Hair and Beauty Industry Award 2010

This Fair Work Commission consolidated modern award incorporates all amendments up to and including 19 December 2019 (PR715128).

Clause(s) affected by the most recent variation(s):

Schedule F—Part-day Public Holidays

Current review matter(s): AM2014/47; AM2014/190; AM2014/196; AM2014/197; AM2014/271; AM2014/300; AM2014/301; AM2014/305; AM2015/1; AM2015/2; AM2016/8; AM2016/15; AM2016/17; AM2016/36

Long service leave – an order [PR506544] has been issued to preserve long service leave entitlements under the Division 2B State award titled Broken Hill Commerce and Industry Consent Award 2008 [RA120088].

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[Varied by PR988391, PR992707, PR994450, PR532630, PR544519, PR546288, PR557581, PR573679, PR583014, PR609319, PR610162, PR701397]

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Part 1—Application and Operation

1. Title

This award is the Hair and Beauty Industry Award 2010.

2. Commencement and transitional

[Varied by PR988391, PR542125]

2.1 This award commences on 1 January 2010.

2.2 The monetary obligations imposed on employers by this award may be absorbed into overaward payments. Nothing in this award requires an employer to maintain or increase any overaward payment.

2.3 This award contains transitional arrangements which specify when particular parts of the award come into effect. Some of the transitional arrangements are in clauses in the main part of the award. There are also transitional arrangements in Schedule A. The arrangements in Schedule A deal with:

- minimum wages and piecework rates
- casual or part-time loadings
- Saturday, Sunday, public holiday, evening or other penalties
- shift allowances/penalties.

[2.4 varied by PR542125 ppc 04Dec13]

2.4 Neither the making of this award nor the operation of any transitional arrangements is intended to result in a reduction in the take-home pay of employees covered by the award. On application by or on behalf of an employee who suffers a reduction in take-home pay as a result of the making of this award or the operation of any transitional arrangements, the Fair Work Commission may make any order it considers appropriate to remedy the situation.

[2.5 varied by PR542125 ppc 04Dec13]

2.5 The Fair Work Commission may review the transitional arrangements in this award and make a determination varying the award.

[2.6 varied by PR542125 ppc 04Dec13]

2.6 The Fair Work Commission may review the transitional arrangements:

(a) on its own initiative; or
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(b) on application by an employer, employee, organisation or outworker entity covered by the modern award; or

(c) on application by an organisation that is entitled to represent the industrial interests of one or more employers or employees that are covered by the modern award; or

(d) in relation to outworker arrangements, on application by an organisation that is entitled to represent the industrial interests of one or more outworkers to whom the arrangements relate.

3. Definitions and interpretation

[Varied by PR989447, PR994450, PR997772, PR503608, PR544252, PR545960]

3.1 In this award, unless the contrary intention appears:

[Definition of Act substituted by PR994450 from 01Jan10]

Act means the Fair Work Act 2009 (Cth)

[Definition of adult apprentice inserted by PR544252 ppc 01Jan14]

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

[Definition of agreement-based transitional instrument inserted by PR994450 from 01Jan10]

agreement-based transitional instrument has the meaning in the Fair Work (Transitional Provisions and Consequential Amendments) Act 2009 (Cth)

[Definition of award-based transitional instrument inserted by PR994450 from 01Jan10]

award-based transitional instrument has the meaning in the Fair Work (Transitional Provisions and Consequential Amendments) Act 2009 (Cth)

[Definition of Commission deleted by PR994450 from 01Jan10]

[Definition of default fund employee inserted by PR545960 ppc 01Jan14]

default fund employee means an employee who has no chosen fund within the meaning of the Superannuation Guarantee (Administration) Act 1992 (Cth)

[Definition of defined benefit member inserted by PR545960 ppc 01Jan14]

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

[Definition of Division 2B State award inserted by PR503608 ppc 01Jan11]

Division 2B State award has the meaning in Schedule 3A of the Fair Work (Transitional Provisions and Consequential Amendments) Act 2009 (Cth)

[Definition of Division 2B State employment agreement inserted by PR503608 ppc 01Jan11]

Division 2B State employment agreement has the meaning in Schedule 3A of the Fair Work (Transitional Provisions and Consequential Amendments) Act 2009 (Cth)
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employee means national system employee within the meaning of the Act

employer means national system employer within the meaning of the Act

Definition of enterprise award-based instrument has the meaning in the Fair Work (Transitional Provisions and Consequential Amendments) Act 2009 (Cth)

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

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

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

Definition of 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

hair and beauty industry means:

(a) performing and/or carrying out of shaving, haircutting, hairdressing, hair trimming, facial waxing, hair curling or waving, beard trimming, face or head massaging, shampooing, wig-making, hair working, hair dyeing, manicuring, eye-brow waxing or lash tinting, or any process or treatment of the hair, head or face carried on, using or engaged in a hairdressing salon, and includes the sharpening or setting of razors in a hairdressing salon; and/or

(b) performing and/or carrying out of manicures, pedicures, nail enhancement and nail artistry techniques, waxing, eyebrow arching, lash brow tinting, make-up, analysis of skin, development of treatment plans, facial treatments including massage and other specialised treatments such as lymphatic drainage, high frequency body treatments, including full body massage and other specialised treatments using machinery and other cosmetic applications and techniques, body hair removal, including (but not limited to) waxing chemical methods, electrolysis and laser hair removal, aromatherapy and the application of aromatic plant oils for beauty treatments, using various types of electrical equipment for both body and facial treatments
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**standard rate** means the minimum weekly wage for a Hair and Beauty Employee Level 3 in clause 17. Where an allowance is provided for on an hourly basis, a reference to standard rate means 1/38th of the weekly wage referred to above.

[Definition of *transitional minimum wage instrument* inserted by PR994450 from 01Jan10]

**transitional minimum wage instrument** has the meaning in the *Fair Work (Transitional Provisions and Consequential Amendments) Act 2009* (Cth).

3.2 Where this award refers to a condition of employment provided for in the NES, the NES definition applies.

4. **Coverage**

[Varied by PR994450]

4.1 This award covers employers throughout Australia in the hair and beauty industry and their employees in the classifications listed in clause 17—Minimum weekly wages to the exclusion of any other modern award. The award does not cover employees who perform hair and beauty work in the general retailing, theatrical, amusement and entertainment industries.

4.2 The award does not cover an employee excluded from award coverage by the Act.

[4.3 substituted by PR994450 from 01Jan10]

4.3 The award does not cover 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.

[New 4.4 inserted by PR994450 from 01Jan10]

4.4 The award does not cover employees who are covered by a State reference public sector modern award, or a State reference public sector transitional award (within the meaning of the *Fair Work (Transitional Provisions and Consequential Amendments) Act 2009* (Cth)), or employers in relation to those employees.

[4.5 inserted by PR994450 from 01Jan10]

4.5 This award covers any employer which supplies labour on an on-hire basis in the industry set out in clause 4.1 in respect of on-hire employees in classifications covered by this award, and those on-hire employees, while engaged in the performance of work for a business in that industry. This subclause operates subject to the exclusions from coverage in this award.

[4.6 inserted by PR994450 from 01Jan10]

4.6 This award covers employers which provide group training services for apprentices and/or trainees engaged in the industry and/or parts of industry set out at clause 4.1 and those apprentices and/or trainees engaged by a group training service hosted by a company to perform work at a location where the activities described herein are being performed. This subclause operates subject to the exclusions from coverage in this award.
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[4.4 renumbered as 4.7 by PR994450 from 01Jan10]

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

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

5. Access to award and the National Employment Standards

The employer must ensure that copies of this award and the NES are available to all employees to whom they apply either on a noticeboard which is conveniently located at or near the workplace or through electronic means, whichever makes them more accessible.

6. The National Employment Standards and this award

The NES and this award contain the minimum conditions of employment for employees covered by this award.

7. Individual flexibility arrangements

[Varied by PR994450, PR542125; 7—Award flexibility renamed and substituted by PR610162 ppc 01Nov18]

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

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

7.2 An agreement must be one that is genuinely made by the employer and the individual employee without coercion or duress.

7.3 An agreement may only be made after the individual employee has commenced employment with the employer.

7.4 An employer who wishes to initiate the making of an agreement must:

(a) give the employee a written proposal; and
(b) if the employer is aware that the employee has, or reasonably should be aware that the employee may have, limited understanding of written English, take
reasonable steps (including providing a translation in an appropriate language) to ensure that the employee understands the proposal.

7.5 An agreement must result in the employee being better off overall at the time the agreement is made than if the agreement had not been made.

7.6 An agreement must do all of the following:

(a) state the names of the employer and the employee; and

(b) identify the award term, or award terms, the application of which is to be varied; and

(c) set out how the application of the award term, or each award term, is varied; and

(d) set out how the agreement results in the employee being better off overall at the time the agreement is made than if the agreement had not been made; and

(e) state the date the agreement is to start.

7.7 An agreement must be:

(a) in writing; and

(b) signed by the employer and the employee and, if the employee is under 18 years of age, by the employee’s parent or guardian.

7.8 Except as provided in clause 7.7(b), an agreement must not require the approval or consent of a person other than the employer and the employee.

7.9 The employer must keep the agreement as a time and wages record and give a copy to the employee.

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

7.11 An agreement may be terminated:

(a) at any time, by written agreement between the employer and the employee; or

(b) by the employer or employee giving 13 weeks’ written notice to the other party (reduced to 4 weeks if the agreement was entered into before the first full pay period starting on or after 4 December 2013).

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

7.12 An agreement terminated as mentioned in clause 7.11(b) ceases to have effect at the end of the period of notice required under that clause.
7.13 The right to make an agreement under clause 7 is additional to, and does not affect, any other term of this award that provides for an agreement between an employer and an individual employee.

Part 2—Consultation and Dispute Resolution

8. Consultation about major workplace change

[8—Consultation regarding major workplace change renamed and substituted by PR546288. PR546288, 8—Consultation renamed and substituted by PR610162 ppc 01Nov18]

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

(a) give notice of the changes to all employees who may be affected by them and their representatives (if any); and

(b) discuss with affected employees and their representatives (if any):

(i) the introduction of the changes; and

(ii) their likely effect on employees; and

(iii) measures to avoid or reduce the adverse effects of the changes on employees; and

(c) commence discussions as soon as practicable after a definite decision has been made.

