

The Exposure Draft was first published on 18 December 2014. Subsequent amendments to the draft are as follows:

Publication date	Reason for amendments	Clauses affected
2 November 2016	To correct minor errors	5.2,
	Incorporate changes resulting from <u>[2015] FWCFB 3500</u> , <u>PR566710</u> , <u>PR566849</u> and <u>PR568050</u>	11, 12, Schedule A, Schedule B, Schedule D
	Incorporating changes resulting from <u>[2014] FWCFB 9412</u>	1, 11, 14, Schedule C, Schedule E, Schedule F
	Incorporate changes resulting from <u>[2015] FWCFB 4658</u>	1, 11, 14, Schedule A
	Incorporate changes resulting from <u>[2015] FWCFB 6656</u>	1
	Correct error	19.2
	Incorporate changes resulting from <u>PR580863</u>	Schedule E
	Incorporate changes resulting from <u>[2016] FWCFB 3500</u> , <u>PR579804</u> and <u>PR579544</u> , <u>PR581528</u>	11, 12, Schedule A, Schedule B, Schedule D
	Incorporate changes resulting from <u>[2016] FWCFB 3953</u> , <u>PR583069</u>	5.2, 14, Schedule A, Schedule A
	Incorporating changes, (previously agreed by parties) resulting from <u>[2016] FWCFB 7254</u>	5.2, 6.3, 7, 8.3(c)(ix), 11, 12, 14.2(b), 18.2, Schedule A

Underlined text indicates new text that is to be included. Strikethrough text indicates existing text that is to be deleted.

EXPOSURE DRAFT

Road Transport (Long Distance Operations) 2015

This exposure draft has been prepared by staff of the Fair Work Commission based on the *Road Transport (Long Distance Operations) 2010* (the LDO award) as at 18 December 2015. This exposure draft does not seek to amend any entitlements under the LDO award but has been prepared to address some of the structural issues identified in modern awards.

The review of this award in accordance with s.156 of the *Fair Work Act 2009* is being dealt with in matter [AM2014/211](#). Additionally a number of common issues are being dealt with by the Commission which may affect this award. Transitional provisions have not been included in this exposure draft pending the outcome of the review.

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

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Part 1—Application and Operation

1. Title and commencement

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

2. The National Employment Standards and this award

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

3. Coverage

- 3.1 This industry award covers employers throughout Australia in the private transport industry engaged in long distance operations and their employees in the classifications listed in clause 7—Classifications to the exclusion of any other modern award.
- 3.2 **Long distance operation** means any interstate operation, or any return journey where the distance travelled exceeds 500 kilometres and the operation involves a vehicle moving livestock or materials whether in a raw or manufactured state from a principal point of commencement to a principal point of destination. An area within a radius of 32 kilometres from the GPO of a capital city will be deemed to be the capital city.
- 3.3 This award does not cover an employee while they are temporarily required by their employer to perform driving duties which are not on a long distance operation,

provided the employee is covered by the *Road Transport and Distribution Award 2015* while performing such duties.

- 3.4** This award covers any employer which supplies labour on an on-hire basis in the industry set out in clause 3.1 in respect of on-hire employees in classifications covered by this award, and those on-hire employees, while engaged in the performance of work for a business in that industry. This subclause operates subject to the exclusions from coverage in this award.
- 3.5** This award covers employers which provide group training services for trainees engaged in the industry and/or parts of industry 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.
- 3.6** This award does not cover:
- (a) employees excluded from award coverage by the *Fair Work Act 2009* (Cth) (the Act);
 - (b) employees who are covered by a modern enterprise award or an enterprise instrument (within the meaning of the *Fair Work (Transitional Provisions and Consequential Amendments) Act 2009* (Cth)), or employers in relation to those employees; or
 - (c) employees who are covered by a State reference public sector modern award or a State reference public sector transitional award (within the meaning of the *Fair Work (Transitional Provisions and Consequential Amendments) Act 2009* (Cth)), or employers in relation to those employees.
- 3.7** Where an employer is covered by more than one award, an employee of that employer is covered by the award classification which is most appropriate to the work performed by the employee and to the environment in which the employee normally performs the work.

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

4. Award flexibility

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

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- (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

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

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

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

5. Facilitative provisions

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

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

5.2 amended in accordance with PR583069; amended in accordance with para [162] of [2016] FWCFB 7254

Clause	Provision	Agreement between an employer and:
θ <u>8.5(c)</u>	Rostered days off—cashing out	An individual
8.5(d)	Rostered days off— alteration of days off	An individual
11.6(b)	Loading or unloading	An individual
14.7	<u>Annual leave in advance</u>	<u>An individual</u>
14.10	<u>Cashing out of annual leave</u>	<u>An individual</u>
18.2(a)	Substitution of certain public holidays by agreement at the enterprise	The majority of employees

Part 2—Types of Employment and Classifications

6. Types of employment

6.1 Employees will be engaged in either of the following categories:

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

6.2 At the time of engagement the employer will inform each employee of their terms of engagement.

6.3 Full-time employment

6.3 amended in accordance with para [162] of [2016] FWCFB 7254

A full-time employee is an employee engaged by an employer for an average of 38 ordinary hours per week over 28 days.

~~A full-time employee is engaged to work an average of 38 ordinary hours per week over 28 days.~~

6.4 Casual employment

- (a) A casual employee is an employee who is engaged and paid as a casual employee.
- (b) A casual employee while driving must be paid an additional 15% on the cents per kilometre (CPK) rates set out in clause 11.4 and the hourly driving rates set out in clause 11.5.
- (c) Where a casual employee is engaged in loading or unloading duties, the casual employee will be paid the relevant loading and unloading rate for their classification plus a loading of 25%.
- (d) **Minimum payment and engagement**
 - (i) A casual employee who is paid by the cents per kilometre method of clause 11.4 must receive a minimum payment per engagement for 500 km.
 - (ii) Where the employee is engaged according to the hourly driving rate method the minimum engagement must be eight hours.

7. Classifications

11 amended in accordance with para [162] of [2016] FWCFB 7254

Employees are to be classified in accordance with the following grades:

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Grade	Description
<u>1 and 2</u>	N/A
1 <u>3</u>	Driver of two axle rigid vehicle up to 13.9 tonnes GVM. Capacity up to eight tonnes.
2 <u>4</u>	Driver of three axle rigid vehicle over 13.9 tonnes GVM. Capacity over eight and up to 12 tonnes.
3 <u>5</u>	Driver of four axle rigid vehicle over 13.9 tonnes GVM. Driver of rigid vehicle and heavy trailer combination with GCM of 22.4 tonnes or less. Driver of articulated vehicle with GCM of 22.4 tonnes or less. Capacity over 12 tonnes.
4 <u>6</u>	Driver of rigid vehicle and heavy trailer combination with GCM over 22.4 tonnes but not more than 42.5 tonnes. Driver of articulated vehicle with GCM over 22.4 tonnes. Driver of low loader (as defined) with GCM of 43 tonnes or less. Capacity up to 24 tonnes.
5 <u>7</u>	Driver of rigid vehicle and heavy trailer combination with GCM over 42.5 tonnes but not more than 53.4 tonnes. Driver of double articulated vehicle with GCM 53.4 tonnes or less (includes B-doubles). Driver of low loader (as defined) with GCM over 43 tonnes.
6 <u>8</u>	Driver of rigid vehicle and trailer(s) or double articulated vehicle with GCM over 53.4 tonnes (includes B-doubles). Multi-axle trailing equipment up to 70 tonnes capacity.
7 <u>9</u>	Driver of road train or triple articulated vehicle exceeding 94 tonnes GCM.
8 <u>10</u>	Multi-axle trailing equipment.

