



DRAFT DETERMINATION

Fair Work Act 2009

s.156—4 yearly review of modern awards

4 yearly review of modern awards

(AM2014/229)

HIGHER EDUCATION INDUSTRY—ACADEMIC STAFF—AWARD

2010

[MA000006]

Educational services

JUSTICE ROSS, PRESIDENT
DEPUTY PRESIDENT CLANCY
COMMISSIONER BISSETT

PLACE, XX MONTH YEAR

4 yearly review of modern awards – Higher Education Industry—Academic Staff—Award 2010 – modern award varied.

A. Further to the decision [[YEAR] FWCFB XXXX] issued by the Full Bench of the Fair Work Commission on XX MONTH YEAR, the *Higher Education Industry—Academic Staff—Award 2010* is varied as follows:

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

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

PRESIDENT

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Higher Education Industry—Academic Staff—Award 20XX

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Part 1—Coverage and Operation of this Award

1. Title and commencement

- 1.1 This award is the *Higher Education Industry—Academic Staff—Award 20XX*.
- 1.2 This modern award commenced operation on 1 January 2010. The terms of the award have been varied since that date.
- 1.3 A variation to this award does not affect any right, privilege, obligation or liability that a person acquired, accrued or incurred under the award as it existed prior to that variation.

2. Definitions

In this award, unless the contrary intention appears:

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

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

employee means national system employee within the meaning of the [Act](#)

employer means national system employer within the meaning of the [Act](#)

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

higher education industry has the meaning given in clause 4.2

MSAL means Minimum Standards for Academic Levels

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

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

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

3. The National Employment Standards and this award

- 3.1 The [National Employment Standards](#) (NES) and this award contain the minimum conditions of employment for employees covered by this award.

3.2 Where this award refers to a condition of employment provided for in the [NES](#), the [NES](#) definition applies.

3.3 The employer must ensure that copies of the award and the [NES](#) are available to all employees to whom they apply, either on a notice board which is conveniently located at or near the workplace or through accessible electronic means.

4. Coverage

4.1 This industry award covers employers throughout Australia in the higher education industry as defined and their academic staff in the classifications listed in clause 16—Rates of pay to the exclusion of any other modern award.

4.2 **Higher education industry** means educational institutions providing undergraduate and postgraduate teaching leading to the conferring of accredited degrees and performing research to support and inform the curriculum.

4.3 This award does not cover:

- (a) employees excluded from award coverage by 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.

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

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

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

5. Individual flexibility arrangements

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

- (a) arrangements for when work is performed; or
 - (b) overtime rates; or
 - (c) penalty rates; or
 - (d) allowances; or
 - (e) annual leave loading.
- 5.2** An agreement must be one that is genuinely made by the employer and the individual employee without coercion or duress.
- 5.3** An agreement may only be made after the individual employee has commenced employment with the employer.
- 5.4** An employer who wishes to initiate the making of an agreement must:
- (a) give the employee a written proposal; and
 - (b) if the employer is aware that the employee has, or reasonably should be aware that the employee may have, limited understanding of written English, take reasonable steps (including providing a translation in an appropriate language) to ensure that the employee understands the proposal.
- 5.5** An agreement must result in the employee being better off overall at the time the agreement is made than if the agreement had not been made.
- 5.6** An agreement must do all of the following:
- (a) state the names of the employer and the employee; and
 - (b) identify the award term, or award terms, the application of which is to be varied; and
 - (c) set out how the application of the award term, or each award term, is varied; and
 - (d) set out how the agreement results in the employee being better off overall at the time the agreement is made than if the agreement had not been made; and
 - (e) state the date the agreement is to start.
- 5.7** An agreement must be:
- (a) in writing; and
 - (b) signed by the employer and the employee and, if the employee is under 18 years of age, by the employee's parent or guardian.
- 5.8** Except as provided in clause 5.7(b), an agreement must not require the approval or consent of a person other than the employer and the employee.
- 5.9** The employer must keep the agreement as a time and wages record and give a copy to the employee.

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

5.11 An agreement may be terminated:

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

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

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

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

6. Requests for flexible working arrangements

6.1 Employee may request change in working arrangements

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

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

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

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

6.2 Responding to the request

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

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

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

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

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

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

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

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

6.5 Dispute resolution

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

7. Facilitative provisions

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

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

Clause	Provision	Agreement between an employer and:
20.3	Annual leave in advance	an individual employee

Clause	Provision	Agreement between an employer and:
20.4	Cashing out of annual leave	an individual employee
25.2	Substitution of public holidays where university holidays provided	an individual employee

Part 2—Types of Employment and Classifications

8. Types of Employment

8.1 A person under this award must be engaged in one of the following categories:

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

8.2 Requirement to state terms of engagement

Upon engagement, the employer must provide to the employee an instrument of appointment which states the type of employment and informs the employee of the terms of engagement at the time of the appointment in relation to:

- (a) for employees other than casual employees, the classification level and salary of the employee on commencement of the employment, and the hours or the fraction of full-time hours to be worked;
- (b) for a fixed-term employee, the term of the employment, the length and terms of any period of probation, and the circumstance(s) by reference to which the use of fixed-term contract for the type of employment has been decided for that employment;
- (c) for casual employees, the duties required, the number of hours required, the rate of pay for each class of duty required and a statement that any additional duties required during the term will be paid for;
- (d) for any employee subject to probationary employment, the length and terms of the probation; or
- (e) other main conditions of employment including the identity of the employer, or the documentary, or other recorded sources from which such conditions derive, and the duties and reporting relationships to apply upon appointment that can be ascertained.

8.3 Nothing in this award:

- (a) prevents an employee from engaging in additional work as a casual employee in work unrelated to, or identifiably separate from, the employee's normal duties; or

- (b) limits the number or proportion of employees that an employer may employ in a particular type of employment.

8.4 Probation

- (a) The terms of engagement for a full-time or part-time employee may contain a reasonable probationary period that is directly related to the nature of the work to be carried out under the contract.
- (b) As a condition incidental to employment on probation, an employee must be advised of, and given an opportunity to make response to, any adverse material about the employee which the employer intends to take into account in a decision to terminate the employment upon or before the expiry of the period of probation.
- (c) **Fixed-term employees only**

Any second or subsequent fixed-term contract, with the same employer, must not contain a probationary period.

9. Full-time employment

Full-time employment means employment other than part-time or casual.

10. Part-time employment

Part-time employment means employment for less than the normal weekly ordinary hours specified in clause 15—Hours of work, for which all award entitlements are paid on a pro rata basis calculated by reference to the time worked.