8.2 For the purposes of the discussion under clause 8.1(b), the employer must give in writing to the affected employees and their representatives (if any) all relevant information about the changes including:

(a) their nature; and

(b) their expected effect on employees; and

(c) any other matters likely to affect employees.

8.3 Clause 8.2 does not require an employer to disclose any confidential information if its disclosure would be contrary to the employer’s interests.

8.4 The employer must promptly consider any matters raised by the employees or their representatives about the changes in the course of the discussion under clause 8.1(b).

8.5 In clause 8:

significant effects, on employees, includes any of the following:

(a) termination of employment; or

(b) major changes in the composition, operation or size of the employer’s workforce or in the skills required; or
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(c) loss of, or reduction in, job or promotion opportunities; or
(d) loss of, or reduction in, job tenure; or
(e) alteration of hours of work; or
(f) the need for employees to be retrained or transferred to other work or locations; or
(g) job restructuring.

8.6 Where this award makes provision for alteration of any of the matters defined at clause 8.5, such alteration is taken not to have significant effect.

8A. Consultation about changes to rosters or hours of work

[8A inserted by PR610162 ppc 01Nov18]

8A.1 Clause 8A applies if an employer proposes to change the regular roster or ordinary hours of work of an employee, other than an employee whose working hours are irregular, sporadic or unpredictable.

8A.2 The employer must consult with any employees affected by the proposed change and their representatives (if any).

8A.3 For the purpose of the consultation, the employer must:

(a) provide to the employees and representatives mentioned in clause 8A.2 information about the proposed change (for example, information about the nature of the change and when it is to begin); and

(b) invite the employees to give their views about the impact of the proposed change on them (including any impact on their family or caring responsibilities) and also invite their representative (if any) to give their views about that impact.

8A.4 The employer must consider any views given under clause 8A.3(b).

8A.5 Clause 8A is to be read in conjunction with any other provisions of this award concerning the scheduling of work or the giving of notice.

9. Dispute resolution

[Varied by PR994450, PR542125; substituted by PR610162 ppc 01Nov18]

9.1 Clause 9 sets out the procedures to be followed if a dispute arises about a matter under this award or in relation to the NES.

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

9.3 If the dispute is not resolved through discussion as mentioned in clause 9.2, the parties to the dispute must then try to resolve it in a timely manner at the workplace.
through discussion between the employee or employees concerned and more senior levels of management, as appropriate.

9.4 If the dispute is unable to be resolved at the workplace and all appropriate steps have been taken under clauses 9.2 and 9.3, a party to the dispute may refer it to the Fair Work Commission.

9.5 The parties may agree on the process to be followed by the Fair Work Commission in dealing with the dispute, including mediation, conciliation and consent arbitration.

9.6 If the dispute remains unresolved, the Fair Work Commission may use any method of dispute resolution that it is permitted by the Act to use and that it considers appropriate for resolving the dispute.

9.7 A party to the dispute may appoint a person, organisation or association to support and/or represent them in any discussion or process under clause 9.

9.8 While procedures are being followed under clause 9 in relation to a dispute:

(a) work must continue in accordance with this award and the Act; and

(b) an employee must not unreasonably fail to comply with any direction given by the employer about performing work, whether at the same or another workplace, that is safe and appropriate for the employee to perform.

9.9 Clause 9.8 is subject to any applicable work health and safety legislation.

Part 3—Types of Employment and Termination of Employment

10. Employment categories

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

- full-time employees;
- part-time employees; or
- casual employees.

10.2 At the time of engagement an employer will inform each employee of the terms of their engagement and, in particular, whether they are to be full-time, part-time or casual.

11. Full-time employees

A full-time employee is an employee who is engaged to work an average of 38 hours per week.
12. Part-time employees

[Varied by PR994450]

12.1 A part-time employee is an employee who:

(a) works less than 38 hours per week; and

(b) has reasonably predictable hours of work.

12.2 At the time of first being employed, the employer and the part-time employee will agree, in writing, on a regular pattern of work, specifying at least:

• the hours worked each day;

• which days of the week the employee will work;

• the actual starting and finishing times of each day;

• that any variation will be in writing;

• that the minimum daily engagement is three hours; and

• the times of taking and the duration of meal breaks.

12.3 Any agreement to vary the regular pattern of work will be made in writing before the variation occurs.

12.4 The agreement and variation to it will be retained by the employer and a copy given by the employer to the employee.

12.5 An employer is required to roster a part-time employee for a minimum of three consecutive hours on any shift.

12.6 An employee who does not meet the definition of a part-time employee and who is not a full-time employee will be paid as a casual employee in accordance with clause 13.

12.7 A part-time employee employed under the provisions of this clause will be paid for ordinary hours worked at the rate of 1/38th of the weekly rate prescribed for the class of work performed. Overtime is payable for all hours worked in excess of the agreed number of hours.

12.8 Rosters

(a) A part-time employee’s roster, but not the agreed number of hours, may be altered by the giving of seven days’ notice in writing or in the case of an emergency, 48 hours, by the employer to the employee.

(b) Rosters will not be changed from week to week, or fortnight to fortnight, nor will they be changed to avoid any award entitlements.
12.9 Award entitlements

[12.9 varied by PR994450 from 01Jan10]

A part-time employee will be entitled to payments in respect of annual leave, public holidays, personal/carer’s leave and compassionate leave arising under the NES or this award on a proportionate basis. Subject to the provisions contained in this clause all other provisions of the award relevant to full-time employees will apply to part-time employees.

12.10 Conversion of existing employees

No full-time or casual employee will be transferred by an employer to part-time employment without the written consent of the employee. Provided that where such transfer occurs all leave entitlements accrued will be deemed to be continuous. A full-time employee who requests part-time work and is given such work may revert to full-time employment on a specified future date by agreement with the employer and recorded in writing.

13. Casual employment

[Varied by PR992707, PR700569]

13.1 A casual employee is an employee engaged as such.

13.2 For all work between 7.00 am and 9.00 pm Monday to Friday, a casual will be paid both the hourly rate for a full-time employee and an additional 25% of the ordinary hourly rate.

13.3 For all work performed outside the hours in clause 28.2, except Sundays, a casual employee will be paid the hourly rate for a full-time employee in this award plus 50%. For Sundays, the additional loading will be 100%.

[13.4 varied by PR992707 from 20Jan10]

13.4 The following provisions of this award do not apply to casuals:

- Clause 14—Termination of employment;
- Clause 15—Redundancy;
- Clause 21.2—Meal allowances;
- Clause 21.4—Excess travelling costs;
- Clause 21.5—Travelling time reimbursement;
- Clause 21.8—Transport of employees’ reimbursement;
- Clause 28—Hours of work;
- Clause 29—Notification of rosters; and
- Clause 31.2(a)—Overtime and penalty rates.
13.5 Casual employees will be paid at the termination of each engagement, but may agree to be paid weekly or fortnightly.

13.6 The minimum daily engagement of a casual is three hours.

13.7 **Right to request casual conversion**

[13.7 inserted by PR700569 ppc 01Oct18]

(a) A person engaged by a particular employer as a regular casual employee may request that their employment be converted to full-time or part-time employment.

(b) A **regular casual employee** is a casual employee who has in the preceding period of 12 months worked a pattern of hours on an ongoing basis which, without significant adjustment, the employee could continue to perform as a full-time employee or part-time employee under the provisions of this award.

(c) A regular casual employee who has worked equivalent full-time hours over the preceding period of 12 months’ casual employment may request to have their employment converted to full-time employment.

(d) A regular casual employee who has worked less than equivalent full-time hours over the preceding period of 12 months’ casual employment may request to have their employment converted to part-time employment consistent with the pattern of hours previously worked.

(e) Any request under this subclause must be in writing and provided to the employer.

(f) Where a regular casual employee seeks to convert to full-time or part-time employment, the employer may agree to or refuse the request, but the request may only be refused on reasonable grounds and after there has been consultation with the employee.

(g) Reasonable grounds for refusal include that:

(i) it would require a significant adjustment to the casual employee’s hours of work in order for the employee to be engaged as a full-time or part-time employee in accordance with the provisions of this award – that is, the casual employee is not truly a regular casual employee as defined in paragraph (b);

(ii) it is known or reasonably foreseeable that the regular casual employee’s position will cease to exist within the next 12 months;

(iii) it is known or reasonably foreseeable that the hours of work which the regular casual employee is required to perform will be significantly reduced in the next 12 months; or

(iv) it is known or reasonably foreseeable that there will be a significant change in the days and/or times at which the employee’s hours of work are required to be performed in the next 12 months which cannot be
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accommodated within the days and/or hours during which the employee is available to work.

(h) For any ground of refusal to be reasonable, it must be based on facts which are known or reasonably foreseeable.

(i) Where the employer refuses a regular casual employee’s request to convert, the employer must provide the casual employee with the employer’s reasons for refusal in writing within 21 days of the request being made. If the employee does not accept the employer’s refusal, this will constitute a dispute that will be dealt with under the dispute resolution procedure in clause 9. Under that procedure, the employee or the employer may refer the matter to the Fair Work Commission if the dispute cannot be resolved at the workplace level.

(j) Where it is agreed that a casual employee will have their employment converted to full-time or part-time employment as provided for in this clause, the employer and employee must discuss and record in writing:

(i) the form of employment to which the employee will convert – that is, full-time or part-time employment; and

(ii) if it is agreed that the employee will become a part-time employee, the matters referred to in clause 12.2.

(k) The conversion will take effect from the start of the next pay cycle following such agreement being reached unless otherwise agreed.

(l) Once a casual employee has converted to full-time or part-time employment, the employee may only revert to casual employment with the written agreement of the employer.

(m) A casual employee must not be engaged and re-engaged (which includes a refusal to re-engage), or have their hours reduced or varied, in order to avoid any right or obligation under this clause.

(n) Nothing in this clause obliges a regular casual employee to convert to full-time or part-time employment, nor permits an employer to require a regular casual employee to so convert.

(o) Nothing in this clause requires an employer to increase the hours of a regular casual employee seeking conversion to full-time or part-time employment.

(p) An employer must provide a casual employee, whether a regular casual employee or not, with a copy of the provisions of this subclause within the first 12 months of the employee’s first engagement to perform work. In respect of casual employees already employed as at 1 October 2018, an employer must provide such employees with a copy of the provisions of this subclause by 1 January 2019.

