

The Exposure Draft was first published on 18 December 2015. Subsequent amendments to the draft are as follows:

Publication date	Reason for amendments	Clauses affected
27 April 2016	As agreed in conference on 21 April 2016	10.2(f)(i), 10.2(f)(ii), 13.3(a), 16.3, A.1.2
1 June 2016	Updated as agreed in conference and in accordance to <a href="#">Report to Full Bench 26 May 2016</a>	9.1, 10.2(a), 16.3, Schedule F

Changes agreed to by parties appear in red text. Underlined text indicates new text that is to be included. Strikethrough text indicates existing text that is to be deleted.

## EXPOSURE DRAFT

### Commercial Sales Award 2015

This exposure draft has been prepared by staff of the Fair Work Commission based on the **Commercial Sales Award 2010** as at 18 December 2015. This exposure draft does not seek to amend any entitlements under the Commercial Sales Award 2010 but has been prepared to address some of the structural issues identified in modern awards.

The review of this award in accordance with s.156 of the *Fair Work Act 2009* is being dealt with in matter [AM2014/221](#). Additionally a number of common issues are being dealt with by the Commission which may affect this award. Transitional provisions have not been included in this exposure draft pending the outcome of the review.

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

No examples have been included in this exposure draft. Parties are asked to submit [examples](#) that clarify the operation of particular provisions.

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## Part 1—Application and Operation

### 1. Title and commencement

- 1.1 This award is the *Commercial Sales Award 2015*.
- 1.2 This modern award, as varied, commenced operation on 1 January 2010.
- 1.3 A variation to this award does not affect any right, privilege, obligation or liability that a person acquired, accrued or incurred under the award as it existed prior to that variation.
- 1.4 Schedule F—Definitions sets out definitions that apply in this award.
- 1.5 Neither the making of this award nor the operation of any transitional arrangements is intended to result in a reduction in the take-home pay of employees covered by the award. On application by or on behalf of an employee who suffers a reduction in take-home pay as a result of the making of this award or the operation of any transitional arrangements, the Fair Work Commission may make any order it considers appropriate to remedy the situation.

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

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

### 3. Coverage

- 3.1 This occupational award covers employers throughout Australia with respect to Commercial Travellers, Merchandisers and Advertising Sales Representatives and those employees unless any other modern award contains classifications that apply to such persons, in which case the other modern award prevails.
- 3.2 This award does not cover:
  - (a) employers and employees covered by the *Clerks—Private Sector Award 2015*; the *Contract Call Centres Award 2015*; or the *Graphic Arts, Printing and Publishing Award 2015*;
  - (b) employees excluded from award coverage by the *Fair Work Act 2009* (Cth) (the Act);

- (c) employees who are covered by a modern enterprise award or an enterprise instrument (within the meaning of the *Fair Work (Transitional Provisions and Consequential Amendments) Act 2009* (Cth)), or employers in relation to those employees; or
- (d) employees who are covered by a State reference public sector modern award or a State reference public sector transitional award (within the meaning of the *Fair Work (Transitional Provisions and Consequential Amendments) Act 2009* (Cth)), or employers in relation to those employees.

**3.3** This award covers any employer which supplies on-hire employees in occupations set out in clause 3.1 and those on-hire employees, if the employer is not covered by another modern award containing a classification which is more appropriate to the work performed by the employee. This subclause operates subject to the exclusions from coverage in this award.

**3.4** This award covers employers which provide group training services for trainees engaged in any of the occupations set out at clause 3.1 and those trainees engaged by a group training service hosted by a company to perform work at a location where the activities described in clause 3.1 are being performed. This subclause operates subject to the exclusions from coverage in this award.

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

## **4. Award flexibility**

**4.1** Notwithstanding any other provision of this award, an employer and an individual employee may agree to vary the application of certain terms of this award to meet the genuine individual needs of the employer and the individual employee. The terms the employer and the individual employee may agree to vary the application of, are those concerning:

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

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

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

- (a) be confined to a variation in the application of one or more of the terms listed in clause 4.1; and

- (b) result in the employee being better off overall at the time the agreement is made than the employee would have been if no individual flexibility agreement had been agreed to.

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

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

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

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

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

**4.8** The agreement may be terminated:

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

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

**4.9** The notice provisions in clause 4.8(a) only apply to an agreement entered into from the first full pay period commencing on or after 4 December 2013. An agreement entered into before that date may be terminated in accordance with clause 4.8(a), subject to four weeks' notice of termination.

**4.10** The right to make an agreement pursuant to this clause is in addition to, and is not intended to otherwise affect, any provision for an agreement between an employer and an individual employee contained in any other term of this award.

## 5. Facilitative provisions

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

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

Clause	Provision	Agreement between an employer and:
12.4	Time off instead	An individual
13.4	Conversion to hourly entitlement	A majority of employees
13.5	Paid leave in advance	An individual
16.2	Substitution of public holiday	An individual or majority of employees

## Part 2—Types of Employment

### 6. Types of employment

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

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

#### 6.2 Full-time employees

- (a) A full-time employee is engaged to work an average of 38 hours per week.
- (b) Any employee not specifically engaged as a part-time or casual employee is, for all purposes of this award, a full-time employee unless otherwise specified in the award.

#### 6.3 Part-time employees

Part-time employment provisions may be affected by [AM2014/196](#)

- (a) A part-time employee is engaged to work less than an average of 38 hours per week.
- (b) An employee may be employed on a regular part-time basis in any classification in this award.
- (c) Before starting part-time employment the employer and employee must agree on:
  - (i) the number of hours to be worked by the employee;

- (ii) the days on which they will be worked; and
- (iii) the starting and finishing times for the work.
- (d) The terms of this agreement may be varied by consent and such variation will be in writing.
- (e) An employer is required to roster a part-time employee for a minimum of three consecutive hours on any shift.

#### **6.4 Casual employees**

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

- (a) A casual employee is an employee who is engaged and paid as a casual employee.
- (b) **Casual loading**
  - (i) For each ordinary hour worked, a casual employee must be paid:
    - the minimum hourly rate; and
    - a loading of **25%** of the minimum hourly rate,for the classification in which they are employed.
  - (ii) The casual loading is paid instead of entitlements to leave and other matters from which casuals are excluded by the terms of this award and the NES.

