

EXPOSURE DRAFT

Restaurant Industry Award 2017

This plain language exposure draft has been prepared by staff of the Fair Work Commission based on the *Restaurant Industry Award 2010* as at 21 April 2017. This exposure draft does not seek to amend any entitlements under the *Restaurant Industry Award 2010*. It has been prepared to address some of the structural issues identified in modern awards and to apply plain language drafting principles and techniques to award-specific provisions.

The review of this award in accordance with s.156 of the *Fair Work Act 2009* is being dealt with in matter [AM2016/15](#). 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.

Table of Contents

	Page
Part 1— Application and Operation of this Award	4
1. Title and commencement	4
2. Definitions.....	4
3. The National Employment Standards and this award	6
4. Coverage	7
5. Effect of variations made by the Fair Work Commission	8
6. Individual flexibility arrangements	8
7. Facilitative provisions for flexible working practices.....	8
Part 2— Types of Employment and Classifications.....	9
8. Types of employment.....	9
9. Full-time employment.....	9
10. Part-time employment.....	9
11. Casual employment.....	10
12. Apprentices	10
13. Junior employees.....	12
14. Classifications	12
Part 3— Hours of Work	13
15. Ordinary hours of work.....	13
16. Breaks.....	14
Part 4— Wages and Allowances	15
17. Work organisation.....	15

18.	Minimum rates	15
19.	Higher duties	18
20.	Payment of wages	19
21.	Annualised salary arrangements	19
22.	Allowances.....	20
23.	Superannuation.....	22
Part 5— Overtime and Penalty Rates		24
24.	Overtime.....	24
25.	Penalty rates	26
Part 6— Leave and Public Holidays.....		28
26.	Annual leave	28
27.	Personal/carer’s leave and compassionate leave.....	32
28.	Community service leave.....	32
29.	Public holidays	32
Part 7— Industry Specific Provisions		33
30.	No deduction for breakages or cashiering underings.....	33
Part 8— Consultation and Dispute Resolution.....		33
31.	Consultation about major workplace change	33
32.	Consultation about changes to rosters or hours of work	33
33.	Dispute resolution	33
Part 9— Termination of Employment and Redundancy		33
34.	Termination of employment.....	33
35.	Redundancy.....	33
36.	Transfer to lower paid job on redundancy	33
37.	Employee leaving during redundancy notice period.....	34
38.	Job search entitlement.....	34

Schedule A —Classification Structure and Definitions	35
Schedule B —Summary of Hourly Rates of Pay	40
Schedule C —Summary of Monetary Allowances	42
Schedule D —School-based Apprentices.....	44
Schedule E — Supported Wage System.....	45
Schedule F —National Training Wage.....	46
Schedule G —2017 Part-day Public Holidays	47
Schedule H —Agreement to Take Annual Leave in Advance	48
Schedule I —Agreement to Cash Out Annual Leave.....	49

Part 1—Application and Operation of this Award

1. Title and commencement

- 1.1 This is the *Restaurant Industry Award [2017]*.
- 1.2 This modern award, as varied, commenced operation on 1 January 2010.
- 1.3 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 this award.
- 1.4 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. Definitions

In this award:

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

adult apprentice means an apprentice who is 21 years of age or over at the start of their apprenticeship.

adult employee means an employee who is 21 years of age or over.

appropriate level of training, in relation to an employee, means that the employee:

- (a) has completed an appropriate training program that meets the training and assessment requirements of a qualification or one or more appropriate units of competency forming part of a training package; or
- (b) has been assessed by a qualified skills assessor as having skills at least equivalent to those attained in an appropriate training program; or
- (c) other than a Food and beverage attendant grade 2 as defined in Schedule A—Classification Structure and Definitions, as at 31 December 2009, had been doing the work of a particular classification for a period of at least 3 months.

NOTE 1: The minimum classification level for an employee who has completed AQF Certificate III or higher qualifications relevant to the classification in which they are employed and who makes use of skills and knowledge derived from Certificate III competencies relevant to the work undertaken is Level 4 specified in clause 18.1 (Minimum rates). Any dispute about an employee's entitlement to be paid at Level 4 must be dealt with in accordance with clause 33—Dispute resolution.

NOTE 2: In order for a Food and beverage attendant grade 2 to be classified at grade 3, the employee must have completed AQF Certificate II qualifications relevant to the grade 3 classification.

catering by a restaurant business means the provision by a restaurant of catering services for any social or business function where those services are incidental to the major business of the restaurant.

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

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

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

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

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

junior employee means an employee who is less than 21 years of age.

liquor service employee means a person employed to sell or dispense liquor in bars, bottle departments or shops and includes a cellar employee.

long term casual employee has the meaning given by section 12 of the [Act](#).

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

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

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

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

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

restaurant industry means restaurants, reception centres, night clubs, cafés or roadhouses and includes catering by a restaurant business and a tea room operated in, or in connection with, a restaurant business but does not include a restaurant operated in, or in connection with, premises owned or operated by an employer covered by any of the following awards:

- (a) *Hospitality Industry (General) Award [2017]*; or
- (b) *Registered and Licensed Clubs Award 2010*; or
- (c) *Fast Food Industry Award 2010*.

rostered day off means a continuous 24 hour period between the end of the last ordinary shift, and the start of the next ordinary shift, on which an employee is rostered for duty.

shiftworker, see clause 26.2 (Annual leave).

spread of hours means the period between when an employee starts and finishes work within any period of 24 hours.

standard hourly rate means the minimum hourly rate for a Level 4 classification (Cook grade 3 (tradesperson)) in Table 2—Minimum rates (see clause 18.1).

standard rate means the minimum rate for a Level 4 classification (Cook grade 3 (tradesperson)) in Table 2—Minimum rates (see clause 18.1).

standard weekly rate means the minimum weekly rate for a Level 4 classification (Cook grade 3 (tradesperson)) in Table 2—Minimum rates (see clause 18.1).

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

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

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

Table 2—Minimum rates means the Table in clause 18.1.

Table 3—Junior rates means the Table in clause 18.2(a).

Table 4—Apprentice minimum rates means the Table in clause 18.3(a).

Table 5—Overtime rates means the Table in clause 24.3.

Table 6—Penalty rates means the Table in clause 25.2(c).

3. The National Employment Standards and this award

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

- 3.2** Where this award refers to a condition of employment provided for in the [NES](#), the [NES](#) definition applies.
- 3.3** The employer must ensure that copies of this award and of the [NES](#) are available to all employees to whom they apply, either on a notice board conveniently located at or near the workplace or through accessible electronic means.

4. Coverage

- 4.1** This industry award covers, to the exclusion of any other modern award:
- (a) employers in the restaurant industry throughout Australia; and
 - (b) employees (with a classification defined in Schedule A—Classification Structure and Definitions) of employers mentioned in paragraph (a).
- 4.2** This industry award also covers:
- (a) on-hire employees working in the restaurant industry (with a classification defined in Schedule A—Classification Structure and Definitions) and the on-hire employers of those employees; and
 - (b) apprentices or trainees employed by a group training employer and hosted by an employer covered by this award to work in the restaurant industry (with a classification defined in Schedule A—Classification Structure and Definitions) and the group training employers of those apprentices or trainees.
- 4.3** However, this industry award does not cover any of the following:
- (a) employees excluded from award coverage by the [Act](#); or
NOTE: See section 143(7) of the [Act](#).
 - (b) employees covered by a modern enterprise award or an enterprise instrument or their employers; or
 - (c) employees covered by a State reference public sector modern award or a State reference public sector transitional award or their employers; or
 - (d) employers in the following industries or activities or their employees:
 - (i) contract caterers whose principal business activity is providing catering services or accommodation services on a contract or fee-for-service basis; and
 - (ii) retail industry; and
 - (iii) fast food industry; and
 - (iv) in-flight catering for airlines; and
 - (v) catering services provided by employers in the aged care industry; and
 - (vi) boarding schools and residential colleges; and
 - (vii) hospitals; and

- (viii) orphanages; and
- (ix) hotels, motels, hostels and boarding establishments; and
- (x) clubs registered or recognised under State or Territory legislation; and
- (xi) restaurants operated in or in connection with hotels, motels, hostels and boarding establishments, or clubs registered or recognised under State or Territory legislation.