(q) A casual employee’s right to request to convert is not affected if the employer fails to comply with the notice requirements in paragraph (p).
14. Termination of employment

[14 substituted by PR610162 ppc 01Nov18]

Note: The NES sets out requirements for notice of termination by an employer. See ss.117 and 123 of the Act.

14.1 Notice of termination by an employee

(a) This clause applies to all employees except those identified in ss.123(1) and 123(3) of the Act.

(b) An employee must give the employer notice of termination in accordance with Table 1—Period of notice of at least the period specified in column 2 according to the period of continuous service of the employee specified in column 1.

Table 1—Period of notice

<table>
<thead>
<tr>
<th>Column 1</th>
<th>Column 2</th>
</tr>
</thead>
<tbody>
<tr>
<td>Employee’s period of continuous service with the employer at the end of the day the notice is given</td>
<td>Period of notice</td>
</tr>
<tr>
<td>Not more than 1 year</td>
<td>1 week</td>
</tr>
<tr>
<td>More than 1 year but not more than 3 years</td>
<td>2 weeks</td>
</tr>
<tr>
<td>More than 3 years but not more than 5 years</td>
<td>3 weeks</td>
</tr>
<tr>
<td>More than 5 years</td>
<td>4 weeks</td>
</tr>
</tbody>
</table>

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

(c) In paragraph (b) continuous service has the same meaning as in s.117 of the Act.

(d) If an employee who is at least 18 years old does not give the period of notice required under paragraph (b), then the employer may deduct from wages due to the employee under this award an amount that is no more than one week’s wages for the employee.

(e) If the employer has agreed to a shorter period of notice than that required under paragraph (b), then no deduction can be made under paragraph (d).

(f) Any deduction made under paragraph (d) must not be unreasonable in the circumstances.

14.2 Job search entitlement

Where an employer has given notice of termination to an employee, the employee must be allowed time off without loss of pay of up to one day for the purpose of seeking other employment.

14.3 The time off under clause 14.2 is to be taken at times that are convenient to the employee after consultation with the employer.
15. Redundancy

[Varied by PR994450, PR503608; PR561478; substituted by PR706961 ppc 03May19]

NOTE: Redundancy pay is provided for in the NES. See sections 119–123 of the Act.

15.1 Transfer to lower paid duties on redundancy

(a) Clause 15.1 applies if, because of redundancy, an employee is transferred to new duties to which a lower ordinary rate of pay applies.

(b) The employer may:

(i) give the employee notice of the transfer of at least the same length as the employee would be entitled to under section 117 of the Act as if it were a notice of termination given by the employer; or

(ii) transfer the employee to the new duties without giving notice of transfer or before the expiry of a notice of transfer, provided that the employer pays the employee as set out in paragraph (c).

(c) If the employer acts as mentioned in paragraph (b)(ii), the employee is entitled to a payment of an amount equal to the difference between the ordinary rate of pay of the employee (inclusive of all-purpose allowances, shift rates and penalty rates applicable to ordinary hours) for the hours of work the employee would have worked in the first role, and the ordinary rate of pay (also inclusive of all-purpose allowances, shift rates and penalty rates applicable to ordinary hours) of the employee in the second role for the period for which no notice was not given.

15.2 Employee leaving during redundancy notice period

(a) An employee given notice of termination in circumstances of redundancy may terminate their employment during the minimum period of notice prescribed by section 117(3) of the Act.

(b) The employee is entitled to receive the benefits and payments they would have received under clause 15 or under sections 119–123 of the Act had they remained in employment until the expiry of the notice.

(c) However, the employee is not entitled to be paid for any part of the period of notice remaining after the employee ceased to be employed.

15.3 Job search entitlement

(a) Where an employer has given notice of termination to an employee in circumstances of redundancy, the employee must be allowed time off without loss of pay of up to one day each week of the minimum period of notice prescribed by section 117(3) of the Act for the purpose of seeking other employment.

(b) If an employee is allowed time off without loss of pay of more than one day under paragraph (a), the employee must, at the request of the employer, produce proof of attendance at an interview.
(c) A statutory declaration is sufficient for the purpose of paragraph (b).

(d) An employee who fails to produce proof when required under paragraph (b) is not entitled to be paid for the time off.

(e) This entitlement applies instead of clauses 14.2 and 14.3.

Part 4—Classification and Wage Rates

16. Classifications
[Varied by PR98391]

16.1 All employees covered by this award must be classified according to the structure set out in Schedule B. Employers must advise their employees in writing of their classification and of any changes to their classification.

16.2 The classification by the employer must be according to the skill level or levels required to be exercised by the employee in order to carry out the principal functions of the employment as determined by the employer.

17. Minimum weekly wages
[Varied by PR989447 ppc 01Jan10, PR997884, PR509036, PR522867, PR536670, PR551593, PR566670, PR579750, PR592100, PR606329, PR707415 ppc 01Jul19]

<table>
<thead>
<tr>
<th>Classifications</th>
<th>Per week $</th>
</tr>
</thead>
<tbody>
<tr>
<td>Level 1</td>
<td>813.60</td>
</tr>
<tr>
<td>Level 2</td>
<td>833.00</td>
</tr>
<tr>
<td>Level 3</td>
<td>862.50</td>
</tr>
<tr>
<td>Level 4</td>
<td>878.50</td>
</tr>
<tr>
<td>Level 5</td>
<td>904.80</td>
</tr>
<tr>
<td>Level 6</td>
<td>937.00</td>
</tr>
</tbody>
</table>

18. Junior rates

Junior employees will be paid the following percentage of the appropriate wage rate in clause 17:

<table>
<thead>
<tr>
<th>Age</th>
<th>% of adult rate of pay</th>
</tr>
</thead>
<tbody>
<tr>
<td>16 years of age and under</td>
<td>50</td>
</tr>
<tr>
<td>17 years of age</td>
<td>75</td>
</tr>
<tr>
<td>18 years of age</td>
<td>100</td>
</tr>
</tbody>
</table>
19. **Apprentices and trainees**

[Varied by PR989447, PR994847, PR994450, PR544252, PR553669, PR559281, PR566670]

19.1 **Minimum rates for hairdressing apprentices**

[19.1(a) renumbered as 19.1 by PR994450 from 01Jan10; substituted by PR544252 ppc 01Jan14]

(a) The minimum award rates of pay for hairdressing apprentices who commenced before 1 January 2014 are:

<table>
<thead>
<tr>
<th>Year of apprenticeship</th>
<th>% of standard rate</th>
</tr>
</thead>
<tbody>
<tr>
<td>1st year – first 3 months</td>
<td>35</td>
</tr>
<tr>
<td>1st year – thereafter</td>
<td>45</td>
</tr>
<tr>
<td>2nd year</td>
<td>55</td>
</tr>
<tr>
<td>3rd year</td>
<td>77</td>
</tr>
<tr>
<td>4th year (if applicable)</td>
<td>90</td>
</tr>
</tbody>
</table>

[19.1(b) substituted by PR566670 ppc 01Jul15]

(b) The minimum award rates for hairdressing apprentices who commenced their apprenticeship on or after 1 January 2014 are:

<table>
<thead>
<tr>
<th>Year of apprenticeship</th>
<th>% of standard rate for apprentices who have not completed year 12</th>
<th>% of standard rate for apprentices who have completed year 12</th>
</tr>
</thead>
<tbody>
<tr>
<td>1st year</td>
<td>50</td>
<td>55</td>
</tr>
<tr>
<td>2nd year</td>
<td>60</td>
<td>65</td>
</tr>
<tr>
<td>3rd year</td>
<td>77</td>
<td>77</td>
</tr>
<tr>
<td>4th year (if applicable)</td>
<td>90</td>
<td>90</td>
</tr>
</tbody>
</table>

19.2 **Minimum rates for beauty therapy apprentices**

[19.1(b) renumbered as 19.2 by PR994450 from 01Jan10; substituted by PR544252 ppc 01Jan14]

(a) The minimum award rates of pay for beauty therapy apprentices who commenced before 1 January 2014 are:

<table>
<thead>
<tr>
<th>Year of apprenticeship</th>
<th>% of standard rate</th>
</tr>
</thead>
<tbody>
<tr>
<td>1st year</td>
<td>45</td>
</tr>
<tr>
<td>2nd year</td>
<td>60</td>
</tr>
<tr>
<td>3rd year</td>
<td>80</td>
</tr>
<tr>
<td>4th year</td>
<td>90</td>
</tr>
</tbody>
</table>
Hair and Beauty Industry Award 2010

[19.2(b) substituted by PR566670 ppc 01Jul15]

(b) The minimum award rates for beauty therapy apprentices who commenced on or after 1 January 2014 are:

<table>
<thead>
<tr>
<th>Year of apprenticeship</th>
<th>% of standard rate for apprentices who have not completed year 12</th>
<th>% of standard rate for apprentices who have completed year 12</th>
</tr>
</thead>
<tbody>
<tr>
<td>1st year</td>
<td>50</td>
<td>55</td>
</tr>
<tr>
<td>2nd year</td>
<td>60</td>
<td>65</td>
</tr>
<tr>
<td>3rd year</td>
<td>80</td>
<td>80</td>
</tr>
<tr>
<td>4th year (if applicable)</td>
<td>90</td>
<td>90</td>
</tr>
</tbody>
</table>

19.3 Minimum rates for pre-apprentices

[19.2 renumbered as 19.3 by PR994450 from 01Jan10; substituted by PR544252 ppc 01Jan14; corrected by PR553669 ppc 01Jan14]

(a) The minimum award rates of pay for pre-apprentices who commenced before 1 January 2014 are:

<table>
<thead>
<tr>
<th>Year of apprenticeship</th>
<th>% of standard rate</th>
</tr>
</thead>
<tbody>
<tr>
<td>1st six months</td>
<td>45</td>
</tr>
<tr>
<td>Next 12 months</td>
<td>55</td>
</tr>
<tr>
<td>Next 12 months</td>
<td>77</td>
</tr>
</tbody>
</table>

[19.3(b) substituted by PR566670 ppc 01Jul15]

(b) The minimum award rates of pay for pre-apprentices who commenced on or after 1 January 2014 are:

<table>
<thead>
<tr>
<th>Year of apprenticeship</th>
<th>% of standard rate for apprentices who have not completed year 12</th>
<th>% of standard rate for apprentices who have completed year 12</th>
</tr>
</thead>
<tbody>
<tr>
<td>1st six months</td>
<td>50</td>
<td>55</td>
</tr>
<tr>
<td>Next six months</td>
<td>55</td>
<td>55</td>
</tr>
<tr>
<td>Next six months</td>
<td>60</td>
<td>65</td>
</tr>
<tr>
<td>Next 12 months</td>
<td>77</td>
<td>77</td>
</tr>
</tbody>
</table>

19.4 Adult apprentices

[New 19.4 inserted by PR544252 ppc 01Jan14]

(a) The minimum award rates of pay for adult apprentices who commenced on or after 1 January 2014 and are in the first year of their apprenticeship are 80% of the minimum wage for a Hair and Beauty Employee Level 3 in clause 17, or the rate prescribed by clause 19.1, 19.2 or 19.3 for the relevant year of the apprenticeship, whichever is the greater.
(b) The minimum rate for an adult apprentice who commenced on or after 1 January 2014 and is in the second and subsequent years of their apprenticeship must be the rate for the lowest adult classification in clause 17—Minimum weekly wages, or the rate prescribed by clause 19.1, 19.2 or 19.3 for the relevant year of the apprenticeship, whichever is the greater.