#### **6.5 Statement and terms of engagement**

Within 14 days from the commencement of employment, the employer will provide to each employee a written statement containing the information set out below:

- (a) the remuneration payable;
- (b) the vehicle allowance payable or car supplied;
- (c) the rate or rates of commission payable;
- (d) the conditions and terms on which commission or any part thereof is payable or not payable;
- (e) deductions, if any, which are made or may be made to the commission payable; and
- (f) if the employee has a territory, the boundaries or limits of the territory, provided that the employer may change territory boundaries or limits, or move employees from one territory to another on advice to the employee/s concerned.

## Part 3—Hours of Work

### 7. Ordinary hours of work and rostering

- 7.1 Maximum weekly hours and requests for flexible working arrangements are provided for in the NES.
- 7.2 The ordinary hours of work for a full-time employee are an average of 38 per week with a maximum of 152 hours over 28 consecutive days.
- 7.3 The ordinary hours of work may be worked on any days of the week.
- 7.4 The ordinary hours of work will not exceed 10 hours on any day.

### 8. Breaks

An employer will allow an employee reasonable time to have regular and normal meals on each day of the employee’s employment.

## Part 4—Wages and Allowances

### 9. Classifications and minimum wages

- 9.1 An employer must pay an adult employee, other than those employees specified in clause 9.2, the following minimum wages for ordinary hours worked by the employee:

Classification level	Minimum weekly rate (full-time employees) \$	Minimum hourly rate \$
Probationary Traveller <sup>1</sup>	690.75	18.18
Merchandise	712.20	18.74
Commercial Traveller / Advertising Sales Representative	767.50	20.20

<sup>1</sup>The minimum weekly rate for a Probationary Traveller is based on 90% of the minimum weekly rate for a Commercial Traveller/Advertising Sales Representative.

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

- 9.2 The following adult employees are not entitled to the minimum wages set out in the table in clause 9.1:
- (a) an employee receiving a supported wage (refer to Schedule C—Supported Wage System); and
  - (b) a trainee (refer to Schedule D—National Training Wage).



### 9.3 Junior minimum wages

The minimum wages for a junior are the following percentages of the wage rate for Commercial Traveller/Advertising Sales Representative:

Age	% of Commercial Traveller / Advertising Sales Representative rate
Under 19 years	67.5
19 years	80
20 years	90

9.4 No Commercial Traveller (or Probationary Traveller) will be remunerated solely by commission payment, salary or retainer, that is lower than the minimum rate for a Commercial Traveller (or Probationary Traveller) in clause 9.1.

### 9.5 Payment of wages

- (a) Employees will be paid weekly, fortnightly or monthly.
- (b) Wages will be paid by cash, cheque or electronic funds transfer into the employee's nominated bank account.

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

## 10. Allowances

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

### 10.2 Expense related allowances

#### (a) Weekend allowance

An allowance of **\$44.26** will be paid to an employee required by the employer to be away from home or headquarters for any weekend.

Parties are asked to clarify the use of the term 'headquarters' in clause 10.2(a). Can 'home or headquarters' be replaced with 'their usual place of residence'? **Further to conference on 26 May 2016, proposed definitions have been added in Schedule F—Definitions**

#### (b) Living away from home allowance

An employee required to remain away from their usual place of residence for two or more consecutive nights in any one week, Monday to Sunday inclusive, in servicing the employee's allocated area will be paid an additional allowance of **\$55.72** per week.

**(c) Vehicle allowance**

An employee required by the employer to use the employee's motor vehicle in the performance of the employee's duties will be paid an allowance of:

- (i) **\$0.78** per kilometre, for use of the employee's own motor car; and
- (ii) **\$0.26** per kilometre for use of the employee's own motorcycle.

**(d) Vehicle modification reimbursement**

Where the employer requires the employee to alter or modify the employee's own vehicle, the employer will reimburse to the employee the full cost of such alterations or modifications.

**(e) Telephone allowance**

- (i) Where an employee does not have a telephone, modem or broadband connection and, at the written request of the employer, the employee is required to have such equipment, the employer must reimburse the reasonable cost of purchase, installation and rental of this equipment.
- (ii) Where an employee makes telephone calls in connection with their employment on the employee's private telephone at the direction of the employer, the employer must reimburse the reasonable cost of such calls. The employer may request details of all such calls claimed by the employee.

**(f) Expenses and accommodation reimbursement**

- (i) In addition to the remuneration payable under clause 9—Classifications and minimum wages, all reasonable expenses actually and properly incurred by the employee in the ~~course of their employment~~ discharge of the duties will be reimbursed by the employer, including:

- approved entertainment expenses;
- vehicle parking fees where actually and necessarily incurred;
- three star class hotel/motel accommodation;
- expenses for meals and morning or afternoon tea when the employee is required to be away overnight from the usual place of residence at the employee's usual time for taking such meal, in the course of their employment;
- laundry expenses incurred by the employee after they have been away from their place of residence for more than one weekend in the course of their employment;
- first class rail tickets with sleeping accommodation (if available) on overnight journeys, and economy class airline tickets where required; and
- the cost of garaging by an employee entitled to the living away from home allowance in clause 10.2(b) when such is required by the employer.

(ii) **Such** expenses that can be reasonably anticipated will be paid in advance.

**(g) Injury or illness requiring transport**

If an employee suffers an injury or illness requiring return to their usual place of residence or to a hospital or other place where the employee may receive medical care, the expenses actually incurred in travelling to any such location will be reimbursed by the employer.

**(h) Change of residence**

Any employee (other than a casual) who is directed or required by the employer, in writing, to relocate the employee's residence to another area, will be reimbursed reasonable costs for relocating personal and household effects and members of their immediate dependent family. Reasonable costs expressed in this clause are to be the amount agreed upon, in writing, between the employer and employee prior to any relocation.

**(i) Training program**

An employee required by the employer to undertake any course of instruction or training will have all fees and expenses reimbursed by the employer.

## **11. Superannuation**

### **11.1 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.

### **11.2 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.

### **11.3 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 11.2.

- (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 11.3(a) or (b) no later than 28 days after the end of the month in which the deduction authorised under clauses 11.3(a) or (b) was made.