11. Fixed-term employment

11.1 Fixed-term employment means full time or part time employment for a specified term or ascertainable period, for which the instrument of engagement will specify the starting and finishing dates of that employment (or instead of a finishing date, will specify the circumstance(s) or contingency relating to a specific task or project, upon the occurrence of which the term of the employment will expire).

11.2 Restriction on the use of fixed term employment

- (a) The restriction on the use of fixed-term employment in clause 11.2 only applies to those employers in Schedule C—List of employers bound by the Higher Education Contract of Employment Award 1998 [AP784204], and their successors, who were bound to the *Higher Education Contract of Employment Award* [[AP784204](#)] at the time of its making.
- (b) The use of fixed-term employment must be limited to the employment of an employee engaged on work activity that comes within the description of one or more of the following circumstances:

- (i) **Specific task or project** means a definable work activity which has a starting time and which is expected to be completed within an anticipated timeframe. Without limiting the generality of that circumstance, it will also include a period of employment provided for from identifiable funding external to the employer, not being funding that is part of an operating grant from government or funding comprised of payments of fees made by or on behalf of students.
- (ii) **Research** means work activity by a person engaged on research only functions for a contract period not exceeding 5 years.
- (iii) **Replacement employee** means an employee:
- undertaking work activity replacing a full-time or part-time employee for a definable period for which the replaced employee is either on authorised leave of absence or is temporarily seconded away from their usual work area; or
 - performing the duties of:
 - a vacant position for which the employer has made a definite decision to fill and has commenced recruitment action; or
 - a position the normal occupant of which is performing higher duties pending the outcome of recruitment action initiated by the employer and in progress for that vacant higher duties position,until a full-time or part-time employee is engaged for the vacant position or vacant higher duties position as applicable.
- (iv) **Recent professional practice required**
- Where a curriculum in professional or vocational education requires that work be undertaken by a person to be engaged who has recent practical or commercial experience, the person may be engaged for a fixed period not exceeding 2 years.
- (v) **Pre-retirement contract**
- Where a full-time or a part-time employee declares that it is their intention to retire, a fixed-term contract expiring on or around the relevant retirement date may be adopted as the appropriate type of employment for a period of up to 5 years.
- (vi) **Fixed-term contract employment subsidiary to studentship**
- Where a person is enrolled as a student, employment under a fixed-term contract may be adopted as the appropriate type of employment for work activity not within the description of another circumstance in the preceding paragraphs of clause 11.2, that is work within the student's academic unit or an associated research unit of that academic unit and is work generally related to a degree course that the student is undertaking within the academic unit, provided that:

- a fixed-term contract employment will be for a period that does not extend beyond, or that expires at the end of, the academic year in which the person ceases to be a student, including any period that the person is not enrolled as a student but is still completing postgraduate work or is awaiting results; and
- an offer of fixed-term employment under clause 11.2(b)(vi) must not be made on the condition that the person offered the employment undertake the studentship.

12. Casual employment

- 12.1 Casual employment** is employment by the hour and paid on an hourly basis that includes a loading related to award-based benefits for which a casual employee is not eligible.
- 12.2** For each hour worked, a casual employee will be paid:
- (a) the minimum hourly rate; and
 - (b) a loading of **25%** of the minimum hourly rate,
- for the classification in which they are employed.
- 12.3** A casual employee must be engaged and paid for at least 2 hours of work on each occasion they are required to attend work by the employer, inclusive of any incorporated time and payment for preparation or associated working time provided for in clause 16.4(a).

13. Incidents of fixed-term contract of employment

- 13.1** Clause 13 only applies to those employers who were bound to the *Higher Education Contract of Employment Award 1998* [[AP784204](#)]. For a list of employers who were bound to the *Higher Education Contract of Employment Award 1998* [[AP784204](#)] see Schedule C—List of employers bound by the Higher Education Contract of Employment Award 1998 [[AP784204](#)].
- 13.2** Without reducing any entitlement under the employee’s contract or under an award provision applicable to the employee on account of the employee’s continuous service, a fixed-term contract employee must be entitled to:
- (a) **Incremental advancement**
- A fixed-term employee who has a period of continuous service in a classification must be entitled to progress through that structure in the same way as an employee engaged as a full-time or part-time employee in the same or similar classification.

(b) Notice of cessation or revocation of employment upon expiry of the contract

- (i) The employer will provide to a fixed-term employee written notice of the employer’s intention to renew, or not to renew, employment with the employer upon the expiry of the contract. The notice will be the greater of:
- (ii) any entitlement to notice of the employer’s intention to renew, or not to renew, employment with the employee upon the expiry of the contract; or

Period of continuous service	Period of notice
Less than 1 year	At least 1 week, or the equivalent of a full pay period, whichever is the greater
1 year but less than 3 years	At least 2 weeks, or the equivalent of a full pay period, whichever is the greater
3 years but less than 5 years	At least 3 weeks, or the equivalent of a full pay period, whichever is the greater
5 years or over	At least 4 weeks, or the equivalent of a full pay period, whichever is the greater

- (iii) In addition to this notice, an employee over the age of 45 years at the time of the giving of notice and with at least 2 years continuous service will be entitled to an additional week’s notice.

13.3 Where, because of circumstances relating to the provision of specific funding to support employment external to the employer and beyond its control, the employer is not reasonably able to give the notice required by clause 13.2(b), it will be sufficient compliance with clause 13 if the employer:

- (a) advises those circumstances to the employee in writing by the latest time at which the notice would otherwise be required to be given; and
- (b) gives notice to the employee at the earliest practicable date thereafter.

13.4 Severance pay

- (a) A fixed-term employee whose contract of employment is not renewed in circumstances where the employee seeks to continue the employment will be entitled to a severance payment or retrenchment benefit payment howsoever called, in accordance with the [NES](#) as it would apply to a full-time employee engaged in an equivalent classification in the following circumstances:
 - (i) the employee is employed on a second or subsequent fixed term contract to do work required for the circumstances described in clause 11.2(b)(i) or (ii) and the same or substantially similar duties are no longer required by the employer; or
 - (ii) the employee is employed on a fixed term contract to do work required for the circumstances described in clause 11.2(b)(i) or (ii) and the duties

of the kind performed in relation to work continue to be required but another person has been appointed, or is to be appointed, to the same or substantially similar duties.

- (b) Where an employer advises an academic in writing that further employment may be offered within 6 weeks of the expiry of a period of fixed-term employment, then the employer may defer payment of severance benefits for a maximum period of 4 weeks from the expiry of the period of fixed-term employment.
- (c) An employer, in a particular case, may make application to the Fair Work Commission to have the general severance payment or retrenchment benefit payment prescription varied if the employer obtains acceptable alternative employment for the employee.