(c) A person employed by an employer under this award immediately prior to entering into a training agreement as an adult apprentice with that employer must not suffer a reduction in their minimum wage by virtue of entering into the training agreement, provided that the person has been an employee in that enterprise for at least six months as a full-time employee or twelve months as a part-time or regular and systematic casual employee immediately prior to commencing the apprenticeship. For the purpose only of fixing a minimum wage, the adult apprentice must continue to receive the minimum wage that applies to the classification specified in clause 17 in which the adult apprentice was engaged immediately prior to entering into the training agreement.

19.5 Apprentice conditions of employment

[New 19.5 inserted by PR559281 ppc 01Jan15]

(a) Except as provided in this clause or where otherwise stated, all conditions of employment specified in this award apply to apprentices.

(b) Where an apprentice is required to attend block release training for training identified in or associated with their training contract, and such training requires an overnight stay, the employer must pay for the excess reasonable travel costs incurred by the apprentice in the course of travelling to and from such training. Provided that this clause will not apply where the apprentice could attend an alternative Registered Training Organisation (RTO) and the use of the more distant RTO is not agreed between the employer and the apprentice.

(c) For the purposes of clause 19.5(b) above, excess reasonable travel costs include the total costs of reasonable transportation (including transportation of tools where required), accommodation costs incurred while travelling (where necessary) and reasonable expenses incurred while travelling, including meals, which exceed those incurred in travelling to and from work. For the purposes of this subclause, excess travel costs do not include payment for travelling time or expenses incurred while not travelling to and from block release training.

(d) The amount payable by an employer under clause 19.5(b) may be reduced by an amount the apprentice is eligible to receive for travel costs to attend block release training under a Government apprentice assistance scheme. This will only apply if an apprentice has either received such assistance or their employer has advised them in writing of the availability of such assistance.

(e) All training fees charged by an RTO for prescribed courses and the cost of all prescribed textbooks (excluding those textbooks which are available in the employer’s technical library) for the apprenticeship, which are paid by an apprentice, shall be reimbursed by the employer within six months of the commencement of the apprenticeship or the relevant stage of the apprenticeship, or within three months of the commencement of the training
provided by the RTO, whichever is the later, unless there is unsatisfactory progress.

(f) An employer may meet its obligations under clause 19.5(e) by paying any fees and/or cost of textbooks directly to the RTO.

(g) An apprentice is entitled to be released from work without loss of continuity of employment and to payment of the appropriate wages to attend any training and assessment specified in, or associated with, the training contract.

(h) Time spent by an apprentice in attending any training and/or assessment specified in, or associated with, the training contract is to be regarded as time worked for the employer for the purposes of calculating the apprentice’s wages and determining the apprentice’s employment conditions. This subclause operates subject to the provisions of Schedule E—School-based Apprentices.

(i) No apprentice will, except in an emergency, work or be required to work overtime or shiftwork at times which would prevent their attendance at training consistent with their training contract.

[19.3 renumbered as 19.4 by PR994450; 19.4 renumbered as 19.5 by PR544252; 19.5 renumbered as 19.6 by PR559281 ppc 01Jan15]

19.6 The minimum rate of pay for full-time hairdressing trainees and graduates are:

<table>
<thead>
<tr>
<th>Year of study</th>
<th>% of standard rate</th>
</tr>
</thead>
<tbody>
<tr>
<td>Less than 1000 hours of full-time accredited training</td>
<td>55</td>
</tr>
<tr>
<td>At least 1000 hours but less than 2000 hours of full-time accredited training</td>
<td>75</td>
</tr>
<tr>
<td>Hairdressing Graduate (first 12 months)</td>
<td>92.5</td>
</tr>
</tbody>
</table>

[19.4 inserted by PR994847 ppc 15Mar10; renumbered as 19.5 by PR994450; 19.5 renumbered as 19.6 by PR544252; 19.6 renumbered as 19.7 by PR559281 ppc 01Jan15]

19.7 The minimum rate of pay for a full-time beauty therapy graduate for the first 12 months is:

<table>
<thead>
<tr>
<th>Year of study</th>
<th>% of standard rate</th>
</tr>
</thead>
<tbody>
<tr>
<td>Beauty Therapy Graduate (first 12 months)</td>
<td>92.5</td>
</tr>
</tbody>
</table>

[New clause 20 inserted by PR506046 ppc 01Jan10]

20. School-based apprentices

See Schedule E.
21. **Allowances**

To view the current monetary amounts of work-related allowances refer to the Allowances Sheet.

[Varied by PR992707, PR994450, PR998044; 20 renumbered as 21 by PR506046 ppc 01Jan10; varied by PR509159, PR522989, PR536792, PR551715, PR566814, PR579510, PR592263, PR606486, PR704151, PR707610]

21.1 **Manager’s allowance**

An employee in charge of a hair and/or beauty establishment for a full week will be paid an allowance of 5% of the standard rate for that week.

21.2 **Meal allowances**

[20.2(a) varied by PR998044; 21.2(a) varied by PR509159, PR522989, PR536792, PR551715, PR566814, PR579510, PR592263, PR606486, PR704151, PR707610 ppc 01Jul19]

(a) An employee required to work more than one hour of overtime without being given 24 hours’ notice after the employee’s ordinary time of ending work will be either provided with a meal or paid a meal allowance of $18.99. Where such overtime work exceeds four hours a further meal allowance will be paid.

(b) No meal allowance will be payable where any employee could reasonably return home for a meal within the period allowed.

21.3 **Special clothing**

Where the employer requires an employee to wear any protective or special clothing such as a uniform dress or other clothing then the employer will reimburse the employee for any cost of purchasing such clothing and the cost of replacement items, when replacement is necessary due to normal wear and tear. This provision will not apply where the special clothing is supplied and/or paid for by the employer.

21.4 **Excess travelling costs**

Where an employee is required by their employer to move temporarily from one branch or shop to another for a period not exceeding three weeks, all additional transport costs so incurred will be reimbursed by the employer.

21.5 **Travelling time reimbursement**

(a) An employee who on any day is required to work at a place away from their usual place of employment, for all time reasonably spent in reaching and returning from such place (in excess of the time normally spent in travelling from their home to their usual place of employment and returning), will be paid travelling time and also any fares reasonably incurred in excess of those normally incurred in travelling between their home and their usual place of employment.

(b) Where the employer provides transport from a pick up point, an employee will be paid travelling time for all time spent travelling from such pick up point and return thereto.
(c) The rate of pay for travelling time will be the ordinary time rate except on Sundays and holidays when it will be time and a half.

21.6 Transfer of employee reimbursement

Where any employer transfers an employee from one township to another, the employer will be responsible for and will pay the whole of the moving expenses, including fares and transport charges, for the employee and the employee’s family.

21.7 Transport allowance

[21.7 varied by PR522989, PR536792, PR551715 ppc 01Jul14]

Where an employer requests an employee to use their own motor vehicle in the performance of their duties such employee will be paid an allowance of $0.78 per kilometre.

21.8 Transport of employees’ reimbursement

(a) Where an employee commences and/or ceases work after 10.00 pm on any day or prior to 7.00 am on any day and the employee’s regular means of transport is not available and the employee is unable to arrange their own alternative transport, the employer will reimburse the employee for the cost of a taxi fare from the place of employment to the employee’s usual place of residence. This will not apply if the employer provides or arranges proper transportation to and/or from the employee’s usual place of residence, at no cost to the employee.

(b) Provided always that an employee may elect to provide their own transport.

21.9 First aid allowance

Where an employee who holds an appropriate first aid qualification is appointed by the employer to perform first aid duty they will be paid an extra of 1.3% of the standard rate each week.

21.10 Tool allowance

[20.10 inserted by PR992707 from 20Jan10; varied by PR998044, PR579510, PR592263 ppc 01Jul17]

(a) The employer must reimburse the employee for the cost of all electrical equipment necessary for carrying out their work. This provision does not apply where electrical equipment is provided at the employer’s expense.

(b) Where an employee is required to use their own tools the employer must pay to the employee a tool allowance of $8.99 per week.

21.11 Adjustment of expense related allowances

[20.10 renumbered as 20.11 and varied by PR992707 from 20Jan10; varied by PR994450 from 01Jan10, PR536792 ppc 01Jul13]

At the time of any adjustment to the standard rate, each expense related allowance must 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:

<table>
<thead>
<tr>
<th>Allowance</th>
<th>Applicable Consumer Price Index figure</th>
</tr>
</thead>
<tbody>
<tr>
<td>Meal allowance</td>
<td>Take away and fast foods sub-group</td>
</tr>
<tr>
<td>Transport allowance</td>
<td>Private motoring sub-group</td>
</tr>
<tr>
<td>Tool allowance</td>
<td>Tools and equipment for house and garden component of household appliances, utensils and tools sub-group</td>
</tr>
</tbody>
</table>

22. **Broken Hill**

[Varied by PR992707, PR994450; 21 renumbered as 22 by PR506046 ppc 01Jan10; 22—District allowances renamed as 22—Broken Hill and substituted by PR561204 ppc 07May15]

An employee in the County of Yancowinna in NSW (Broken Hill) will in addition to all other payments be paid an allowance for the exigencies of working in Broken Hill of 4.28% of the standard rate.