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

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

5. Effect of variations made by the Fair Work Commission

A variation of this award made by the Fair Work Commission does not affect any right, privilege, obligation or liability acquired, accrued or incurred under this award as in force before that variation.

6. Individual flexibility arrangements

Standard clause – not reproduced here. Standard clauses subject to conference on 11 April 2017. Please see Statement issued 27 March 2017 [PR591212](#)

7. Facilitative provisions for flexible working practices

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

7.2 The following clauses have facilitative provisions:

Table 1—Facilitative provisions

Clause	Provision	Agreement between an employer and:
15.2(a)	Make-up time (introduction of system of make-up time)	the majority of employees
15.2(b)	Make-up time (agreement to take make-up time)	an individual employee
20.2	Payment of wages	the majority of employees
24.4	Time off instead of payment for overtime	an individual employee
26.8	Annual leave in advance	an individual employee

Clause	Provision	Agreement between an employer and:
26.9	Cashing out of annual leave	an individual employee
29.2	Substitution of public holidays by agreement	the majority of employees

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

Part 2—Types of Employment and Classifications

8. Types of employment

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

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

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

9. Full-time employment

An employee who is engaged to work an average of 38 ordinary hours per week over a period of no more than 4 weeks is a full-time employee.

10. Part-time employment

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

10.1 An employee who is engaged to work for fewer than an average of 38 ordinary hours per week over a period of no more than 4 weeks and whose hours of work are reasonably predictable is a part-time employee.

10.2 An employer may employ part-time employees with any classification defined in Schedule A—Classification Structure and Definitions.

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

10.4 A part-time employee is entitled to payments in respect of annual leave, personal/carer's leave, compassionate leave or public holidays on a proportionate basis.

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

- (a) the number of hours to be worked each day; and
- (b) the days of the week on which the employee will work; and
- (c) the times at which the employee will start and finish work each day.

- 10.6** The employer and the employee may vary an agreement under clause 10.5. Any variation must be recorded in writing.
- 10.7** An employer must roster a part-time employee to work on any shift for a minimum of 3 consecutive hours.
- 10.8** A part-time employee must be paid in accordance with clause 18—Minimum rates for each ordinary hour worked.
- 10.9** The employer must keep a copy of any agreement under clause 10.5, and any variation under clause 10.6, and give another copy to the employee.

11. Casual employment

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

- 11.1** An employee who is not covered by clause 9—Full-time employment or clause 10—Part-time employment must be engaged and paid as a casual employee.
- 11.2** An employer must pay a casual employee for each ordinary hour worked a loading of **25%** on top of the minimum hourly rate otherwise applicable under clause 18—Minimum rates.
- NOTE: The casual loading is payable instead of entitlements from which casuals are excluded by the terms of this award and the [NES](#). See Part 2-2 of the [Act](#).
- 11.3** An employer must pay a casual employee for a minimum of 2 hours' work on each occasion on which the casual employee is rostered to attend work even if the employee works for a shorter time.
- 11.4** An employer must pay a casual employee at the end of each engagement unless the employer and the employee have agreed that the pay period of the employee is either weekly or fortnightly.

12. Apprentices

- 12.1** An employer may engage apprentices.
- 12.2** Any engagement must be in accordance with the law regulating apprenticeships in force in the place in which the apprentice is engaged.
- 12.3** This award applies to an apprentice in the same way that it applies to a full-time employee except as otherwise expressly provided by this award.
- 12.4** An employer must pay an apprentice in accordance with Table 4—Apprentice minimum rates (see clause 18.3(a)).

12.5 An employer must not require an apprentice under the age of 18 to work overtime. However, such an apprentice may agree to work overtime if requested to do so.

12.6 Except in an emergency, an employer must not require an apprentice to work overtime or shiftwork at any time that would prevent their attendance at training in accordance with their training contract.

12.7 Training

(a) An employer must release an apprentice from work to attend training or any assessment in accordance with their training contract without loss of pay or continuity of employment.

(b) Subject to Schedule D—School-based Apprentices, time spent by an apprentice in attending training or any assessment in accordance with their training contract is to be regarded as time worked for the employer for the purpose of calculating the apprentice’s wages and determining the apprentice’s employment conditions.

(c) An employer must reimburse an apprentice for all fees paid by the apprentice themselves to a registered training organisation (RTO) for courses that the apprentice is required to attend, and all costs incurred by the apprentice in purchasing textbooks (not provided or otherwise made available by the employer) that the apprentice is required to study, for the purposes of the apprenticeship.

(d) The employer must make any reimbursement required under paragraph (c) by whichever of the following is the later:

(i) 6 months after the start of the apprenticeship; or

(ii) 6 months after the relevant stage of the apprenticeship; or

(iii) 3 months after the start of the training provided by the RTO.

(e) Reimbursement under paragraph (c) is subject to the employer being satisfied that the apprentice is making satisfactory progress in the apprenticeship.

12.8 Block release training

(a) Clause 12.8 applies to an apprentice who is required to attend block release training in accordance with their training contract.

(b) If the training requires an overnight stay, the employer must pay for the reasonable travel costs incurred by the apprentice in travelling to and from the training.

(c) The employer is not obliged to pay costs under paragraph (b) if the apprentice could have attended training at a closer venue and attending the more distant training had not been agreed between the employer and the apprentice.

(d) Reasonable travel costs in paragraph (b) include:

(i) the total cost of reasonable transportation (including transportation of tools, where required) to and from the training; and

(ii) accommodation costs; and

- (iii) reasonable expenses, including for meals, incurred which exceed those incurred in the normal course of travelling to and from the workplace.
- (e) Reasonable costs in paragraph (b) do not include payment for travelling time or expenses incurred while not travelling to and from the block release training.
- (f) The amount an employer must pay under paragraph (b) may be reduced by any amount that the apprentice has received, or was eligible to receive, for travel costs to attend block release training under a Government apprentice assistance scheme.
- (g) The employer may only make a reduction under paragraph (f) for an amount that an apprentice was eligible to receive, but did not receive, if the employer advised the apprentice in writing of the availability of the assistance and the apprentice choose not to seek it.

13. Junior employees

NOTE: Junior employee is defined in clause 2—Definitions.

- 13.1** An employer may engage junior employees.
- 13.2** An employer must pay a junior employee in accordance with Table 3—Junior rates (see clause 18.2(a)).
- 13.3** An employer must not require an employee under 18 years of age to work more than 10 hours in a shift.
- 13.4** If permitted under the law applying in the relevant place, junior employees may work in a bar or other place where liquor is sold or dispensed.
- 13.5** Junior employees working as liquor service employees must be paid as an adult in accordance with Table 2—Minimum rates (see clause 18.1) at the classification rate for the work being performed.
- 13.6** An employer may at any time demand that a junior employee produce a birth certificate or other satisfactory proof of age. If the employer demands a birth certificate, the employer must pay the cost of obtaining the certificate.

14. Classifications

An employer must classify an employee covered by this award in accordance with Schedule A—Classification Structure and Definitions.

NOTE: The minimum rates applicable to the classifications in this award are in Table 2—Minimum rates (see clause 18.1).

Part 3—Hours of Work

15. Ordinary hours of work

NOTE: A full-time employee must work an average of 38 ordinary hours per week in a period of no more than 4 weeks. See clause 9—Full-time employment.

