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Publication date	Reason for amendments	Clauses affected
27 May 2016	Incorporating agreed changes from conference on 10 May 2016	5.1, 5.1(c) deleted, 5.4, 5.6, 5.6(a), 6, 10.5(a), 12.3, B.1.1, Schedule C, Schedule E
3 June 2016	Incorporating agreed changes from conference on 10 May 2016	5.8, 9.4
17 July 2017	Incorporate changes resulting from PR580863	Schedule D
	Incorporate changes resulting from [2016] FWCFB 3500, PR579751	9, Schedule B
	Incorporates changes resulting from [2017] FWCFB 3500, PR592101	9, Schedule B
	Incorporates changes resulting from [2017] FWCFB 3433	1, 3, 9, 16, 21, Schedule E
	Incorporates changes resulting from [2017] FWCFB 3541	5
18 December 2015	Exposure Draft	
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Red text indicates changes made to the draft since the previous published version, or issues that remain unresolved. Underlined text indicates new text that is to be included. Strikethrough text indicates existing text that is to be deleted.		

EXPOSURE DRAFT

Higher Education Industry—Academic Staff—Award 2015

This exposure draft has been prepared by staff of the Fair Work Commission based on the *Higher Education Industry—Academic Staff—Award 2010* (the Higher Education Academic award) as at 18 December 2015. This exposure draft does not seek to amend any entitlements under the Higher Education Academic award but has been prepared to address some of the structural issues identified in modern awards.

The review of this award in accordance with s.156 of the *Fair Work Act 2009* is being dealt with in matters [AM2014/229](#) and AM2015/6. Additionally a number of common issues are being dealt with by the Commission which may affect this award. Transitional provisions have not been included in this exposure draft pending the outcome of the review.

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

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

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Part 1—Coverage and Operation

1. Title and commencement

Clause 1.2 amended in accordance with [\[2017\] FWCFB 3433](#) at [328].

- 1.1 This award is the Higher Education Industry—Academic Staff—Award 2015.
- 1.2 ~~This modern award, as varied, commenced operation on 1 January 2010.—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.
- 1.4 Schedule E—Definitions sets out definitions that apply in this award.
- 1.5 Neither the making of this award nor the operation of any transitional arrangements is intended to result in a reduction in the take-home pay of employees covered by the award. On application by or on behalf of an employee who suffers a reduction in take-home pay as a result of the making of this award or the operation of any transitional arrangements, the Fair Work Commission may make any order it considers appropriate to remedy the situation.

2. The National Employment Standards and this award

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

3. Coverage

Definition of higher education industry retained in coverage clause in accordance with [\[2017\] FWCFB 3433](#) at [339].

- 3.1 This industry award covers employers throughout Australia in the higher education industry as defined and their academic staff in the classifications listed in clause 9 to the exclusion of any other modern award.
- 3.2 **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.

3.3 This award does not cover:

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

3.4 This award covers any employer which supplies labour on an on-hire basis in the industry set out in clauses 3.1 and 3.2 in respect of on-hire employees in classifications covered by this award, and those on-hire employees, while engaged in the performance of work for a business in that industry. This subclause operates subject to the exclusions from coverage in this award.

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

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

4. Award flexibility

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

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

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

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

- (a) be confined to a variation in the application of one or more of the terms listed in clause 4.1; and
- (b) result in the employee being better off overall at the time the agreement is made than the employee would have been if no individual flexibility agreement had been agreed to.

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

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

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

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

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

4.8 The agreement may be terminated:

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

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

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

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

Part 2—Types of Employment and Classifications

5. Types of Employment

- 5.1** 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.

5.2 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.

- 5.3** 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.

5.4 Full-time employment

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

5.5 Part-time employment

Part-time employment means employment for less than the normal weekly ordinary hours specified in clause 8—Hours of work, for which all award entitlements are paid on a pro rata basis calculated by reference to the time worked.

5.6 Fixed-term employment

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).

(a) Restriction on the use of fixed term employment

The restriction on the use of fixed-term employment in clause 5.6(a) only applies to those employers in Schedule C, and their successors, who were bound to the *Higher Education Contract of Employment Award* [[AP784204](#)] at the time of its making.