13.5 Award entitlements and calculation of continuous service

- (a) A fixed-term employee will be entitled to the same award terms and conditions in respect to award matters as would apply to a full-time or part-time employee engaged in an equivalent classification and working an equivalent proportion of normal weekly ordinary hours for the classification.
- (b) For the purpose of this award, breaks between fixed-term appointments of up to 2 times per year and of up to 6 weeks in total will not constitute breaks in continuous service.
- (c) Periods of approved unpaid leave will not count for service, but will not constitute breaks in service for the purposes of clause 13.5.

13.6 Right of application

No employee employed on a fixed-term contract (other than an employee employed on a pre-retirement contract within the meaning of clause 11.2(b)(v)) will be prevented from making application to an employer, nor having their application for employment within the terms of this award considered, solely because the employee has previously been employed on a fixed-term contract by the same employer.

14. Classification of academic staff

- 14.1** Minimum standards for levels of academic staff, other than a casual, are set out in Schedule A—Minimum Standards for Academic Levels (MSAL).
- 14.2** The levels are differentiated by level of complexity, degree of autonomy, leadership requirements of the position and level of achievement of the academic.
- 14.3** The responsibilities of academic staff may vary according to the specific requirements of the employer to meet its objectives, to different discipline requirements and/or to individual staff development.
- 14.4** An academic appointed to a particular level may be assigned and may be expected to undertake responsibilities and functions of any level up to and including the level to which the academic is appointed or promoted.

14.5 An academic may undertake elements of the work of a higher level in order to gain experience and expertise consistent with the requirements of an institution’s promotion processes.

14.6 MSAL will not be used as a basis for claims for reclassification.

Part 3—Hours of Work

15. Hours of work

For the purpose of the [NES](#), ordinary hours of work under this award are 38 per week.

Part 4—Minimum Rates

16. Rates of pay

16.1 An employer must pay full-time and part-time employees the following rates of pay:

Employee classification	Annual salary	Minimum hourly rate ¹
	\$	\$
Level A		
1	53,168	26.82
2	55,297	27.90
3	57,427	28.97
4	59,425	29.98
5	61,022	30.78
6*	62,754	31.66
7	64,485	32.53
8	66,216	33.40

*Any Level A academic required to carry out full subject coordination duties as part of his or her normal duties or who upon appointment holds or during appointment gains a relevant doctoral qualification will be paid a salary no lower than this salary point.

Employee classification	Annual salary	Minimum hourly rate ¹
	\$	\$
Level B		
1	68,880	34.75
2	70,879	35.76

Employee classification	Annual salary	Minimum hourly rate¹
	\$	\$
3	72,877	36.76
4	74,878	37.77
5	76,874	38.78
6	78,874	39.79
Level C		
1	80,869	40.79
2	82,869	41.80
3	84,866	42.81
4	86,865	43.82
5	88,862	44.83
6	90,861	45.84
Level D		
1	94,191	47.52
2	96,856	48.86
3	99,520	50.20
4	102,184	51.55
Level E		
	116,838	58.94

¹ Minimum hourly rate is calculated by multiplying the annual salary by 6, dividing the result by 313 then dividing this weekly rate by 38.

See Schedule B—Summary of Hourly Rates of Pay for a summary of hourly rates of pay including all clinical loadings and professorial merit differentials.

16.2 Professorial and clinical loadings

- (a) Any employer may pay loadings and differentials above the standard Level E salary to its teaching and research Level E academic staff.
- (b) In determining the amount of the loading or differential to be paid under clause 16.2(a), the employer will have regard to the loadings payable in clauses 16.2(c) and (d).
- (c) **Medically qualified teaching and research academic**
 - (i) A medically qualified full-time teaching and research Level B–E academic will be paid the following loadings:

Employed in	\$ per annum	% of annual salary for Level A-1
Full clinical department in a medical school and responsible for patient care	23,341	43.9
Para-clinical department in a medical school	15,578	29.3
Pre-clinical department in a medical school	11,697	22

- (ii) Whether an academic is entitled to a full clinical loading rather than to a loading of **29.3%** of the annual salary for Level A-1 or **22%** of the annual salary for Level A-1 per annum should be determined by each employer in light of the nature and extent of the academic’s patient-care responsibilities.

(d) Dentally qualified teaching and research academic

The clinical loading for a dentally qualified full-time teaching and research Level B–E academic employed in a medical school or dental school teaching medical or dental students will be **\$11,697** per year (**22%** of the annual salary for Level A-1).

See Schedule B—Summary of Hourly Rates of Pay for a summary of hourly rates of pay including all clinical loadings and professorial merit differentials.

16.3 Payments and periods of leave

All clinical loadings and professorial merit differentials are superannuable and will be paid to an academic during periods of study leave, annual leave and long service leave.

16.4 Casual employees

- (a) An employer must pay casual academics the following minimum rates for work performed:

	Casual hourly rate (including casual loading)
	\$
Lecturing	
Basic lecture (1 hour of delivery and 2 hours associated working time)	134.08
Developed lecture (1 hour of delivery and 3 hours associated working time)	178.80

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	Casual hourly rate (including casual loading)
	\$
Specialised lecture (1 hour of delivery and 4 hours associated working time)	223.49
Repeat lecture (1 hour of delivery and 1 hour associated working time)	89.37
Tutoring	
Tutorial (1 hour of delivery and 2 hours associated working time)	104.62
Repeat tutorial (1 hour of delivery and 1 hour associated working time)	69.73
Tutorial (1 hour of delivery and 2 hours associated working time) (where academic holds a relevant doctoral qualification)	118.74
Repeat tutorial (1 hour of delivery and 1 hour associated working time) (where academic holds a relevant doctoral qualification)	79.13
Musical accompanying	
Musical accompanying (1 hour of delivery and 1 hour preparation time)	69.73
Musical accompanying (1 hour of delivery and 1 hour preparation time) (where academic holds a relevant doctoral qualification)	79.13
Undergraduate clinical nurse education	
Little preparation required (1 hour of delivery and 0.5 hours associated working time)	52.31
Normal preparation time (1 hour of delivery and 1 hour associated working time)	69.73
Little preparation required (1 hour of delivery and 0.5 hours associated working time) (where academic holds a relevant doctoral qualification)	59.36
Normal preparation time (1 hour of delivery and 1 hour associated working time) (where academic holds a relevant doctoral qualification)	79.13
Marking rate	
Standard marking	34.84
Standard marking (where academic holds a relevant doctoral qualification)	39.58

	Casual hourly rate (including casual loading)
	\$
Marking as a supervising examiner, or marking requiring a significant exercise of academic judgment appropriate to an academic at level B status	44.70
Other required academic activity	
If academic does not hold a relevant doctoral qualification or perform full subject coordination duties	34.84
If academic holds a relevant doctoral qualification or performs full subject coordination duties	39.58

(b) Formulae

The minimum salary paid to academic staff employed on a casual basis will be at the rates provided for in clause 16.4(a). These rates are derived from 3 base rates calculated using the following formulae:

(i) Lecturing and higher marking rate

The base rate applicable to lecturing or for purposes of the higher marking rate is determined by reference to the second step of the full-time Level B scale.