15.1 An arrangement for working ordinary hours must satisfy all of the following conditions:

- (a) the minimum number of ordinary hours that may be worked by a full-time employee on any day is 6 (excluding meal breaks); and
- (b) the maximum number of ordinary hours that may be worked on any day is 11.5 (excluding meal breaks); and
- (c) an employee who is rostered to work more than 10 ordinary hours on more than 3 consecutive days is entitled to a break of at least 48 hours after the last consecutive day on which the employee works more than 10 ordinary hours; and
- (d) the maximum number of days on which an employee may work more than 10 ordinary hours in a 4 week cycle is 8; and
- (e) an employee (other than a casual employee) must have a minimum break of 10 hours between when the employee finishes work on one day and starts work on the next and a minimum break of 8 hours for a changeover of rosters; and
- (f) an employee must have a minimum of 8 full days off work in a 4 week period; and
- (g) the maximum spread of hours for an employee who works split shifts is 12.

NOTE: An employee under the age of 18 years must not be required to work more than 10 hours in a shift. See clause 13.3 (Junior employees).

15.2 Make-up time

- (a) The employer and a majority of the employees at a workplace may agree to introduce an arrangement at the workplace under which an employee takes time off during the employee's ordinary hours of work and makes up that time later.
- (b) If an agreement under paragraph (a) has been made for a workplace, an employee may elect, with the consent of the employer, to take time off and make up that time later.
- (c) An employee working make-up time is entitled to breaks in accordance with clause 16—Breaks.
- (d) If make-up time is worked at a time when penalty rates are applicable under clause 25—Penalty rates, the employer must pay the employee in accordance with Table 6—Penalty rates (see clause 25.2(c)) for that time.

- (e) The employer must keep a record of make-up time arrangements as a time and wages record.

15.3 Rosters (Full-time and part-time employees)

- (a) The following rostering provisions apply to full-time and part-time employees.
- (b) The employer must prepare a roster showing for each employee their name and the times at which they start and finish work.
- (c) The employer must post the roster in a conspicuous place that is easily accessible by the employees.
- (d) The roster of an employee may be changed at any time by the employer and employee by mutual agreement or by the employer giving the employee 7 days' notice of the change.

15.4 Notice of days off (including rostered days off)

- (a) An employer must, where practicable, give an employee a minimum of 2 weeks' notice of any rostered day off.
- (b) A rostered day off may be changed by the employer and employee by mutual agreement or for any reason beyond the control of the employer (including sickness).

16. Breaks

16.1 Clause 16 gives an employee an entitlement to meal breaks and rest breaks.

16.2 An employee who is required to work for 5 hours or more in a day is entitled to an unpaid meal break of at least 30 minutes.

16.3 An unpaid meal break must not be taken within the first hour of work or later than the first 6 hours of work.

16.4 An employee who is rostered to take their unpaid meal break later than 5 hours after starting work is entitled to an additional paid meal break of 20 minutes (to be taken after the first 2 hours of work and within the first 5 hours of work).

16.5 If an employee is not allowed to take an unpaid meal break at the rostered time, the employer must pay the employee at the rate of **150%** of the employee's minimum hourly rate from when the meal break was due to be taken until either the employee is allowed to take it or the shift ends.

16.6 If there is no rostered time for an employee to take an unpaid meal break and the employee is not allowed to take a meal break in accordance with clause 16.3, the employer must pay the employee at the rate of **150%** of the employee's minimum hourly rate from the end of 6 hours after starting work until either the employee is allowed to take it or the shift ends.

16.7 Additional rest break

- (a) An employer must give an employee an additional paid rest break of 20 minutes in any of the following circumstances:

- (i) the employee is required to work more than 5 continuous hours after an unpaid meal break; or
 - (ii) the employee is required to work more than 2 hours overtime after finishing their rostered hours.
- (b) A full-time or part-time employee who is required to work more than 10 ordinary hours in the day is entitled to two additional paid rest breaks of 20 minutes.
- (c) In rostering for the two additional paid rest breaks of 20 minutes to which an employee is entitled under paragraph (b), the employer must seek to ensure that breaks are spread evenly across the shift.

Part 4—Wages and Allowances

17. Work organisation

An employer may require an employee to perform duties across the different classification streams set out in Schedule A—Classification Structure and Definitions that they are competent to perform.

18. Minimum rates

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

NOTE 1: Adult employee is defined in clause 2—Definitions.

NOTE 2: Provisions for calculating wages for a junior employee is at clause 18.2—Junior rates.

Table 2—Minimum rates

Column 1	Column 2	Column 3
Employee classification	Minimum weekly rate	Minimum hourly rate
Introductory level	\$672.70	\$17.70
Level 1	\$692.10	\$18.21
Food and beverage attendant grade 1		
Kitchen attendant grade 1		
Level 2	\$718.60	\$18.91
Food and beverage attendant grade 2		
Cook grade 1		

Plain Language Exposure draft – Restaurant Industry Award 2017

Column 1	Column 2	Column 3
Employee classification	Minimum weekly rate	Minimum hourly rate
Kitchen attendant grade 2		
Clerical grade 1		
Storeperson grade 1		
Door person/security officer grade 1		
Level 3	\$743.30	\$19.56
Food and beverage attendant grade 3		
Cook grade 2		
Kitchen attendant grade 3		
Clerical grade 2		
Storeperson grade 2		
Timekeeper/security officer grade 2		
Handyperson		
Level 4	\$783.30	\$20.61
Food and beverage attendant grade 4 (tradesperson)		
Cook grade 3 (tradesperson)		
Clerical grade 3		
Storeperson grade 3		
Level 5	\$832.30	\$21.90
Food and beverage supervisor		
Cook grade 4 (tradesperson)		
Clerical supervisor		
Level 6	\$854.60	\$22.49
Cook grade 5 (tradesperson)		

18.2 Junior rates

NOTE: Junior employee is defined in clause 2—Definitions.

- (a) An employer must pay a junior employee aged as specified in column 1 of Table 3—Junior rates the minimum percentage specified in column 2 of the minimum rate that would otherwise be applicable under Table 2—Minimum rates (see clause 18.1):

Table 3—Junior rates

Column 1 Age	Column 2 Minimum % of minimum rate
16 years of age and under	50%
17 years of age	60%
18 years of age	70%
19 years of age	85%
20 years of age	100%

- (b) A minimum rate calculated in accordance with Table 3—Junior rates must be rounded to the nearest **\$0.10**.
- (c) An amount that is in dollars and a number of cents is rounded to the nearest **\$0.10**:
 - (i) if the amount of cents is **\$0.06** or more, by increasing that amount to the next **\$0.10**; or
 - (ii) if the number of cents is **\$0.05** or less, by deducting those cents from that amount.

18.3 Apprentice rates

- (a) An employer must pay an apprentice the minimum hourly rate specified in column 4 (or for a full-time employee the minimum weekly rate specified in column 3) in accordance with the year of the apprenticeship specified in column 1 of Table 4—Apprentice minimum rates.

Table 4—Apprentice minimum rates

Column 1 Year of apprenticeship	Column 2 % of the standard rate	Column 3 Minimum weekly rate	Column 4 Minimum hourly rate
1st year	55%	\$430.82	\$11.34
2nd year	65%	\$509.15	\$13.40
3rd year	80%	\$626.64	\$16.49
4th year	95%	\$744.14	\$19.58

NOTE: The minimum rates are the percentage of the standard rate specified in column 2 of Table 4—Apprentice minimum rates.

- (b) An employer must pay an employee who has completed a full apprenticeship as a qualified tradesperson at not less than the standard rate.

18.4 Proficiency payments

An employer must pay a 4th year apprentice as follows:

- (a) at the 4th year apprentice rate specified in Table 4—Apprentice minimum rates (see clause 18.3(a)) for the first 9 months of the year and the standard rate for the rest of the year if the apprentice has successfully completed their schooling for a year on one occasion only;
- (b) at the 4th year apprentice rate specified in Table 4—Apprentice minimum rates (see clause 18.3(a)) for the first 6 months of the year and the standard rate for the rest of the year if the apprentice has successfully completed their schooling for a year on 2 occasions;
- (c) at the standard rate for the entire 4th year if the apprentice has successfully completed their schooling for a year on 3 occasions.

18.5 Adult apprentices

NOTE: Adult apprentice is defined in clause 2—Definitions.

