9.00 pm to midnight	Before 7.00 am and after 9.00 pm	Between 7.00 am and 9.00 pm <sup>1</sup>	
% of minimum hourly rate							
	125%	200%	150%	175%	200%	165%	225%
	\$	\$	\$	\$	\$	\$	\$
Pharmacy <del>S</del> students —3rd year of course	28.38	45.40	34.05	39.73	45.40	37.46	51.08
Pharmacy <del>S</del> students —4th year of course	29.54	47.26	35.45	41.35	47.26	38.99	53.17
Pharmacy <del>I</del> ntern- —1st half of training	29.93	47.88	35.91	41.90	47.88	39.50	53.87
Pharmacy <del>I</del> ntern- —2nd half of training	30.95	49.52	37.14	\$43.33	\$49.52	\$40.85	\$55.71
Pharmacist	<del>36.76</del> 35. 89	<del>58.82</del> 57.4 2	<del>44.12</del> 43.0 7	<del>51.47</del> 50.2 4	<del>58.82</del> 57.4 2	<del>48.53</del> 47. 37	<del>66.17</del> 64.6 0
Experienced <del>P</del> harmacist	<del>40.26</del> 39. 30	<del>64.42</del> 62.8 8	<del>48.32</del> 47.1 6	<del>56.37</del> 55.0 2	<del>64.42</del> 62.8 8	<del>53.15</del> 51. 88	<del>72.47</del> 70.7 4
Pharmacist in <del>C</del> harge	<del>41.21</del> 40. 23	<del>65.94</del> 64.3 6	<del>49.46</del> 48.2 7	<del>57.70</del> 56.3 2	<del>65.94</del> 64.3 6	<del>54.40</del> 53. 10	<del>74.18</del> 72.4 1
Pharmacist <del>M</del> anager	<del>45.93</del> 44. 83	<del>73.48</del> 71.7 2	<del>55.11</del> 53.7 9	<del>64.30</del> 62.7 6	<del>73.48</del> 71.7 2	<del>60.62</del> 59. 17	<del>82.67</del> 80.6 9

<sup>1</sup> Sunday rate from 1 July 2019 – 30 June 2020

<sup>2</sup> Public holiday rate from 1 July 2017



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**B.1.3 Overtime rates—~~a~~All adult employees—~~overtime rates~~**

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

	Monday to Saturday		Sunday	Public holiday
	First 2 hours	After 2 hours		
	<b>% of minimum hourly rate</b>			
	<b>150%</b>	<b>200%</b>	<b>200%</b>	<b>250%</b>
	<b>\$</b>	<b>\$</b>	<b>\$</b>	<b>\$</b>
Pharmacy <del>A</del> assistant <del>L</del> level 1	32.12	42.82	42.82	53.53
Pharmacy <del>A</del> assistant <del>L</del> level 2	32.88	43.84	43.84	54.80
Pharmacy <del>A</del> assistant <del>L</del> level 3	34.05	45.40	45.40	56.75
Pharmacy <del>A</del> assistant <del>L</del> level 4	35.45	47.26	47.26	59.08
Pharmacy <del>S</del> students <del>—</del> 1st year of course	32.12	42.82	42.82	53.53
Pharmacy <del>S</del> students <del>—</del> 2nd year of course	32.88	43.84	43.84	54.80
Pharmacy <del>S</del> students <del>—</del> 3rd year of course	34.05	45.40	45.40	56.75
Pharmacy <del>S</del> students <del>—</del> 4th year of course	35.45	47.26	47.26	59.08
Pharmacy <del>I</del> ntern— <del>—</del> 1st half of training	35.91	47.88	47.88	59.85
Pharmacy <del>I</del> ntern— <del>—</del> 2nd half of training	37.14	49.52	49.52	61.90
Pharmacist	<del>44.12</del> <u>43.07</u>	<del>58.82</del> <u>57.42</u>	<del>58.82</del> <u>57.42</u>	<del>73.53</del> <u>71.78</u>
Experienced <del>P</del> harmacist	<del>48.32</del> <u>47.16</u>	<del>64.42</del> <u>62.88</u>	<del>64.42</del> <u>62.88</u>	<del>80.53</del> <u>78.60</u>
Pharmacist in <del>C</del> harge	<del>49.46</del> <u>48.27</u>	<del>65.94</del> <u>64.36</u>	<del>65.94</del> <u>64.36</u>	<del>82.43</del> <u>80.45</u>
Pharmacist <del>M</del> anager	<del>55.11</del> <u>53.79</u>	<del>73.48</del> <u>71.72</u>	<del>73.48</del> <u>71.72</u>	<del>91.85</del> <u>89.65</u>

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**B.2 Casual adult employees**