(ii) Rate applicable to performance of other duties involving full-time subject coordination or possession of a relevant doctoral qualification

The base rate applicable where the duties include full subject coordination or where the academic possesses a relevant doctoral qualification is determined by reference to the sixth step of the full-time Level A scale.

(iii) Rate applicable to all other duties

The base rate applicable to all other duties including tutoring rates not covered above is determined by reference to the second step of the full-time Level A scale.

See Schedule B—Summary of Hourly Rates of Pay for a summary of hourly rates of pay including all clinical loadings and professorial merit differentials.

17. Payment of wages

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

17.1 An academic staff member’s salary will be paid fortnightly by electronic funds transfer.

17.2 Casual staff members

A casual staff member will be paid within 22 days of submitting a completed valid claim for payment to the appropriate representative as identified by the employer to the staff member.

17.3 Payment on termination of employment

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

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

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

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

18. Salary movement within an academic level

18.1 An academic staff member will be eligible for movement to the next highest salary point within the academic level as set out the rates of pay in clause 16—Rates of pay as follows:

- (a) at the conclusion of each 12 month period, following the commencement date of the award or entry into an academic level as set out in the MSAL or the subsequent anniversary date; and
- (b) following a staff development/performance review.

18.2 Movement to the next salary point within the academic level will occur only when an academic staff member has been advised in writing that over the preceding 12 months, they:

- (a) have acquired and used additional skills, experience and knowledge within the ambit of the appropriate academic level, as set out in the MSAL and in accordance with the priorities of the organisational unit and/or institution. For this purpose the academic staff member will be assessed against the relevant criteria used in a staff development/performance review; and
- (b) have demonstrated satisfactory performance against the appropriate academic level as set out in the MSAL.

18.3 Movement to the next highest salary point will be effective from the anniversary date. In cases where a staff development/performance review is delayed, the anniversary date will not be changed and any increase in salary will be paid retrospectively to the anniversary date, unless the delay is related to the acquisition of new skills and greater responsibility in which case the date of acquisition will be the effective date.

18.4 An academic staff member who has been absent in excess of 3 months, in aggregate, will have the review delayed by the period of absence. Any resultant increase will also be delayed by the period of absence.

18.5 Annual staff development/performance review

An annual staff development/performance review will be conducted for all academic staff members. The review will be confidential and will normally be conducted by the relevant supervisor within the academic staff member's organisational unit. The aims of the review will at least include:

- (a) assessment of performance and the acquisition and use of skills over the preceding 12 months against objective criteria within the relevant academic level in the MSAL, including:
 - (i) undergraduate and postgraduate teaching as allocated by the supervisor in accordance with the organisational unit's priorities;
 - (ii) other undergraduate and postgraduate teaching as undertaken for the institution;
 - (iii) contributions to scholarly, research, creative and/or professional activities appropriate to the staff member's profession or discipline;
 - (iv) participation in the administration of the institution and/or provision of leadership and the undertaking of administration activities of an organisational unit as allocated by the institution; and
 - (v) contribution to professional activities relevant to the profession, discipline and/or community.
- (b) Identifying the development and training needs of the academic staff member to:

- (i) enable the acquisition and use of new skills, experience and knowledge in accordance with the priorities of the organisational unit and/or the institution;
- (ii) identify performance objectives; and
- (iii) ensure continued satisfactory performance within the ambit of the academic level.

19. Superannuation

19.1 Superannuation legislation

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

19.2 Employer contributions

- (a) 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.
- (b) Employers who, before 12 September 2008 made contributions of **3%** to the Tertiary Education Superannuation Scheme for the benefit of employees for whom they were not required to pay the superannuation guarantee charge, must continue to make such contributions as if the *Tertiary Education Superannuation Scheme – Superannuation Award 1988* [[AP799601](#)] continued to apply.

19.3 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 19.2.
- (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 clause 19.3(a) or (b) no later than 28 days after the end of the month in which the deduction was authorised under clauses 19.3(a) or (b).

19.4 Superannuation fund

Unless, to comply with superannuation legislation, the employer is required to make the superannuation contributions provided for in clause 19.2 to another superannuation fund that is chosen by the employee, the employer must make the superannuation contributions provided for in clause 19.2 and pay the amount authorised under clauses 19.3(a) and (b) to one of the following superannuation funds or its successor:

- (a) Unisuper; or
- (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 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.

19.5 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 19.2 and pay the amount authorised under clauses 19.3(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 and Public Holidays

20. Annual leave

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

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

20.2 Leave loading

Academic staff will be entitled on a payday preceding 1 January of each year to an annual leave loading equal to **17.5%** of their salary for the period of leave accrued, with a maximum payment equal to the Australian Bureau of Statistics' average weekly total earnings of all males (Australia) for the May quarter preceding the date of accrual.

20.3 Annual leave in advance

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

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

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

20.4 Cashing out of annual leave

- (a) Paid annual leave must not be cashed out except in accordance with an agreement under clause 20.4.
- (b) Each cashing out of a particular amount of paid annual leave must be the subject of a separate agreement under clause 20.4.
- (c) An employer and an employee may agree in writing to the cashing out of a particular amount of accrued paid annual leave by the employee.
- (d) An agreement under clause 20.4 must state:
 - (i) the amount of leave to be cashed out and the payment to be made to the employee for it; and

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

NOTE 1: Under section 344 of the [Act](#), an employer must not exert undue influence or undue pressure on an employee to make, or not make, an agreement under clause 20.5.

NOTE 2: Under section 345(1) of the [Act](#), a person must not knowingly or recklessly make a false or misleading representation about the workplace rights of another person under clause 20.4.

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

20.5 Excessive leave accruals: general provision

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

- (a) An employee has an **excessive leave accrual** if the employee has accrued more than 8 weeks' paid annual leave.
- (b) If an employee has an excessive leave accrual, the employer or the employee may seek to confer with the other and genuinely try to reach agreement on how to reduce or eliminate the excessive leave accrual.
- (c) Clause 20.6 sets out how an employer may direct an employee who has an excessive leave accrual to take paid annual leave.
- (d) Clause 20.7 sets out how an employee who has an excessive leave accrual may require an employer to grant paid annual leave requested by the employee.