Part 3—Hours of Work

8. Ordinary hours of work and rostering

8.1 Ordinary hours and start times

- (a) The ordinary hours of work will be an average of 38 hours per week averaged over a period of not more than 28 days.
- (b) The scheduling of start times is at the discretion of the employer.

- (c) A roster must be set up and displayed so that an employee, as far as it is practicable, will know the hours of duty they are required to perform.

8.2 Hours of work and fatigue management

8.2 amended in accordance with para [162] of [2016] FWCFB 7254

- (a) Where applicable, hours of work will be in accordance with Commonwealth, State or Territory laws, relating to the control of driving and working hours of heavy vehicle operators or the management of fatigue.

- (b) Where clause 8.2(a) is not applicable hours of work will be as follows:

Except where driving hours have been delayed because of accidents or in circumstances over which the employer has no control, the employee must not work and the employer must not require the employee to work:

- (i) more than a total of 120 hours in any fortnight exclusive of any unpaid intervals for meals.
 - (ii) in any one day more than 12 hours, with a break of half an hour after each five and one half hours worked; provided that every employee must have 10 hours off duty immediately after the working period is completed.
 - (iii) a roster of work which provides for more than 120 hours to be worked in any fortnight.
- ~~(a) Where applicable, hours of work will be in accordance with fatigue management rules/regulations.~~
 - ~~(b) Where clause 8.2(a) does not apply the employee must not work and the employer must not require the employee to work:
 - ~~(i) more than a total of 120 hours in any fortnight exclusive of any unpaid intervals for meals; or~~
 - ~~(ii) in any one day more than 12 hours; or~~
 - ~~(iii) a roster of work which provides for more than 120 hours to be worked in any fortnight.~~~~
 - ~~(c) An employee is entitled to a 30 minute break after each five and a half hours worked.~~
 - ~~(d) Every employee must have 10 hours off duty immediately after the working period is completed.~~
 - ~~(e) Clauses 8.2(b) to (d) do not apply where driving hours have been delayed because of accidents or in circumstances out of control of the employer.~~

8.3 Requirement to work reasonable additional hours

- (a) An employer may require an employee to work reasonable additional hours at the rates of pay in this award.
- (b) An employee may refuse hours of work which are unreasonable.
- (c) In determining whether additional hours are reasonable or unreasonable the following must be taken into account:

8.3(c) amended in accordance with para [162] of [2016] FWCFB 7254

- (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;
- (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 level of responsibility;
- (ix) whether the additional hours are in accordance with averaging terms included in a modern award or enterprise agreement that applies to the employee, or with an averaging arrangement agreed to by the employer and employee, in accordance with ss.63 or 64 of the Act; and
- (x) any other relevant matter.

8.4 amended in accordance with para [162] of [2016] FWCFB 7254

8.4 Time must be computed from the time the employee is rostered or registers for duty, whichever is the later, and until the employee has been effectively released from duty.

~~Hours of work must be calculated from the time the employee is rostered or registers for duty, whichever is the later, and until the employee has been released from duty.~~

8.5 Rostered days off (RDOs)

8.5 amended in accordance with para [162] of [2016] FWCFB 7254

- (a) Each full-time employee, in addition to days off elsewhere provided, is entitled to a rostered day off on the basis of one day for each month of employment (subject to suspension of the entitlement during any period of annual leave, personal/carer's leave, compassionate leave, workers compensation and long service leave, as elsewhere provided).

~~Each full-time employee is entitled to a rostered day off (RDO) on the basis of one day for each month of employment in addition to days off otherwise provided in this award. RDOs do not accrue during any period of annual leave, sick leave, compassionate leave, workers compensation and long service leave that the employee is entitled to.~~

RDOs must be taken by employees in accordance with the roster, but may be ~~may be~~ accumulated and taken consecutively in order to meet the requirements of work. Alternatively, subject to mutual agreement in writing between the employer and an individual employee, any number of accrued rostered days off may be cashed out at the time the employee accesses annual leave. Any payment for a rostered day off will be at 20% of the applicable minimum weekly rate.

~~(c) By agreement in writing between the employer and an individual employee, accrued RDOs may be cashed out at the time the employee accesses annual leave. Payment for an RDO will be at 20% of the applicable minimum weekly rate in clause 11.1.~~

- (b) In the event that RDOs are accumulated, employees are entitled to one RDO for each month of employment on and after two months' employment provided that the maximum accumulation of RDOs will be 10 over a period of 10 months' employment, exclusive of periods of leave as provided.
- (c) Employees must be paid for RDOs at the rate prescribed by clause 11.1.
- (d) RDOs may be changed by agreement between the employer and the employee or, in the absence of agreement, by the giving of 48 hours' notice of the change.
- (e) Where an employer is required to service a particular industry, plant or section during closure due to annual close down, industrial action, compulsory closure as a result of a legislative direction, other circumstances beyond the control of the employer or in the event of machinery or plant breakdown, an employer may:
- (i) require the employees to take a rostered day or days off to coincide with the day or days that the operations are closed, up to a maximum of 10 days; and

- (ii) in this event, a rostered day or days off which would normally become due to the employee must not become due for the number of days taken under clause 8.5(e)(i).
- (f) An employee disadvantaged in terms of leisure time by a rostered day or days off normally falling on a Friday or a Monday being required to be taken on a Tuesday, Wednesday or Thursday must be rostered to take a Friday or a Monday off on the earliest practicable opportunity upon the normal roster being resumed.

8.6 Absence from duty

8.6 amended in accordance with para [162] of [2016] FWCFB 7254

- (a) Where an employee is absent from duty (other than on annual leave, long service leave, public holidays, paid personal/carer's leave, workers compensation, compassionate leave or jury service) the employer may deduct 20% of the employee's average weekly wage rate for each day the employee is absent.
- (b) An employee absent for part of a day will lose average pay for each hour absent by dividing the average weekly wage rate by 38.
- (c) An employee absent from duty is not entitled to payment for rostered days off as provided in clause 8.5(d). Such employee must take the day or days off as rostered but must be paid, in respect of the week during which the rostered day off is taken, the wage as provided less an amount calculated according to the following formula:

~~An employee absent from duty is not entitled to payment for RDOs as provided in clause 8.5(e). The employee must take the day or days off as rostered but must be paid during the week which the rostered day off is taken, the wage as provided less an amount calculated according to the following formula:~~

No. of days absent during period x 0.39 hours	x	Average fortnightly pay (76 hours)
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- (d) An absence of less than half a day will not be counted for the purposes of this clause 8.6.

8.7 Call-back

8.7 amended in accordance with para [162] of [2016] FWCFB 7254

On every occasion on which the employer calls back an employee after leaving the depot or home base such employee must be entitled to payment for a minimum of four hours at the rate prescribed by clause 11.1.

~~An employee recalled to work after leaving the depot or home base must be paid for a minimum of four hours at the rate prescribed by clause 11.1.~~

9. Unpaid meal breaks

9.1 Employees will not be required to work for less than three hours or more than five and a half hours without a meal break subject to clause 8—Ordinary hours of work and rostering. An unpaid meal break must not be less than 30 minutes or more than one hour.

9.2 amended in accordance with para [162] of [2016] FWCFB 7254

9.2 The provisions of this clause do not apply where meal breaks are taken in accordance with fatigue management rules/regulations (as defined in Schedule F) as varied from time to time.

10. Delays, breakdown or impassable highways

An employee must be paid for all time up to a maximum of eight hours in any period of 24 hours at the rate prescribed by clause 11.1 where a long distance operation is delayed because of breakdowns or impassable highways. Provided that the employee must take all reasonable steps to minimise the period of delay.

