Silviculture Award 2010

This Fair Work Commission consolidated modern award incorporates all amendments up to and including 20 June 2019 (PR704210, PR707450, PR707649, PR709080).

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

14—Minimum wages
17—National training wage
18—Allowances

Schedule B—Supported Wage System

Current review matter(s): AM2014/47; AM2014/190; AM2014/196; AM2014/197; AM2014/244; AM2014/301; AM2015/2; AM2016/8; AM2016/15; AM2016/17

Table of Contents

[Varied by PR988420, PR994505, PR532630, PR544519, PR546288, PR557581, PR573679, PR583076, PR584154, PR609357, PR610203, PR701440]

Part 1— Application and Operation ................................................................. 3
1. Title ........................................................................................................... 3
2. Commencement and transitional ............................................................... 3
3. Definitions and interpretation .................................................................. 4
4. Coverage .................................................................................................. 6
5. Access to the award and the National Employment Standards ................. 7
6. The National Employment Standards and this award ............................... 7
7. Individual flexibility arrangements .......................................................... 7

Part 2— Consultation and Dispute Resolution .............................................. 9
8. Consultation about major workplace change ........................................... 9
8A. Consultation about changes to rosters or hours of work .......................... 10
9. Dispute resolution .................................................................................... 10

Part 3— Types of Employment and Termination of Employment ................. 11
10. Types of employment ............................................................................ 11
11. Termination of employment .................................................................. 14
12. Redundancy ........................................................................................... 15

Part 4— Minimum Wages and Related Matters ......................................... 16
13. Classifications ....................................................................................... 16
14. Minimum wages .................................................................................... 17
15. Pieceworkers ................................................................. 18
16. Supported wage system .................................................. 18
17. National training wage ................................................... 18
18. Allowances ..................................................................... 19
19. Adjustment of expense related allowances ......................... 26
20. Higher duties ................................................................ 27
21. Payment of wages ........................................................... 27
22. Accident pay .................................................................. 28
23. Superannuation ............................................................... 28

Part 5—Hours of Work and Related Matters .............................................. 29
24. Ordinary hours of work and rostering .................................... 29
25. Breaks ........................................................................ 31
26. Overtime and penalty rates ................................................ 31
27. Bushfire fighting ............................................................... 35
28. Shiftwork ..................................................................... 38
28A. Requests for flexible working arrangements .................... 40

Part 6—Leave and Public Holidays .......................................................... 41
29. Annual leave .................................................................. 41
30. Personal/carer’s leave and compassionate leave .................. 46
31. Community service leave .................................................. 46
32. Public holidays ................................................................. 46
33. Leave to deal with Family and Domestic Violence ............... 46

Schedule A —Transitional Provisions ...................................................... 49
Schedule B —Supported Wage System ................................................. 55
Schedule C —National Training Wage ............................................... 58
Schedule D —Part-day Public Holidays .............................................. 59
Schedule E —Agreement to Take Annual Leave in Advance ........... 60
Schedule F —Agreement to Cash Out Annual Leave ....................... 61
Schedule G —Agreement for Time Off Instead of Payment for Overtime ......... 62
Part 1—Application and Operation

1. **Title**

This award is the *Silviculture Award 2010*.

2. **Commencement and transitional**

[Varyed by PR988420, PR542160]

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.

[Varyed by PR542160 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.

[Varyed by PR542160 ppc 04Dec13]

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

[Varyed by PR542160 ppc 04Dec13]

2.6 The Fair Work Commission may review the transitional arrangements:

(a) on its own initiative; or

(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 PR994505, PR997772, PR503653, PR546010]

3.1 In this award, unless the contrary intention appears:

[Definition of Act substituted by PR994505 from 01Jan10]

Act means the Fair Work Act 2009 (Cth)

[Definition of agreement-based transitional instrument inserted by PR994505 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 PR994505 from 01Jan10]

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

Axeperson means an employee using an axe for deliming but not engaged in felling

Chainperson means an employee who:

- uses a compass;
- undertakes line cutting (e.g. mature assessments, continuous forest inventories); and
- demonstrates a basic knowledge and skills of management/survey and office mapping work associated with field work

[Definition of Commission deleted by PR994505 from 01Jan10]

[Definition of default fund employee inserted by PR546010 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 PR546010 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 PR503653 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 PR503653 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)
employee means national system employee within the meaning of the Act

employer means national system employer within the meaning of the Act

enterprise award has the meaning in the Fair Work (Transitional Provisions and Consequential Amendments) Act 2009 (Cth)

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

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

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

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

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

standard rate means the minimum hourly wage for Silviculture and afforestation worker grade 3 in clause 14.1

Storeperson means an employee engaged in stores activities (locating, picking, control of inventory items and the appropriate recording systems)

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

Tree measurer (basic) means an employee who is competent in:

- all forestry management work at Grades 2 and 3;
- chain and compass survey (without supervision);
- boundary location;
Silviculture Award 2010

- taking responsibility for stores and vehicles; and
- annual stocktaking and all relevant field and office work.

**Tree measurer (in charge)** means an employee who is competent in:
- leading mature assessments;
- remeasuring research plots;
- leading plantation inventory system plot measurements and pine growth plot measurement;
- the survey of continuous forest inventory plot locations as directed;
- lead residue assessments; and
- any office work associated with Grade 6 field work

**Utility person** means an employee competent in:
- chain and compass line cutting;
- assessments and resource pilots;
- basic road survey, access lines and boundary demarcation;
- measuring tree diameters, completing bark readings and basic continuous forest inventories procedures; and
- any office work associated with Grade 3 field work

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

4. **Coverage**

[Varied by PR994505]

4.1 This industry award covers employers throughout Australia in the industry of silviculture and afforestation and their employees in the classifications listed in clause 13—Classifications to the exclusion of any other modern award. For the purpose of this clause, **silviculture and afforestation** means planting, pruning, fertilising and any other activity in or in connection with the establishment or cultivation of trees in forests.

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

[4.3 substituted by PR994505 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, 4.5 and 4.6 inserted by PR994505 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 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 This award covers employers which provide group training services for trainees engaged in the industry and/or parts of industry set out at clause 4.1 and those 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.

[4.4 renumbered as 4.7 by PR994505 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 that employee are covered by an award with occupational coverage.

5. **Access to the 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 PR542160; 7—Award flexibility renamed and substituted by PR610203 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, 8—Consultation renamed and substituted by PR610203 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

(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 PR610203 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 PR994505, PR542160; substituted by PR610203 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. Types of employment

[Varied by PR567225, PR700612, PR700680]

10.1 General

(a) Employees may be employed in one of the following categories:

(i) full-time;

(ii) part-time; or

(iii) casual.

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

A full-time employee is an employee engaged as such who works an average of 38 hours per week in accordance with the provisions of this award.

10.3 Part-time employment

(a) A part-time employee:

(i) works less than full-time hours of 38 per week;

(ii) has predictable hours of work; and

(iii) receives, on a pro rata basis, equivalent pay and conditions to those of full-time employees who do the same kind of work.

(b) At the time of engagement the employer and the part-time employee will agree in writing on a regular pattern of work including the hours to be worked and the starting and finishing times on each day. These hours once fixed can only be varied by mutual agreement between the employer and the majority of employees whose hours will be affected.

(c) Any agreed variation to the regular pattern of work will be recorded in writing. An employer is required to roster a part-time employee for a minimum of three consecutive hours on any shift.

(d) All time worked in excess of the hours mutually arranged will be overtime and paid for at the appropriate overtime rate.

10.4 Casual employees

(a) A casual employee is an employee engaged and paid as such.

(b) A casual employee will be paid an hourly rate of 1/38th of the actual weekly rate prescribed for the class of work performed, plus a loading of 25%.

[New 10.4(c) inserted by PR700680 ppc 01Oct18]

(c) A casual employee must be engaged and paid for at least 2 consecutive hours of work on each occasion they are required to attend work.