#### 11.4 Superannuation fund

Unless, to comply with superannuation legislation, the employer is required to make the superannuation contributions provided for in clause 11.2 to another superannuation fund that is chosen by the employee, the employer must make the superannuation contributions provided for in clause 11.2 and pay the amount authorised under clauses 11.3(a) or (b) to one of the following superannuation funds or its successor:

- (a) AustralianSuper;
- (b) LUCRF Super;
- (c) CareSuper;
- (d) REST Superannuation;
- (e) Sunsuper;
- (f) MTAA Superannuation Fund;
- (g) 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
- (h) a superannuation fund or scheme which the employee is a defined benefit member of.

#### 11.5 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 11.2 and pay the amount authorised under clauses 11.3(a) or (b):

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

## Part 5—Penalties and Overtime

### 12. Overtime and penalty rates

#### 12.1 Overtime

An employee directed by the employer to perform any work after 6.00 pm Monday to Friday inclusive, or in excess of the ordinary hours of work provided in clause 7 – Ordinary hours of work and rostering, will be paid at a rate of **150%** of the applicable minimum hourly rate set out in clause 9.

#### 12.2 Saturday work

An employee directed by the employer to perform any work on a Saturday will be paid at a rate of **150%** of the applicable minimum hourly rate set out in clause 9, with a minimum payment of two hours.

#### 12.3 Sunday work

An employee directed by the employer to perform any work on a Sunday will be paid at a rate of **200%** of the applicable minimum hourly rate set out in clause 9, with a minimum payment of three hours.

#### 12.4 Time off instead

This provision may be affected by [AM2014/300](#) – see [draft determination](#)

Where agreement is reached between the employer and an employee, the employer may grant time off instead of the payments prescribed above on the basis of one hour off for each hour worked.

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

### 13. Annual leave

This annual leave provision may be affected by [AM2014/47](#) – see [draft determination](#)

13.1 Annual leave is provided for in the NES.

13.2 Annual leave does not apply to a casual employee.

#### 13.3 Leave loading

- (a) During a period of annual leave an employee who does not receive commission must also be paid a loading of **17.5%** calculated on the employee's minimum rate of pay [as prescribed by clause 9—Classifications and minimum wages](#).
- (b) Where the employee receives commission, such employee will, in addition to their ordinary pay, receive either the average of the commission payments earned over the preceding 12 months or the loading prescribed in clause 13.3(a), whichever is the greater.

NOTE: Where an employee is receiving overaward payments such that the employee's base rate of pay is higher than the rate specified under this award, the employee is entitled to receive the higher rate while on a period of paid annual leave (see ss.16 and 90 of the Act).

#### **13.4 Conversion to hourly entitlement**

An employer may reach agreement with the majority of employees concerned to convert the annual leave entitlement in s.87 of the Act to an hourly entitlement for administrative ease.

#### **13.5 Paid leave in advance of accrued entitlement**

By agreement between the employer and an employee, a period of annual leave may be taken in advance of the entitlement accruing. If leave is taken in advance and the employment terminates before the entitlement has accrued, the employer may make a corresponding deduction from any money due to the employee on termination.

#### **13.6 Requirement to take leave notwithstanding NES**

An employer may require an employee to take annual leave by giving at least four weeks' notice in the following circumstances:

- (a) as part of a close-down of the employer's operations; or
- (b) where more than eight weeks' leave is accrued, or a proportionate amount for an employee employed on a part-time basis.

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

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

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

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

### **16. Public holidays**

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

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

#### **16.2 Substitution of public holidays by agreement at the enterprise**

- (a) By agreement between the employer and the majority of employees in the enterprise or part of the enterprise concerned, an alternative day may be taken as the public holiday instead of any of the prescribed days.
- (b) An employer and an individual employee may agree to the employee taking another day as the public holiday instead of the day which is being observed as the public holiday in the enterprise or part of the enterprise concerned.

- 16.3** All work done by an employee **in soliciting orders** at the request of the employer on a public holiday or a substitute day will be paid at the rate of **250%** of the minimum hourly rate with a minimum payment of three hours. Provided that instead of such payment, two and a half days' leave with pay may be granted in respect of each such holiday, at a time mutually agreed between the employer and the employee.
- 16.4** All travelling in connection with work by an employee at the request of the employer on a public holiday or a substitute day will be paid for at the rate of **150%** of the minimum hourly rate with a minimum payment as for three hours' travelling. Provided that instead of such payment, one and a half days' leave with pay may be granted in respect of each holiday, at a time mutually agreed between the employer and the employee.

## **17. Community service leave**

Community service leave is provided for in the NES.

## **18. Termination of employment**

**18.1** Notice of termination is provided for in the NES.

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

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

### **18.3 Job search entitlement**

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

## **19. Redundancy**

**19.1** Redundancy pay is provided for in the NES.

### **19.2 Transfer to lower paid duties**

Where an employee is transferred to lower paid duties by reason of redundancy, the same period of notice must be given as the employee would have been entitled to if the employment had been terminated and the employer may, at the employer's option, make payment instead of an amount equal to the difference between the former ordinary time rate of pay and the ordinary time rate of pay for the number of weeks of notice still owing.

### 19.3 Employee leaving during notice period

An employee given notice of termination in circumstances of redundancy may terminate their employment during the period of notice. The employee is entitled to receive the benefits and payments they would have received under this clause had they remained in employment until the expiry of the notice, but is not entitled to payment instead of notice.

### 19.4 Job search entitlement

- (a) An employee given notice of termination in circumstances of redundancy must be allowed up to one day's time off without loss of pay during each week of notice for the purpose of seeking other employment.
- (b) If the employee has been allowed paid leave for more than one day during the notice period for the purpose of seeking other employment, the employee must, at the request of the employer, produce proof of attendance at an interview or they will not be entitled to payment for the time absent. For this purpose a statutory declaration is sufficient.
- (c) This entitlement applies instead of clause 18.3.

## Part 7—Consultation and Dispute Resolution

### 20. Consultation

#### 20.1 Consultation regarding major workplace change

##### (a) Employers to notify

- (i) Where an employer has made a definite decision to introduce major changes in production, program, organisation, structure or technology that are likely to have significant effects on employees, the employer must notify the employees who may be affected by the proposed changes and their representatives, if any.
- (ii) **Significant effects** include termination of employment; major changes in the composition, operation or size of the employer's workforce or in the skills required; the elimination or diminution of job opportunities, promotion opportunities or job tenure; the alteration of hours of work; the need for retraining or transfer of employees to other work or locations; and the restructuring of jobs. Provided that where this award makes provision for alteration of any of these matters an alteration is deemed not to have significant effect.