Part 4—Wages and Allowances

11. Minimum wages

11.1 Minimum weekly rates of pay

Rates updated as a result of AWR 2016; clause 11 amended in accordance with para [162] of [2016] FWCFB 7254

The minimum weekly rates of pay for ordinary hours of work are as follows:

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

Grade	Minimum weekly rate \$
1-3	739.40
2-4	753.00
3-5	762.30
4-6	771.20
5-7	782.40
6-8	805.10
7-9	818.60
8-10	838.90

NOTE: The classification grades are different in the *Road Transport and Distribution Award 2015 2010*. Grade 4 under this award is equivalent to Grade 6 under the *Road Transport and Distribution Award 2015 2010*.

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

11.2 Guaranteed minimum payment

- (a) A full-time employee is entitled to a guaranteed minimum fortnightly payment which must be twice the weekly rate prescribed by clause 11.1 for the classification under which the employee is working. To be entitled to this payment, the employee must be ready, willing and available to perform the duties covered by this award which the employer may from time to time require. The fortnightly payment must be calculated by reference to continuous consecutive fortnightly periods.
- (b) A casual employee is entitled to a guaranteed minimum payment per engagement as set out in clause 6.4(d).
- (c) A full-time employee, having already earned the guaranteed fortnightly payment, and held on call for any part of the second week, must be paid on an hourly basis for the period during which the employee remains on call at the rate prescribed for the appropriate classification of this award. This payment is in addition to the guaranteed fortnightly payment.
- (d) An employee travelling by sea or rail in company with a vehicle on a long distance operation must be paid eight hours' ordinary pay in any day. Provided that if any working period less than eight hours otherwise covered by this award has been worked, the employee must be entitled to the balance of the difference paid between eight hours' and actual hours worked. The cost of transport must be borne by the employer.

~~An employee travelling by sea or rail accompanying a vehicle on a long distance operation must be paid eight hours' ordinary pay in any day. Where the employee works less than eight hours they are entitled to the balance of the difference paid between eight hours' and actual hours worked. The cost of transport must be paid by the employer.~~

11.3 Rates of pay

- (a) An employer of an employee engaged in a long distance operation must nominate, at the commencement of the employee's employment, whether the employee is to be paid pursuant to:
 - (i) the cents per kilometre method set out in clause 11.4; or
 - (ii) the hourly rate method set out in clause 11.5.
- (b) Where no method has been nominated in accordance with clause 11.3(a), the cents per kilometre method will apply.
- (c) The method of payment may be changed from one to the other upon the provision of four weeks' notice to the employee in writing.

- (d) The minimum driving rate must be either the cents per kilometre rate set out in clause 11.4 or the hourly rate set out in clause 11.5, depending upon which method is applicable under clauses 11.3(a) and (b).
- (e) In addition to the appropriate minimum driving rate, a long distance driver must be paid:
 - (i) the rate or allowance for any loading or unloading duties calculated in accordance with clause 11.6;
 - (ii) the travelling allowance as prescribed by clause 12.3(c); and
 - (iii) any other allowances required to be paid by the award.

11.4 Rates of pay—kilometre driving method

- (a) An employee engaged in a long distance operation may be paid for the driving component of a particular journey by multiplying the number of kilometres travelled by the cents per kilometre rate for the relevant vehicle, subject to clause 11.4(b).

The minimum cents per kilometre rate for each grade is as follows:

Grade	Minimum cents per kilometre	Casual employees- minimum cents- per kilometre
1-3	38.45	44.22
2-4	39.16	45.03
3-5	39.64	45.59
4-6	40.10	46.12
5-7	40.68	46.78
6-8	41.87	48.15
7-9	42.57	48.96
8-10	43.62	50.16

- (b) **Schedule of agreed distances**

The following schedule shows the agreed distances for long distance journeys between the listed centres. Where an employee performs a journey and that journey is specified in this schedule, the number of kilometres is deemed to be the number indicated in the schedule for that journey.

From/To	Route	Kilometres
Sydney/Brisbane	New England Highway	950

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From/To	Route	Kilometres
Sydney/Melbourne	Hume Highway	858
Sydney/Adelaide	Bathurst/Sturt Highway	1367
Sydney/Perth	Broken Hill	4044
Sydney/Darwin	Charleville/Dubbo	3987
Melbourne/Brisbane	Newell Highway	1682
Melbourne/Sydney	Hume Highway	858
Melbourne/Adelaide	Dukes/Western Highway	731
Melbourne/Perth	Western/Eyre Highway	3407
Melbourne/Darwin	Stuart/Western Highway	3749
Adelaide/Brisbane	Broken Hill/Newell Highway	2015
Adelaide/Sydney	Bathurst/Sturt Highway	1367
Adelaide/Perth	Eyre Highway	2677
Adelaide/Melbourne	Dukes/Western Highway	731
Adelaide/Darwin	Stuart Highway	3019
Brisbane/Sydney	New England	950
Brisbane/Melbourne	Pacific/Hume Highway	1790
Brisbane/Adelaide	Broken Hill/Newell Highway	2015
Brisbane/Perth	New England/Newell/Barrier	4314
Brisbane/Darwin	Roma	3417
Perth/Adelaide	Eyre Highway	2677
Perth/Melbourne	Western/Eyre Highway	3407
Perth/Sydney	Broken Hill	4044
Perth/Brisbane	New England/Newell/Barrier	4314
Perth/Darwin	North West Coastal	4027
Darwin/Brisbane	Roma	3417
Darwin/Sydney	Charleville/Dubbo	3978
Darwin/Melbourne	Stuart/Western Highway	3749

From/To	Route	Kilometres
Darwin/Adelaide	Stuart Highway	3019
Darwin/Perth	North West Coastal	4027

11.5 Rates of pay—hourly driving method

(a) An employee engaged in a long distance operation may be paid for the driving component of a particular journey by means of an hourly driving rate for the relevant grade the vehicle. The hourly driving rate may only be applied as follows:

- (i) where the journey to be performed by the driver is listed in the schedule in clause 11.5(c) the number of driving hours for that journey is deemed for the purposes of this award to be no fewer than the number indicated in the schedule for that journey; or
- (ii) where the journey to be completed is not listed in clause 11.5(c) payment must be for actual hours worked and must not be pursuant to a trip rate which provides for a fixed amount per trip; or

11.5(ii) referred to a separately constituted Full Bench at para [162] of [2016] FWCFB 7254

(iii) where the employer has an accredited Fatigue Management Plan (FMP) in place, the hourly rate may be used to calculate a trip rate for any journey by multiplying the hourly rate by the number of driving hours specified in the FMP for that journey. For the purposes of this clause **accredited Fatigue Management Plan** means any program which is approved under an Act of a Commonwealth, State or Territory parliament for the purposes of managing driver fatigue.

(b) The minimum hourly driving rate is calculated by dividing the minimum weekly rate prescribed by clause 11.1 by 40, and multiplying by 1.3 (industry disability allowance as defined in clause 12.2(a)) and 1.2 (overtime allowance as defined in clause 12.2(b)).

Grade	Minimum hourly driving rate ¹ \$	Casual minimum hourly driving rate ² \$
1-3	28.84	33.17
2-4	29.37	33.78
3-5	29.73	34.19
4-6	30.08	34.59
5-7	30.51	35.09
6-8	31.40	36.11
7-9	31.93	36.72

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Grade	Minimum hourly driving rate ¹ \$	Casual minimum hourly driving rate ² \$
8-10	32.72	37.63
¹ Minimum hourly driving rate includes industry disability allowance and overtime component.		
² Casual minimum hourly driving rate includes disability allowance, overtime component and 15% loading.		