10.5 Right to request casual conversion

[10.5 inserted by PR700612 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 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 10.3(b).
(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).

11. Termination of employment

[11 substituted by PR610203 ppc 01Nov18]

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

11.1 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>
<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>Column 1</td>
<td>Column 2</td>
</tr>
<tr>
<td>-----------------</td>
<td>--------------</td>
</tr>
<tr>
<td><strong>Employee’s period of continuous service with the employer at the end of the day the notice is given</strong></td>
<td><strong>Period of notice</strong></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.

11.2 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.

11.3 The time off under clause 11.2 is to be taken at times that are convenient to the employee after consultation with the employer.

12. Redundancy

[Varied by PR994505, PR503653, PR561478; substituted by PR707035 ppc 03May19]

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

12.1 Transfer to lower paid duties on redundancy

(a) Clause 12.1 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 notice was not given.

12.2 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 12 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.

12.3 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 11.2 and 11.3.

Part 4—Minimum Wages and Related Matters

13. Classifications

For the definition of classifications in this award reference will be made to the following:

13.1 Silviculture and afforestation worker grade 1 will mean a labourer with less than three months’ experience in the silviculture and afforestation industry.

13.2 Silviculture and afforestation worker grade 2 will mean an assistant powder monkey, axeperson, chainperson, tower person, an employee engaged in pruning, planting, and assessment, fertilising, thinning, fire guard, fire pump operator, pick and shovel and slasher operator, seed collector (fallen trees), tree lifting or the
collection of field data (e.g. insect monitoring, survival counts, regeneration surveys, eagle nest searches, etc) or an employee not elsewhere classified.

13.3 **Silviculture and afforestation worker grade 3** will mean a chainsaw operator, fencer fire guard (with certificate), patrol person, powder monkey, utility person, noxious weed employee, propagator, seed collector (standing trees), vermin destroyer, power driven portable saw operator, fire pump operator (with certificate), or an employee engaged in bushfire fighting and/or other fire suppression duties including tree felling as part of or as an incidental duty of firefighting or fire suppression activity.

13.4 **Silviculture and afforestation worker grade 4** will mean a tool sharpener, tree climber, tree measurer, treemarker or storeperson.

13.5 **Silviculture and afforestation worker grade 5** will mean a storeperson in charge.

13.6 **Silviculture and afforestation worker grade 6** will mean a tree measurer (in charge).

14. **Minimum wages**

[Varying by PR997921, PR509071, PR522902, PR536705, PR551628, PR566711, PR579805, PR592137, PR606365, PR707450]

[Varyed by PR997921, PR509071, PR522902, PR536705, PR551628, PR566711, PR579805, PR592137, PR606365, PR707450 ppc 01Jul19]

14.1 Employees are entitled to the following minimum wages for the classification in which they are employed:

<table>
<thead>
<tr>
<th>Classification</th>
<th>Minimum weekly wage rate $</th>
<th>Minimum hourly wage rate $</th>
</tr>
</thead>
<tbody>
<tr>
<td>Silviculture and afforestation worker grade 1</td>
<td>792.80</td>
<td>20.86</td>
</tr>
<tr>
<td>Silviculture and afforestation worker grade 2</td>
<td>823.80</td>
<td>21.68</td>
</tr>
<tr>
<td>Silviculture and afforestation worker grade 3</td>
<td>838.80</td>
<td>22.07</td>
</tr>
<tr>
<td>Silviculture and afforestation worker grade 4</td>
<td>859.20</td>
<td>22.61</td>
</tr>
<tr>
<td>Silviculture and afforestation worker grade 5</td>
<td>875.00</td>
<td>23.03</td>
</tr>
<tr>
<td>Silviculture and afforestation worker grade 6</td>
<td>882.30</td>
<td>23.22</td>
</tr>
</tbody>
</table>

The **standard rate** can be calculated by dividing the applicable weekly wage above by 38.