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

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

- (b) However, a direction by the employer under clause 20.6:
 - (i) is of no effect if it would result at any time in the employee’s remaining accrued entitlement to paid annual leave being less than 6 weeks when any other paid annual leave arrangements (whether made under clause 20.5, 20.6 or 20.7 or otherwise agreed by the employer and employee) are taken into account; and
 - (ii) must not require the employee to take any period of paid annual leave of less than one week; and
 - (iii) must not require the employee to take a period of paid annual leave beginning less than 8 weeks, or more than 12 months, after the direction is given; and
 - (iv) must not be inconsistent with any leave arrangement agreed by the employer and employee.
- (c) The employee must take paid annual leave in accordance with a direction under clause 20.6(a) that is in effect.
- (d) An employee to whom a direction has been given under clause 20.6(a) may request to take a period of paid annual leave as if the direction had not been given.

NOTE 1: Paid annual leave arising from a request mentioned in clause 20.6(d) may result in the direction ceasing to have effect. See clause 20.6(b)(i).

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

20.7 Excessive leave accruals: request by employee for leave

- (a) If an employee has genuinely tried to reach agreement with an employer under clause 20.5(b) but agreement is not reached (including because the employer refuses to confer), the employee may give a written notice to the employer requesting to take one or more periods of paid annual leave.
- (b) However, an employee may only give a notice to the employer under clause 20.7(a) if:
 - (i) the employee has had an excessive leave accrual for more than 6 months at the time of giving the notice; and
 - (ii) the employee has not been given a direction under clause 20.6(a) that, when any other paid annual leave arrangements (whether made under clause 20.5, 20.6 or 20.7 or otherwise agreed by the employer and employee) are taken into account, would eliminate the employee’s excessive leave accrual.
- (c) A notice given by an employee under clause 20.7(c) must not:
 - (i) if granted, result in the employee’s remaining accrued entitlement to paid annual leave being at any time less than 6 weeks when any other paid

annual leave arrangements (whether made under clause 20.5, 20.6, or 20.7 or otherwise agreed by the employer and employee) are taken into account; or

- (ii) provide for the employee to take any period of paid annual leave of less than one week; or
 - (iii) provide for the employee to take a period of paid annual leave beginning less than 8 weeks, or more than 12 months, after the notice is given; or
 - (iv) be inconsistent with any leave arrangement agreed by the employer and employee.
- (d) An employee is not entitled to request by a notice under clause 20.7(a) more than 4 weeks' paid annual leave in any period of 12 months.
- (e) The employer must grant paid annual leave requested by a notice under clause 20.7(a).

20.8 Payment of annual leave on termination

Payment of base salary instead of annual leave will be made for any entitlement to annual leave accrued but not taken on termination. Where termination of employment is due to the staff member's death, such payment will be made to the staff member's estate.

21. Personal/carer's leave and compassionate leave

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

21.2 In relation to compassionate leave the entitlement will be 3 days of compassionate leave for each permissible occasion.

21.3 Casuals

- (a) Subject to the evidentiary and notice requirements as provided for in the [NES](#), casual employees are entitled to not be available to attend work or to leave work:
- (i) if they need to care for members of their immediate family or household who are sick and require care and support, or who require care due to an unexpected emergency or the birth of a child; or
 - (ii) upon the death of an immediate family or household member.
- (b) The employer and the employee will agree on the period for which the employee will be entitled to not be available to attend work. In the absence of agreement, the employee is entitled to not be available to attend work for up to 48 hours (i.e. 2 days) per occasion.
- (c) The casual employee is not entitled to any payment for the period of non-attendance.

22. Parental leave and related entitlements

22.1 The entitlement to parental leave is set out in the [NES](#).

22.2 The [NES](#) is supplemented by maintaining an entitlement to payment in relation to maternity leave, adoption leave or paternity leave for employees in the classifications under this award of employers and who were entitled to payment for maternity leave, adoption leave or paternity leave in accordance with the terms of an award made under the *Workplace Relations Act 1996* (Cth):

- (a) that would have applied to the employee immediately prior to 1 January 2010, if the employee had at that time been in their current circumstances of employment and no agreement-based transitional instrument or enterprise agreement had applied to the employee; and
- (b) that would have entitled the employee to paid maternity leave, paternity leave or adoption leave.

23. Community service leave

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

24. Unpaid family and domestic violence leave

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

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

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

25. Public holidays

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

25.2 Substitution of public holidays where university holidays provided

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

25.3 Part-day public holidays

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

Part 6—Consultation and Dispute Resolution

26. Consultation about major workplace change

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

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

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

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

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

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

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

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

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

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

27. Consultation about changes to rosters or hours of work

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

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

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

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

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

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

28. Dispute resolution

28.1 Clause 28 sets out the procedures to be followed if a dispute arises about a matter under this award or in relation to the [NES](#).

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

28.3 If the dispute is not resolved through discussion as mentioned in clause 28.2, the parties to the dispute must then try to resolve it in a timely manner at the workplace through discussion between the employee or employees concerned and more senior levels of management, as appropriate.

28.4 If the dispute is unable to be resolved at the workplace and all appropriate steps have been taken under clauses 28.2 and 28.3, a party to the dispute may refer it to the Fair Work Commission.

- 28.5** The parties may agree on the process to be followed by the Fair Work Commission in dealing with the dispute, including mediation, conciliation and consent arbitration.
- 28.6** If the dispute remains unresolved, the Fair Work Commission may use any method of dispute resolution that it is permitted by the [Act](#) to use and that it considers appropriate for resolving the dispute.
- 28.7** A party to the dispute may appoint a person, organisation or association to support and/or represent them in any discussion or process under clause 28.
- 28.8** While procedures are being followed under clause 28 in relation to a dispute:
- (a) work must continue in accordance with this award and the [Act](#); and
 - (b) an employee must not unreasonably fail to comply with any direction given by the employer about performing work, whether at the same or another workplace, that is safe and appropriate for the employee to perform.
- 28.9** Clause 28.8 is subject to any applicable work health and safety legislation.

Part 7—Termination of Employment and Redundancy

29. Termination of employment

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

29.1 Notice of termination by an employee

- (a) Clause 29.1 applies to all employees except those identified in sections 123(1) and 123(3) of the [Act](#).
- (b) An employee must give the employer notice of termination in accordance with **Table 1—Period of notice** of at least the period specified in column 2 according to the period of continuous service of the employee specified in column 1.