- (a) An employer must pay a first year adult apprentice who commenced on or after 1 January 2014 and is in the first year of their apprenticeship at not less than whichever of the following is the greater:
 - (i) 80% of the standard rate; or
 - (ii) the rate in Table 4—Apprentice minimum rates (see clause 18.3(a)) for the first year of the apprenticeship.
- (b) An employer must pay an adult apprentice who commenced on or after 1 January 2014 and is in the second or a subsequent year of the apprenticeship at not less than whichever of the following is the greater:
 - (i) the lowest rate in Table 2—Minimum rates (see clause 18.1);
 - (ii) the rate in Table 4—Apprentice minimum rates (see clause 18.3(a)) for the relevant year of the apprenticeship.
- (c) Paragraph (d) applies to an employee who, immediately before entering into a training agreement as an adult apprentice with an employer, had been employed by the employer as a full-time employee for not less than 6 months or as a part-time or long term casual employee for not less than 12 months.
- (d) The minimum rate that was applicable to the employee immediately before the person entered into the training agreement continues to be applicable to the employee throughout the apprenticeship.

19. Higher duties

- 19.1 An employer must pay an employee who performs for 2 or more hours on any particular day duties of a classification higher than the employee's ordinary classification the minimum hourly rate specified in column 3 of Table 2—Minimum rates (see clause 18.1) for that higher classification for the whole of that day.

- 19.2** An employer must pay an employee who performs for less than 2 hours on any particular day duties of a classification higher than the employee’s ordinary classification the minimum hourly rate specified in column 3 of Table 2—Minimum rates (see clause 18.1) for that higher classification for the time during which those duties were performed.
- 19.3** An employer may require an employee to temporarily perform the duties of a classification lower than the employee’s ordinary classification without loss of pay.

20. Payment of wages

This clause may be affected by [AM2016/8](#)

- 20.1** The employer may determine the pay period of an employee as being either weekly or fortnightly. However, the employer and an individual employee may agree to a monthly pay period.
- 20.2** Except on termination of employment, wages may be paid on any day of the week other than a Friday, Saturday or Sunday. However, if the employer and a majority of the employees at a workplace agree, wages may be paid on the Friday of a week during which there is a public holiday.
- 20.3** Wages may be paid, without cost to the employee, by cash, cheque or electronic funds transfer into a bank account nominated by the employee.
- 20.4** An employee paid by cash or cheque who has a rostered day off on a pay day is entitled to be paid on their last day at work before their rostered day off.
- 20.5** On termination of employment (whether as a result of the employee giving notice of termination of employment or their employment being terminated by the employer) the employer must pay all wages due during working hours before the employee leaves the workplace.
- 20.6** However, if the employee is dismissed for misconduct, the employer must pay all wages due within one hour after the dismissal or as soon as practicable after that time.

21. Annualised salary arrangements

This clause may be affected by [AM2016/13](#)

- 21.1** Clause 21 applies to all employees other than casual employees.
- 21.2** An individual employee may agree with their employer to be paid an annualised salary. An agreement must be one that is genuinely made without coercion or duress.
- 21.3** An annualised salary must be at least **125%** of the minimum weekly rate that would otherwise be applicable under Table 2—Minimum rates (see clause 18.1) over the year.
- 21.4** An annualised salary satisfies this award in relation to penalty rates and overtime.

- 21.5** An annualised salary must not result in an employee being paid less over a year (or, if the employee’s employment is terminated before a year is completed, over the period of that employment) than would have been the case if an annualised salary had not been agreed and the employee had instead been paid their weekly rate and any other amounts satisfied by the annualised salary.
- 21.6** An employee who has entered into an agreement under clause 21.2 must be rostered to have a minimum of 8 days off duty during each 4 week cycle of work.
- 21.7** An employee who has entered into an agreement under clause 21.2 and who is required to work on a public holiday is entitled to paid time off of equal length to the time worked on the public holiday.
- 21.8** The paid time off mentioned in clause 21.7 may be taken on another day agreed between the employee and the employer or added to the employee’s annual leave entitlement.
- 21.9** The employer must keep a record of hours worked each day by an employee who has entered into an agreement under clause 21.2 showing the date and the times at which the employee started and finished work that day.
- 21.10** A record mentioned in clause 21.9 must be countersigned weekly by the employee and kept at the place of employment for 7 years.
- 21.11** If an annualised salary paid to an employee has the result mentioned in clause 21.5 at the end of a year or period of employment, the employer must pay the employee the difference.

22. Allowances

- 22.1** Clause 22 gives employees an entitlement to monetary allowances of specified kinds in specified circumstances.

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

22.2 Meal allowance

- (a) Clause 22.2 applies to any full-time or part-time employee who:
- (i) is required to work overtime of more than 2 hours; and
 - (ii) was not advised of that requirement on or before the previous day.
- (b) The employer must:
- (i) pay the employee a meal allowance of **\$12.57**; or
 - (ii) supply the employee with a meal.
- (c) The employer must pay the employee a meal allowance of **\$12.57** if all of the following applies:
- (i) the employee is advised of a requirement to work overtime; and
 - (ii) the employee provides a meal; and

- (iii) after providing the meal, the employee is no longer required to work overtime at all or only to work overtime of 2 hours or less.

22.3 Split shift allowance

- (a) Paragraph (b) applies to any full-time or part-time employee who has a broken working day.
- (b) The employer must pay the employee an allowance of **\$3.92** for each separate work period of 2 hours or more.

22.4 Tool and equipment allowance

- (a) The employer must pay an apprentice cook who is required to provide and use their own tools a daily tool and equipment allowance of **\$1.69** up to a maximum of **\$8.31** per week.
- (b) The employer must reimburse an employee for the cost of purchasing any towels, tools, knives, choppers, implements, utensils or other materials that the employee is required to provide and use and that are not supplied or paid for by the employer and in respect of which a tool and equipment allowance is not payable under paragraph (a).

22.5 Special clothing allowance

- (a) In clause 22.5 **special clothing** means any article of clothing (including waterproof or other protective clothing) that the employer requires the employee to wear or that it is necessary for the employee to wear but does not include shoes, hosiery, socks and any easily obtainable black and white clothing that is not part of a uniform or formal clothing.
- (b) The employer must reimburse an employee who is required to wear special clothing for the cost of purchasing any such clothing that is not supplied or paid for by the employer.
- (c) If the employee is responsible for laundering any special clothing that is required to be worn by them, the employer must:
 - (i) pay the employee a weekly laundry allowance of an amount agreed between the employer and the employee; or
 - (ii) in the absence of an agreement mentioned in subparagraph (i), reimburse the employee for the cost of laundering any item of special clothing. For this purpose the employer may require the employee to show evidence of that cost.
- (d) The employer may require an employee on commencing employment to sign a receipt for any special clothing supplied or paid for by the employer that lists it and its value.
- (e) The employer is entitled to deduct from any wages owed to the employee on the employee ceasing employment the value (as stated on the receipt but allowing for fair wear and tear) of any item of special clothing not returned to the employer unless it was damaged, lost or stolen otherwise than because of the fault of the employee.

22.6 Allowance for distance work

Parties are asked to clarify the meaning of 'ordinary rate of pay' in clause 22.6(a). Does this include applicable penalties?

- (a) An employer must pay an employee who works away from their employer's workplace at their ordinary rate of pay for time spent travelling both ways between the employee's residence and their place of work.
- (b) Paragraph (c) applies to an employee to whom all of the following apply:
 - (i) the employee is engaged for work that requires the employee to travel 80 kilometres from their usual place of work or more to take up the engagement; and
 - (ii) the employee performs their work to the satisfaction of their employer for a period of up to 4 weeks; and
 - (iii) the employee is willing to complete the full period of the engagement.
- (c) The employer must pay the employee for transport both ways between the employee's residence and their place of work.

23. Superannuation

This clause has not been drafted in plain language in accordance with section 156(2)(c) of the [Act](#).

23.1 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.
- (b) 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.
- (c) The rights and obligations in these clauses supplement those in superannuation legislation.