23. **Accident pay**

[Varied by PR994450, PR503608; 22 renumbered as 23 by PR506046; deleted by PR561478 ppc 05Mar15]

24. **Superannuation**

[Varied by PR990531, PR990545, PR992743, PR994450; 23 renumbered as 24 by PR506046 ppc 01Jan10; varied by PR530230, PR545960]

24.1 **Superannuation legislation**

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

(b) The rights and obligations in these clauses supplement those in superannuation legislation.
24.2 **Employer contributions**

An employer must make such superannuation contributions to a superannuation fund for the benefit of an employee as will avoid the employer being required to pay the superannuation guarantee charge under superannuation legislation with respect to that employee.

24.3 **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 24.2.

(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 24.3(a) or (b) no later than 28 days after the end of the month in which the deductions authorised under clauses 24.3(a) or (b) was made.

24.4 **Superannuation fund**

[23.4 varied by PR992743, PR994450]

Unless, to comply with superannuation legislation, the employer is required to make the superannuation contributions provided for in clause 24.2 to another superannuation fund that is chosen by the employee, the employer must make the superannuation contributions provided for in clause 24.2 and pay the amount authorised under clauses 24.3(a) or (b) to one of the following superannuation funds or its successor:

(a) Retail Employees Superannuation Trust (REST);

[24.4(b) substituted by PR530230 ppc 26Oct12]

(b) CareSuper;

(c) Statewide Superannuation Trust;

(d) Sunsuper;

[24.4(e) varied by PR545960 ppc 01Jan14]

(e) 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 scheme; or

[24.4(f) inserted by PR545960 ppc 01Jan14]

(f) a superannuation fund or scheme which the employee is a defined benefit member of.
24.5 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 24.2 and pay the amount authorised under clauses 24.3(a) or (b):

(a) Paid leave—while the employee is on any paid leave.

(b) Work-related illness or injury—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 statutory requirements; and

(ii) the employee remains employed by the employer.

25. Payment of wages

[Varyed by PR988391; 24 renumbered as 25 by PR506046 ppc 01Jan10; varied by PR610035]

[Paragraph numbered as 25.1 by PR610035 ppc 01Nov18]

25.1 Wages will be paid weekly or fortnightly according to the actual hours worked each week or fortnight or may be averaged over a period of a fortnight.

25.2 Payment on termination of employment

[25.2 inserted by PR610035 ppc 01Nov18]

(a) The employer must pay an employee no later than 7 days after the day on which the employee’s employment terminates:

(i) the employee’s wages under this award for any complete or incomplete pay period up to the end of the day of termination; and

(ii) all other amounts that are due to the employee under this award and the NES.

(b) The requirement to pay wages and other amounts under paragraph (a) is subject to further order of the Commission and the employer making deductions authorised by this award or the Act.

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

Note 2: Paragraph (b) allows the Commission to make an order delaying the requirement to make a payment under this clause. For example, the Commission could make an order delaying the requirement to pay redundancy pay if an employer makes an application under s.120 of the Act for the Commission to reduce the amount of redundancy pay an employee is entitled to under the NES.
Note 3: State and Territory long service leave laws or long service leave entitlements under s.113 of the Act, may require an employer to pay an employee for accrued long service leave on the day on which the employee’s employment terminates or shortly after.

26. Supported wage

[Varied by PR988391; 25 renumbered as 26 by PR506046 ppc 01Jan10]

See Schedule C

27. National training wage

[26 renumbered as 27 by PR506046 ppc 01Jan10; 27—Training wage renamed as National training wage and substituted by PR593803 ppc 01Jul17; varied by PR606329, PR707415]

27.1 Schedule E to the Miscellaneous Award 2010 sets out minimum wage rates and conditions for employees undertaking traineeships.

[27.2 varied by PR606329, PR707415 ppc 01Jul19]

27.2 This award incorporates the terms of Schedule E to the Miscellaneous Award 2010 as at 1 July 2019. Provided that any reference to “this award” in Schedule E to the Miscellaneous Award 2010 is to be read as referring to the Hair and Beauty Industry Award 2010 and not the Miscellaneous Award 2010.

Part 5—Ordinary Hours of Work

28. Hours of work

[27 renumbered as 28 by PR506046 ppc 01Jan10; varied by PR709361]

28.1 This clause does not operate to limit or increase or in any way alter the trading hours of any employer as determined by the relevant State or Territory legislation.

28.2 Ordinary hours

(a) Ordinary hours must not exceed an average of 38 per week and may be worked within the following spread of hours:

<table>
<thead>
<tr>
<th>Days</th>
<th>Spread of hours</th>
</tr>
</thead>
<tbody>
<tr>
<td>Monday to Friday, inclusive</td>
<td>7.00 am–9.00 pm</td>
</tr>
<tr>
<td>Saturday</td>
<td>7.00 am–6.00 pm</td>
</tr>
<tr>
<td>Sunday</td>
<td>10.00 am–5.00 pm</td>
</tr>
</tbody>
</table>

(b) Hours of work on any day will be continuous, except for rest periods and meal breaks.
28.3 Maximum hours on a day

An employee may be rostered to work up to a maximum of nine hours on any day, except that an employee may be rostered to work one 10.5 hour day per week and by mutual agreement in writing, a second 10.5 hour day.

[28.4 inserted by PR709361 ppc 03Jul19]

28.4 38 hour week rosters for full-time employees

A full-time employee will be rostered for an average of 38 ordinary hours per week, worked in any of the following forms:

(a) 38 ordinary hours in one week;
(b) 76 ordinary hours in two consecutive weeks;
(c) 114 ordinary hours in three consecutive weeks;
(d) 152 ordinary hours in four consecutive weeks.

29. Notification of rosters

[Varied by PR992707, PR994450; 28 renumbered as 29 by PR506046 ppc 01Jan10; 29 substituted by PR709361 ppc 03Jul19]

29.1 The employer will provide permanent employees with a written roster (which may be accessible by electronic means).

(a) the roster must show for each employee:
   
   (i) the number of ordinary hours to be worked each week;
   
   (ii) the days of the week on which work is to be performed; and
   
   (iii) the times at which they start and finish work.

29.2 Rosters for permanent employees must be notified to employees at least 14 days in advance.

29.3 A full time employee’s roster may be changed at any time by:

(a) mutual agreement between the employer and employee; and

(b) the employer giving 48 hours’ notice to the employee in the case of an emergency.

(Note: rostering provisions specific to part time employees can be found in clause 12.8)

29.4 An employee’s roster may not be changed with the intent of avoiding payment of penalties, loadings or other benefits applicable. Should such circumstances arise the employee will be entitled to such penalty, loading or benefit as if the roster had not been changed.
30. **Rostering principles**

[New 29 inserted by PR992707 from 20Jan10; 29 renumbered as 30 by PR506046]

**30.1** A roster period cannot exceed four weeks.

**30.2** Ordinary hours will be worked on not more than five days in each week, provided that if ordinary hours are worked on six days in one week, ordinary hours in the following week will be worked on no more than four days.

**30.3** **Consecutive days off**

(a) Ordinary hours will be worked so as to provide an employee with two consecutive days off each week or three consecutive days off in a two week period.

(b) This requirement will not apply where the employee requests in writing and the employer agrees to other arrangements, which are to be recorded in the time and wages records. It cannot be made a condition of employment that an employee make such a request.

(c) An employee can terminate the agreement by giving four weeks’ notice to the employer.

**30.4** Ordinary hours and any reasonable additional hours may not be worked over more than six consecutive days.

**30.5** Unless otherwise mutually agreed, an employee who elects to work Sundays as part of ordinary hours is to be rostered off at least one Sunday every four weeks.

31. **Overtime and penalties**

[29 renumbered as 30 and varied by PR992707; 30 renumbered as 31 by PR506046 ppc 01Jan10; varied by PR994450, PR585797, PR598498, PR712683]

**31.1** **Reasonable overtime**

[31.1 substituted by PR712683 ppc 04Oct19]

(a) Subject to s.62 of the Act and this clause, an employer may require an employee to work reasonable overtime hours at overtime rates.

(b) An employee may refuse to work overtime hours if they are unreasonable.

(c) In determining whether overtime hours are reasonable or unreasonable for the purpose of this clause the following must be taken into account:

(i) any risk to employee health and safety from working the additional hours;

(ii) the employee’s personal circumstances, including family responsibilities;

(iii) the needs of the workplace or enterprise in which the employee is employed;
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(iv) whether the employee is entitled to receive overtime payments, penalty rates or other compensation for, or a level of remuneration that reflects an expectation of, working additional hours;

(v) any notice given by the employer of any request or requirement to work the additional hours;

(vi) any notice given by the employee of his or her intention to refuse to work the additional hours;

(vii) the usual patterns of work in the industry, or the part of an industry, in which the employee works;

(viii) the nature of the employee’s role, and the employee’s level of responsibility;

(ix) whether the additional hours are in accordance with averaging terms of clause 28 in this award inserted pursuant to s.63 of the Act, that applies to the employee; and

(x) any other relevant matter.

31.2 Overtime and penalty rates

(a) Overtime hours worked in excess of the ordinary number of hours of work prescribed in clause 28.2 are to be paid at time and a half for the first three hours and double time thereafter.

(b) Hours worked by casual employees:

[31.2(b) inserted by PR598498 ppc 01Jan18]

(i) in excess of 38 hours per week or, where the casual employee works in accordance with a roster, in excess of 38 hours per week averaged over the course of the roster cycle;

(ii) in excess of 10 ½ hours per day;

shall be paid at 175% of the ordinary hourly rate of pay for the first three hours and 225% of the ordinary hourly rate of pay thereafter (inclusive of the casual loading).

(c) Saturday work

[31.2(b) renumbered as 31.2(c) by PR598498 ppc 01Jan18]

A loading of 33% will apply for ordinary hours of work for full-time, part-time and casual employees within the span of hours on a Saturday.

(d) Sunday work

[31.2(c) renumbered as 31.2(d) by PR598498 ppc 01Jan18]

A 100% loading will apply for all hours of work for full-time, part-time and casual employees on a Sunday.
(e) Employment on rostered day off

Where it is mutually agreed upon between the employer and the employee (such agreement to be evidenced in writing), an employee may be employed on their rostered day off at the rate of double time for all time worked with a minimum payment as for four hours’ work.