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

(c) **Schedule of agreed driving hours**

The following schedule shows the agreed driving hours for Grade 4 long distance journeys between the listed centres, as referred to in clause 11.5(a)(i).

From/To	Route	Driving hours
Sydney/Brisbane	New England Highway	11.6
Sydney/Melbourne	Hume Highway	10.5
Sydney/Adelaide	Bathurst/Sturt Highway	16.7
Sydney/Perth	Broken Hill	47.6
Sydney/Darwin	Charleville/Dubbo	46.8
Melbourne/Brisbane	Newell Highway	18.5
Melbourne/Sydney	Hume Highway	10.5
Melbourne/Adelaide	Dukes/Western Highway	8.9
Melbourne/Perth	Western/Eyre Highway	40.0
Melbourne/Darwin	Stuart/Western Highway	44.1
Adelaide/Brisbane	Broken Hill/Newell Highway	24.6
Adelaide/Sydney	Bathurst/Sturt Highway	16.7
Adelaide/Perth	Eyre Highway	31.5
Adelaide/Melbourne	Dukes/Western Highway	8.9
Adelaide/Darwin	Stuart Highway	35.5

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From/To	Route	Driving hours
Brisbane/Sydney	New England	11.6
Brisbane/Melbourne	Pacific/Hume Highway	21.8
Brisbane/Adelaide	Broken Hill/Newell Highway	24.6
Brisbane/Perth	New England/Newell/Barrier	50.7
Brisbane/Darwin	Roma	40.2
Perth/Adelaide	Eyre Highway	31.5
Perth/Melbourne	Western/Eyre Highway	40.0
Perth/Sydney	Broken Hill	47.6
Perth/Brisbane	New England/Newell/Barrier	50.7
Perth/Darwin	North West Coastal	47.4
Darwin/Brisbane	Roma	40.2
Darwin/Sydney	Charleville/Dubbo	46.8
Darwin/Melbourne	Stuart/Western Highway	44.1
Darwin/Adelaide	Stuart Highway	35.5
Darwin/Perth	North West Coastal	47.4

11.6 Loading or unloading

- (a) Where an employee is engaged on loading or unloading duties, that employee must be paid for such duties at an hourly rate calculated by dividing the weekly award rate prescribed by clause 11.1 by 40 and multiplying by 1.3 (industry disability allowance), provided that a minimum payment of one hour loading and one hour unloading per trip must be made where loading and/or unloading duties are required.
- (b) As an alternative to clause 11.6(a), where there is a written agreement between the employer and the employee a fixed allowance based on the hourly rate in clause 11.6(a) may be paid to cover loading and unloading duties, provided that such written agreement is attached to the time and wages record.
- (c) A casual employee attending to the loading or unloading of the vehicles must be paid a loading of 25% in addition to the rates prescribed by this clause.

11.7 Payment of wages

- (a) All earnings, including overtime, must be paid in the employer's time on a day to be fixed by the employer, but not later than Thursday of each week. Once fixed, the day must not be altered more than once in three months.

Payment within a specific period after pay cycle is being considered in matter [AM2016/6](#)

11.7 amended in accordance with para [162] of [2016] FWCFB 7254

- (b) All earnings, including overtime, must be paid within ~~two~~ four business days of the expiration of the week in which they accrue.

Payment of wages on termination is being considered in matter [AM2016/8](#).

- (c) Notwithstanding anything contained in this clause, the employer must pay to an employee who leaves or is dismissed all money due to the employee immediately.
- (d) The employer may pay an employee by electronic funds transfer to a bank account nominated by an employee.
- (e) An employee who is entitled to a rostered day off which falls on a pay day must be paid the wages due on the next ordinary working day following the rostered day off.

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.

11.8 Higher duties

Where an employee is required to perform two or more grades of work on any one day the employee is to be paid the minimum wage for the highest grade for the whole day.

11.9 National Training Wage

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

11.10 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.

11.11 Penalty rates

See clause 18—Public holidays for provisions relating to penalty rates payable for work performed on a public holiday.

11.12 Overtime

See clause 12.2(b) for provisions relating to overtime rates.

12. Allowances

Monetary amounts in this clause adjusted as a result of AWR 2016; 12.1 and 12.2(c) amended in accordance with para [162] of [2016] FWCFB 7254

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

12.2 Wage related allowances

(a) Industry disability allowance

The minimum hourly driving rates, rates per kilometre and loading or unloading rates are inclusive of an industry disability allowance of 1.3 times the ordinary rate, which compensates for the following:

- (i) shiftwork and related conditions;
- (ii) necessity to work during weekends;
- (iii) lack of normal depot facilities, e.g. lunch room, wash rooms, toilets, tea making facilities;
- (iv) necessity to eat at roadside fast food outlets;
- (v) absence of normal resting facilities and normal bed at night;
- (vi) additional hazards arising from driving long distances at night and alone;
- (vii) handling dirty material;
- (viii) handling money;
- (ix) extra responsibility associated with arranging loads, purchasing spare parts, tyres, etc;
- (x) irregular starting and finishing times; and
- (xi) work in rain.

(b) Overtime allowance

The minimum hourly driving rates and rates per kilometre are inclusive of an overtime allowance of 1.2 times the ordinary rate, which takes into account an overtime factor of two hours in 10 at double time.

(c) Other allowances

- (i) An employee engaged as a local driver under the terms and conditions of the *Road Transport and Distribution Award 2015 ~~2010~~* and who is required by the employer to temporarily transfer to duties covered by this award must be paid an allowance of **\$9.56** on each occasion.

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- (ii) Any employee required to drive a motor vehicle which is in excess of the limit in length prescribed by or under any State or Commonwealth Act must receive an additional **\$3.39** per day.
- (iii) Any employee required to drive a motor vehicle which is in excess of 3.5 metres in width or transport a load in excess of that width must receive an additional **\$3.39** per day.
- (iv) Any employee who is a recognised furniture carter engaged in removing and/or delivering furniture as defined must receive an additional **\$18.66** per week.
- (v) Any employee who is a recognised livestock carter, carting livestock as defined must receive an additional **\$18.66** per week.

(d) **Dangerous goods allowance**

- (i) A driver engaged in the transport of bulk dangerous goods or carting explosives in accordance with the Australian Explosives Code by Public Road must receive an allowance of **\$17.51** per day. Bulk dangerous goods are those goods defined as such in the Australian Dangerous Goods Code as amended from time to time.
- (ii) A driver engaged in the transport of packaged dangerous goods which require placarding by public road must receive an allowance of **\$7.33** per day. Packaged goods which require placarding are those goods defined as such in the Australian Dangerous Goods Code as amended from time to time.

12.3 **Expense related allowances**

(a) **Work diary**

A weekly employee required to purchase a work diary must be reimbursed by the employer for the cost of the work diary.

(b) **Articles of clothing**

- (i) Where the employer requires an employee to wear any special clothing such as any special uniform, cap, overall or other article, the employer must reimburse the employee for the cost of purchasing such special clothing unless the special clothing is provided by the employer.
- (ii) Where an employee is required by the employer to work continuously in conditions in which, because of their nature, the clothing would otherwise become saturated, the employer must reimburse the employee for the cost of purchasing protective clothing unless the protective clothing is provided by the employer.
- ~~(iii)~~ Clause 12.3(b) does not apply to employees required to check things such as vehicles, oil, water and tyres.

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- (iv) Protective clothing remains the property of the employer and the employee is liable for the cost of replacing any article of protective clothing which is lost, destroyed or damaged through their own negligence.