##### (b) Employers to discuss change

- (i) The employer must discuss with the employees affected and their representatives, if any, the introduction of the changes referred to in clause 20.1(a), the effects the changes are likely to have on employees and measures to avert or mitigate the adverse effects of such changes on employees and must give prompt consideration to matters raised by the employees and/or their representatives in relation to the changes.



- (ii) The discussions must commence as early as practicable after a definite decision has been made by the employer to make the changes referred to in clause 20.1(a).
- (iii) For the purposes of such discussion, the employer must provide in writing to the employees concerned and their representatives, if any, all relevant information about the changes including the nature of the changes proposed, the expected effects of the changes on employees and any other matters likely to affect employees provided that no employer is required to disclose confidential information the disclosure of which would be contrary to the employer's interests.

## **20.2 Consultation about changes to rosters or hours of work**

- (a) Where an employer proposes to change an employee's regular roster or ordinary hours of work, the employer must consult with the employee or employees affected and their representatives, if any, about the proposed change.
- (b) The employer must:
  - (i) provide to the employee or employees affected and their representatives, if any, information about the proposed change (for example, information about the nature of the change to the employee's regular roster or ordinary hours of work and when that change is proposed to commence);
  - (ii) invite the employee or employees affected and their representatives, if any, to give their views about the impact of the proposed change (including any impact in relation to their family or caring responsibilities); and
  - (iii) give consideration to any views about the impact of the proposed change that are given by the employee or employees concerned and/or their representatives.
- (c) The requirement to consult under this clause does not apply where an employee has irregular, sporadic or unpredictable working hours.
- (d) These provisions are to be read in conjunction with other award provisions concerning the scheduling of work and notice requirements.

## **21. Dispute resolution**

- 21.1** In the event of a dispute about a matter under this award, or a dispute in relation to the NES, in the first instance the parties must attempt to resolve the matter at the workplace by discussions between the employee or employees concerned and the relevant supervisor. If such discussions do not resolve the dispute, the parties will endeavour to resolve the dispute in a timely manner by discussions between the employee or employees concerned and more senior levels of management as appropriate.
- 21.2** If a dispute about a matter arising under this award or a dispute in relation to the NES is unable to be resolved at the workplace, and all appropriate steps under clause 21.1

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

- 21.3** The parties may agree on the process to be utilised by the Fair Work Commission including mediation, conciliation and consent arbitration.
- 21.4** Where the matter in dispute remains unresolved, the Fair Work Commission may exercise any method of dispute resolution permitted by the Act that it considers appropriate to ensure the settlement of the dispute.
- 21.5** An employer or employee may appoint another person, organisation or association to accompany and/or represent them for the purposes of this clause.
- 21.6** While the dispute resolution procedure is being conducted, work must continue in accordance with this award and the Act. Subject to applicable occupational health and safety legislation, an employee must not unreasonably fail to comply with a direction by the employer to perform work, whether at the same or another workplace, that is safe and appropriate for the employee to perform.

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## Schedule A—Summary of Hourly Rates of Pay

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

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

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

	Ordinary hours	Saturday	Sunday	Public holiday	
				Soliciting orders	Travelling for work
<b>% of minimum hourly rate</b>					
	<b>100%</b>	<b>150%</b>	<b>200%</b>	<b>250%</b>	<b>150%</b>
	\$	\$	\$	\$	\$
Probationary Traveller	18.18	27.27	36.36	45.45	27.27
Merchandiser	18.74	28.11	37.48	46.85	28.11
Commercial Traveller / Advertising Sales Representative	20.20	30.30	40.40	50.50	30.30

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

	Ordinary hours	Monday to Friday <sup>1</sup>	Saturday	Sunday	Public holidays	
					Soliciting orders	Travelling for work
<b>% of minimum hourly rate</b>						
	<b>100%</b>	<b>150%</b>	<b>150%</b>	<b>200%</b>	<b>250%</b>	<b>150%</b>
	\$	\$	\$	\$	\$	\$
Probationary Traveller	<del>18.18</del>	27.27	27.27	36.36	45.45	27.27
Merchandiser	<del>18.74</del>	28.11	28.11	37.48	46.85	28.11
Commercial Traveller / Advertising Sales Representative	<del>20.20</del>	30.30	30.30	40.40	50.50	30.30

<sup>1</sup> After 6.00 pm or in excess of ordinary hours.

## A.2 Casual adult employees

### A.2.1 Casual employees—ordinary and penalty rates

	Ordinary hours	Saturday	Sunday	Public holiday	
				Soliciting orders	Travelling for work
	<b>% of minimum hourly rate</b>				
	<b>125%</b>	<b>175%</b>	<b>225%</b>	<b>275%</b>	<b>175%</b>
		<b>\$</b>	<b>\$</b>	<b>\$</b>	<b>\$</b>
Probationary Traveller	22.73	31.82	40.91	50.00	31.82
Merchandiser	23.43	32.80	42.17	51.54	32.80
Commercial Traveller/Advertising Sales Representative	25.25	35.35	45.45	55.55	35.35

## A.3 Junior employees

The **junior hourly rate** is based on a percentage of the adult Commercial Traveller/Advertising Sales Representative in accordance with clause 9.3 as specified. Adult rates apply from 21 years of age in accordance with clause 9.3.