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 five 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 two 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 five 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 5.6(a), 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 this paragraph must not be made on the condition that the person offered the employment undertake the studentship.

5.7 Casual employment

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

A Full Bench expressed the provisional view that there was to be a 2 hour minimum engagement for casual employees in awards that do not contain daily minimum engagement. Any further written submissions concerning this view are to be filed on or by 2 August 2017. See [\[2017\] FWCFB 3541](#) at [408].

- (a) **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.
- (b) For each hour worked, a casual employee will be paid:
- (i) the minimum hourly rate; and

- (ii) a loading of **25%** of the minimum hourly rate,
for the classification in which they are employed.

5.8 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.

6. Incidents of fixed-term contract of employment

This clause 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.

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:

6.1 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.

6.2 Notice of cessation or revocation of employment upon expiry of the contract

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:

- (a) 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

- (b) 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 two years continuous service will be entitled to an additional week’s notice.

6.3 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 this subclause, it will be sufficient compliance with this clause 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.

6.4 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 5.6(a)(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 5.6(a)(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 six 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 four 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.

6.5 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 two times per year and of up to six 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 this clause.

6.6 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 5.6(a)(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.

7. Classification of academic staff

- 7.1** Minimum standards for levels of academic staff, other than a casual, are set out in Schedule A—Minimum Standards for Academic Levels (MSAL).
- 7.2** The levels are differentiated by level of complexity, degree of autonomy, leadership requirements of the position and level of achievement of the academic.
- 7.3** 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.
- 7.4** 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.
- 7.5** 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.
- 7.6** MSAL will not be used as a basis for claims for reclassification.

Part 3—Hours of Work

8. Hours of work

For the purpose of the NES, ordinary hours of work under this award are 38 per week.

Part 4—Wages

Rates adjusted as a result of AWR 2017

9. Rates of pay

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

Employee classification	Annual salary	Minimum hourly rate¹
	\$	\$
Level A		
1	49,873	25.16
2	51,871	26.17
3	53,869	27.17
4	55,743	28.12
5	57,242	28.88
6*	58,866	29.70
7	60,490	30.51
8	62,113	31.33
*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.		
Level B		
1	64,613	32.59
2	66,488	33.54
3	68,361	34.49
4	70,239	35.43
5	72,111	36.38
6	73,987	37.32
Level C		
1	75,859	38.27
2	77,734	39.21
3	79,608	40.16
4	81,483	41.10
5	83,357	42.05
6	85,232	43.00

Employee classification	Annual salary	Minimum hourly rate¹
	\$	\$
Level D		
1	88,356	44.57
2	90,855	45.83
3	93,354	47.09
4	95,853	48.35
Level E	109,599	55.29

¹Minimum 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 for a summary of hourly rates of pay including all clinical loadings and professorial merit differentials.

9.2 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 9.2(a), the employer will have regard to the loadings payable in clauses 9.2(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	21,894	43.9
Para-clinical department in a medical school	14,613	29.3
Pre-clinical department in a medical school	10,972	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 paid **\$10,972.06** per year (22% of the annual salary for Level A-1).

See Schedule B for a summary of hourly rates of pay including all clinical loadings and professorial merit differentials.

9.3 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.

9.4 Casual employees

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

	Casual hourly rate (including casual loading)
	\$
Lecturing	
Basic lecture (1 hour of delivery and 2 hours associated working time)	125.77
Developed lecture (1 hour of delivery and 3 hours associated working time)	167.72
Specialised lecture (1 hour of delivery and 4 hours associated working time)	209.64
Repeat lecture (1 hour of delivery and 1 hour associated working time)	83.84
Tutoring	
Tutorial (1 hour of delivery and 2 hours associated working time)	98.14
Repeat tutorial (1 hour of delivery and 1 hour associated working time)	65.41
Tutorial (1 hour of delivery and 2 hours associated working time) (where academic holds <u>Doctorate a relevant doctoral qualification</u>)	111.38
Repeat tutorial (1 hour of delivery and 1 hour associated working time) (where academic holds <u>Doctorate a relevant doctoral qualification</u>)	74.23