14.2 **Special allowance**

In addition to the base rate specified in clause 14.1, employees will be paid each week a special allowance of $7.70. This allowance is payable for all purposes of the award, and must not be altered as a consequence of wage adjustments.

14.3 **Actual weekly rate**

The actual weekly rate will be calculated by:
adding the amounts prescribed by clauses 14.1, 14.2 and 18.2; then
multiplying this amount by 52; then
dividing this amount by 50.4, rounded to nearest 10 cents.

15. **Pieceworkers**

15.1 Employees may work on piecework rates. Provided that where an employee works on piecework rates, that employee must be paid at least the hourly equivalent for the relevant classification in clause 14.1 and applicable allowances/loadings in clauses 14.2, 14.3 and 18.2.

15.2 An employee working under a piecework rate agreement:

(a) must not be disadvantaged in relation to their terms and conditions of employment;

(b) has the option to unilaterally terminate a piecework agreement:

(i) if the amount payable under the piecework agreement falls below the amount that they would otherwise have been entitled to using the wages and allowances provisions prescribed by this award; and

(ii) if this amount has not been reached for three consecutive shifts.

The employee must put their intention to terminate their piecework agreement in writing. The termination of the piecework agreement will then take effect 48 hours after the employer has been served with the written notice.

15.3 For the purpose of the NES, the base rate of pay for a pieceworker is the base rate of pay as defined in the NES.

15.4 For the purpose of the NES, the full rate of pay for a pieceworker is the full rate of pay as defined in the NES.

16. **Supported wage system**

[Varied by PR988420]

See Schedule B

17. **National training wage**

[Varied by PR988420; substituted by PR593830 ppc 01Jul17; varied by PR606365, PR707450]

17.1 Schedule E to the *Miscellaneous Award 2010* sets out minimum wage rates and conditions for employees undertaking traineeships.
17. 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 Silviculture Award 2010 and not the Miscellaneous Award 2010.

18. Allowances

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

18.1 Fares and travelling time

The following transport allowances must be paid to employees as compensation for the travel patterns and mobility requirements of the industry:

(a) Metropolitan radial areas

When employed on work located within a radius of 30 km from the GPO or principal post office of the nearest capital city—$11.94 per day.

(b) Distant jobs

When an employee is working on a distant job as defined by clause 18.5(a) of this award, the following allowance must be paid when the work is carried out away from the place where, with the employer’s approval, the employee is accommodated for the distant job:

When employed on work located within 30 km from the place of accommodation—$11.94 per day.

(c) Country radial areas

An employer whose business or branch or section thereof is established in any place outside the areas mentioned in clauses 18.1(a) and (b) of this award for the purpose of engaging in silviculture and afforestation work will, in respect to employees engaged for work for the establishment, pay the following allowance:

When employed on work located within 30 km from the post office nearest the employer’s establishment—$11.94 per day.

Provided that where the employer has an establishment in more than one such place, the establishment nearest the employee’s usual place of residence will be the establishment taken into account, and the employee will be entitled to the provisions of clause 18.1(d) when travelling to a job outside the radial area of the establishment nearest their residence.
(d) **Travelling outside radial areas**

Where an employee travels daily from inside any radial area mentioned in clauses 18.1(a) to (c) to a job outside that area, they must be paid:

(i) the relevant allowance prescribed by clauses 18.1(a) to (c); and

(ii) in respect of travel from the designated radius to the job and return to that radius:

- the time outside ordinary working hours reasonably spent in such travel calculated at ordinary hourly on-site rates to the next quarter of an hour with a minimum payment of one half an hour per day for each return journey; and

- any expenses necessarily and reasonably incurred in such travel, which must be $0.78 per kilometre where the employee uses their own vehicle.

[18.1(d)(ii) varied by PR523023, PR536826, PR551749 ppc 01Jul14]

(e) **Travelling between radial areas**

The provisions of clause 18.1(d) will also apply to an employee who is required to travel daily from one of the areas mentioned in clauses 18.1(a) and (c) to an area or another area mentioned in clauses 18.1(a) and (c).