Table 1—Period of notice

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

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

- (c) In clause 29.1(b) **continuous service** has the same meaning as in section 117 of the [Act](#).
- (d) If an employee who is at least 18 years old does not give the period of notice required under clause 29.1(b), then the employer may deduct from wages due to the employee under this award an amount that is no more than one week's wages for the employee.
- (e) If the employer has agreed to a shorter period of notice than that required under clause 29.1(b), then no deduction can be made under clause 29.1(d).
- (f) Any deduction made under clause 29.1(d) must not be unreasonable in the circumstances.
- (g) The minimum period of notice of termination, or pay instead of notice, to be given by an employer to an academic staff member who is terminated on the grounds of ill health or redundancy will be 6 months.

29.2 Job search entitlement

- (a) Where an employer has given notice of termination to an employee, the employee must be allowed time off without loss of pay of up to one day for the purpose of seeking other employment.
- (b) The time off under clause 29.2 is to be taken at times that are convenient to the employee after consultation with the employer.

30. Redundancy

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

30.1 Transfer to lower paid duties on redundancy

- (a) Clause 30.1 applies if, because of redundancy, an employee is transferred to new duties to which a lower ordinary rate of pay applies.
- (b) The employer may:
 - (i) give the employee notice of the transfer of at least the same length as the employee would be entitled to under section 117 of the [Act](#) as if it were a notice of termination given by the employer; or
 - (ii) transfer the employee to the new duties without giving notice of transfer or before the expiry of a notice of transfer, provided that the employer pays the employee as set out in clause 30.1(c).
- (c) If the employer acts as mentioned in clause 30.1(b)(ii), the employee is entitled to a payment of an amount equal to the difference between the ordinary rate of pay of the employee (inclusive of all-purpose allowances and penalty rates

applicable to ordinary hours) for the hours of work the employee would have worked in the first role, and the ordinary rate of pay (also inclusive of all-purpose allowances and penalty rates applicable to ordinary hours) of the employee in the second role for the period for which notice was not given.

30.2 Employee leaving during redundancy notice period

- (a) An employee given notice of termination in circumstances of redundancy may terminate their employment during the minimum period of notice prescribed by section 117(3) of the [Act](#).
- (b) The employee is entitled to receive the benefits and payments they would have received under clause 30 or under sections 119 to 123 of the [Act](#) had they remained in employment until the expiry of the notice.
- (c) However, the employee is not entitled to be paid for any part of the period of notice remaining after the employee ceased to be employed.

30.3 Job search entitlement

- (a) Where an employer has given notice of termination to an employee in circumstances of redundancy, the employee must be allowed time off without loss of pay of up to one day each week of the minimum period of notice prescribed by section 117(3) of the [Act](#) for the purpose of seeking other employment.
- (b) If an employee is allowed time off without loss of pay of more than one day under clause 30.3(a), the employee must, at the request of the employer, produce proof of attendance at an interview.
- (c) A statutory declaration is sufficient for the purpose of clause 30.3(b).
- (d) An employee who fails to produce proof when required under clause 30.3(b) is not entitled to be paid for the time off.
- (e) This entitlement applies instead of clause 29.2.

31. Industry specific redundancy provisions

31.1 Clause 31 applies to any institution which:

- (a) was bound by the *Universities and Post Compulsory Academic Conditions Award 1999* [[AP801516](#)] at 12 September 2008 as listed in Schedule F—List of Institutions Bound by AP801516; and
- (b) has decided to terminate the employment of one or more academic employees for reasons of an economic, technological, structural or similar nature, including:
 - (i) a decrease in student demand or enrolments in any academic course or subject or combination or mix of courses or subjects conducted on one or more campuses;

- (ii) a decision to cease offering or to vary the academic content of any course or subject or combination or mix of courses or subjects conducted on one or more campuses;
- (iii) financial exigency within an organisational unit or cost centre; or
- (iv) changes in technology or work methods.

31.2 All payments under clause 31 will be calculated on the employee's salary at the date of cessation of employment and the benefits in clause 31 are instead of any other notice period, access to a scheme of redeployment or other redundancy benefit.

31.3 The benefits of clause 31 do not constitute a severance payment or retrenchment benefit payment for the purposes of clause 13.4.

31.4 If an employee is ill during the period of notice and provides the employer with a medical certificate to this effect, stating the period of illness, the notice prescribed by clause 31 will be extended for that period. However, the extension will be limited to the extent of an employee's accumulated sick leave entitlement and will be available in accordance with the terms otherwise applicable to the utilisation of sick leave.

31.5 Employees accepting redundancy

Where an employee volunteers to accept termination of employment by reason of redundancy and the employee's employment is terminated by the employer accordingly, the following conditions will apply:

- (a) the employee will be notified of the date on which their employment will terminate;
- (b) this date will be no less than 6 months from the date of notification;
- (c) the employer may elect to pay to the employee an amount equal to 6 months pay instead of the period of notice;
- (d) during the period of notice of termination the employee may request and the employer may agree that the balance of the period be waived, in which case the employee is entitled to payment for the balance of the period or 4 weeks' pay, whichever is the lesser;
- (e) the employee must be paid a redundancy payment of:
 - (i) a sum calculated at the rate of 2 weeks' salary per completed year of service with the employer, to a maximum entitlement of 52 weeks' salary; and
 - (ii) payment on a pro rata basis for long service leave calculated on completed years of service.

31.6 Employees not accepting redundancy

Where an employee is not a volunteer for redundancy and the employer terminates the employment of an employee for reason of redundancy the following benefits will apply:

- (a) notice, or pay instead of notice, in accordance with clause 29.1(g); and
- (b) on retrenchment, an employee must, in addition, receive the amount of severance pay set out in the [NES](#) in respect of a continuous period of service.

DRAFT

Schedule A—Minimum Standards for Academic Levels (MSAL)

A.1 Teaching and research academic staff

A.1.1 Level A

A Level A academic will work with support and guidance from more senior academic staff and is expected to develop their expertise in teaching and research with an increasing degree of autonomy. A Level A academic will normally have completed 4 years of tertiary study or equivalent qualifications and experience and may be required to hold a relevant higher degree.

A Level A academic will normally contribute to teaching at the institution at a level appropriate to the skills and experience of the staff member, engage in scholarly, research and/or professional activities appropriate to their profession or discipline, and undertake administration primarily relating to their activities at the institution. The contribution to teaching of Level A academics will be primarily at undergraduate and graduate diploma level.

A.1.2 Level B

A Level B academic will undertake independent teaching and research in their discipline or related area. In research and/or scholarship and/or teaching a Level B academic will make an independent contribution through professional practice and expertise and coordinate and/or lead the activities of other staff, as appropriate to the discipline.