23.2 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) The employer must make contributions for each employee for such month where the employee earns **\$350.00** or more in a calendar month.

23.3 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 23.2.
- (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 23.3(a) or 23.3(b) no later than 28 days after the end of the month in which the deduction authorised under clauses 23.3(a) or 23.3(b) was made.

23.4 Superannuation fund

Unless, to comply with superannuation legislation, the employer is required to make the superannuation contributions provided for in clause 23.2 to another superannuation fund that is chosen by the employee, the employer must make the superannuation contributions provided for in clause 23.2 and pay the amount authorised under clauses 23.3(a) or 23.3(b) to one of the following superannuation funds or its successor:

- (a) The Hospitality Industry Portable Liquor Union Superannuation Trust Deed (HOST-PLUS);
- (b) InTrust Super;
- (c) AustralianSuper;
- (d) CareSuper;
- (e) Sunsuper;
- (f) MTAA Industry Superannuation Fund;
- (g) Retail Employees Superannuation Trust;
- (h) Tasplan;
- (i) 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
- (j) a superannuation fund or scheme which the employee is a defined benefit member of.

23.5 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 23.2 and pay the amount authorised under clauses 23.3(a) or 23.3(b):

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

Part 5—Overtime and Penalty Rates

24. Overtime

NOTE: Under the [NES](#) (see section 62 of the [Act](#)) an employee may refuse to work additional hours if they are unreasonable. Section 62 sets out factors to be taken into account in determining whether the additional hours are reasonable or unreasonable.

24.1 Payment of overtime

- (a) An employer must pay a full-time employee at the overtime rate for any time worked:
 - (i) in excess of their ordinary hours; or
 - (ii) outside a spread of 12 hours by an employee who works split shifts.
- (b) An employer must pay a part-time employee at the overtime rate for any time worked in excess of the number of ordinary hours agreed under clause 10.5 (Part-time employment), as varied under clause 10.6.
- (c) An employer must pay an employee at the overtime rate for any time that the employee is required to work on a rostered day off.
- (d) The employee is entitled to be paid for a minimum of 4 hours' work on a rostered day off even if the employee is only required to work for a shorter time. However, this entitlement does not apply if the work is part of, or continuous on, a normal roster that started the day before.

24.2 Break after working overtime

- (a) Clause 24.2 applies to an employee who works overtime and is next rostered to start work less than 8 hours after the employee finishes working overtime.
- (b) The employee may delay the start of their next rostered shift until 8 hours after the employee finished working overtime without loss of pay for the rostered ordinary hours not worked.
- (c) If the employee does not have an 8 hour break, the employer must pay the employee at the overtime rate until the employee has a break of at least 8 hours.

24.3 Overtime rate

The overtime rate mentioned in clauses 24.1 and 24.2(c) is the relevant percentage specified in column 2 of Table 5—Overtime rates (depending on when the overtime was worked as specified in column 1) of the employee’s minimum hourly rate.

Table 5—Overtime rates

Column 1 For overtime worked on	Column 2 Overtime rate (% of minimum hourly rate)
Monday to Friday—first 2 hours	150%
Monday to Friday—after 2 hours	200%
Saturday—first 2 hours	175%
Saturday—after 2 hours	200%
Sunday—all day	200%
Rostered day off	200%

24.4 Time off instead of payment for overtime

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

EXAMPLE: By making an agreement under clause 24.4 an employee who worked 2 overtime hours at the rate of time and a half is entitled to 3 hours’ time off.

- (c) Time off must be taken:
 - (i) within the period of 6 months after the overtime is worked; and
 - (ii) at a time or times within that period of 6 months agreed by the employee and employer.
- (d) If the employee requests at any time to be paid for overtime covered by an agreement under clause 24.4 but not taken as time off, the employer must pay the employee for the overtime, in the next pay period following the request, at the overtime rate applicable to the overtime when worked.
- (e) If time off for overtime that has been worked is not taken within the period of 6 months mentioned in paragraph (c), the employer must pay the employee for the overtime, in the next pay period following those 6 months, at the overtime rate applicable to the overtime when worked.
- (f) An employer must not exert undue influence or undue pressure on an employee in relation to a decision by the employee to make, or not make, an agreement to take time off instead of payment for overtime.

- (g) An employee may, under section 65 of the [Act](#), request to take time off, at a time or times specified in the request or to be subsequently agreed by the employer and the employee, instead of being paid for overtime worked by the employee. If the employer agrees to the request then clause 24.4 will apply in relation to overtime that has been worked.

NOTE: If an employee makes a request under section 65 of the [Act](#) for a change in working arrangements, the employer may only refuse that request on reasonable business grounds (see section 65(5) of the [Act](#)).

- (h) If, on the termination of the employee's employment, time off for overtime worked by the employee to which clause 24.4 applies has not been taken, the employer must pay the employee for the overtime at the overtime rate applicable to the overtime when worked.

NOTE: Under section 345(1) of the [Act](#), a person must not knowingly or recklessly make a false or misleading representation about the workplace rights of another person under clause 24.4.

25. Penalty rates

Clause 25 is subject to the outcome of the Penalty Rates Full Bench [AM2014/305](#)

- 25.1** Clause 25 sets out penalty rates for hours worked at specified times or on specified days that are not required to be paid at the overtime rate mentioned in clause 24.1.
- 25.2** An employer must pay an employee as follows for hours worked by the employee during a period, or on a day, specified in Column 1 of Table 6—Penalty rates (see clause 25.2(c)):
- (a) for a full-time or part-time employee, at the percentage specified in column 2 of that Table of the minimum hourly rate of the employee under Table 2—Minimum rates (see clause 18.1) plus the additional amount specified in that column for hours worked between 10.00 pm and 7.00 am on a Monday to Friday; or
 - (b) for a casual employee (not classified at Level 3 to 6), at the percentage specified in column 3 of that Table of the minimum hourly rate of the employee under Table 2—Minimum rates (see clause 18.1) plus the additional amount specified in that column for hours worked between 10.00 pm and 7.00 am on a Monday to Friday; or
 - (c) for a casual employee classified at Level 3 to 6, at the percentage specified in column 4 of that Table of the minimum hourly rate of the employee under Table 2—Minimum rates (see clause 18.1) plus the additional amount specified in that column for hours worked between 10.00 pm and 7.00 am on a Monday to Friday.

Table 6—Penalty rates

Column 1 Time of ordinary hours worked	Column 2 Full-time and part-time employees % of minimum hourly rate	Column 3 Casual employees—other than Level 3 to Level 6 % of minimum hourly rate (inclusive of casual loading)	Column 4 Casual employees – Level 3 to Level 6 % of minimum hourly rate (inclusive of casual loading)
Monday to Friday—7.00 am to 10 pm	100%	125%	125%
Monday to Friday—10.00 pm to midnight	100% plus \$2.06 per hour or part of an hour	125% plus \$2.06 per hour or part of an hour	125% plus \$2.06 per hour or part of an hour
Monday to Friday—midnight to 7.00 am	100% plus \$3.09 per hour or part of an hour	125% plus \$3.09 per hour or part of an hour	125% plus \$3.09 per hour or part of an hour
Saturday	125%	150%	150%
Sunday	150%	150%	175%
Public holiday	250%	250%	250%

NOTE: Midnight to 7.00 am on a Monday is from midnight Sunday to 7.00 am Monday.

25.3 Penalty rates not cumulative

- (a) Clause 25.3 applies where, but for it, more than one penalty would be payable for hours worked at a particular time.
- (b) The employer must pay the employee the higher of the penalties but not more than one.
- (c) However, any penalty payable under clause 16.5 (Breaks) is payable in addition to the higher of any other penalties payable in accordance with paragraph (b).

25.4 Additional provisions for work on public holidays

This provision is subject to application [AM2014/301](#)

- (a) A full-time or part-time employee who works on a public holiday is entitled to be paid for a minimum of 4 hours’ work even if the employee works for a shorter time.
- (b) A casual employee who works on a public holiday is entitled to be paid for a minimum of 2 hours’ work even if the employee works for a shorter time.