(c) Travelling allowance

- (i) An employee engaged in ordinary travelling on duty or on work on which means the employee is unable to return home and takes their major rest break under the applicable driving hours regulations away from home must be paid **\$38.43** per occasion. This will not be payable where an employee is provided with suitable accommodation away from the vehicle.
- (ii) In exceptional circumstances, where amounts greater than those specified are claimed, an employee will need to demonstrate why the claim is necessary and gain approval from a representative of the employer. Approval will not be unreasonably withheld.
- (iii) If an employee is engaged in more than one long distance operation or part thereof in a fortnight, the allowance due for each long distance operation or part thereof must be separately calculated in accordance with this clause.

(d) Housing

- (i) Any employee required by the employer to live at a depot, yard or garage must be paid an allowance equal to the amount of the rent charged by the employer for the accommodation at the depot, yard or garage.
- (ii) If an employer provides housing for an employee and the employee's family, and requires the employee to live there and charges rent, the employer must pay the employee an allowance of \$3.20 less than the amount of rent charged by the employer for the accommodation.

(e) Training

- (i) Where, as a result of consultation, it is agreed by the employer that additional training should be undertaken by an employee, that training may be undertaken either on or off the job. If the training is undertaken during ordinary working hours the employee concerned must not suffer any loss of pay. The employer must not unreasonably withhold paid training leave.
- (ii) Any costs associated with standard fees for prescribed courses and prescribed textbooks (excluding those textbooks which are available in the employer's technical library) incurred in connection with the undertaking of training must be reimbursed by the employer upon production of evidence of such expenditure. Reimbursement of standard fees may be made at the completion of the prescribed course or annually, whichever is the earlier, subject to reports of attendance at such courses.

- (iii) Travel costs incurred by an employee undertaking training in accordance with this clause which exceed those normally incurred in travelling to and from work must be reimbursed by the employer.

13. Superannuation

13.1 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, the superannuation fund nominated in the award covering the employee applies.
- (b) The rights and obligations in these clauses supplement those in superannuation legislation.

13.2 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.

13.3 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 13.2.
- (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 13.3(a) or (b) no later than 28 days after the end of the month in which the deduction authorised under clauses 13.3(a) or (b) was made.

13.4 Superannuation fund

Unless, to comply with superannuation legislation, the employer is required to make the superannuation contributions provided for in clause 13.2 to another superannuation fund that is chosen by the employee, the employer must make the superannuation contributions provided for in clause 13.2 and pay the amount authorised under clauses 13.3(a) or (b) to one of the following superannuation funds or its successor:

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

13.5 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 13.2 and pay the amount authorised under clauses 13.3(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—Leave, Public Holidays and Other NES Entitlements

14. Annual leave

14 amended in accordance with [PR583069](#). (14.3 renumbered, renamed and substituted as 14.4; 14.4-14.6 renumbered as 14.7 – 14.9; new 14.5 - 14.6 inserted; 14.7 renamed and substituted; 14.10 inserted).

14.1 Annual leave is provided for in the NES.

14.2 Payment for period of annual leave

14.2 amended in accordance with para [162] of [2016] FWCFB 7254

- (a) Before the start of an employee's annual leave, an employee must be paid wages calculated in accordance with clause 14.2(b), for the period of leave the employee takes.
- (b) The wages referred to clause in 14.2(a) will be calculated to include the following:
 - (i) A proportion of the applicable minimum weekly rate prescribed by clause 11.1 which corresponds to the amount of leave taken, and
 - (ii) An additional loading of 30%. The loading prescribed by this subclause will not apply to proportionate leave on termination.
- (c) For the purposes of clause 14.2(b)(i) the applicable minimum rate prescribed by clause 11.1 must be that applicable to the classification which the employee would have worked in had they not taken the period of leave.

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).

14.3 Electronic funds transfer (EFT) payment of annual leave

Despite anything else in this clause, an employee paid by electronic funds transfer (EFT) may be paid in accordance with their usual pay cycle while on paid annual leave.

14.4 Excessive leave accruals: general provision

Note: Clauses 14.4 to 14.6 contain provisions, additional to the National Employment Standards, about the taking of paid annual leave as a way of dealing with the accrual of excessive paid annual leave. See Part 2.2, Division 6 of the Fair Work Act.

- (a) An employee has an **excessive leave accrual** if the employee has accrued more than 8 weeks' paid annual leave.
- (b) If an employee has an excessive leave accrual, the employer or the employee may seek to confer with the other and genuinely try to reach agreement on how to reduce or eliminate the excessive leave accrual.
- (c) Clause 14.5 sets out how an employer may direct an employee who has an excessive leave accrual to take paid annual leave.
- (d) Clause 14.6 sets out how an employee who has an excessive leave accrual may require an employer to grant paid annual leave requested by the employee.

14.5 Excessive leave accruals: direction by employer that leave be taken

- (a) If an employer has genuinely tried to reach agreement with an employee under clause 14.4(b) but agreement is not reached (including because the employee refuses to confer), the employer may direct the employee in writing to take one or more periods of paid annual leave.
- (b) However, a direction by the employer under paragraph (a):
 - (i) is of no effect if it would result at any time in the employee's remaining accrued entitlement to paid annual leave being less than 6 weeks when any other paid annual leave arrangements (whether made under clause 14.4, 14.5 or 14.6 or otherwise agreed by the employer and employee) are taken into account; and
 - (ii) must not require the employee to take any period of paid annual leave of less than one week; and
 - (iii) must not require the employee to take a period of paid annual leave beginning less than 8 weeks, or more than 12 months, after the direction is given; and
 - (iv) must not be inconsistent with any leave arrangement agreed by the employer and employee.
- (c) The employee must take paid annual leave in accordance with a direction under paragraph (a) that is in effect.
- (d) An employee to whom a direction has been given under paragraph (a) may request to take a period of paid annual leave as if the direction had not been given.

Note 1: Paid annual leave arising from a request mentioned in paragraph (d) may result in the direction ceasing to have effect. See clause 14.5(b)(i).

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

14.6 Excessive leave accruals: request by employee for leave

- (a) Clause 14.6 comes into operation from 29 July 2017.
- (b) If an employee has genuinely tried to reach agreement with an employer under clause 14.4(b) but agreement is not reached (including because the employer refuses to confer), the employee may give a written notice to the employer requesting to take one or more periods of paid annual leave.
- (c) However, an employee may only give a notice to the employer under paragraph (b) if:
 - (i) the employee has had an excessive leave accrual for more than 6 months at the time of giving the notice; and

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- (ii) the employee has not been given a direction under clause 14.5(a) that, when any other paid annual leave arrangements (whether made under clause 14.4, 14.5 or 14.6 or otherwise agreed by the employer and employee) are taken into account, would eliminate the employee's excessive leave accrual.
- (d) A notice given by an employee under paragraph (b) must not:
 - (i) if granted, result in the employee's remaining accrued entitlement to paid annual leave being at any time less than 6 weeks when any other paid annual leave arrangements (whether made under clause 14.4, 14.5 or 14.6 or otherwise agreed by the employer and employee) are taken into account; or
 - (ii) provide for the employee to take any period of paid annual leave of less than one week; or
 - (iii) provide for the employee to take a period of paid annual leave beginning less than 8 weeks, or more than 12 months, after the notice is given; or
 - (iv) be inconsistent with any leave arrangement agreed by the employer and employee.
- (e) An employee is not entitled to request by a notice under paragraph (b) more than 4 weeks' paid annual leave in any period of 12 months.
- (f) The employer must grant paid annual leave requested by a notice under paragraph (b).