A Level B academic will normally contribute to teaching at undergraduate, honours and postgraduate level, engage in independent scholarship and/or research and/or professional activities appropriate to their profession or discipline. They will normally undertake administration primarily relating to their activities at the institution and may be required to perform the full academic responsibilities of and related administration for the coordination of an award program of the institution.

A.1.3 Level C

A Level C academic will make a significant contribution to the discipline at the national level. In research and/or scholarship and/or teaching they will make original contributions, which expand knowledge or practice in their discipline.

A Level C academic will normally make a significant contribution to research and/or scholarship and/or teaching and administration activities of an organisational unit or an interdisciplinary area at undergraduate, honours and postgraduate level. They will normally play a major role or provide a significant degree of leadership in scholarly, research and/or professional activities relevant to the profession, discipline and/or community and may be required to perform the full academic responsibilities of and related administration for the coordination of a large award program or a number of smaller award programs of the institution.

A.1.4 Level D

A Level D academic will normally make an outstanding contribution to the research and/or scholarship and/or teaching and administration activities of an organisational unit, including a large organisational unit, or interdisciplinary area.

A Level D academic will make an outstanding contribution to the governance and collegial life inside and outside of the institution and will have attained recognition at a national or international level in their discipline. They will make original and innovative contributions to the advancement of scholarship, research and teaching in their discipline.

A.1.5 Level E

A Level E academic will provide leadership and foster excellence in research, teaching and policy development in the academic discipline within the institution and within the community, professional, commercial or industrial sectors.

A Level E academic will have attained recognition as an eminent authority in their discipline, will have achieved distinction at the national level and may be required to have achieved distinction at the international level. A Level E academic will make original, innovative and distinguished contributions to scholarship, researching and teaching in their discipline. They will make a commensurate contribution to the work of the institution.

A.2 Research academic staff (inclusive of creative disciplines)

A.2.1 Level A

A Level A research academic will typically conduct research/scholarly activities under limited supervision either independently or as a member of a team and will normally hold a relevant higher degree.

A Level A research academic will normally work under the supervision of academic staff at Level B or above, with an increasing degree of autonomy as the research academic gains skills and experience. A Level A research academic may undertake limited teaching, may supervise at undergraduate levels and may publish the results of the research conducted as sole author or in collaboration. They will undertake administration primarily relating to their activities at the institution.

A.2.2 Level B

A Level B research academic will normally have experience in research or scholarly activities, which have resulted in publications in refereed journals or other demonstrated scholarly activities.

A Level B research academic will carry out independent and/or team research. A Level B research academic may supervise postgraduate research students or projects and be involved in research training.

A.2.3 Level C

A Level C research academic will make independent and original contributions to research, which have a significant impact on their field of expertise.

The work of the research academic will be acknowledged at a national level as being influential in expanding the knowledge of their discipline. This standing will normally be demonstrated by a strong record of published work or other demonstrated scholarly activities.

A Level C research academic will provide leadership in research, including research training and supervision.

A.2.4 Level D

A Level D research academic will make major original and innovative contributions to their field of study or research, which are recognised as outstanding nationally or internationally.

A Level D research academic will play an outstanding role within their institution, discipline and/or profession in fostering the research activities of others and in research training.

A.2.5 Level E

A Level E research academic will typically have achieved international recognition through original, innovative and distinguished contributions to their field of research, which are demonstrated by sustained and distinguished performance.

A Level E research academic will provide leadership in their field of research, within his or her institution, discipline and/or profession and within the scholarly and/or general community. They will foster excellence in research, research policy and research training.

Schedule B—Summary of Hourly Rates of Pay

B.1 Fixed-term, full-time and part-time employees

B.1.1 Fixed-term, full-time and part-time employees—minimum hourly rates; and rates inclusive of professorial and clinical loadings

	Minimum hourly rate	Teaching and research academics			
		Medically qualified			Dentally qualified
		Full clinical department in a medical school and responsible for patient care*	Para-clinical department in a medical school	Pre-clinical department in a medical school	Medical school or dental school in the teaching of medical or dental students
		Hourly rate based on:			
	Annual salary + 43.9% of the annual salary for Level A-1	Annual salary + 29.3% of the annual salary for Level A-1	Annual salary + 22% of the annual salary for Level A-1	Annual salary + 22% of the annual salary for Level A-1	
	\$	\$	\$	\$	\$
Level A					
1	26.82	—	—	—	—
2	27.90	—	—	—	—
3	28.97	—	—	—	—
4	29.98	—	—	—	—
5	30.78	—	—	—	—
6*	31.66	—	—	—	—
7	32.53	—	—	—	—
8	33.40	—	—	—	—
Level B					
1	34.75	46.52	42.61	40.65	40.65
2	35.76	47.53	43.61	41.66	41.66
3	36.76	48.54	44.62	42.66	42.66
4	37.77	49.55	45.63	43.67	43.67
5	38.78	50.55	46.64	44.68	44.68
6	39.79	51.56	47.65	45.69	45.69
Level C					

	Minimum hourly rate	Teaching and research academics			
		Medically qualified			Dentally qualified
		Full clinical department in a medical school and responsible for patient care*	Para-clinical department in a medical school	Pre-clinical department in a medical school	Medical school or dental school in the teaching of medical or dental students
		Hourly rate based on:			
	Annual salary + 43.9% of the annual salary for Level A-1	Annual salary + 29.3% of the annual salary for Level A-1	Annual salary + 22% of the annual salary for Level A-1	Annual salary + 22% of the annual salary for Level A-1	
	\$	\$	\$	\$	\$
1	40.79	52.57	48.65	46.70	46.70
2	41.80	53.58	49.66	47.70	47.70
3	42.81	54.59	50.67	48.71	48.71
4	43.82	55.59	51.68	49.72	49.72
5	44.83	56.60	52.69	50.73	50.73
6	45.84	57.61	53.69	51.74	51.74
Level D					
1	47.52	59.29	55.37	53.42	53.42
2	48.86	60.63	56.72	54.76	54.76
3	50.20	61.98	58.06	56.10	56.10
4	51.55	63.32	59.41	57.45	57.45
Level E	58.94	70.71	66.80	64.84	64.84

*Any level A academic required to carry out full subject coordination duties as part of his or her normal duties or who upon appointment holds or during appointment gains a relevant doctoral qualification will be paid a salary no lower than this salary point.

Refer to clause 16.2 generally in relation Professorial and clinical loadings.