(f) **Provision of transport**

Subject to clauses 18.1(d)(i) and (ii) the allowance prescribed in this clause except the additional payment prescribed in clauses 18.1(d) and (e) will not be payable on any day on which the employer provides or offers to provide transport free of charge from the employee’s home (or, in the case of clause 18.1(b) the employee’s place of accommodation) to the place of work and return.

Provided that any transport supplied is equipped with suitable seating accommodation and is covered when necessary so as to be weatherproof.

(g) The relevant fares allowance prescribed in this clause will be payable in respect of any day on which the employer provides a vehicle free of charge to the employee and pursuant to the contract of employment, the employee is required by the employer to drive such vehicle from the employee’s home to the place of work and return.

[18.1(h) varied by PR597549 ppc 08Nov17]

(h) **Time spent by an employee travelling**

Time spent by an employee travelling from the employee’s home (or, in the case of clause 18.1(b), the employee’s place of accommodation) to the place of work and return outside ordinary hours will not be regarded as time worked for any purpose of this award and no travelling time payment will be made except to the extent provided in clauses 26.6 and 18.5(e) of this award.

Provided that clauses 18.1(g) and (h) will have no application in the case of an employee directed by the employer to pick up and/or return other employees to their homes.
(i) **Work in preparation**

When an employee is required to perform preparation work in an off-site yard and is then required to erect or fix on-site, the provisions of this clause will apply.

(j) **Requirement to transfer**

As required by the employer, employees will start and cease work on the job at the usual commencing and finishing times within which ordinary hours may be worked and will transfer from site to site as directed by the employer.

(k) **Transfer during ordinary working hours**

[18.1(k) varied by PR523023, PR536826, PR551749 ppc 01Jul14]

An employee transferred from one site to another during working hours will be paid for the time occupied in travelling and, unless transported by the employer, will be paid reasonable cost of fares by most convenient public transport between such sites.

Provided that where an employer requests an employee to use their own car to effect such transfer and such employee agrees to do so the employee must be paid an allowance at the rate of $0.78 per kilometre.

(l) **Daily entitlement**

The travelling allowances prescribed in this clause will not be taken into account in calculating overtime, penalty rates, annual or personal leave, but must be payable for any day upon which the employee in accordance with the employer’s requirements works or reports for work or allocation of work and for the paid day or shift off as prescribed in clause 24—Ordinary hours of work and rostering and clause 26.6 of this award.

(m) **Employees required to drive plant off-site**

Notwithstanding anything elsewhere contained in clause 18.1, time occupied by an employee by direction of the employer in driving plant to a camp or centre or job from any point and/or return will be regarded and paid for as working time.

(n) **Transport from employer’s location**

(i) An employee who, by mutual agreement with an employer, reports for work at a permanent location established by the employer and is transported from such location to the place of work and return will not be paid the daily fares allowances prescribed by clauses 18.1(a) to (e).

(ii) All time over 30 minutes spent by the employee travelling to and from the place of work in such transportation must be counted as time worked.

(iii) Transport provided by the employer pursuant to clause 18.1(n) must be free of charge, equipped with suitable seating accommodation, and covered when necessary so as to be weatherproof.
18.2 Industry allowance

To compensate for the disabilities of the industry, employees will be paid each week an allowance of 147% of the standard rate. This allowance is payable for all purposes of the award.

18.3 Leading hand allowance

An employee appointed as a leading hand will be paid a leading hand allowance each week. The allowance will be whichever of the following two amounts is greater:

(a) the percentage of the standard rate (as per the table below) in addition to the weekly wage rate of the highest classification of the employees supervised,

<table>
<thead>
<tr>
<th>In charge of</th>
<th>% of standard rate per week</th>
</tr>
</thead>
<tbody>
<tr>
<td>not more than 1 person</td>
<td>94</td>
</tr>
<tr>
<td>2 and not more than 5 persons</td>
<td>209</td>
</tr>
<tr>
<td>6 and not more than 10 persons</td>
<td>265</td>
</tr>
<tr>
<td>more than 10 persons</td>
<td>353</td>
</tr>
</tbody>
</table>

or;

(b) the employee’s own rate.