### A.3.1 Junior employees (Commercial Traveller/Advertising Sales Representative)—ordinary and penalty rates

Age	Junior hourly rate—ordinary hours	Saturday	Sunday	Public holidays	
				Soliciting orders	Travelling for work
	<b>% of junior hourly rate</b>				
	<b>100%</b>	<b>150%</b>	<b>200%</b>	<b>250%</b>	<b>150%</b>
	<b>\$</b>	<b>\$</b>	<b>\$</b>	<b>\$</b>	<b>\$</b>
Under 19 years	13.64	20.46	27.28	34.10	20.46
19 years	16.16	24.24	32.32	40.40	24.24
20 years	18.18	27.27	36.36	45.45	27.27

### A.3.2 Junior employees (Commercial Traveller/Advertising Sales Representative)—overtime

Age	Monday to Friday	Saturday	Sunday	Public holidays	
				Soliciting orders	Travelling for work
	<b>% of junior hourly rate</b>				
	<b>150%</b>	<b>150%</b>	<b>200%</b>	<b>250%</b>	<b>150%</b>
	<b>\$</b>	<b>\$</b>	<b>\$</b>	<b>\$</b>	<b>\$</b>
Under 19 years	20.46	20.46	27.28	34.10	20.46
19 years	24.24	24.24	32.32	40.40	24.24

Age	Monday to Friday	Saturday	Sunday	Public holidays	
				Soliciting orders	Travelling for work
	<b>% of junior hourly rate</b>				
	<b>150%</b>	<b>150%</b>	<b>200%</b>	<b>250%</b>	<b>150%</b>
	<b>\$</b>	<b>\$</b>	<b>\$</b>	<b>\$</b>	<b>\$</b>
20 years	27.27	27.27	36.36	45.45	27.27

**A.3.3 Junior employees (Commercial Traveller/Advertising Sales Representative)—casual employees—ordinary and penalty rates**

Age	Casual junior rate—ordinary hours	Saturday	Sunday	Public holidays	
				Soliciting orders	Travelling for work
	<b>% of junior hourly rate</b>				
	<b>125%</b>	<b>175%</b>	<b>225%</b>	<b>275%</b>	<b>175%</b>
	<b>\$</b>	<b>\$</b>	<b>\$</b>	<b>\$</b>	<b>\$</b>
Under 19 years	17.05	23.87	30.69	37.51	23.87
19 years	20.20	28.28	36.36	44.44	28.28
20 years	22.73	31.82	40.91	50.00	31.82

## Schedule B—Summary of Monetary Allowances

See clause 10 for full details of allowances payable under this award.

### B.1 Expense related allowances

The following expense related allowances will be payable to employees in accordance with clause 10.2:

Allowance	Clause	\$
Weekend allowance	10.2(a)	44.26 per weekend
Living away from home allowance	10.2(b)	55.72 per week
Vehicle allowance:		
Motor car	10.2(c)(i)	0.78 per km
Motorcycle	10.2(c)(ii)	0.26 per km

### B.2 Adjustment of expense related allowances

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

Allowance	Applicable Consumer Price Index figure
Vehicle allowance	Private motoring sub-group
Living away from home allowance	Domestic holiday travel and accommodation sub-group
Weekend allowance	Domestic holiday travel and accommodation sub-group

## Schedule C—Supported Wage System

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

**C.2** In this schedule:

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

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

**disability support pension** means the Commonwealth pension scheme to provide income security for persons with a disability as provided under the *Social Security Act 1991* (Cth), as amended from time to time, or any successor to that scheme

**relevant minimum wage** means the minimum wage prescribed in this award for the class of work for which an employee is engaged

**supported wage system** (SWS) means the Commonwealth Government system to promote employment for people who cannot work at full award wages because of a disability, as documented in the Supported Wage System Handbook. The Handbook is available from the following website: [www.jobaccess.gov.au](http://www.jobaccess.gov.au)

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

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

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

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

### **C.4 Supported wage rates**

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

<b>Assessed capacity (clause C.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

**C.4.2** Provided that the minimum amount payable must be not less than \$81 per week.

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

**C.5 Assessment of capacity**

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

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

**C.6 Lodgement of SWS wage assessment agreement**

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

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

**C.7 Review of assessment**

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



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

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

## **C.9 Workplace adjustment**

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

## **C.10 Trial period**

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

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

**C.10.3** The minimum amount payable to the employee during the trial period must be no less than \$81 per week.

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

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

## Schedule D—National Training Wage

### D.1 Title

This is the *National Training Wage Schedule*.

### D.2 Definitions

In this schedule:

**adult trainee** is a trainee who would qualify for the highest minimum wage in Wage Level A, B or C if covered by that wage level

**approved training** means the training specified in the training contract

**Australian Qualifications Framework (AQF)** is a national framework for qualifications in post-compulsory education and training

**out of school** refers only to periods out of school beyond Year 10 as at the first of January in each year and is deemed to:

- (a) include any period of schooling beyond Year 10 which was not part of or did not contribute to a completed year of schooling;
- (b) include any period during which a trainee repeats in whole or part a year of schooling beyond Year 10; and
- (c) not include any period during a calendar year in which a year of schooling is completed

**relevant State or Territory training authority** means the bodies in the relevant State or Territory which exercise approval powers in relation to traineeships and register training contracts under the relevant State or Territory vocational education and training legislation

**relevant State or Territory vocational education and training legislation** means the following or any successor legislation:

Australian Capital Territory: *Training and Tertiary Education Act 2003*;

New South Wales: *Apprenticeship and Traineeship Act 2001*;

Northern Territory: *Northern Territory Employment and Training Act 1991*;

Queensland: *Vocational Education, Training and Employment Act 2000*;

South Australia: *Training and Skills Development Act 2008*;

Tasmania: *Vocational Education and Training Act 1994*;

Victoria: *Education and Training Reform Act 2006*; or

Western Australia: *Vocational Education and Training Act 1996*

**trainee** is an employee undertaking a traineeship under a training contract

**traineeship** means a system of training which has been approved by the relevant State or Territory training authority, which meets the requirements of a training package developed by the relevant Industry Skills Council and endorsed by the National Quality Council, and which leads to an AQF certificate level qualification

**training contract** means an agreement for a traineeship made between an employer and an employee which is registered with the relevant State or Territory training authority

**training package** means the competency standards and associated assessment guidelines for an AQF certificate level qualification which have been endorsed for an industry or enterprise by the National Quality Council and placed on the National Training Information Service with the approval of the Commonwealth, State and Territory Ministers responsible for vocational education and training, and includes any relevant replacement training package

**Year 10** includes any year before Year 10

### **D.3 Coverage**

**D.3.1** Subject to clauses D.3.2 to D.3.6 of this schedule, this schedule applies in respect of an employee covered by this award who is undertaking a traineeship whose training package and AQF certificate level is allocated to a wage level by clause D.7 to this schedule or by clause D.5.4 of this schedule.

**D.3.2** This schedule only applies to AQF Certificate Level IV traineeships for which a relevant AQF Certificate Level III traineeship is listed in clause D.7 to this schedule.