14.7 Annual leave in advance

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

Note: An example of the type of agreement required by clause 14.7 is set out at Schedule A. There is no requirement to use the form of agreement set out at Schedule A.

- (c) The employer must keep a copy of any agreement under clause 14.7 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 14.7, 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.

14.8 Annual close down

An employer may close down an enterprise or part of it for the purpose of allowing annual leave to all or the majority of the employees in the enterprise or part concerned, provided that:

- (a) the employer gives not less than one month's notice of its intention to do so;
- (b) an employee who has accrued sufficient leave to cover the period of the close down is allowed leave and also paid for that leave at the appropriate wage;
- (c) an employee who has not accrued sufficient leave to cover part or all of the close down, is allowed paid leave for the period for which they have accrued sufficient leave and given unpaid leave for the remainder of the close down; and
- (d) any leave taken by an employee as a result of a close down pursuant to this clause also counts as service by the employee with their employer.

14.9 Rostered day off falling during annual leave

Upon an employee taking annual leave, the work cycle under which the employee becomes entitled to a weekly accrual for an RDO will be suspended and the employee will not be entitled to further accrual until their return from leave. Upon returning to work, the entitlement period for accrual will resume and the employee will be entitled to be rostered to take a day off and must take an RDO upon completing the balance of the work cycle.

14.10 Cashing out of annual leave

- (a) Paid annual leave must not be cashed out except in accordance with an agreement under clause 14.10.
- (b) Each cashing out of a particular amount of paid annual leave must be the subject of a separate agreement under clause 14.10.
- (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 14.10 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 14.10 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 14.10 as an employee record.

Note 1: Under section 344 of the Fair Work Act, an employer must not exert undue influence or undue pressure on an employee to make, or not make, an agreement under clause 14.10.

Note 2: Under section 345(1) of the Fair Work Act, a person must not knowingly or recklessly make a false or misleading representation about the workplace rights of another person under clause 14.10.

Note 3: An example of the type of agreement required by clause 14.10 is set out at Schedule A. There is no requirement to use the form of agreement set out at Schedule A.

15. Personal/carer’s leave and compassionate leave

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

15.2 Rate of pay for a period of paid personal/carer’s leave and compassionate leave

The rate of pay for an employee who accesses a period of paid personal/carer’s leave or compassionate leave must be a portion of the applicable minimum rate prescribed by clause 11.1 which corresponds to the amount of leave taken. The applicable minimum rate must be that applicable to the classification which the employee would have worked in had they not taken the period of leave.

16. Parental leave and related entitlements

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

17. Community service leave

Community service leave is provided for in the NES.

18. Public holidays

18.1 Public holidays are provided for in the NES.

18.2 Substitution of certain public holidays by agreement at the enterprise

18.2 amended in accordance with para [162] of [2016] FWCFB 7254

- (a) An employer and its employees may agree to substitute another day for any prescribed in the NES. For this purpose, the consent of the majority of affected employees will constitute agreement.

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

- (b) An agreement pursuant to clause 18.2(a) must be recorded in writing and be available to every affected employee.

18.3 Payment for work on a public holiday

Where a full-time or casual employee works on a public holiday, the following rates must be paid:

- (a) on Good Friday and the Christmas Day holiday—**30%** of the applicable minimum weekly rate specified in clause 11.1 in addition to payment for the work performed in accordance with the designated method of payment specified in clause 11—Minimum wages.
- (b) on any other holiday—**20%** of the applicable minimum weekly rate specified in clause 11.1 in addition to payment for the work performed in accordance with the designated method of payment specified in clause 11—Minimum wages.
- (c) Full-time employees must be paid for a minimum of four hours' work.

- 18.4 An employee will only be entitled to the payments specified in clause 18.3 in circumstances where the majority of the work undertaken by an employee on a particular journey or long distance operation is undertaken on a public holiday.

18.5 Part-day public holidays

For provisions relating to part-day public holidays see Schedule E—2016 Part-day public holidays.

19. Termination of employment

- 19.1 Notice of termination is provided for in the NES.

19.2 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.

19.3 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.

19.4 Termination away from home base

Where an employer decides to terminate the employment of an employee and the employee is away from their home base, the employer shall provide the employee with the means of returning to home base or reimburse the employee for the cost of any fares reasonably incurred in returning home.

20. Redundancy

20.1 Redundancy pay is provided for in the NES.

20.2 Transfer to lower paid duties

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

20.3 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.

20.4 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 19.3.

Part 6—Consultation and Dispute Resolution

21. Consultation

21.1 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 21.1(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 21.1(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.

21.2 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.

22. Dispute resolution

- 22.1** 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.
- 22.2** 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 22.1 have been taken, a party to the dispute may refer the dispute to the Fair Work Commission.
- 22.3** The parties may agree on the process to be utilised by the Fair Work Commission including mediation, conciliation and consent arbitration.
- 22.4** 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.
- 22.5** An employer or employee may appoint another person, organisation or association to accompany and/or represent them for the purposes of this clause.
- 22.6** 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

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direction by the employer to perform work, whether at the same or another workplace, that is safe and appropriate for the employee to perform.

Schedule A—Summary of Hourly Rates of Pay

Rates updated as a result of AWR 2016; tables amended in accordance with para [162] of [2016] FWCFB 7254

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

A.1 Full-time employees—ordinary rates, loading and unloading rates and penalties

	Hourly driving method	Kilometre driving method	Loading or unloading	Public holiday¹	Christmas or Good Friday¹
	\$ per hour	\$ per km	\$ per hour	\$ per shift²	\$ per shift²
Transport worker grade <u>1-3</u>	28.84	0.3845	24.04	147.88	221.82
Transport worker grade <u>2-4</u>	29.37	0.3916	24.48	150.60	225.90
Transport worker grade <u>3-5</u>	29.73	0.3964	24.78	152.46	228.69
Transport worker grade <u>4-6</u>	30.08	0.4010	25.06	154.24	231.36
Transport worker grade <u>5-7</u>	30.51	0.4068	25.43	156.48	234.72
Transport worker grade <u>6-8</u>	31.40	0.4187	26.17	161.02	241.53
Transport worker grade <u>7-9</u>	31.93	0.4257	26.61	163.72	245.58
Transport worker grade <u>8-10</u>	32.72	0.4362	27.26	167.78	251.67

¹See clause 18.3.

²This amount is payable in addition to the relevant weekly, hourly or cents per kilometre rate (see clause 18.3).

A.2 Casual employees—ordinary rates, loading and unloading rates and penalties

	Hourly driving method	Kilometre driving method	Loading or unloading	Public holiday ¹	Christmas or Good Friday ¹
	\$ per hour	\$ per km	\$ per hour	\$ per shift ²	\$ per shift ²
Transport worker grade 1 <u>3</u>	33.17	0.4422	30.05	147.88	221.82
Transport worker grade 2 <u>4</u>	33.78	0.4503	30.60	150.60	225.90
Transport worker grade 3 <u>5</u>	34.19	0.4559	30.98	152.46	228.69
Transport worker grade 4 <u>6</u>	34.59	0.4612	31.33	154.24	231.36
Transport worker grade 5 <u>7</u>	35.09	0.4678	31.79	156.48	234.72
Transport worker grade 6 <u>8</u>	36.11	0.4815	32.71	161.02	241.53
Transport worker grade 7 <u>9</u>	36.72	0.4896	33.26	163.72	245.58
Transport worker grade 8 <u>10</u>	37.63	0.5016	34.08	167.78	251.67

¹See clause 18.3.

²This amount is payable in addition to the relevant weekly, hourly or cents per kilometre rate (see clause 18.3).