18.4 Meal allowance

[18.4 varied by PR998152, PR509193, PR523023, PR536826, PR551749, PR566850, PR579545, PR592299, PR606521, PR704210, PR707649 ppc 01Jul19]

An employee who is required to work in excess of one and a half hours’ overtime after working ordinary hours must be paid a meal allowance of $13.76 or will, at the option of the employer, be provided with a suitable meal.

18.5 Living away from home allowances

(a) Qualification for payment

An employee will be entitled to the provisions of this clause when employed on a job such a distance from their usual place of residence that they cannot reasonably return to that place each night, subject to the following conditions:

(i) the employee is maintaining a separate place of residence to which it is not reasonable to expect them to return each night; and

(ii) the employee, on being requested by the employer, informs the employer, at the time of engagement, that they maintain a separate place of residence from the address recorded on the job application.

Subject to clause 18.5(b), an employee will be regarded as bound by the statement of their address and no entitlement will exist if they wilfully and without duress makes a false statement in relation to the above.
(b) Employee’s address

(i) The employer will obtain and the employee will provide the employer with a statement in writing of their usual place of residence at the time the employee is engaged and no subsequent change of address will entitle an employee to the provisions of this clause unless the employer agrees.

Provided that documentary proof of address such as a long service leave registration card or driver’s licence may be accepted by an employer as proof of the employee’s usual place of residence on engagement instead of the statement in writing referred to in this subclause.

(ii) The employee will inform their employer in writing of any subsequent change in their usual place of residence.

(iii) The address of the employee’s usual place of residence and not the place of engagement will determine the application of this clause.

(c) Board and lodging

[18.5(c) varied by PR994505; PR542160 ppc 04Dec13]

Where an employee qualifies under clause 18.5(a) the employer will either:

(i) provide the worker with reasonable board and lodging; or

[18.5(c)(ii) varied by PR998152, PR523023, PR536826, PR551749, PR566850, PR606521, PR704210, PR707649 ppc 01Jul19]

(ii) pay an allowance of $366.05 per week of seven days but such allowance will not be wages. In the case of broken parts of the week occurring at the beginning or the ending of the employment on a distant job the allowance will be $52.31 per day.

Provided that the foregoing allowances will be increased if the employee satisfies the employer that they reasonably incurred a greater outlay than that prescribed. In the event of disagreement the matter may be referred to the Fair Work Commission for determination.

Reasonable board and lodging will mean lodging in a well kept establishment with three adequate meals each day, adequate furnishings, good bedding, good floor coverings, good lighting and heating and with hot and cold running water, in a single room.

(d) Camping out

(i) Camp accommodation

Where an employee is engaged on projects which are located in areas where suitable board and lodging as defined in clause 18.5(c) is not available, or where the size of the workforce is in excess of the available accommodation, or where the project or the working of shifts necessitate camp accommodation, and where it is necessary to house the employees in a camp, such camp will be constructed and maintained.
(ii) **Camping allowance**

An employee living in a camp where free messing is not provided must receive a camping allowance of $196.25 for every complete week the employee is available for work. If required to be in a camp for less than a complete week the employee must be paid $28.00 per day including any Saturday or Sunday if they are in camp and available for work on the working days immediately preceding and succeeding each Saturday and Sunday. If an employee is absent without the employer’s approval on any day, the allowance will not be payable for that day and if such unauthorised absence occurs on the working day immediately preceding or succeeding a Saturday or Sunday, the allowance will not be payable for the Saturday and Sunday.

(iii) **Camp meal charges**

Where a charge is made for meals in a camp, such charge will be fixed by agreement between the parties.

(e) **Travelling expenses**

An employee who is sent by their employer or selected or engaged by an employer or agent to go to a job which qualifies them to the provision of this clause will not be entitled to any of the allowances prescribed by clause 18.1 of this award for the period occupied in travelling from their usual place of residence to the distant job, but instead must be paid.