**B.2.1 Casual adult employees—Monday to Friday penalty rates**

	Ordinary hours Monday to Friday			
	8.00 am to 7.00 pm	Morning—7.00 am to 8.00 am	Evening—7.00 pm to 9.00 pm	Evening—9.00 pm to midnight
	% of minimum hourly rate			
	125%	175%	150%	175%
	\$	\$	\$	\$
Pharmacy <del>A</del> assistant <del>L</del> level 1	26.76	37.47	32.12	37.47
Pharmacy <del>A</del> assistant <del>L</del> level 2	27.40	38.36	32.88	38.36
Pharmacy <del>A</del> assistant <del>L</del> level 3	28.38	39.73	34.05	39.73
Pharmacy <del>A</del> assistant <del>L</del> level 4	29.54	41.35	35.45	41.35
Pharmacy <del>S</del> students—1st year of course	26.76	37.47	32.12	37.47
Pharmacy <del>S</del> students—2nd year of course	27.40	38.36	32.88	38.36
Pharmacy <del>S</del> students—3rd year of course	28.38	39.73	34.05	39.73
Pharmacy <del>S</del> students—4th year of course	29.54	41.35	35.45	41.35
Pharmacy <del>I</del> intern—1st half of training	29.93	41.90	35.91	41.90
Pharmacy <del>I</del> intern—2nd half of training	30.95	43.33	37.14	43.33
Pharmacist	<del>36.76</del> 35.89	<del>51.47</del> 50.24	<del>44.12</del> 43.07	<del>51.47</del> 50.24
Experienced Pharmacist	<del>40.26</del> 39.30	<del>56.37</del> 55.02	<del>48.32</del> 47.16	<del>56.37</del> 55.02
Pharmacist in Charge	<del>41.21</del> 40.23	<del>57.70</del> 56.32	<del>49.46</del> 48.27	<del>57.70</del> 56.32
Pharmacist Manager	<del>45.93</del> 44.83	<del>64.30</del> 62.76	<del>55.11</del> 53.79	<del>64.30</del> 62.76

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**B.2.2 Casual adult employees—penalty rates for Saturday, Sunday and public holidays<sup>s</sup> rates**

	Saturday				Sunday		Public holidays <sup>2</sup> All day
	Between 8.00 am and 6.00 pm	<del>Before 7.00 am and 8.00 am</del>	Between 6.00 pm and 9.00 pm	9.00 pm to midnight	Before 7.00 am and after 9.00 pm	Between 7.00 am and 9.00 pm <sup>1</sup>	
	% of minimum hourly rate						
	150%	225%	175%	200%	225%	190%	250%
	\$	\$	\$	\$	\$	\$	\$
Pharmacy <del>A</del> assistant <del>L</del> level 1	32.12	48.17	37.47	42.82	48.17	40.68	53.53
Pharmacy <del>A</del> assistant <del>L</del> level 2	32.88	49.32	38.36	43.84	49.32	41.65	54.80
Pharmacy <del>A</del> assistant <del>L</del> level 3	34.05	51.08	39.73	45.40	51.08	43.13	56.75
Pharmacy <del>A</del> assistant <del>L</del> level 4	35.45	53.17	41.35	47.26	53.17	44.90	59.08
Pharmacy <del>S</del> students <del>—</del> 1st year of course	32.12	48.17	37.47	42.82	48.17	40.68	53.53
Pharmacy <del>S</del> students <del>—</del> 2nd year of course	32.88	49.32	38.36	43.84	49.32	41.65	54.80
Pharmacy <del>S</del> students <del>—</del> 3rd year of course	34.05	51.08	39.73	45.40	51.08	43.13	56.75
Pharmacy <del>S</del> students <del>—</del> 4th year of course	35.45	53.17	41.35	47.26	53.17	44.90	59.08
Pharmacy <del>I</del> ntern— <del>—</del> 1st half of training	35.91	53.87	41.90	47.88	53.87	45.49	59.85
Pharmacy <del>I</del> ntern— <del>—</del> 2nd half of training	37.14	55.71	43.33	49.52	55.71	47.04	61.90
Pharmacist	<del>44.1243.07</del>	<del>66.1764.60</del>	<del>51.4750.24</del>	<del>58.8257.42</del>	<del>66.1764.60</del>	<del>55.8854.55</del>	<del>73.5371.78</del>
Experienced <del>P</del> pharmacist	<del>48.3247.16</del>	<del>72.4770.74</del>	<del>56.3755.02</del>	<del>64.4262.88</del>	<del>72.4770.74</del>	<del>61.2059.74</del>	<del>80.5378.60</del>
Pharmacist in <del>C</del> harge	<del>49.4648.27</del>	<del>74.1872.41</del>	<del>57.7056.32</del>	<del>65.9464.36</del>	<del>74.1872.41</del>	<del>62.6461.14</del>	<del>82.4380.45</del>
Pharmacist <del>M</del> anager	<del>55.1153.79</del>	<del>82.6780.69</del>	<del>64.3062.76</del>	<del>73.4871.72</del>	<del>82.6780.69</del>	<del>69.8168.13</del>	<del>91.8589.65</del>

<sup>1</sup> Sunday rate from 1 July 2019 – 30 June 2020

<sup>2</sup> ~~Public holiday rate from 1 July 2017~~

## Schedule C—Summary of Monetary Allowances

See clause 19—Allowances for full details of allowances payable under this award.