**D.3.3** This schedule does not apply to:

- (a) the apprenticeship system;
- (b) qualifications not identified in training packages; or
- (c) qualifications in training packages which are not identified as appropriate for a traineeship.

Parties are asked to identify “*any training program which applies to the same occupation and achieves essentially the same training outcome as an existing apprenticeship in an award as at 25 June 1997*” that they consider should not be covered by this Schedule.

**D.3.4** This schedule does not apply to qualifications not identified in training packages or to qualifications in training packages which are not identified as appropriate for a traineeship.

**D.3.5** Where the terms and conditions of this schedule conflict with other terms and conditions of this award dealing with traineeships, the other terms and conditions of this award prevail.

**D.3.6** At the conclusion of the traineeship, this schedule ceases to apply to the employee.

## D.4 Types of Traineeship

The following types of traineeship are available under this schedule:

- D.4.1** a full-time traineeship based on 38 ordinary hours per week, with 20% of ordinary hours being approved training; and
- D.4.2** a part-time traineeship based on less than 38 ordinary hours per week, with 20% of ordinary hours being approved training solely on-the-job or partly on-the-job and partly off-the-job, or where training is fully off-the-job.

## D.5 Minimum Wages

### D.5.1 Minimum wages for full-time traineeships

#### (a) Wage Level A

Subject to clause D.5.3 of this schedule, the minimum wages for a trainee undertaking a full-time AQF Certificate Level I–III traineeship whose training package and AQF certificate levels are allocated to Wage Level A by clause D.7.1 are:

	Highest year of schooling completed		
	Year 10	Year 11	Year 12
	per week	per week	per week
	\$	\$	\$
School leaver	295.10	325.00	387.20
Plus 1 year out of school	325.00	387.20	450.60
Plus 2 years out of school	387.20	450.60	524.40
Plus 3 years out of school	450.60	524.40	600.40
Plus 4 years out of school	524.40	600.40	
Plus 5 or more years out of school	600.40		

#### (b) Wage Level B

Subject to clause D.5.3 of this schedule, the minimum wages for a trainee undertaking a full-time AQF Certificate Level I–III traineeship whose training package and AQF certificate levels are allocated to Wage Level B by clause D.7.2 are:

	Highest year of schooling completed		
	Year 10	Year 11	Year 12
	per week	Per week	per week
	\$	\$	\$
School leaver	295.10	325.00	376.80
Plus 1 year out of school	325.00	376.80	433.40
Plus 2 years out of school	376.80	433.40	508.20
Plus 3 years out of school	433.40	508.20	579.70

	<b>Highest year of schooling completed</b>		
	<b>Year 10</b>	<b>Year 11</b>	<b>Year 12</b>
	<b>per week</b>	<b>Per week</b>	<b>per week</b>
	<b>\$</b>	<b>\$</b>	<b>\$</b>
Plus 4 years out of school	508.20	579.70	
Plus 5 or more years out of school	579.70		

**(c) Wage Level C**

Subject to clause D.5.3 of this schedule, the minimum wages for a trainee undertaking a full-time AQF Certificate Level I–III traineeship whose training package and AQF certificate levels are allocated to Wage Level C by clause D.7.3 are:

	<b>Highest year of schooling completed</b>		
	<b>Year 10</b>	<b>Year 11</b>	<b>Year 12</b>
	<b>per week</b>	<b>per week</b>	<b>per week</b>
	<b>\$</b>	<b>\$</b>	<b>\$</b>
School leaver	295.10	325.00	376.80
Plus 1 year out of school	325.00	376.80	424.10
Plus 2 years out of school	376.80	424.10	473.80
Plus 3 years out of school	424.10	473.80	527.90
Plus 4 years out of school	473.80	527.90	
Plus 5 or more years out of school	527.90		

**(d) AQF Certificate Level IV traineeships**

(i) Subject to clause D.5.3 of this schedule, the minimum wages for a trainee undertaking a full-time AQF Certificate Level IV traineeship are the minimum wages for the relevant full-time AQF Certificate Level III traineeship with the addition of 3.8% to those minimum wages.

(ii) Subject to clause D.5.3 of this schedule, the minimum wages for an adult trainee undertaking a full-time AQF Certificate Level IV traineeship are as follows, provided that the relevant wage level is that for the relevant AQF Certificate Level III traineeship:

<b>Wage level</b>	<b>First year of traineeship</b>	<b>Second and subsequent years of traineeship</b>
	<b>per week</b>	<b>per week</b>
	<b>\$</b>	<b>\$</b>
Wage Level A	623.50	647.70
Wage Level B	601.60	624.70
Wage Level C	547.50	568.20

**D.5.2 Minimum wages for part-time traineeships****(a) Wage Level A**

Subject to clauses D.5.2(f) and D.5.3 of this schedule, the minimum wages for a trainee undertaking a part-time AQF Certificate Level I–III traineeship whose training package and AQF certificate levels are allocated to Wage Level A by clause D.7.1 are:

	<b>Highest year of schooling completed</b>		
	<b>Year 10</b>	<b>Year 11</b>	<b>Year 12</b>
	<b>per hour</b>	<b>per hour</b>	<b>per hour</b>
	<b>\$</b>	<b>\$</b>	<b>\$</b>
School leaver	9.71	10.70	12.74
Plus 1 year out of school	10.70	12.74	14.83
Plus 2 years out of school	12.74	14.83	17.25
Plus 3 years out of school	14.83	17.25	19.74
Plus 4 years out of school	17.25	19.74	
Plus 5 or more years out of school	19.74		

**(b) Wage Level B**

Subject to clauses D.5.2(f) and D.5.3 of this schedule, the minimum wages for a trainee undertaking a part-time AQF Certificate Level I–III traineeship whose training package and AQF certificate levels are allocated to Wage Level B by clause D.7.2 are:

	<b>Highest year of schooling completed</b>		
	<b>Year 10</b>	<b>Year 11</b>	<b>Year 12</b>
	<b>per hour</b>	<b>per hour</b>	<b>per hour</b>
	<b>\$</b>	<b>\$</b>	<b>\$</b>
School leaver	9.71	10.70	12.40
Plus 1 year out of school	10.70	12.40	14.26
Plus 2 years out of school	12.40	14.26	16.73
Plus 3 years out of school	14.26	16.73	19.08
Plus 4 years out of school	16.73	19.08	
Plus 5 or more years out of school	19.08		