(f) **Forward journey**

(i) For the time spent in so travelling, at ordinary rates up to a maximum of eight hours per day for each day of travel (to be calculated as the time taken by rail or the usual travelling facilities).

(ii) For the amount of a fare on the most common method of public transport to the job (e.g. bus; economy air) and any excess payment due to transporting the employee’s gear if such is incurred.

Provided that the employer may deduct the cost of the forward journey fare from an employee who terminates or discontinues their employment within two weeks of commencing on the job and who does not immediately return to their place of engagement.

(iii) For each meal incurred while travelling at the rate prescribed by clause 18.4 of this award.

Provided that such rate will be increased if the employee satisfies the employer that they reasonably incurred an expenditure greater than the rate prescribed by clause 18.4.

(g) **Return journey**

An employee will, for the return journey, receive the same time, fares and meal payments as provided in clause 18.5(f).
Provided that the above return journey payments will not be paid if the employee terminates or discontinues their employment within two months of commencing on the job (or prior to the job completion if the work is for less than two months), or if they are dismissed for incompetence within one working week of commencing on the job, or are dismissed for misconduct.

(h) **Departure point**

For the purposes of this clause, travelling time will be calculated as the time taken for the journey from the central or regional bus or air terminal nearest the employee’s usual place of residence to the locality of the work.

(i) **Daily fares allowance**

An employee engaged on a job which qualifies them to the provisions of this clause and who is required to reside elsewhere than on the site (or adjacent to the site and supplied with transport) must be paid the allowance prescribed by clause 18.1.

(j) **Weekend return home**

[18.5(j)(i) varied by PR523023, PR536826, PR551749 ppc 01Jul14]

(i) An employee who works as required during the ordinary hours of work on the working day before and the working day after a weekend and who returns to their usual place of residence for the weekend and who notifies the employer or their representative, no later than Tuesday of each week, of their intention to return to their usual place of residence at the weekend, must be paid an allowance of $25.46 for each occasion.

(ii) Clause 18.5(j)(i) will not apply to an employee who is receiving the payment prescribed in clause 18.5(c) instead of board and lodging being provided by the employer or who is receiving a camping allowance as prescribed in clause 18.5(d)(ii).

(iii) When employees return to their usual place of residence for a weekend or part of a weekend and do not absent themselves from the job for any of the ordinary working hours, no reduction of the allowance prescribed in clause 18.5(j)(i) will be made.

(k) **Rest and recreation**

(i) **Bus and air travel**

An employee who proceeds to a job which qualifies them for the provisions of this clause, may, after two months’ continuous service and then after each three months of continuous service, return to their usual place of residence at the weekend. If they do so, they will be paid the amount of a bus or air fare to the bus station or airport nearest their usual place of residence on the payday which immediately follows the date on which they return to the job; provided no delay not agreed to by the employer takes place in connection with the employee’s commencement of work on the morning of the working day following the weekend.

Provided that if the work upon which the employee is engaged will terminate in the ordinary course within a further 28 days after the
expiration of any such period of two or three months as mentioned, then
the provisions of this clause will not be applicable.

(ii) Service requirements

[18.5(k)(ii) varied by PR994505 from 01Jan10]

For the purpose of this clause service will be deemed to be continuous
notwithstanding an employee’s absence from work as prescribed in s.22
of the Act.

(iii) Variable return home

In special circumstances, and by agreement with the employer, the return
to the usual place of residence entitlements may be granted earlier or
taken later than the prescribed date of accrual without alteration to the
employee’s accrual entitlements.

(iv) Non-payment instead

Payment of fares and leave with pay as provided for in this clause will
not be made unless the rest and recreation leave is taken by the
employee.

(l) Alternative paid day off procedure

If the employer and the employee agree in writing, the paid rostered day off as
prescribed in clause 24—Ordinary hours of work and rostering, and clause 26.6
of this award may be taken, and paid for, in conjunction with the additional rest
and recreation leave as prescribed in clause 18.5(k), or at the end of the project,
or on termination whichever comes first.