31.3 Time off instead of payment for overtime

(a) An employee and employer may agree 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 31.3 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 31.3 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 31.3 will apply for 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 31.3 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 31.3.

32. Breaks

[30 renumbered as 31 and varied by PR992707; 31 renumbered as 32 by PR506046 ppc 01Jan10]

32.1 All full-time employees must be granted two rest periods of 10 minutes per day, one either side of the meal break. Rest periods are counted as time worked.

32.2 Part-time and casual employees

[31.2 substituted by PR992707 from 20Jan10]

(a) All part-time employees who work any period of four hours or more but no more than seven hours on any day (Monday to Sunday inclusive) must receive one rest period of 10 minutes during the period of work.

(b) If the work period includes a meal break, the rest period is to be granted in that portion of the work period which is the greater or where the work periods are of equal duration, the rest period of 10 minutes must be given at a time that is mutually agreed between the employer and the employee.

(c) Where the work period is of seven or more hours duration on any day (Monday to Sunday inclusive), two rest periods each of 10 minutes duration must be granted, one during the period of work before and one during the period of work after the meal break.

(d) All rest periods count as time worked.

32.3 All employees must be allowed a meal break of 45 minutes to 60 minutes after five hours work. By mutual agreement the meal break can be shortened to 30 minutes. Meal breaks do not count as time worked.

32.4 Breaks between shifts

[31.4 inserted by PR992707 from 20Jan10]

All employees are entitled to at least a 12 hour rest break between finishing work on one day and starting work the next day.
32A. Requests for flexible working arrangements

[32A inserted by PR701397 ppc 01Dec18]

32A.1 Employee may request change in working arrangements

Clause 32A applies where an employee has made a request for a change in working arrangements under s.65 of the Act.

Note 1: Section 65 of the Act provides for certain employees to request a change in their working arrangements because of their circumstances, as set out in s.65(1A).

Note 2: An employer may only refuse a s.65 request for a change in working arrangements on ‘reasonable business grounds’ (see s.65(5) and (5A)).

Note 3: Clause 32A is an addition to s.65.

32A.2 Responding to the request

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

(a) the needs of the employee arising from their circumstances;

(b) the consequences for the employee if changes in working arrangements are not made; and

(c) any reasonable business grounds for refusing the request.

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

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

32A.3 What the written response must include if the employer refuses the request

Clause 32A.3 applies if the employer refuses the request and has not reached an agreement with the employee under clause 32A.2.

(a) The written response under s.65(4) must include details of the reasons for the refusal, including the business ground or grounds for the refusal and how the ground or grounds apply.

(b) If the employer and employee could not agree on a change in working arrangements under clause 32A.2, the written response under s.65(4) must:

(i) state whether or not there are any changes in working arrangements that the employer can offer the employee so as to better accommodate the employee’s circumstances; and

(ii) if the employer can offer the employee such changes in working arrangements, set out those changes in working arrangements.
32A.4 What the written response must include if a different change in working arrangements is agreed

If the employer and the employee reached an agreement under clause 32A.2 on a change in working arrangements that differs from that initially requested by the employee, the employer must provide the employee with a written response to their request setting out the agreed change(s) in working arrangements.

32A.5 Dispute resolution

Disputes about whether the employer has discussed the request with the employee and responded to the request in the way required by clause 32A, can be dealt with under clause 9—Dispute resolution.

Part 6—Leave and Public Holidays

33. Annual leave

[31 renumbered as 32 and varied by PR992707; 32 renumbered as 33 by PR506046 ppc 01Jan10; varied by PR583014]

33.1 Annual leave is provided for in the NES.

33.2 Definition of shiftworker

For the purpose of the additional week of annual leave provided for in the NES, a shiftworker is a seven day shiftworker who is regularly rostered to work on Sundays and public holidays in a business in which shifts are continuously rostered 24 hours a day, seven days a week.

33.3 Annual leave loading

(a) During a period of annual leave an employee will receive a loading calculated on the rate of wage prescribed in clause 17 of this award. Annual leave loading payment is payable on leave accrued.

(b) The loading will be as follows:

(i) Day work

Employees who would have worked on day work only had they not been on leave—17.5% or the relevant weekend penalty rates, whichever is the greater but not both.

(ii) Shiftwork

Employees who would have worked on shiftwork had they not been on leave—a loading of 17.5% or the shift loading (including relevant weekend penalty rates) whichever is the greater but not both.
33.4 Annual leave in advance

[33.4 renamed and substituted by PR583014 ppc 29Jul16]

(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 33.4 is set out at Schedule G. There is no requirement to use the form of agreement set out at Schedule G.

(c) The employer must keep a copy of any agreement under clause 33.4 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 33.4, 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.

33.5 Requirement to take leave notwithstanding terms of the NES

[32.5 substituted by PR992707 from 20Jan10]

An employer may require an employee to take annual leave by giving at least four weeks’ notice as part of a close-down of its operations.

33.6 Cashing out of annual leave

[33.6 inserted by PR583014 ppc 29Jul16]

(a) Paid annual leave must not be cashed out except in accordance with an agreement under clause 33.6.

(b) Each cashing out of a particular amount of paid annual leave must be the subject of a separate agreement under clause 33.6.

(c) An employer and an employee may agree in writing to the cashing out of a particular amount of accrued paid annual leave by the employee.

(d) An agreement under clause 33.6 must state:

(i) the amount of leave to be cashed out and the payment to be made to the employee for it; and

(ii) the date on which the payment is to be made.
(e) An agreement under clause 33.6 must be signed by the employer and employee and, if the employee is under 18 years of age, by the employee’s parent or guardian.

(f) The payment must not be less than the amount that would have been payable had the employee taken the leave at the time the payment is made.

(g) An agreement must not result in the employee’s remaining accrued entitlement to paid annual leave being less than 4 weeks.

(h) The maximum amount of accrued paid annual leave that may be cashed out in any period of 12 months is 2 weeks.

(i) The employer must keep a copy of any agreement under clause 33.6 as an employee record.

Note 1: Under section 344 of the Fair Work Act, an employer must not exert undue influence or undue pressure on an employee to make, or not make, an agreement under clause 33.6.

Note 2: Under section 345(1) of the Fair Work Act, a person must not knowingly or recklessly make a false or misleading representation about the workplace rights of another person under clause 33.6.

Note 3: An example of the type of agreement required by clause 33.6 is set out at Schedule H. There is no requirement to use the form of agreement set out at Schedule H.

33.7 Excessive leave accruals: general provision

[33.7 inserted by PR583014 ppc 29Jul16]

Note: Clauses 33.7 to 33.9 contain provisions, additional to the National Employment Standards, about the taking of paid annual leave as a way of dealing with the accrual of excessive paid annual leave. See Part 2.2, Division 6 of the Fair Work Act.

(a) An employee has an excessive leave accrual if the employee has accrued more than 8 weeks’ paid annual leave (or 10 weeks’ paid annual leave for a shiftworker, as defined by clause 33.2).

(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 33.8 sets out how an employer may direct an employee who has an excessive leave accrual to take paid annual leave.

(d) Clause 33.9 sets out how an employee who has an excessive leave accrual may require an employer to grant paid annual leave requested by the employee.
33.8  Excessive leave accruals: direction by employer that leave be taken

[33.8 inserted by PR583014 ppc 29Jul16]

(a)  If an employer has genuinely tried to reach agreement with an employee under clause 33.7(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 33.7, 33.8 or 33.9 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 33.8(b)(i).

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

33.9  Excessive leave accruals: request by employee for leave

[33.9 inserted by PR583014; PR583014 substituted by ppc 29Jul17]

(a)  If an employee has genuinely tried to reach agreement with an employer under clause 33.7(b) but agreement is not reached (including because the employer refuses to confer), the employee may give a written notice to the employer requesting to take one or more periods of paid annual leave.

(b)  However, an employee may only give a notice to the employer under paragraph (a) if:

(i)  the employee has had an excessive leave accrual for more than 6 months at the time of giving the notice; and
(ii) the employee has not been given a direction under clause 33.8(a) that, when any other paid annual leave arrangements (whether made under clause 33.7, 33.8 or 33.9 or otherwise agreed by the employer and employee) are taken into account, would eliminate the employee’s excessive leave accrual.

(c) A notice given by an employee under paragraph (a) 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 33.7, 33.8 or 33.9 or otherwise agreed by the employer and employee) are taken into account; or

(ii) provide for the employee to take any period of paid annual leave of less than one week; or

(iii) provide for the employee to take a period of paid annual leave beginning less than 8 weeks, or more than 12 months, after the notice is given; or

(iv) be inconsistent with any leave arrangement agreed by the employer and employee.

(d) An employee is not entitled to request by a notice under paragraph (a) more than 4 weeks’ paid annual leave (or 5 weeks’ paid annual leave for a shiftworker, as defined by clause 33.2) in any period of 12 months.

(e) The employer must grant paid annual leave requested by a notice under paragraph (a).

34. Personal/carer’s leave and compassionate leave

[32 renumbered as 33 and varied by PR992707; 33 renumbered as 34 by PR506046 ppc 01Jan10; varied by PR568671]

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

[34.2 deleted by PR568671 ppc 16Oct15]

35. Public holidays

[33 renumbered as 34 and varied by PR992707; 34 renumbered as 35 by PR506046 ppc 01Jan10; varied by (PR541744 quashed by PR549301), PR712223]

35.1 Public holidays are provided for in the NES.

[35.2 varied by PR712223 ppc 04Oct19]

35.2 An employer and employee may agree to substitute another day for a day that would otherwise be a public holiday under the NES. Where an agreement to substitute a day is made the following applies:

- If both days worked—employee paid public holiday on day elected by employee;
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- If only actual public holiday worked—public holiday penalty applies; or
- If only a substituted day worked—public holiday penalty applies.

[New 35.3 inserted by PR712223 ppc 04Oct19]

35.3 An employer and employee may agree to substitute another part-day for a part-day that would otherwise be a part-day public holiday under the NES. Where an agreement to substitute a part-day is made the following applies:

- If both days worked—employee paid public holiday on day elected by employee;
- If only actual public holiday worked—public holiday penalty applies; or
- If only a substituted day worked—public holiday penalty applies.