**(c) Wage Level C**

Subject to clauses D.5.2(f) and D.5.3 of this schedule, the minimum wages for a trainee undertaking a part-time AQF Certificate Level I–III traineeship whose training package and AQF certificate levels are allocated to Wage Level C by clause D.7.3 are:

	<b>Highest year of schooling completed</b>		
	<b>Year 10</b>	<b>Year 11</b>	<b>Year 12</b>
	<b>per hour</b>	<b>per hour</b>	<b>per hour</b>
	<b>\$</b>	<b>\$</b>	<b>\$</b>
School leaver	9.71	10.70	12.40
Plus 1 year out of school	10.70	12.40	13.95
Plus 2 years out of school	12.40	13.95	15.58
Plus 3 years out of school	13.95	15.58	17.36
Plus 4 years out of school	15.58	17.36	
Plus 5 or more years out of school	17.36		

**(d) School-based traineeships**

Subject to clauses D.5.2(f) and D.5.3 of this schedule, the minimum wages for a trainee undertaking a school-based AQF Certificate Level I–III traineeship whose training package and AQF certificate levels are allocated to Wage Levels A, B or C by clause D.7 are as follows when the trainee works ordinary hours:

<b>Year of schooling</b>	
<b>Year 11 or lower</b>	<b>Year 12</b>
<b>per hour</b>	<b>per hour</b>
<b>\$</b>	<b>\$</b>
9.71	10.70

**(e) AQF Certificate Level IV traineeships**

(i) Subject to clauses D.5.2(f) and D.5.3 of this schedule, the minimum wages for a trainee undertaking a part-time AQF Certificate Level IV traineeship are the minimum wages for the relevant part-time AQF Certificate Level III traineeship with the addition of 3.8% to those minimum wages.

(ii) Subject to clauses D.5.2(f) and D.5.3 of this schedule, the minimum wages for an adult trainee undertaking a part-time AQF Certificate Level IV traineeship are as follows, provided that the relevant wage level is that for the relevant AQF Certificate Level III traineeship:

<b>Wage level</b>	<b>First year of traineeship</b>	<b>Second and subsequent years of traineeship</b>
	<b>per hour</b>	<b>per hour</b>
	<b>\$</b>	<b>\$</b>
Wage Level A	20.51	21.31
Wage Level B	19.77	20.54
Wage Level C	18.01	18.70

**(f) Calculating the actual minimum wage**

- (i)** Where the full-time ordinary hours of work are not 38 or an average of 38 per week, the appropriate hourly minimum wage is obtained by multiplying the relevant minimum wage in clauses D.5.2(a)–(e) of this schedule by 38 and then dividing the figure obtained by the full-time ordinary hours of work per week.
- (ii)** Where the approved training for a part-time traineeship is provided fully off-the-job by a registered training organisation, for example at school or at TAFE, the relevant minimum wage in clauses D.5.2(a)–(e) of this schedule applies to each ordinary hour worked by the trainee.
- (iii)** Where the approved training for a part-time traineeship is undertaken solely on-the-job or partly on-the-job and partly off-the-job, the relevant minimum wage in clauses D.5.2(a)–(e) of this schedule minus 20% applies to each ordinary hour worked by the trainee.

**D.5.3 Other minimum wage provisions**

- (a)** An employee who was employed by an employer immediately prior to becoming a trainee with that employer must not suffer a reduction in their minimum wage per week or per hour by virtue of becoming a trainee. Casual loadings will be disregarded when determining whether the employee has suffered a reduction in their minimum wage.
- (b)** If a qualification is converted from an AQF Certificate Level II to an AQF Certificate Level III traineeship, or from an AQF Certificate Level III to an AQF Certificate Level IV traineeship, then the trainee must be paid the next highest minimum wage provided in this schedule, where a higher minimum wage is provided for the new AQF certificate level.

**D.5.4 Default wage rate**

The minimum wage for a trainee undertaking an AQF Certificate Level I–III traineeship whose training package and AQF certificate level are not allocated to a wage level by clause D.7 is the relevant minimum wage under this schedule for a trainee undertaking an AQF Certificate to Level I–III traineeship whose training package and AQF certificate level are allocated to Wage Level B.

**D.6 Employment conditions**

- D.6.1** A trainee undertaking a school-based traineeship may, with the agreement of the trainee, be paid an additional loading of 25% on all ordinary hours worked instead of paid annual leave, paid personal/carer's leave and paid absence on public holidays, provided that where the trainee works on a public holiday then the public holiday provisions of this award apply.
- D.6.2** A trainee is entitled to be released from work without loss of continuity of employment and to payment of the appropriate wages to attend any training and assessment specified in, or associated with, the training contract.
- D.6.3** Time spent by a trainee, other than a trainee undertaking a school-based traineeship, in attending any training and assessment specified in, or associated with, the training



contract is to be regarded as time worked for the employer for the purposes of calculating the trainee's wages and determining the trainee's employment conditions.

**Note:** The time to be included for the purpose of calculating the wages for part-time trainees whose approved training is fully off-the-job is determined by clause D.5.2(f)(ii) and not by this clause.

**D.6.4** Subject to clause D.3.5 of this schedule, all other terms and conditions of this award apply to a trainee unless specifically varied by this schedule.

## **D.7 Allocation of Traineeships to Wage Levels**

Parties are asked to review the packages listed to ensure the lists are complete and up-to-date.