- (c) An employer and employee may agree that, instead of the employee being paid at **250%** (as specified in clause 25.2) of the minimum hourly rate of the employee under Table 2—Minimum rates (see clause 18.1) for hours worked on a public holiday, the following arrangements are to apply:
 - (i) the employee is to be paid at **150%** of the minimum hourly rate of the employee under Table 2—Minimum rates (see clause 18.1) for hours worked on the public holiday; and
 - (ii) an amount of paid time equivalent to the hours worked on the public holiday is to be added to the employee’s annual leave or the employee is to be allowed to take a day off during the week in which the public holiday falls or within a period of 28 days after the public holiday.
- (d) Paragraph (e) applies to a full-time or part-time employee who is required to work on Christmas Day when it falls on a weekend and is not a public holiday.
- (e) The employer must pay the employee at **150%** of the employee’s minimum hourly rate for hours worked on Christmas Day and also allow the employee to take a substitute day off.

Part 6—Leave and Public Holidays

26. Annual leave

The annual leave clause has been amended to incorporate [PR583068](#)

NOTE: Where an employee is receiving overaward payments resulting in the employee’s base rate of pay being 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](#)).

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

26.2 Additional paid annual leave for certain shiftworkers

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

Parties are asked to clarify whether ‘7 hours a shift’ in the 3rd line of 26.2 should read ‘7 days a week’.

26.3 Payment for annual leave

An employer must pay an employee a loading of **17.5%** on the amount payable to the employee under the [NES](#) for a period of paid annual leave, including a period of untaken paid annual leave when the employment of the employee ends.

26.4 Temporary close-down

- (a) Clause 26.4 applies if an employer:
 - (i) intends to close down its operations at all or part of a workplace for a particular period (**temporary close down period**); and

- (ii) wishes to require affected employees to take leave during that period.
- (b) The employer must give the affected employees at least 4 weeks' notice of a temporary close down period.
- (c) The employer may require any affected employee to take a period of paid annual leave during a temporary close down period.

26.5 Excessive leave accruals: general provision

NOTE: Clauses 26.5 to 26.7 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 (or 10 weeks' paid annual leave for a shiftworker, as defined by clause 26.2).
- (b) If an employee has an excessive leave accrual, the employer or the employee may seek to confer with the other and genuinely try to reach agreement on how to reduce or eliminate the excessive leave accrual.
- (c) Clause 26.6 sets out how an employer may direct an employee who has an excessive leave accrual to take paid annual leave.
- (d) Clause 26.7 sets out how an employee who has an excessive leave accrual may require an employer to grant paid annual leave requested by the employee.

26.6 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 26.5(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 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 26.5, 26.6 or 26.7 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 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 26.6(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.

26.7 Excessive leave accruals: request by employee for leave

- (a) Clause 26.7 comes into operation on 29 July 2017.
- (b) If an employee has genuinely tried to reach agreement with an employer under clause 26.5(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.
- (c) However, an employee may only give a notice to the employer under paragraph (b) if:
 - (i) the employee has had an excessive leave accrual for more than 6 months at the time of giving the notice; and
 - (ii) the employee has not been given a direction under clause 26.6(a) that, when any other paid annual leave arrangements (whether made under clause 26.5, 26.6 or 26.7 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 26.5, 26.6 or 26.7 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.
- (e) An employee is not entitled to request by a notice under paragraph (b) more than 4 weeks' paid annual leave (or 5 weeks' paid annual leave for a shiftworker as defined by 26.2) in any period of 12 months.
- (f) The employer must grant paid annual leave requested by a notice under paragraph (b).

26.8 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 26.8 is set out at Schedule H—Agreement to Take Annual Leave in Advance. There is no requirement to use the form of agreement set out at Schedule H—Agreement to Take Annual Leave in Advance.

- (c) The employer must keep a copy of any agreement under clause 26.8 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 26.8, 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.

26.9 Cashing out of annual leave

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

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 26.9.

NOTE 3: An example of the type of agreement required by paragraph (c) is set out at Schedule I—Agreement to Cash Out Annual Leave. There is no requirement to use the form of agreement set out at Schedule I—Agreement to Cash Out Annual Leave.

27. Personal/carer’s leave and compassionate leave

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

28. Community service leave

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

29. Public holidays

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

29.2 Substitution of public holidays by agreement

The employer and a majority of the employees at a workplace may agree to substitute another day for a public holiday.

29.3 Additional public holiday arrangements for full-time employees

An employer must, if the rostered day off of a full-time employee falls on a public holiday, do one of the following:

- (a) pay the employee an extra day’s pay; or
- (b) give the employee an alternative day off within 28 days; or
- (c) give the employee an additional day’s annual leave.

29.4 When a full-time employee works on a public holiday which has been substituted for another day they will be entitled to the benefit of the substitute day.

Part 7—Industry Specific Provisions

30. No deduction for breakages or cashiering underings

Unless they arise out of wilful misconduct, an employer must not deduct any sum from the wages or other money payable to an employee for any the following:

- (a) breakages; or
- (b) cashiering underings.

Part 8—Consultation and Dispute Resolution

31. Consultation about major workplace change

Standard clause – not reproduced here. Standard clauses subject to conference on 11 April 2017. Please see Statement issued 27 March 2017 [PR591212](#)

32. Consultation about changes to rosters or hours of work

Standard clause – not reproduced here. Standard clauses subject to conference on 11 April 2017. Please see Statement issued 27 March 2017 [PR591212](#)

33. Dispute resolution

Standard clause – not reproduced here. Standard clauses subject to conference on 11 April 2017. Please see Statement issued 27 March 2017 [PR591212](#)

Part 9—Termination of Employment and Redundancy

34. Termination of employment

Standard clause – not reproduced here. Standard clauses subject to conference on 11 April 2017. Please see Statement issued 27 March 2017 [PR591212](#)

35. Redundancy

Standard clause – not reproduced here. Standard clauses subject to conference on 11 April 2017. Please see Statement issued 27 March 2017 [PR591212](#)

36. Transfer to lower paid job on redundancy

Standard clause – not reproduced here. Standard clauses subject to conference on 11 April

2017. Please see Statement issued 27 March 2017 [PR591212](#)

37. Employee leaving during redundancy notice period

Standard clause – not reproduced here. Standard clauses subject to conference on 11 April 2017. Please see Statement issued 27 March 2017 [PR591212](#)

38. Job search entitlement

Standard clause – not reproduced here. Standard clauses subject to conference on 11 April 2017. Please see Statement issued 27 March 2017 [PR591212](#)

Schedule A—Classification Structure and Definitions

Minor amendments have been made to the Classification Structure and Definitions to update redundant technologies and outdated terms. Parties are invited to make further submissions regarding classifications to ensure they are relevant and easy to apply in the workplace. See, for example, the clerical grade 3 (A.4.3) and the additional requirements in (k) – (w).

A.1 Introductory level

Introductory level is for an employee who enters the restaurant industry and does not demonstrate the competency requirements of level 1. The employee remains at Introductory level for up to 3 months while undertaking appropriate training and being assessed for competency to move to level 1. At the end of that period, the employee moves to level 1 unless the employee and the employer mutually agree that further training of up to 3 months is required for the employee to achieve the necessary competency.

NOTE: Any disagreement arising from this provision must be dealt with in accordance with clause 33—Dispute resolution.

A.2 Food and beverage stream

A.2.1 Food and beverage attendant grade 1 means an employee who is engaged in any of the following:

- (a) picking up glasses; or
- (b) providing general assistance to food and beverage attendants of a higher classification not including service to customers; or
- (c) removing food plates; or
- (d) setting or wiping down tables; or
- (e) cleaning and tidying associated areas; or
- (f) receiving money.