Schedule B—Summary of Monetary Allowances

Monetary amounts in this clause adjusted as a result of AWR 2016

See clause 12 for full details of allowances payable under this award.

B.1 Wage related allowances

The wage related allowances in this award are based on the standard rate as defined in Schedule F as the minimum weekly rate for Grade 4 in clause 11.1 = \$753.10

Allowance	Clause	% of standard rate \$753.10	\$ per week unless stated otherwise
Temporary transfer of duties—local driver (under terms of <i>Road Transport and Distribution Award 2015</i>)	12.2(c)(i)	1.24	9.56 per occasion
Motor vehicle—length in excess of legislated limit	12.2(c)(ii)	0.44	3.39 per day
Motor vehicle—width (and/or load) in excess of 3.5m	12.2(c)(iii)	0.44	3.39 per day
Furniture carter	12.2(c)(iv)	2.42	18.66
Livestock carter	12.2(c)(v)	2.42	18.66
Bulk dangerous goods allowance	12.2(d)(i)	2.27	17.51 per day
Packaged dangerous goods allowance	12.2(d)(ii)	0.95	7.33 per day

B.1.1 Adjustment of wage related allowances

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

B.2 Expense related allowances

The expense related allowances in this award will be payable to employees in accordance with clause 12.3:

Allowance	Clause	\$
Living away from home allowance	12.3(c)(i)	38.43 per occasion

B.2.1 Adjustment of allowances

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

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recently published by the Australian Bureau of Statistics since the allowance was last adjusted.

B.2.2 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
Travelling allowance	Domestic holiday travel and accommodation sub-group
Housing allowance	Rents sub-group

Schedule C—National Training Wage

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

Monetary amounts in this clause adjusted as a result of AWR 2016

C.1 Title

This is the *National Training Wage Schedule*.

C.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*;

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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

C.3 Coverage

C.3.1 Subject to clauses C.3.2 to C.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 C.7 to this schedule or by clause C.5.4 of this schedule.

C.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 C.7 to this schedule.

C.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.

C.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.

C.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.

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

C.4 Types of Traineeship

The following types of traineeship are available under this schedule:

C.4.1 a full-time traineeship based on 38 ordinary hours per week, with 20% of ordinary hours being approved training; and

C.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.

C.5 Minimum Wages

C.5.1 Minimum wages for full-time traineeships

(a) Wage Level A

Subject to clause C.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 C.7.1 are:

	Highest year of schooling completed		
	Year 10	Year 11	Year 12
	per week	per week	per week
	\$	\$	\$
School leaver	302.20	332.80	396.50
Plus 1 year out of school	332.80	396.50	461.40
Plus 2 years out of school	396.50	461.40	537.00
Plus 3 years out of school	461.40	537.00	614.80
Plus 4 years out of school	537.00	614.80	
Plus 5 or more years out of school	614.80		

(b) Wage Level B

Subject to clause C.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 C.7.2 are:

	Highest year of schooling completed		
	Year 10	Year 11	Year 12
	per week	Per week	per week
	\$	\$	\$
School leaver	302.20	332.80	385.80

	Highest year of schooling completed		
	Year 10	Year 11	Year 12
	per week	Per week	per week
	\$	\$	\$
Plus 1 year out of school	332.80	385.80	443.80
Plus 2 years out of school	385.80	443.80	520.40
Plus 3 years out of school	443.80	520.40	593.60
Plus 4 years out of school	520.40	593.60	
Plus 5 or more years out of school	593.60		

(c) Wage Level C

Subject to clause C.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 C.7.3 are:

	Highest year of schooling completed		
	Year 10	Year 11	Year 12
	per week	per week	per week
	\$	\$	\$
School leaver	302.20	332.80	385.80
Plus 1 year out of school	332.80	385.80	434.30
Plus 2 years out of school	385.80	434.30	485.20
Plus 3 years out of school	434.30	485.20	540.60
Plus 4 years out of school	485.20	540.60	
Plus 5 or more years out of school	540.60		

(d) AQF Certificate Level IV traineeships

- (i) Subject to clause C.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 C.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:

Wage level	First year of traineeship	Second and subsequent years of traineeship

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	per week	per week
	\$	\$
Wage Level A	638.50	663.20
Wage Level B	616.00	639.70
Wage Level C	560.60	581.80

C.5.2 Minimum wages for part-time traineeships

(a) Wage Level A

Subject to clauses C.5.2(f) and C.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 C.7.1 are:

	Highest year of schooling completed		
	Year 10	Year 11	Year 12
	per hour	per hour	per hour
	\$	\$	\$
School leaver	9.94	10.96	13.05
Plus 1 year out of school	10.96	13.05	15.19
Plus 2 years out of school	13.05	15.19	17.66
Plus 3 years out of school	15.19	17.66	20.21
Plus 4 years out of school	17.66	20.21	
Plus 5 or more years out of school	20.21		

(b) Wage Level B

Subject to clauses C.5.2(f) and C.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 C.7.2 are:

	Highest year of schooling completed		
	Year 10	Year 11	Year 12
	per hour	per hour	per hour
	\$	\$	\$
School leaver	9.94	10.96	12.70
Plus 1 year out of school	10.96	12.70	14.60
Plus 2 years out of school	12.70	14.60	17.13
Plus 3 years out of school	14.60	17.13	19.54
Plus 4 years out of school	17.13	19.54	

	Highest year of schooling completed		
	Year 10	Year 11	Year 12
	per hour	per hour	per hour
	\$	\$	\$
Plus 5 or more years out of school	19.54		

(c) **Wage Level C**

Subject to clauses C.5.2(f) and C.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 C.7.3 are:

	Highest year of schooling completed		
	Year 10	Year 11	Year 12
	per hour	per hour	per hour
	\$	\$	\$
School leaver	9.94	10.96	12.70
Plus 1 year out of school	10.96	12.70	14.28
Plus 2 years out of school	12.70	14.28	15.95
Plus 3 years out of school	14.28	15.95	17.78
Plus 4 years out of school	15.95	17.78	
Plus 5 or more years out of school	17.78		

(d) **School-based traineeships**

Subject to clauses C.5.2(f) and C.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 C.7 are as follows when the trainee works ordinary hours:

Year of schooling	
Year 11 or lower	Year 12
per hour	per hour
\$	\$
9.94	10.96

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

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

Wage level	First year of traineeship	Second and subsequent years of traineeship
	per hour	per hour
	\$	\$
Wage Level A	21.00	21.82
Wage Level B	20.24	21.03
Wage Level C	18.44	19.15

(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 C.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 C.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 C.5.2(a)–(e) of this schedule minus 20% applies to each ordinary hour worked by the trainee.

C.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.

C.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 C.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.

C.6 Employment conditions

C.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.

C.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.

C.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 C.5.2(f)(ii) and not by this clause.