The wage levels applying to training packages and their AQF certificate levels are:

### **D.7.1 Wage Level A**

<b>Training package</b>	<b>AQF certificate level</b>
Aeroskills	II
Aviation	I, II, III
Beauty	III
Business Services	I, II, III
Chemical, Hydrocarbons and Refining	I, II, III
Civil Construction	III
Coal Training Package	II, III
Community Services	II, III
Construction, Plumbing and Services Integrated Framework	I, II, III
Correctional Services	II, III
Drilling	II, III
Electricity Supply Industry—Generation Sector	II, III (III in Western Australia only)
Electricity Supply Industry—Transmission, Distribution and Rail Sector	II
Electrotechnology	I, II, III (III in Western Australia only)
Financial Services	I, II, III
Floristry	III
Food Processing Industry	III
Gas Industry	III
Information and Communications Technology	I, II, III
Laboratory Operations	II, III

<b>Training package</b>	<b>AQF certificate level</b>
Local Government (other than Operational Works Cert I and II)	I, II, III
Manufactured Mineral Products	III
Manufacturing	I, II, III
Maritime	I, II, III
Metal and Engineering (Technical)	II, III
Metalliferous Mining	II, III
Museum, Library and Library/Information Services	II, III
Plastics, Rubber and Cablemaking	III
Public Safety	III
Public Sector	II, III
Pulp and Paper Manufacturing Industries	III
Retail Services (including wholesale and Community pharmacy)	III
Telecommunications	II, III
Textiles, Clothing and Footwear	III
Tourism, Hospitality and Events	I, II, III
Training and Assessment	III
Transport and Logistics	III
Water Industry (Utilities)	III

#### **D.7.2 Wage Level B**

<b>Training package</b>	<b>AQF certificate level</b>
Animal Care and Management	I, II, III
Asset Maintenance	I, II, III
Australian Meat Industry	I, II, III
Automotive Industry Manufacturing	II, III
Automotive Industry Retail, Service and Repair	I, II, III
Beauty	II
Caravan Industry	II, III
Civil Construction	I
Community Recreation Industry	III
Entertainment	I, II, III
Extractive Industries	II, III
Fitness Industry	III

<b>Training package</b>	<b>AQF certificate level</b>
Floristry	II
Food Processing Industry	I, II
Forest and Forest Products Industry	I, II, III
Furnishing	I, II, III
Gas Industry	I, II
Health	II, III
Local Government (Operational Works)	I, II
Manufactured Mineral Products	I, II
Metal and Engineering (Production)	II, III
Outdoor Recreation Industry	I, II, III
Plastics, Rubber and Cablemaking	II
Printing and Graphic Arts	II, III
Property Services	I, II, III
Public Safety	I, II
Pulp and Paper Manufacturing Industries	I, II
Retail Services	I, II
Screen and Media	I, II, III
Sport Industry	II, III
Sugar Milling	I, II, III
Textiles, Clothing and Footwear	I, II
Transport and Logistics	II
Visual Arts, Craft and Design	I, II, III
Water Industry	I, II

### **D.7.3 Wage Level C**

<b>Training package</b>	<b>AQF certificate level</b>
Agri-Food	I
Amenity Horticulture	I, II, III
Conservation and Land Management	I, II, III
Funeral Services	I, II, III
Music	I, II, III
Racing Industry	I, II, III
Rural Production	I, II, III
Seafood Industry	I, II, III

## Schedule E—2015 Part-day Public Holidays

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

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

**E.1** Where a part-day public holiday is declared or prescribed between 7.00 pm and midnight on Christmas Eve (24 December 2015) or New Year's Eve (31 December 2015) the following will apply on Christmas Eve and New Year's Eve and will override any provision in this award relating to public holidays to the extent of the inconsistency:

- (a) All employees will have the right to refuse to work on the part-day public holiday if the request to work is not reasonable or the refusal is reasonable as provided for in the NES.
- (b) Where a part-time or full-time employee is usually rostered to work ordinary hours between 7.00 pm and midnight but as a result of exercising their right under the NES does not work, they will be paid their ordinary rate of pay for such hours not worked.
- (c) Where a part-time or full-time employee is usually rostered to work ordinary hours between 7.00 pm and midnight but as a result of being on annual leave does not work, they will be taken not to be on annual leave between those hours of 7.00 pm and midnight that they would have usually been rostered to work and will be paid their ordinary rate of pay for such hours.
- (d) Where a part-time or full-time employee is usually rostered to work ordinary hours between 7.00 pm and midnight, but as a result of having a rostered day off (RDO) provided under this award, does not work, the employee will be taken to be on a public holiday for such hours and paid their ordinary rate of pay for those hours.
- (e) Excluding annualised salaried employees to whom clause E.1(f) applies, where an employee works any hours between 7.00 pm and midnight they will be entitled to the appropriate public holiday penalty rate (if any) in this award for those hours worked.
- (f) Where an employee is paid an annualised salary under the provisions of this award and is entitled under this award to time off in lieu or additional annual leave for work on a public holiday, they will be entitled to time off in lieu or pro-rata annual leave equivalent to the time worked between 7.00 pm and midnight.
- (g) An employee not rostered to work between 7.00 pm and midnight, other than an employee who has exercised their right in accordance with clause E.1(a), will not be entitled to another day off, another day's pay or another day of annual leave as a result of the part-day public holiday.

This schedule is not intended to detract from or supplement the NES.

This schedule is an interim provision and subject to further review.

## Schedule F—Definitions

In this award, unless the contrary intention appears:

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

**Advertising Sales Representative** means a person employed, substantially away from the employer's place of business, in soliciting orders, obtaining sales leads or appointments or otherwise promoting sales for, or selling advertising space or time of any kind

**Commercial Traveller** means a person employed, substantially away from the employer's place of business, for the purpose of soliciting orders for, or selling articles, goods, wares or merchandise or material for wholesale sale, for resale, or for use in or in connection with the production and/or preparation and/or distribution of commodities for sale by the customer

**commission** means any financial incentive payment, financial bonus or financial reward directly related to the soliciting or obtaining of orders or business by an individual Commercial Traveller, but will not be deemed to include any incentive payment, bonus or reward periodically made by the employer on the basis of profitability or performance of the employee, or any section, group or division thereof

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

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

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

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

~~**headquarters** means the employer's usual place of residence or the office to which the employee most frequently reports or otherwise takes instruction in the usual course of employment~~

~~**home** means the employee's usual place of residence~~

**Merchandiser** means a person who is employed away from, or substantially away from, the employer's place of business in promoting the employer's products, re-ordering stock and preparing display units and gondola ends, and who in conjunction with these principal functions may solicit orders as a minor feature of the employee's work

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

**NES** means the National Employment Standards as contained in [sections 59 to 131](#) of the *Fair Work Act 2009* (Cth)

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

**Probationary Traveller** means an Advertising Sales Representative or Commercial Traveller who has less than three months' service with the employer

**standard rate** means the minimum weekly rate for a Commercial Traveller in clause 9.1

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