### C.1 Wage-related allowances

The issue relating to whether the new allowance at clause 19.2 is to be adjusted for movement in wage rates and if so, the mechanism for adjustment (s.149 of the [Act](#)) is outstanding.

The issue was discussed at the conference held on 26/11/19 (see [transcript](#) PNs 94–122). The PGA made a [submission](#) to the substantive Full Bench. The issue remains outstanding.

**C.1.1** The following wage-related allowances are based on the [standard rate](#) defined in clause 2—Definitions as the minimum weekly rate for a pharmacy assistant level 3 in **Table 3—Minimum rates = \$862.50**.

Allowance	Clause	% of standard rate	\$	Payable
<a href="#">Home medicine reviews or residential medication management reviews – 10% of minimum weekly rate for a pharmacist</a>	<a href="#">19.2</a>	=	<a href="#">106.40</a>	<a href="#">per week</a>
Broken Hill allowance	19.8	4.28	36.92	per week

### C.2 Expense-related allowances

**C.2.1** The following expense-related allowances will be payable to employees in accordance with clause 19—Allowances:

Allowance	Clause	\$	Payable
<del>Meal allowance</del>			
<del>Meal allowance—O</del> vertime which exceeds 1.5 hours' overtime	19.2(b)(i)	18.99	per occasion
<del>Meal allowance—O</del> vertime which exceeds 4 hours	19.2(c)	17.01	per occasion
<del>Special clothing allowance</del>			
<del>Special clothing allowance—F</del> ull-time employee	19.4(b)(i)	6.25	per week
<del>Special clothing allowance—P</del> art-time or casual employee	19.4(b)(ii)	1.25	per shift
Motor vehicle allowance	19.6	0.78	per km

**C.2.2 Adjustment of expense-related allowances**

- (a) At the time of any adjustment to the [standard rate](#), each expense-related allowance will be increased by the relevant adjustment factor. The relevant adjustment factor for this purpose is the percentage movement in the applicable index figure most recently published by the Australian Bureau of Statistics since the allowance was last adjusted.
- (b) The applicable index figure is the index figure published by the Australian Bureau of Statistics for the Eight Capitals Consumer Price Index (Cat No. 6401.0), as follows:

<b>Allowance</b>	<b>Applicable Consumer Price Index figure</b>
Meal allowance	Take away and fast foods sub-group
Special clothing allowance	Clothing and footwear group
Transport allowance	Private motoring sub-group

## Schedule D—Supported Wage System

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

**D.2** In this schedule:

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

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

**disability support pension** means the Commonwealth pension scheme to provide income security for persons with a disability as provided under the *Social Security Act 1991*, 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** means the Commonwealth Government system to promote employment for people who cannot work at full award wages because of a disability, as documented in the Supported Wage System Handbook. The Handbook is available from the following website: [www.jobaccess.gov.au](http://www.jobaccess.gov.au).

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

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

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

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

### **D.4 Supported wage rates**

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

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

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

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

### **D.5 Assessment of capacity**

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

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

### **D.6 Lodgement of SWS wage assessment agreement**

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

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

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

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

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

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

## **D.9 Workplace adjustment**

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

## **D.10 Trial period**

**D.10.1** In order for an adequate assessment of the employee's capacity to be made, an employer may employ a person under the provisions of this schedule for a trial period not exceeding 12 weeks, except that in some cases additional work adjustment time (not exceeding 4 weeks) may be needed.

**D.10.2** During that trial period the assessment of capacity will be undertaken and the percentage of the relevant minimum wage for a continuing employment relationship will be determined.

**D.10.3** The minimum amount payable to the employee during the trial period must be no less than **\$87** per week.

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

**D.10.5** Where the employer and employee wish to establish a continuing employment relationship following the completion of the trial period, a further contract of employment will be entered into based on the outcome of assessment under clause D.5.



## Schedule E—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 F—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 G—Part-day Public Holidays

The issue relating to changes to terminology remains outstanding. The issue was discussed at the conference held on 26/11/19 (see [transcript](#) PNs 34–46).

A [report](#) with parties' comments was submitted by the PGA on 6/12/19. The plain language exposure draft has been provisionally updated with the parties' suggested amendments. A conference will be held in due course.