A.2.2 Food and beverage attendant grade 2 means an employee who has not achieved the appropriate level of training and who is engaged in any of the following:

- (a) supplying, dispensing or mixing liquor; or
- (b) assisting in the cellar; or
- (c) undertaking general waiting duties for food or beverages, including cleaning tables; or
- (d) receiving money; or
- (e) attending a snack bar; or
- (f) performing delivery duties; or
- (g) taking reservations and greeting and seating guests.

- A.2.3 Food and beverage attendant grade 3** means an employee who has the appropriate level of training and is engaged in any of the following:
- (a) supplying, dispensing or mixing liquor; or
 - (b) assisting in the cellar; or
 - (c) undertaking general waiting duties for both food and liquor, including cleaning tables; or
 - (d) receiving money; or
 - (e) assisting in the training and supervision of food and beverage attendants of a lower classification; or
 - (f) delivery duties; or
 - (g) taking reservations and greeting and seating guests.
- A.2.4 Food and beverage attendant grade 4 (tradesperson)** means an employee who has the appropriate level of training and who carries out specialised skilled duties in a fine dining room or a restaurant.
- A.2.5 Food and beverage supervisor** means an employee who has the appropriate level of training, including a supervisory course, and who has responsibility for the supervision, training and co-ordination of food and beverage staff or for stock control for one or more bars.
- A.3 Kitchen stream**
- A.3.1 Kitchen attendant grade 1** means an employee engaged in any of the following:
- (a) general cleaning duties within a kitchen or food preparation area and scullery, including cleaning cooking and general utensils used in a kitchen and restaurant; or
 - (b) assisting employees who are cooking; or
 - (c) assembling and preparing ingredients for cooking; or
 - (d) general pantry duties.
- A.3.2 Kitchen attendant grade 2** means an employee who has the appropriate level of training, and who is engaged in specialised non-cooking duties in a kitchen or food preparation area, or supervision of kitchen attendants of a lower classification.
- A.3.3 Kitchen attendant grade 3** means an employee who has the appropriate level of training, including a supervisory course, and who has responsibility for the supervision, training and co-ordination of kitchen attendants of a lower classification.
- A.3.4 Cook grade 1** means an employee who is engaged in cooking breakfasts and snacks, baking, pastry cooking or butchering.
- A.3.5 Cook grade 2** means an employee who has the appropriate level of training and who performs cooking duties such as baking, pastry cooking or butchering.

- A.3.6 Cook grade 3 (tradesperson)** means a commi chef or equivalent who has completed an apprenticeship or passed the appropriate trade test or who has the appropriate level of training, and who is engaged in cooking, baking, pastry cooking or butchering duties.
- A.3.7 Cook grade 4 (tradesperson)** means a demi chef or equivalent who has completed an apprenticeship or passed the appropriate trade test or who has the appropriate level of training and who is engaged to perform general or specialised cooking, butchering, baking or pastry cooking duties or supervises and trains other cooks and kitchen employees.
- A.3.8 Cook grade 5 (tradesperson)** means a chef de partie or equivalent who has completed an apprenticeship or passed the appropriate trade test or who has the appropriate level of training in cooking, butchering or pastry cooking and who performs any of the following:
- (a) general and specialised duties, including supervision or training of kitchen employees; or
 - (b) ordering and stock control; or
 - (c) supervising kitchen employees in a single kitchen establishment.

A.4 Administrative and general stream

- A.4.1 Clerical grade 1** means an employee who is required to perform basic clerical and routine office duties such as collating, filing, photocopying, and delivering messages.
- A.4.2 Clerical grade 2** means an employee who is engaged in general clerical or office duties, such as typing, filing, basic data entry and calculating functions.
- A.4.3 Clerical grade 3** means an employee who has the appropriate level of training and who performs any of the following:
- (a) operates switchboard, paging system and office equipment; or
 - (b) uses knowledge of keyboard and function keys to enter and retrieve data through a computer terminal; or
 - (c) copy types at 25 words per minute with at least 98% accuracy; or
 - (d) maintains mail register and records; or
 - (e) maintains established paper-based filing/records systems in accordance with set procedures including creating and indexing new files, distributing files within the organisation as requested and monitoring file locations; or
 - (f) transcribes information into records, completes forms and takes telephone messages; or
 - (g) acquires and applies a working knowledge of office or sectional operating procedures and requirements; or
 - (h) acquires and applies a working knowledge of the organisation's structure and personnel in order to deal with inquiries at first instance, locates appropriate

Plain Language Exposure draft – Restaurant Industry Award 2017

staff in different sections, relays internal information, responds to or redirects inquiries and greets visitors; or

- (i) keeps appropriate records; or
- (j) sorts, processes and records original source financial documents (for example, invoices, cheques and correspondence) on a daily basis, maintains and records petty cash; prepares bank deposits and withdrawals and does banking,

and who has the appropriate level of training and also performs any of the following:

- (k) operates computerised radio telephone equipment, micro/personal computer, printing devices attached to personal computer or dictaphone equipment; or
- (l) produces documents and correspondence using knowledge of standard formats, touch types at 40 words per minute with at least 98% accuracy, audio types; or
- (m) uses one or more software application package(s) developed for a micro/personal computer to operate and populate a database, spreadsheet/worksheet to achieve a desired result; graph previously prepared spreadsheet; use simple menu utilities of personal computer; or
- (n) follows standard procedures or template for the preceding functions using existing models/fields of information; or
- (o) creates and maintains and generates simple reports; or
- (p) uses a central computer resource to an equivalent standard; or
- (q) uses one or more software packages to create, format, edit, proof read, spell check, correct, print and save text documents, for example, standard correspondence and business documents; or
- (r) takes shorthand notes at 70 wpm and transcribed with 95% accuracy; or
- (s) arranges travel bookings and itineraries, makes appointments, screens telephone calls, follows visitors protocol procedures, establishes telephone contact on behalf of executive; or
- (t) applies a working knowledge of the organisation's products/services, functions, locations and clients; or
- (u) responds to and acts upon most internal/external inquiries in own function area; or
- (v) uses and maintains a computer-based record management system to identify, access and extract information from internal sources, maintains circulation, indexing and filing systems for publications, reviews files, closes files, archives files; and
- (w) maintains financial records and journals, collects and prepares time and wage records, prepares accounts queries from debtors, posts transactions to ledger.

A.4.4 Clerical supervisor means an employee who has the appropriate level of training including a supervisory course and who co-ordinates other clerical staff.

A.5 Stores stream

A.5.1 Storeperson grade 1 means an employee who receives and stores general and perishable goods and cleans the store area.

A.5.2 Storeperson grade 2 means an employee who, in addition to the duties for a storeperson grade 1, may also operate mechanical lifting equipment such as a fork-lift or who may perform duties of more complex nature.

A.5.3 Storeperson grade 3 means an employee who has the appropriate level of training and who:

- (a) implements quality control techniques and procedures; and
- (b) understands and is responsible for a stores/warehouse area or a large section of such an area; and
- (c) has a highly developed level of interpersonal and communication skills; and
- (d) is able to supervise and provide direction and guidance to other employees including the ability to assist in the provision of on-the-job training and induction; and
- (e) liaising with management, suppliers and customers with respect to stores operations; detailing and co-ordinating activities of other storepersons and acting in a leading hand capacity for in excess of 10 storepersons; and
- (f) maintaining control registers including inventory control and being responsible for preparation and reconciliation of regular reports or stock movements, dispatches, etc.; and
- (g) supervises the receipt and delivery of goods, records, outgoing goods, responsible for the contents of a store.

A.6 Security stream

A.6.1 Doorman/security officer grade 1 means a person who assists in the maintenance of dress standards and good order at an establishment.

A.6.2 Timekeeper/security officer grade 2 means a person who is responsible for the timekeeping of employees, the security of keys, the checking in and out of delivery vehicles or the supervision of doorman/security officer grade 1 employees.

A.7 Handyperson

Handyperson means a person who is not a tradesperson and whose duties include performing routine repair work and maintenance for the employer's workplace.