	Casual hourly rate (including casual loading)
	\$
Musical accompanying	
Musical accompanying (1 hour of delivery and 1 hour preparation time)	65.41
Musical accompanying (1 hour of delivery and 1 hour preparation time) (where academic holds Doctorate a relevant doctoral qualification)	74.23
Undergraduate clinical nurse education	
Little preparation required (1 hour of delivery and 0.5 hours associated working time)	49.07
Normal preparation time (1 hour of delivery and 1 hour associated working time)	65.41
Little preparation required (1 hour of delivery and 0.5 hours associated working time) (where academic holds Doctorate a relevant doctoral qualification)	55.68
Normal preparation time (1 hour of delivery and 1 hour associated working time) (where academic holds Doctorate a relevant doctoral qualification)	74.23
Marking rate	
Standard marking	32.69
Standard marking (where academic holds Doctorate a relevant doctoral qualification)	37.13
Marking as a supervising examiner, or marking requiring a significant exercise of academic judgment appropriate to an academic at level B status	41.93
Standard marking (where academic holds Doctorate a relevant doctoral qualification)	37.13
Marking as a supervising examiner, or marking requiring a significant exercise of academic judgment appropriate to an academic at level B status (where academic holds Doctorate a relevant doctoral qualification)	41.93
Other required academic activity	
If academic does not hold <u>a relevant</u> doctoral qualification or perform full subject coordination duties	32.69
If academic holds <u>a relevant</u> doctoral qualification or performs full subject coordination duties	37.13

(b) Formulae

The minimum salary paid to academic staff employed on a casual basis will be at the rates provided for in clause 9.4(a). These rates are derived from three 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 for a summary of hourly rates of pay including all clinical loadings and professorial merit differentials.

9.5 Payment of wages

(a) An academic staff member's salary will be paid fortnightly by electronic funds transfer.

(b) 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.

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

10. Salary movement within an academic level

10.1 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 9 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.

10.2 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.

10.3 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.

10.4 An academic staff member who has been absent in excess of three 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.

10.5 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.

11. Superannuation

11.1 Superannuation legislation

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

11.2 Employer contributions

- (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.

11.3 Voluntary employee contributions

- (a) Subject to the governing rules of the relevant superannuation fund, an employee may, in writing, authorise their employer to pay on behalf of the employee a specified amount from the post taxation wages of the employee into the same superannuation fund as the employer makes the superannuation contributions provided for in clause 11.2.
- (b) An employee may adjust the amount the employee has authorised their employer to pay from the wages of the employee from the first of the month following the giving of three months' written notice to their employer.
- (c) The employer must pay the amount authorised under clause 11.3(a) or (b) no later than 28 days after the end of the month in which the deduction was authorised under clauses 11.3(a) or (b).

11.4 Superannuation fund

Unless, to comply with superannuation legislation, the employer is required to make the superannuation contributions provided for in clause 11.2 to another superannuation fund that is chosen by the employee, the employer must make the superannuation contributions provided for in clause 11.2 and pay the amount authorised under clauses 11.3(a) 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.

11.5 Absence from work

Subject to the governing rules of the relevant superannuation fund, the employer must also make the superannuation contributions provided for in clause 11.2 and pay the amount authorised under clauses 11.3(a) or (b):

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

Part 5—Leave, Public Holidays and Other NES Entitlements

12. Annual leave

This provision is being reviewed in [AM2015/6](#). The matter was referred in [\[2015\] FWC FB 8030](#) at [10].

Annual leave is provided for in the NES. Annual leave does not apply to casual employees.

12.1 Excess annual leave

- (a) A staff member whose accrued annual leave entitlement equals or exceeds 30 days may be required to take accrued annual leave, but only if the requirement is reasonable.
- (b) The employer must give at least two months' written notice of the date on which the staff member is required to take leave.
- (c) Where a staff member is directed to take annual leave, the employer will be entitled to deduct the amount of annual leave directed to be taken, at the conclusion of the period of leave.

12.2 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, payment will be made to the staff member's estate.

12.3 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%** their of 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.