[34.3 varied by PR992707 from 20Jan10; (35.3 substituted by PR541744 quashed by PR549301); 35.3 renumbered as 35.4 by PR712223 ppc 04Oct19]

35.4 Work on a public holiday must be compensated by payment at the rate of double time and a half for full-time, part-time and casual employees.

[Note inserted by PR712223 ppc 04Oct19]

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

36. Community service leave

[34 renumbered as 35 and varied by PR992707; 35 renumbered as 36 by PR506046 ppc 01Jan10]

Community service leave is provided for in the NES.

37. Leave to deal with Family and Domestic Violence

[37 inserted by PR609319 ppc 01Aug18]

37.1 This clause applies to all employees, including casuals.

37.2 Definitions

(a) In this clause:

*family and domestic violence* means violent, threatening or other abusive behaviour by a family member of an employee that seeks to coerce or control the employee and that causes them harm or to be fearful.

*family member* means:

(i) a spouse, de facto partner, child, parent, grandparent, grandchild or sibling of the employee; or

(ii) a child, parent, grandparent, grandchild or sibling of a spouse or de facto partner of the employee; or
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(iii) a person related to the employee according to Aboriginal or Torres Strait Islander kinship rules.

(b) A reference to a spouse or de facto partner in the definition of family member in clause 37.2(a) includes a former spouse or de facto partner.

37.3 Entitlement to unpaid leave

An employee is entitled to 5 days’ unpaid leave to deal with family and domestic violence, as follows:

(a) the leave is available in full at the start of each 12 month period of the employee’s employment; and

(b) the leave does not accumulate from year to year; and

(c) is available in full to part-time and casual employees.

Note: 1. A period of leave to deal with family and domestic violence may be less than a day by agreement between the employee and the employer.

2. The employer and employee may agree that the employee may take more than 5 days’ unpaid leave to deal with family and domestic violence.

37.4 Taking unpaid leave

An employee may take unpaid leave to deal with family and domestic violence if the employee:

(a) is experiencing family and domestic violence; and

(b) needs to do something to deal with the impact of the family and domestic violence and it is impractical for the employee to do that thing outside their ordinary hours of work.

Note: The reasons for which an employee may take leave include making arrangements for their safety or the safety of a family member (including relocation), attending urgent court hearings, or accessing police services.

37.5 Service and continuity

The time an employee is on unpaid leave to deal with family and domestic violence does not count as service but does not break the employee’s continuity of service.

37.6 Notice and evidence requirements

(a) Notice

An employee must give their employer notice of the taking of leave by the employee under clause 37. The notice:

(i) must be given to the employer as soon as practicable (which may be a time after the leave has started); and

(ii) must advise the employer of the period, or expected period, of the leave.
(b) **Evidence**

An employee who has given their employer notice of the taking of leave under clause 37 must, if required by the employer, give the employer evidence that would satisfy a reasonable person that the leave is taken for the purpose specified in clause 37.4.

Note: Depending on the circumstances such evidence may include a document issued by the police service, a court or a family violence support service, or a statutory declaration.

37.7 **Confidentiality**

(a) Employers must take steps to ensure information concerning any notice an employee has given, or evidence an employee has provided under clause 37.6 is treated confidentially, as far as it is reasonably practicable to do so.

(b) Nothing in clause 37 prevents an employer from disclosing information provided by an employee if the disclosure is required by an Australian law or is necessary to protect the life, health or safety of the employee or another person.

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

37.8 **Compliance**

An employee is not entitled to take leave under clause 37 unless the employee complies with clause 37.
Schedule A—Transitional Provisions

[Varied by PR988391, PR994450, PR503608]

A.1 General

A.1.1 The provisions of this schedule deal with minimum obligations only.

[A.1.2 substituted by PR994450 from 01Jan10]

A.1.2 The provisions of this schedule are to be applied:

(a) when there is a difference, in money or percentage terms, between a provision in a relevant transitional minimum wage instrument (including the transitional default casual loading) or award-based transitional instrument on the one hand and an equivalent provision in this award on the other;

(b) when a loading or penalty in a relevant transitional minimum wage instrument or award-based transitional instrument has no equivalent provision in this award;

(c) when a loading or penalty in this award has no equivalent provision in a relevant transitional minimum wage instrument or award-based transitional instrument; or

(d) when there is a loading or penalty in this award but there is no relevant transitional minimum wage instrument or award-based transitional instrument.

A.2 Minimum wages – existing minimum wage lower

A.2.1 The following transitional arrangements apply to an employer which, immediately prior to 1 January 2010:

(a) was obliged,

[A.2.1(b) substituted by PR994450 from 01Jan10]

(b) but for the operation of an agreement-based transitional instrument or an enterprise agreement would have been obliged, or

(c) if it had been an employer in the industry or of the occupations covered by this award would have been obliged

by a transitional minimum wage instrument and/or an award-based transitional instrument to pay a minimum wage lower than that in this award for any classification of employee.

A.2.2 In this clause minimum wage includes:

(a) a minimum wage for a junior employee, an employee to whom training arrangements apply and an employee with a disability;

(b) a piecework rate; and

(c) any applicable industry allowance.
A.2.3 Prior to the first full pay period on or after 1 July 2010 the employer must pay no less than the minimum wage in the relevant transitional minimum wage instrument and/or award-based transitional instrument for the classification concerned.

A.2.4 The difference between the minimum wage for the classification in this award and the minimum wage in clause A.2.3 is referred to as the transitional amount.

A.2.5 From the following dates the employer must pay no less than the minimum wage for the classification in this award minus the specified proportion of the transitional amount:

First full pay period on or after

<table>
<thead>
<tr>
<th>Date</th>
<th>Proportion</th>
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<tbody>
<tr>
<td>1 July 2010</td>
<td>80%</td>
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<tr>
<td>1 July 2011</td>
<td>60%</td>
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<tr>
<td>1 July 2012</td>
<td>40%</td>
</tr>
<tr>
<td>1 July 2013</td>
<td>20%</td>
</tr>
</tbody>
</table>

A.2.6 The employer must apply any increase in minimum wages in this award resulting from an annual wage review.

A.2.7 These provisions cease to operate from the beginning of the first full pay period on or after 1 July 2014.

A.3 Minimum wages – existing minimum wage higher

A.3.1 The following transitional arrangements apply to an employer which, immediately prior to 1 January 2010:

(a) was obliged,

[b] but for the operation of an agreement-based transitional instrument or an enterprise agreement would have been obliged, or

c) if it had been an employer in the industry or of the occupations covered by this award would have been obliged

by a transitional minimum wage instrument and/or an award-based transitional instrument to pay a minimum wage higher than that in this award for any classification of employee.

A.3.2 In this clause minimum wage includes:

(a) a minimum wage for a junior employee, an employee to whom training arrangements apply and an employee with a disability;

(b) a piecework rate; and

c) any applicable industry allowance.

A.3.3 Prior to the first full pay period on or after 1 July 2010 the employer must pay no less than the minimum wage in the relevant transitional minimum wage instrument and/or award-based transitional instrument for the classification concerned.
A.3.4 The difference between the minimum wage for the classification in this award and the minimum wage in clause A.3.3 is referred to as the transitional amount.

A.3.5 From the following dates the employer must pay no less than the minimum wage for the classification in this award plus the specified proportion of the transitional amount:

**First full pay period on or after**

<table>
<thead>
<tr>
<th>Date</th>
<th>Proportion</th>
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<tbody>
<tr>
<td>1 July 2010</td>
<td>80%</td>
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<tr>
<td>1 July 2011</td>
<td>60%</td>
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<td>40%</td>
</tr>
<tr>
<td>1 July 2013</td>
<td>20%</td>
</tr>
</tbody>
</table>

A.3.6 The employer must apply any increase in minimum wages in this award resulting from an annual wage review. If the transitional amount is equal to or less than any increase in minimum wages resulting from the 2010 annual wage review the transitional amount is to be set off against the increase and the other provisions of this clause will not apply.

A.3.7 These provisions cease to operate from the beginning of the first full pay period on or after 1 July 2014.

A.4 **Loadings and penalty rates**

For the purposes of this schedule loading or penalty means a:

- casual or part-time loading;
- Saturday, Sunday, public holiday, evening or other penalty;
- shift allowance/penalty.

A.5 **Loadings and penalty rates – existing loading or penalty rate lower**

[A.5.1 substituted by PR994450 from 01Jan10]

A.5.1 The following transitional arrangements apply to an employer which, immediately prior to 1 January 2010:

(a) was obliged,

(b) but for the operation of an agreement-based transitional instrument or an enterprise agreement would have been obliged, or

(c) if it had been an employer in the industry or of the occupations covered by this award would have been obliged

by the terms of a transitional minimum wage instrument or an award-based transitional instrument to pay a particular loading or penalty at a lower rate than the equivalent loading or penalty in this award for any classification of employee.
Hair and Beauty Industry Award 2010

[A.5.2 substituted by PR994450 from 01Jan10]

**A.5.2** Prior to the first full pay period on or after 1 July 2010 the employer must pay no less than the loading or penalty in the relevant transitional minimum wage instrument or award-based transitional instrument for the classification concerned.

**A.5.3** The difference between the loading or penalty in this award and the rate in clause A.5.2 is referred to as the transitional percentage.

**A.5.4** From the following dates the employer must pay no less than the loading or penalty in this award minus the specified proportion of the transitional percentage:

<table>
<thead>
<tr>
<th>Date</th>
<th>Proportion</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 July 2010</td>
<td>80%</td>
</tr>
<tr>
<td>1 July 2011</td>
<td>60%</td>
</tr>
<tr>
<td>1 July 2012</td>
<td>40%</td>
</tr>
<tr>
<td>1 July 2013</td>
<td>20%</td>
</tr>
</tbody>
</table>

**A.5.5** These provisions cease to operate from the beginning of the first full pay period on or after 1 July 2014

**A.6** **Loadings and penalty rates – existing loading or penalty rate higher**

[A.6.1 substituted by PR994450 from 01Jan10]

**A.6.1** The following transitional arrangements apply to an employer which, immediately prior to 1 January 2010:

(a) was obliged,

(b) but for the operation of an agreement-based transitional instrument or an enterprise agreement would have been obliged, or

(c) if it had been an employer in the industry or of the occupations covered by this award would have been obliged by the terms of a transitional minimum wage instrument or an award-based transitional instrument to pay a particular loading or penalty at a higher rate than the equivalent loading or penalty in this award, or to pay a particular loading or penalty and there is no equivalent loading or penalty in this award, for any classification of employee.