Clause G.2 updated in accordance with [\[2019\] FWCFB 8491](#); [PR715153](#)

Clause G.2(e) and (f) updated in accordance with [\[2019\] FWCFB 4368](#) and [\[2019\] FWCFB 8583](#); [PR716604](#)

**G.1** This schedule operates where this award otherwise contains provisions dealing with public holidays that supplement the [NES](#).

**G.2** Where a part-day public holiday is declared or prescribed between 6.00 pm and midnight, or 7.00 pm and midnight on Christmas Eve (24 December in each year) or New Year's Eve (31 December in each year) the following will apply on Christmas Eve and New Year's Eve and will override any provision in this award relating to public holidays to the extent of the inconsistency:

- (a) All employees will have the right to refuse to work on the part-day public holiday if the request to work is not reasonable or the refusal is reasonable as provided for in the NES.
- (b) Where a part-time or full-time employee is usually rostered to work ordinary hours on the declared or prescribed part-day public holiday but as a result of exercising their right under the NES does not work, they will be paid their ordinary rate of pay minimum hourly penalty rate for such hours not worked.
- (c) Where a part-time or full-time employee is usually rostered to work ordinary hours on the declared or prescribed part-day public holiday but as a result of being on annual leave does not work, they will be taken not to be on annual leave during the hours of the declared or prescribed part-day public holiday that they would have usually been rostered to work and will be paid their ordinary rate of pay minimum hourly penalty rate for such hours.
- (d) Where a part-time or full-time employee is usually rostered to work ordinary hours on the declared or prescribed part-day public holiday, but as a result of having a rostered day off (RDO) provided under this award, does not work, the employee will be taken to be on a public holiday for such hours and paid their ordinary rate of pay minimum hourly penalty rate for those hours.
- (e) Excluding annualised salaried wage arrangement employees to whom clause G.2(f) applies, where an employee works any hours on the declared or prescribed part-day public holiday they will be entitled to the appropriate public holiday penalty rate (if any) in this award for those hours worked.
- (f) Where an employee is paid an annualised salary wage arrangement under the provisions of this award and is entitled under this award to time off in lieu or additional annual leave for work on a public holiday, they will be entitled to time

off in lieu or pro-rata annual leave equivalent to the time worked on the declared or prescribed part-day public holiday.

- (g) An employee not rostered to work on the declared or prescribed part-day public holiday, other than an employee who has exercised their right in accordance with clause G.2(a), will not be entitled to another day off, another day's pay or another day of annual leave as a result of the part-day public holiday.

~~G.2 — Where a part-day public holiday is declared or prescribed between 7.00 pm and midnight on Christmas Eve (24 December in each year) or New Year's Eve (31 December in each year) the following will apply on Christmas Eve and New Year's Eve and will override any provision in this award relating to public holidays to the extent of the inconsistency:~~

- ~~(a) — All employees will have the right to refuse to work on the part-day public holiday if the request to work is not reasonable or the refusal is reasonable as provided for in the NES.~~

- ~~(b) — Where a part-time or full-time employee is usually rostered to work ordinary hours between 7.00 pm and midnight but as a result of exercising their right under the NES does not work, they will be paid their ordinary rate of pay for such hours not worked.~~

- ~~(c) — Where a part-time or full-time employee is usually rostered to work ordinary hours between 7.00 pm and midnight but as a result of being on annual leave does not work, they will be taken not to be on annual leave between those hours of 7.00 pm and midnight that they would have usually been rostered to work and will be paid their ordinary rate of pay for such hours.~~

- ~~(d) — Where a part-time or full-time employee is usually rostered to work ordinary hours between 7.00 pm and midnight, but as a result of having a rostered day off (RDO) provided under this award, does not work, the employee will be taken to be on a public holiday for such hours and paid their ordinary rate of pay for those hours.~~

- ~~(e) — Excluding annualised employees to whom clause G.2(f) applies, where an employee works any hours between 7.00 pm and midnight they will be entitled to the appropriate public holiday penalty rate (if any) in this award for those hours worked.~~

- ~~(f) — Where an employee is paid an annualised salary under the provisions of this award and is entitled under this award to time off in lieu or additional annual leave for work on a public holiday, they will be entitled to time off in lieu or pro-rata annual leave equivalent to the time worked between 7.00 pm and midnight.~~

- ~~(g) — An employee not rostered to work between 7.00 pm and midnight, other than an employee who has exercised their right in accordance with clause G.2(a), will not be entitled to another day off, another day's pay or another day of annual leave as a result of the part-day public holiday.~~

**G.3** An employer and employee may agree to substitute another part-day for a part-day that would otherwise be a part-day public holiday under the NES.

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**G.4** This schedule is not intended to detract from or supplement the [NES](#).