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

13. Parental leave

13.1 The entitlement to parental leave is set out in the NES.

13.2 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.

14. Personal/carer’s leave and compassionate leave

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

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

14.3 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. two days) per occasion.
- (c) The casual employee is not entitled to any payment for the period of non-attendance.

15. Community service leave

Community service leave is provided for in the NES.

16. Public holidays

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

NTEU is directed to respond to the Go8 submission that public holiday substitution should be dealt with by the Group 3 Full Bench by **Friday 28 July 2017**. See [\[2017\] FWCFB 3433](#) at [57]

16.1 Public holiday entitlements are provided for in the NES.

16.2 Substitution of public holidays where university holidays provided

An employer may substitute a public holiday or part holiday for another working day or part-day to be taken during a period of institutional close-down. Where substitution occurs the substituted day or part day will be the public holiday for the purposes of this award.

16.3 Part-day public holidays

16.3 inserted on 16 September 2016

For provisions relating to part-day public holidays see Schedule D—2016 Part-day Public Holidays

17. Termination of employment

17.1 Notice of termination is provided for in the NES.

17.2 Notice of termination by an employee

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

17.3 Job search entitlement

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

18. Redundancy

18.1 Redundancy pay is provided for in the NES.

18.2 Transfer to lower paid duties

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

18.3 Employee leaving during notice period

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

18.4 Job search entitlement

- (a) An employee given notice of termination in circumstances of redundancy must be allowed up to one day's time off without loss of pay during each week of notice for the purpose of seeking other employment.
- (b) If the employee has been allowed paid leave for more than one day during the notice period for the purpose of seeking other employment, the employee must, at the request of the employer, produce proof of attendance at an interview or they will not be entitled to payment for the time absent. For this purpose a statutory declaration is sufficient.
- (c) This entitlement applies instead of clause 17.3.

19. Industry specific redundancy provisions

19.1 This clause applies to any institution which:

- (a) was bound by the *Universities and Post Compulsory Academic Conditions Award 1999* [[AP801516](#)] at 12 September 2008; 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 context 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.

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

19.3 The benefits of this clause do not constitute a severance payment or retrenchment benefit payment for the purposes of clause 6.4.

19.4 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 this clause 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.

19.5 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 six months from the date of notification;
- (c) the employer may elect to pay to the employee an amount equal to six 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 four weeks’ pay, whichever is the lesser;
- (e) the employee must be paid a redundancy payment of:
 - (i) a sum calculated at the rate of two 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.

19.6 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) the greater of the period of notice prescribed by the NES or the contract of employment of the employee; plus
- (b) notice according to the following scale:

Age	Notice
Below 40	6 months
40	7 months
41	8 months
42	9 months
43	10 months
44	11 months
45 and over	12 months

- (c) 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.

Part 6—Consultation and Dispute Resolution

20. Consultation

20.1 Consultation regarding major workplace change

(a) Employers to notify

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

(b) Employers to discuss change

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

20.2 Consultation about changes to rosters or hours of work

- (a) Where an employer proposes to change an employee's regular roster or ordinary hours of work, the employer must consult with the employee or employees affected and their representatives, if any, about the proposed change.
- (b) The employer must:

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

21. Dispute resolution

- 21.1** In the event of a dispute about a matter under this award, or a dispute in relation to the NES, in the first instance the parties must attempt to resolve the matter at the workplace by discussions between the employee or employees concerned and the relevant supervisor. If such discussions do not resolve the dispute, the parties will endeavour to resolve the dispute in a timely manner by discussions between the employee or employees concerned and more senior levels of management as appropriate.
- 21.2** If a dispute about a matter arising under this award or a dispute in relation to the NES is unable to be resolved at the workplace, and all appropriate steps under clause 21.1 have been taken, a party to the dispute may refer the dispute to the Fair Work Commission.
- 21.3** The parties may agree on the process to be utilised by the Fair Work Commission including mediation, conciliation and consent arbitration.
- 21.4** Where the matter in dispute remains unresolved, the Fair Work Commission may exercise any method of dispute resolution permitted by the Act that it considers appropriate to ensure the settlement of the dispute.
- 21.5** An employer or employee may appoint another person, organisation or association to accompany and/or represent them for the purposes of this clause.