[A.6.2 substituted by PR994450 from 01Jan10]

**A.6.2** Prior to the first full pay period on or after 1 July 2010 the employer must pay no less than the loading or penalty in the relevant transitional minimum wage instrument or award-based transitional instrument.

[A.6.3 substituted by PR994450 from 01Jan10]

**A.6.3** The difference between the loading or penalty in this award and the rate in clause A.6.2 is referred to as the transitional percentage. Where there is no equivalent loading or penalty in this award, the transitional percentage is the rate in A.6.2.
A.6.4 From the following dates the employer must pay no less than the loading or penalty in this award plus the specified proportion of the transitional percentage:

**First full pay period on or after**

<table>
<thead>
<tr>
<th>Date</th>
<th>Percentage</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 July 2010</td>
<td>80%</td>
</tr>
<tr>
<td>1 July 2011</td>
<td>60%</td>
</tr>
<tr>
<td>1 July 2012</td>
<td>40%</td>
</tr>
<tr>
<td>1 July 2013</td>
<td>20%</td>
</tr>
</tbody>
</table>

A.6.5 These provisions cease to operate from the beginning of the first full pay period on or after 1 July 2014.

A.7 Loadings and penalty rates – no existing loading or penalty rate

[A.7.1 substituted by PR994450 from 01Jan10]

A.7.1 The following transitional arrangements apply to an employer not covered by clause A.5 or A.6 in relation to a particular loading or penalty in this award.

A.7.2 Prior to the first full pay period on or after 1 July 2010 the employer need not pay the loading or penalty in this award.

[A.7.3 substituted by PR994450 from 01Jan10]

A.7.3 From the following dates the employer must pay no less than the following percentage of the loading or penalty in this award:

**First full pay period on or after**

<table>
<thead>
<tr>
<th>Date</th>
<th>Percentage</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 July 2010</td>
<td>20%</td>
</tr>
<tr>
<td>1 July 2011</td>
<td>40%</td>
</tr>
<tr>
<td>1 July 2012</td>
<td>60%</td>
</tr>
<tr>
<td>1 July 2013</td>
<td>80%</td>
</tr>
</tbody>
</table>

A.7.4 These provisions cease to operate from the beginning of the first full pay period on or after 1 July 2014.

A.8 Former Division 2B employers

[A.8 inserted by PR503608 ppc 01Jan11]

A.8.1 This clause applies to an employer which, immediately prior to 1 January 2011, was covered by a Division 2B State award.

A.8.2 All of the terms of a Division 2B State award applying to a Division 2B employer are continued in effect until the end of the full pay period commencing before 1 February 2011.

A.8.3 Subject to this clause, from the first full pay period commencing on or after 1 February 2011 a Division 2B employer must pay no less than the minimum wages, loadings and penalty rates which it would be required to pay under this Schedule if it had been a national system employer immediately prior to 1 January 2010.
A.8.4 Despite clause A.8.3, where a minimum wage, loading or penalty rate in a Division 2B State award immediately prior to 1 February 2011 was lower than the corresponding minimum wage, loading or penalty rate in this award, nothing in this Schedule requires a Division 2B employer to pay more than the minimum wage, loading or penalty rate in this award.

A.8.5 Despite clause A.8.3, where a minimum wage, loading or penalty rate in a Division 2B State award immediately prior to 1 February 2011 was higher than the corresponding minimum wage, loading or penalty rate in this award, nothing in this Schedule requires a Division 2B employer to pay less than the minimum wage, loading or penalty rate in this award.

A.8.6 In relation to a Division 2B employer this Schedule commences to operate from the beginning of the first full pay period on or after 1 January 2011 and ceases to operate from the beginning of the first full pay period on or after 1 July 2014.
Schedule B—Classifications

[Varied by PR989447, PR988391]

B.1 **Hair and Beauty Employee Level 1** means a receptionist or salon assistant.

B.2 **Hair and Beauty Employee Level 2** means:

(a) a make-up artist who holds a Certificate II in make-up services (or equivalent);

(b) a nail technician who holds a Certificate II in Nail Technology (or equivalent); or

(c) an unqualified beautician or cosmetologist.

B.3 **Hair and Beauty Employee Level 3** means:

(a) a beautician who holds a Certificate III in Beauty Services (or equivalent); or

(b) a hairdresser who holds a Certificate III in Hairdressing (or equivalent).

B.4 **Hair and Beauty Employee Level 4** means a Beauty Therapist who holds a Certificate IV in Beauty Therapy (or equivalent).

B.5 **Hair and Beauty Employee Level 5** means:

(a) a hairdresser who holds a Certificate IV (or equivalent); or

(b) a trichologist who is a hairdresser and holds a Certificate IV in Trichology (or equivalent).

B.6 **Hair and Beauty Employee Level 6** means a beauty therapist who holds a Diploma in Beauty Therapy (or equivalent).
Schedule C—Supported Wage System

[Varied by PR988391, PR994450, PR998748, PR510670, PR525068, PR537893, PR542125, PR551831, PR568050, PR581528, PR592689, PR606630, PR709080]

[Sched C substituted by PR994450 ppc 01Jan10]

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

[C.2 varied by PR568050 ppc 01Jul15]

C.2 In this schedule:

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

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

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

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

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

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

C.3 Eligibility criteria

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

C.3.2 This schedule does not apply to any existing employee who has a claim against the employer which is subject to the provisions of workers compensation legislation or any provision of this award relating to the rehabilitation of employees who are injured in the course of their employment.
C.4 Supported wage rates

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

<table>
<thead>
<tr>
<th>Assessed capacity (clause C.5)</th>
<th>Relevant minimum wage</th>
</tr>
</thead>
<tbody>
<tr>
<td>%</td>
<td>%</td>
</tr>
<tr>
<td>10</td>
<td>10</td>
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<td>90</td>
<td>90</td>
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</tbody>
</table>

[C.4.2 varied by PR998748, PR510670, PR525068, PR537893, PR551831, PR568050, PR581528, PR592689, PR606630, PR709080 ppc 01Jul19]

C.4.2 Provided that the minimum amount payable must be not less than $87 per week.

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

C.5 Assessment of capacity

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

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

C.6 Lodgement of SWS wage assessment agreement

[C.6.1 varied by PR542125 ppc 04Dec13]

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

[C.6.2 varied by PR542125 ppc 04Dec13]

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

C.7 Review of assessment

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

C.8 Other terms and conditions of employment

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

C.9 Workplace adjustment

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

C.10 Trial period

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

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

C.10.3 The minimum amount payable to the employee during the trial period must be no less than $87 per week.

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

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

[Sched D varied by PR988391; substituted by PR994450 ppc 01Jan10; PR997884, PR509036, PR522867, PR536670, PR545787, PR551593, PR566670, PR579750; deleted by PR593803 ppc 01Jul17]
Schedule E—School-based Apprentices

This schedule applies to school-based apprentices. A school-based apprentice is a person who is undertaking an apprenticeship in accordance with this schedule while also undertaking a course of secondary education.

A school-based apprenticeship may be undertaken in the trades covered by this award under a training agreement or contract of training for an apprentice declared or recognised by the relevant State or Territory authority.

The relevant minimum wages for full-time junior and adult apprentices provided for in this award, calculated hourly, will apply to school-based apprentices for total hours worked including time deemed to be spent in off-the-job training.

For the purposes of clause E.3, 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 training time may be averaged over the semester or year.

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.

For the purposes of this schedule, 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.

The duration of the apprenticeship must be as specified in the training agreement or contract for each apprentice but must not exceed six years.

School-based apprentices progress through the relevant wage scale at the rate of 12 months progression for each two years of employment as an apprentice or at the rate of competency-based progression if provided for in this award.

The apprentice wage scales are based on a standard full-time apprenticeship of four years (unless the apprenticeship is of three years duration) or stages of competency based progression (if provided for in this award). 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.
Hair and Beauty Industry Award 2010

[E.10 substituted by PR544252 ppc 01Jan14]

**E.10**  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.

**E.11**  School-based apprentices are entitled pro rata to all of the other conditions in this award.
Schedule F—Part-day Public Holidays

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

F.1 Where a part-day public holiday is declared or prescribed between 6.00 pm and midnight, or 7.00 pm and midnight on Christmas Eve (24 December in each year) or New Year’s Eve (31 December in each year) the following will apply on Christmas Eve and New Year’s Eve and will override any provision in this award relating to public holidays to the extent of the inconsistency:

(a) All employees will have the right to refuse to work on the part-day public holiday if the request to work is not reasonable or the refusal is reasonable as provided for in the NES.

(b) Where a part-time or full-time employee is usually rostered to work ordinary hours on the declared or prescribed part-day public holiday 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 on the declared or prescribed part-day public holiday but as a result of being on annual leave does not work, they will be taken not to be on annual leave during the hours of the declared or prescribed part-day public holiday 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 on the declared or prescribed part-day public holiday, 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 F.1(f) applies, where an employee works any hours on the declared or prescribed part-day public holiday 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 on the declared or prescribed part-day public holiday.

(g) An employee not rostered to work on the declared or prescribed part-day public holiday, other than an employee who has exercised their right in accordance with clause F.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.

F.2 An employer and employee may agree to substitute another part-day for a part-day that would otherwise be a part-day public holiday under the NES.

This schedule is not intended to detract from or supplement the NES.
Schedule G—Agreement to Take Annual Leave in Advance

[Sch. G inserted by PR583014 ppc 29Jul16]

Link to PDF copy of Agreement to Take Annual Leave in Advance.

Name of employee: _____________________________________________

Name of employer: _____________________________________________

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

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

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

Signature of employee: _________________________________________

Date signed: ___/___/20___

Name of employer representative: _________________________________________

Signature of employer representative: _________________________________

Date signed: ___/___/20___

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

I agree that:

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

Name of parent/guardian: _________________________________________

Signature of parent/guardian: _________________________________

Date signed: ___/___/20___
Schedule H—Agreement to Cash Out Annual Leave

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___

Link to PDF copy of Agreement to Cash Out Annual Leave.