**Schedule C—List of employers bound by the Higher Education Contract of
Employment Award 1998 [AP784204]**

Institution at time of HECE Award	Current name or names	New consolidated list (alphabetical)
Australian Catholic University	Australian Catholic University	Australian Catholic University
Australian Maritime College	University of Tasmania	Australian National University
Australian National University	Australian National University	Charles Darwin University
Central Queensland University	Central University Queensland	Charles Sturt University
Charles Sturt University	Charles Sturt University	Central Queensland University
Curtin University of Technology	Curtin University of Technology	Curtin University of Technology
Deakin University	Deakin University	Deakin University
Edith Cowan University	Edith Cowan University	Edith Cowan University
Flinders University of South Australia	Flinders University of South Australia	Federation University of Australia
Griffith University	Griffith University	Flinders University of South Australia
James Cook University	James Cook University	Griffith University
La Trobe University	La Trobe University	James Cook University
Macquarie University	Macquarie University	La Trobe University
Monash University	Monash University	Macquarie University
Murdoch University	Murdoch University	Monash University
Northern Territory University	Charles Darwin University	Murdoch University
Queensland University of Technology	Queensland University of Technology	Queensland University of Technology

Institution at time of HECE Award	Current name or names	New consolidated list (alphabetical)
RMIT University	RMIT University	RMIT University
Southern Cross University	Southern Cross University	Southern Cross University
Swinburne University of Technology	Swinburne University of Technology	Swinburne University of Technology
University of Adelaide	University of Adelaide	University of Adelaide
University of Ballarat	Federation University of Australia	University of Canberra
University of Canberra	University of Canberra	University of Melbourne
University of Melbourne	University of Melbourne	University of New England
University of New South Wales	University of New South Wales	University of Newcastle
University of Newcastle	University of Newcastle	University of Newcastle
University of Newcastle	University of Newcastle	University of Queensland
University of Queensland	University of Queensland	University of South Australia
University of South Australia	University of South Australia	University of Southern Queensland
University of Southern Queensland	University of Southern Queensland	University of the Sunshine Coast
University of the Sunshine Coast	University of the Sunshine Coast	University of Sydney
University of Sydney	University of Sydney	University of Tasmania
University of Tasmania	University of Tasmania	University of Technology Sydney
University of Technology Sydney	University of Technology Sydney	University of Western Australia

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Institution at time of HECE Award	Current name or names	New consolidated list (alphabetical)
University of Western Australia	University of Western Australia	Western Sydney University
University of Western Sydney	Western Sydney University	University of Wollongong
University of Wollongong	University of Wollongong	Victoria University
Victoria University	Victoria University	
Victorian College of Arts	University of Melbourne	

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Schedule D—Agreement to Take Annual Leave in Advance

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

Name of employee: _____

Name of employer: _____

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

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

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

Signature of employee: _____

Date signed: ____/____/20____

Name of employer representative: _____

Signature of employer representative: _____

Date signed: ____/____/20____

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

I agree that:

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

Name of parent/guardian: _____

Signature of parent/guardian: _____

Date signed: ____/____/20____

Schedule E—Agreement to Cash Out Annual Leave

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

Name of employee: _____

Name of employer: _____

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

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

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

The payment will be made to the employee on: ____/____/20__

Signature of employee: _____

Date signed: ____/____/20__

Name of employer representative: _____

Signature of employer representative: _____

Date signed: ____/____/20__

Include if the employee is under 18 years of age:

Name of parent/guardian: _____

Signature of parent/guardian: _____

Date signed: ____/____/20__

Schedule F—List of Institutions Bound by AP801516

AP801516 – Universities and Post Compulsory Academic Conditions Award 1999

Australian Higher Education Industrial Association

Australian Catholic University

Australian Maritime College

Australian National University

Central Queensland University

Charles Sturt University

Curtin University of Technology

Deakin University

Edith Cowan University

Flinders University of South Australia

Griffith University

Hawthorn Institute of Education Ltd

James Cook University

La Trobe University

Macquarie University

Monash University

Northern Territory University

Queensland University of Technology

Royal Melbourne Institute of Technology

Southern Cross University

Swinburne University of Technology

University of Adelaide

University of Ballarat

University of Canberra

University of Melbourne

University of New England

University of Newcastle

University of Queensland

University of South Australia

University of Southern Queensland

University of Sydney

University of Tasmania

University of Technology, Sydney

University of Western Australia

University of Western Sydney

University of Wollongong

Victorian College of the Arts

Victoria University of Technology

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Schedule G—Part-day Public Holidays

- G.1** This schedule operates where this award otherwise contains provisions dealing with public holidays that supplement the [NES](#).
- G.2** Where a part-day public holiday is declared or prescribed between 7.00 pm and midnight on Christmas Eve (24 December in each year) or New Year's Eve (31 December in each year) the following will apply on Christmas Eve and New Year's Eve and will override any provision in this award relating to public holidays to the extent of the inconsistency:
- (a) All employees will have the right to refuse to work on the part-day public holiday if the request to work is not reasonable or the refusal is reasonable as provided for in the [NES](#).
 - (b) Where a part-time or full-time employee is usually rostered to work ordinary hours between 7.00 pm and midnight but as a result of exercising their right under the [NES](#) does not work, they will be paid their ordinary rate of pay for such hours not worked.
 - (c) Where a part-time or full-time employee is usually rostered to work ordinary hours between 7.00 pm and midnight but as a result of being on annual leave does not work, they will be taken not to be on annual leave between those hours of 7.00 pm and midnight that they would have usually been rostered to work and will be paid their ordinary rate of pay for such hours.
 - (d) Where a part-time or full-time employee is usually rostered to work ordinary hours between 7.00 pm and midnight, but as a result of having a rostered day off (RDO) provided under this award, does not work, the employee will be taken to be on a public holiday for such hours and paid their ordinary rate of pay for those hours.
 - (e) Excluding annualised salaried to whom clause G.2(f) applies, where an employee works any hours between 7.00 pm and midnight they will be entitled to the appropriate public holiday penalty rate (if any) in this award for those hours worked.
 - (f) Where an employee is paid an annualised salary under the provisions of this award and is entitled under this award to time off in lieu or additional annual leave for work on a public holiday, they will be entitled to time off in lieu or pro-rata annual leave equivalent to the time worked between 7.00 pm and midnight.
 - (g) An employee not rostered to work between 7.00 pm and midnight, other than an employee who has exercised their right in accordance with clause G.2(a), will not be entitled to another day off, another day's pay or another day of annual leave as a result of the part-day public holiday.
- G.3** An employer and employee may agree to substitute another part-day for a part-day that would otherwise be a part-day public holiday under the [NES](#).
- G.4** This schedule is not intended to detract from or supplement the [NES](#).