Parties are to consider the proposed variations regarding ‘occupational health and safety’ and provide any comments by Friday 28 July 2017. See [\[2017\] FWCFB 3433](#) at [382].

- 21.6** While the dispute resolution procedure is being conducted, work must continue in accordance with this award and the Act. Subject to applicable **work health and safety** ~~occupational health and safety~~ legislation, an employee must not unreasonably fail to comply with a direction by the employer to perform work, whether at the same or another workplace, that is safe and appropriate for the employee to perform.

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 four 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

Rates adjusted as a result of AWR 2017

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

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	25.16	—	—	—	—
2	26.17	—	—	—	—
3	27.17	—	—	—	—
4	28.12	—	—	—	—
5	28.88	—	—	—	—
6*	29.70	—	—	—	—
7	30.51	—	—	—	—
8	31.33	—	—	—	—
*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 9.2 generally in relation Professorial and clinical loadings					
Level B					
1	32.59	43.63	39.96	38.13	38.13

	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	
	\$	\$	\$	\$	
2	33.54	44.58	40.91	39.08	39.08
3	34.49	45.53	41.86	40.03	40.03
4	35.43	46.47	42.80	40.97	40.97
5	36.38	47.42	43.75	41.92	41.92
6	37.32	48.36	44.69	42.86	42.86
Level C					
1	38.27	49.31	45.64	43.81	43.81
2	39.21	50.25	46.58	44.75	44.75
3	40.16	51.20	47.53	45.70	45.70
4	41.10	52.14	48.47	46.64	46.64
5	42.05	53.09	49.42	47.59	47.59
6	43.00	54.04	50.37	48.54	48.54
Level D					
1	44.57	55.61	51.94	50.11	50.11
2	45.83	56.87	53.20	51.37	51.37
3	47.09	58.13	54.46	52.63	52.63
4	48.35	59.39	55.72	53.89	53.89
Level E	55.29	66.33	62.66	60.83	60.83

Refer to clause 9.2 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
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

Exposure draft – Higher Education—Academic Staff—Award 2015

Institution at time of HECE Award	Current name or names	New consolidated list (alphabetical)
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
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	

Schedule D—2016 Part-day Public Holidays

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

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

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

D.1 Where a part-day public holiday is declared or prescribed between 7.00 pm and midnight on Christmas Eve (24 December 2016) or New Year's Eve (31 December 2016) the following will apply on Christmas Eve and New Year's Eve and will override any provision in this award relating to public holidays to the extent of the inconsistency:

- (a) All employees will have the right to refuse to work on the part-day public holiday if the request to work is not reasonable or the refusal is reasonable as provided for in the NES.
- (b) Where a part-time or full-time employee is usually rostered to work ordinary hours between 7.00 pm and midnight but as a result of exercising their right under the NES does not work, they will be paid their ordinary rate of pay for such hours not worked.
- (c) Where a part-time or full-time employee is usually rostered to work ordinary hours between 7.00 pm and midnight but as a result of being on annual leave does not work, they will be taken not to be on annual leave between those hours of 7.00 pm and midnight that they would have usually been rostered to work and will be paid their ordinary rate of pay for such hours.
- (d) Where a part-time or full-time employee is usually rostered to work ordinary hours between 7.00 pm and midnight, but as a result of having a rostered day off (RDO) provided under this award, does not work, the employee will be taken to be on a public holiday for such hours and paid their ordinary rate of pay for those hours.
- (e) Excluding annualised salaried employees to whom clause D.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 D.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 E—Definitions

Placement of the **Definitions** to be determined by Plain Language Process. See [\[2017\] FWCFB 3433](#) at [333].

Definition of **higher education industry** has been changed in accordance with [\[2017\] FWCFB 3433](#) at [339].

References to Fair Work Act changed to 'Act'. See [\[2017\] FWCFB 3433](#) at [350].

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 3.2—means educational institutions providing undergraduate and postgraduate teaching leading to the conferring of accredited degrees and performing research to support and inform the curriculum~~

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 ~~*Fair Work Act 2009*~~ (Cth)

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