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

C.7 Allocation of Traineeships to Wage Levels

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

C.7.1 Wage Level A

Training package	AQF certificate level
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

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Training package	AQF certificate level
Drilling	II, III
Electricity Supply Industry—Generation Sector	II, III (III in Western Australia only)
Electricity Supply Industry—Transmission, Distribution and Rail Sector	II
Electrotechnology	I, II, III (III in Western Australia only)
Financial Services	I, II, III
Floristry	III
Food Processing Industry	III
Gas Industry	III
Information and Communications Technology	I, II, III
Laboratory Operations	II, III
Local Government (other than Operational Works Cert I and II)	I, II, III
Manufactured Mineral Products	III
Manufacturing	I, II, III
Maritime	I, II, III
Metal and Engineering (Technical)	II, III
Metalliferous Mining	II, III
Museum, Library and Library/Information Services	II, III
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 Distribution	III
Water Industry (Utilities)	III

C.7.2 Wage Level B

Training package	AQF certificate level
Animal Care and Management	I, II, III
Asset Maintenance	I, II, III
Australian Meat Industry	I, II, III
Automotive Industry Manufacturing	II, III
Automotive Industry Retail, Service and Repair	I, II, III
Beauty	II
Caravan Industry	II, III
Civil Construction	I
Community Recreation Industry	III
Entertainment	I, II, III
Extractive Industries	II, III
Fitness Industry	III
Floristry	II
Food Processing Industry	I, II
Forest and Forest Products Industry	I, II, III
Furnishing	I, II, III
Gas Industry	I, II
Health	II, III
Local Government (Operational Works)	I, II
Manufactured Mineral Products	I, II
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

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Training package	AQF certificate level
Textiles, Clothing and Footwear	I, II
Transport and Logistics	I, II
Visual Arts, Craft and Design	I, II, III
Water Industry	I, II

C.7.3 Wage Level C

Training package	AQF certificate level
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 D—Supported Wage System

Schedule D updated in accordance with [PR581528](#)

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* (Cth), as amended from time to time, or any successor to that scheme

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

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

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

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:

Assessed capacity (clause D.5) %	Relevant minimum wage %
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 **\$82** 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 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.

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 supported wage system.

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 four 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 **\$82** 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—2016 Part-day public holidays

This provision is being reviewed in [AM2014/301](#)

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

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 2016) or New Year’s Eve (31 December 2016) the following will apply on Christmas Eve and New Year’s Eve and will override any provision in this award relating to public holidays to the extent of the inconsistency:
- (a) All employees will have the right to refuse to work on the part-day public holiday if the request to work is not reasonable or the refusal is reasonable as provided for in the NES.
 - (b) Where a part-time or full-time employee is usually rostered to work ordinary hours between 7.00 pm and midnight but as a result of exercising their right under the NES does not work, they will be paid their ordinary rate of pay for such hours not worked.
 - (c) Where a part-time or full-time employee is usually rostered to work ordinary hours between 7.00 pm and midnight but as a result of being on annual leave does not work, they will be taken not to be on annual leave between those hours of 7.00 pm and midnight that they would have usually been rostered to work and will be paid their ordinary rate of pay for such hours.
 - (d) Where a part-time or full-time employee is usually rostered to work ordinary hours between 7.00 pm and midnight, but as a result of having a rostered day off (RDO) provided under this award, does not work, the employee will be taken to be on a public holiday for such hours and paid their ordinary rate of pay for those hours.
 - (e) Excluding annualised salaried employees to whom clause 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),

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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:

accredited Fatigue Management Plan means any program which is approved under an Act of a Commonwealth, State or Territory parliament for the purposes of managing driver fatigue.

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

articulated vehicle means a vehicle with three or more axles, comprising a power unit (called tractor truck, prime mover etc.) and semi-trailer which is superimposed on the power unit and coupled together by means of a king-pin and revolving on a turntable and is articulated whether automatically detachable or permanently coupled

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

double-articulated vehicle means a vehicle with four or more axles, comprising a power unit (called tractor truck, prime mover etc.) and semi-trailer (called dolly trailer) which is superimposed on the power unit, which in turn has a load carrying semi-trailer superimposed upon the dolly trailer, both semi-trailers and power unit and are articulated together by means of king-pins and revolving on turntables and are articulated whether automatically detachable or permanently coupled

driving time means all time driving the vehicle between destinations but not including rest breaks

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)

fatigue management rules/regulations means Commonwealth, State or Territory laws controlling driving and working hours of heavy vehicle operators or fatigue management

furniture means any article of household and/or office furniture or whitegoods which are completely manufactured and ready for use, and will include furniture being transported from a manufacturer to a retail store, unless such furniture is crated, cartonised, or otherwise covered

gross combination mass (GCM) means the maximum permissible mass (whether described as the gross train mass or otherwise) for the motor vehicle and the trailer(s) or semi-trailer(s) attached to it, together with the load carried on each, as stated in any certificate of registration or other certificate that is issued in respect of the motor vehicle by the relevant authority or by the corresponding authority of another State or Territory or that is required by law to be painted or displayed on the motor vehicle

gross vehicle mass (GVM) means the maximum permissible mass (whether described as the gross train vehicle mass or otherwise) for the motor vehicle and its load (but excluding any trailer and its load) as stated in a certificate of registration or other certificate that is issued in respect of the motor vehicle by the relevant authority or by the corresponding authority of another State or Territory or that is required by the law to be painted or displayed on the motor vehicle

home base will be the employer's base at which the contract of employment was entered into and out of which the employee normally operates. This will not affect the right of any employer and any employee to agree that some other base will be substituted during the period of employment.

interstate operation will be an operation involving a vehicle moving livestock or materials whether in a raw or manufactured state from a principal point of commencement in one State or Territory to a principal point of destination in another State or Territory. Provided that to be an interstate operation the distance involved must exceed 200 kilometres, for any single journey. An area within a radius of 32 kilometres from the GPO of a capital city will be deemed to be the capital city.

livestock means horses, cattle, sheep, pigs, goats or poultry

loading or unloading means being physically engaged in the loading or unloading of the vehicle and includes tarping, installing and removing gates and operation of on board cranes

Definition of 'long distance operation' referred to a separately constituted Full Bench at para [162] of [2016] FWCFB 7254.

long distance operation means any interstate operation, or any return journey where the distance travelled exceeds 500 kilometres and the operation involves a vehicle moving livestock or materials whether in a raw or manufactured state from a principal point of commencement to a principal point of destination. An area within a radius of 32 kilometres from the GPO of a capital city will be deemed to be the capital city.

low loader articulated vehicle means a vehicle consisting of a tandem drive prime mover and a gooseneck semi-trailer (not being a drop deck semi-trailer) with a loading area of the semi-trailer a maximum of one metre off the ground. The prime mover and gooseneck semi-trailer being designed and manufactured and plated to operate at the required mass limits.

maker's capacity means the capacity shown on the certificate of registration issued for the vehicle under any Act of the State or any Act of the Commonwealth. Where no such capacity is shown on the certificate of registration maker's capacity means the capacity attributed to the vehicle by the manufacturer as a maximum gross rating less the tare of the vehicle. Provided that on any day that the maximum weight of any load exceeds such capacity by one third or more such maximum weight will, for the purposes of assessing the wages to be paid for that day, be deemed to be the maker's capacity.

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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

ordinary weekly rate means the appropriate rate of pay listed in clause 11.1

private transport industry means the transportation by road of all materials whether in a raw or manufactured state, or of livestock, throughout Australia

road train vehicle means a rigid vehicle to which is coupled two or more trailers, or an articulated vehicle to which is coupled one or more trailers

standard rate means the minimum weekly rate prescribed for Grade 4 in clause 11.1

weekly employee means an employee on weekly hiring

Schedule G—Agreement to Take Annual Leave in Advance

Schedule G—Agreement to Take Annual Leave in Advance inserted in accordance with [PR583069](#)

Name of employee: _____

Name of employer: _____

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

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

The leave in advance will commence on: ____/____/20____

Signature of employee: _____

Date signed: ____/____/20____

Name of employer representative: _____

Signature of employer representative: _____

Date signed: ____/____/20____

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

I agree that:

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

Name of parent/guardian: _____

Signature of parent/guardian: _____

Date signed: ____/____/20____

Schedule H—Agreement to Cash Out Annual Leave

Schedule H—Agreement to Cash Out Annual Leave inserted in accordance with [PR583069](#)

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___