Schedule B—Summary of Hourly Rates of Pay

Clause 25 is subject to the outcome of the Penalty Rates Full Bench [AM2014/305](#)

B.1 Full-time and part-time employees

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

	Ordinary hours ¹	Saturday	Sunday	Public holiday	Public holiday ²
	% of minimum hourly rate				
	100%	125%	150%	250%	150%
Introductory Level	\$17.70	\$22.13	\$26.55	\$44.25	\$26.55
Level 1	\$18.21	\$22.76	\$27.32	\$45.53	\$27.32
Level 2	\$18.91	\$23.64	\$28.37	\$47.28	\$28.37
Level 3	\$19.56	\$24.45	\$29.34	\$48.90	\$29.34
Level 4	\$20.61	\$25.76	\$30.92	\$51.53	\$30.92
Level 5	\$21.90	\$27.38	\$32.85	\$54.75	\$32.85
Level 6	\$22.49	\$28.11	\$33.74	\$56.23	\$33.74

¹ Additional shift penalties may apply in accordance with Table 6—Penalty rates (see clause 25.2(c))

² By agreement with equivalent paid time added to employee’s annual leave or one day instead of public holidays Table 6—Penalty rates (see clause 25.2(c))

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

	Monday to Friday		Saturday		Sunday	Rostered day off – all hours worked
	First 2 hours	After 2 hours	First 2 hours	After 2 hours		
	% of minimum hourly rate					
	150%	200%	175%	200%	200%	200%
Introductory Level	\$26.55	\$35.40	\$30.98	\$35.40	\$35.40	\$35.40
Level 1	\$27.32	\$36.42	\$31.87	\$36.42	\$36.42	\$36.42
Level 2	\$28.37	\$37.82	\$33.09	\$37.82	\$37.82	\$37.82
Level 3	\$29.34	\$39.12	\$34.23	\$39.12	\$39.12	\$39.12
Level 4	\$30.92	\$41.22	\$36.07	\$41.22	\$41.22	\$41.22
Level 5	\$32.85	\$43.80	\$38.33	\$43.80	\$43.80	\$43.80
Level 6	\$33.74	\$44.98	\$39.36	\$44.98	\$44.98	\$44.98

¹ All work done outside the spread of hours or rostered hours

B.2 Casual employees

B.2.1 Casual employees—ordinary and penalty rates

	Ordinary hours ¹	Saturday	Sunday – Introductory to Level 2	Sunday – Level 3 to Level 6	Public holiday
	% of minimum hourly rate				
	125%	150%	150%	175%	250%
Introductory Level	\$22.13	\$26.55	\$26.55		\$44.25
Level 1	\$22.76	\$27.32	\$27.32		\$45.53
Level 2	\$23.64	\$28.37	\$28.37		\$47.28
Level 3	\$24.45	\$29.34		\$34.23	\$48.90
Level 4	\$25.76	\$30.92		\$36.07	\$51.53
Level 5	\$27.38	\$32.85		\$38.33	\$54.75
Level 6	\$28.11	\$33.74		\$39.36	\$56.23
¹ Additional shift penalties may apply in accordance with Table 6—Penalty rates (see clause 25.2(c))					

Rates for junior employees and apprentices will be included after determination of the AWR 2017

Schedule C—Summary of Monetary Allowances

See clause 22 for full details of allowances payable under this award.

C.1 Wage-related allowances

The following wage-related allowances are based on the standard rate as defined in clause 2—Definitions as the minimum wage for a Level 4 classification (Cook grade 3 (tradesperson)) in clause 18.1 (Minimum rates) = **\$783.30**.

Allowance	Clause	% of standard rate \$783.30	\$ per each separate work period of two hours or more
Split shift allowance—full-time and part-time employees	22.3	0.5%	\$3.92

C.1.1 Adjustment of wage-related allowances

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

C.2 Expense-related allowances

The following expense-related allowances will be payable to employees in accordance with clause 22—Allowances:

Allowance	Clause	\$
Meal allowance—overtime of more than two hours without a day's notification	22.2	\$12.57 per occasion
Clothing, equipment and tool allowance—apprentice cook:	22.4(a)	
Per day or part thereof		\$1.69 per day or part thereof
Maximum per week		Up to \$8.31 per week

C.2.1 Adjustment of expense-related 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 recently published by the Australian Bureau of Statistics since the allowance was last adjusted.

The applicable index figure is the index figure published by the Australian Bureau of Statistics for the Eight Capitals Consumer Price Index (Cat No. 6401.0), as follows:

Allowance	Applicable Consumer Price Index figure
Meal allowance	Take away and fast foods sub-group
Tools allowance	Tools and equipment for house and garden component of the household appliances, utensils

Allowance	Applicable Consumer Price Index figure
	and tools sub-group

C.3 Penalty rates

Clause 25 is subject to the outcome of the Penalty Rates Full Bench [AM2014/305](#)

The penalty rates in this award are based on the standard hourly rate as defined in clause 2 as the minimum hourly wage for a Level 4 classification (Cook grade 3 (tradesperson)) in clause 18.1 = **\$20.61**.

Penalty	Clause	% of hourly standard rate \$20.61	\$ per hour or part thereof
Monday to Friday—10.00 pm to midnight	Table 6—Penalty rates (see clause 25.2(c))	10%	\$2.06
Monday to Friday—midnight to 7.00 am	Table 6—Penalty rates (see clause 25.2(c))	15%	\$3.09

Schedule D—School-based Apprentices

- D.1** In this Schedule:
- D.1.1** **off-the-job training** is structured training delivered by a Registered Training Organisation separate from normal work duties or general supervised practice undertaken on the job; and
- D.1.2** **school-based apprentice** is a person who is undertaking an apprenticeship in accordance with this schedule while also undertaking a course of secondary education.
- D.2** A school-based apprenticeship may be undertaken in the trades covered by this award under a training agreement for an apprentice declared or recognised by the relevant State or Territory authority.
- D.3** The relevant minimum hourly rates for full-time junior and adult apprentices provided for in this award apply to school-based apprentices for total hours worked, including time taken to be spent in off-the-job training.
- D.4** Where an apprentice is a full-time school student, the time spent in off-the-job training, for which the apprentice must be paid, is **25%** of the actual hours worked each week on-the-job. The wages paid for time spent in training may be averaged over the semester or year.
- D.5** A school-based apprentice must be allowed, over the duration of the apprenticeship, the same amount of time to attend off-the-job training as an equivalent full-time apprentice.
- D.6** The duration of the apprenticeship must be as specified in the training agreement for each apprentice but must not exceed 6 years.
- D.7** School-based apprentices progress through the relevant wage scale at the rate of 12 months' progression for each 2 years of employment as an apprentice or at the rate of competency based progression if provided for in this award.
- D.8** The apprentice wage scales are based on a standard full-time apprenticeship of 4 years (unless the apprenticeship is of 3 years' duration) or stages of competency based progression (if provided for in this award).
- NOTE: The rate of progression reflects the average rate of skill acquisition expected from the typical combination of work and training for a school-based apprentice undertaking the applicable apprenticeship.
- D.9** If an apprentice converts from school-based to full-time, the successful completion of competencies (if provided for in this award) and all time spent as a full-time apprentice will count for the purposes of progression through the relevant wage scale in addition to the progression achieved as a school-based apprentice.
- D.10** School-based apprentices are entitled to all of the other conditions in this award on a proportionate basis.

Schedule E— Supported Wage System

This Schedule has not been drafted in plain language, pending the outcome of [AM2013/30](#).

Schedule F—National Training Wage

The National Training Wage schedule may be affected by [AM2014/17](#). The schedule has not been included in this exposure draft.

Schedule G—2017 Part-day Public Holidays

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

This Schedule has not been drafted in plain language.

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

G.1 Where a part-day public holiday is declared or prescribed between 7.00 pm and midnight on Christmas Eve (24 December 2017) or New Year’s Eve (31 December 2017) 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 G.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 G.1(a), will not be entitled to another day off, another day’s pay or another day of annual leave as a result of the part-day public holiday.

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

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

Schedule H—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 I—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____