(m) Termination

An employee will be entitled to notice of termination in sufficient time to
arrange suitable transport at termination or must be paid as if employed up to
the end of the ordinary working day before transport is available.

19. Adjustment of expense related allowances

[Varied by PR994505, PR523023]

19.1 At the time of any adjustment to the standard rate, each expense related allowance
will be increased by the relevant adjustment factor. The relevant adjustment factor
for this purpose is the percentage movement in the applicable index figure most
recently published by the Australian Bureau of Statistics since the allowance was last
adjusted.

[19.2 substituted by PR994505 from 01Jan10; varied by PR523023 ppc 01Jul12]

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

<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>
</tbody>
</table>
Allowance | Applicable Consumer Price Index figure
--- | ---
Living away from home allowances | Domestic holiday travel and accommodation sub-group
Travel allowance | Transport group
Vehicle allowance | Private motoring sub-group
Weekend return home allowance | Transport group

20. **Higher duties**

20.1 An employee engaged for a total of more than four hours on any day or shift on duties carrying a higher rate than their usual classification must be paid the higher rate for the entire day or shift.

20.2 An employee engaged for four hours or less on any day or shift on duties carrying a higher rate than their ordinary classification must be paid the higher rate for the time so worked.

21. **Payment of wages**

[Varied by PR588651, PR610063]

21.1 **Method of payment**

Employees must be paid their wages in cash, cheque or electronic funds transfer.

21.2 **Time of payment**

(a) Employees must be paid their wages in working hours.

(b) Wages must be paid during ordinary working hours of work on Thursday of each week or fortnight.

(c) In any week on which a holiday falls on a Thursday or Friday employees must be paid on the preceding Wednesday.

(d) Nothing will prevent any alternative mutual arrangement between an employer and an employee.

(e) The employer must not keep more than two days’ wages in hand.

21.3 **Payment on termination of employment**

[21.3 renamed and substituted by PR610063 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.

22. Accident pay

[Varied by PR994505, PR503653; deleted by PR561478 ppc 05Mar15]

23. Superannuation

[Varied by PR989299, PR994505, PR546010]

23.1 Superannuation legislation

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

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

23.2 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.
23.3 Voluntary employee contributions

(a) Subject to the governing rules of the relevant superannuation fund, an employee may, in writing, authorise their employer to pay on behalf of the employee a specified amount from the post-taxation wages of the employee into the same superannuation fund as the employer makes the superannuation contributions provided for in clause 23.2.

(b) An employee may adjust the amount the employee has authorised their employer to pay from the wages of the employee from the first of the month following the giving of three months’ written notice to their employer.

(c) The employer must pay the amount authorised under clauses 23.3(a) or (b) no later than 28 days after the end of the month in which the deduction authorised under clauses 23.3(a) or (b) was made.

23.4 Superannuation fund

[23.4 varied by PR994505 from 01Jan10]

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

(a) AustralianSuper;

(b) AustSafe Super

(c) LUCRF Super;

(d) Tasplan;

(e) Sunsuper;

[23.4(f) varied by PR546010 ppc 01Jan14]

(f) 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

[23.4(g) inserted by PR546010 ppc 01Jan14]

(g) a superannuation fund or scheme which the employee is a defined benefit member of.

Part 5—Hours of Work and Related Matters

24. Ordinary hours of work and rostering

24.1 The ordinary hours of work are 38 hours per week, worked between 5.00 am and 5.00 pm Monday to Friday.
24.2 Hours of work will be arranged in accordance with one or more of the methods set out below:

(a) by employees working fewer than eight ordinary hours on each day;

(b) by employees working fewer than eight ordinary hours on one or more day each week;

(c) by fixing one week day on which all employees will be rostered off during a particular work cycle;

(d) by rostering employees off on various days of the week during each particular work cycle so that each employee has one week day off during each such cycle;

(e) by banking the days accrued to be taken as days off in accordance with clauses 24.2(c) and (d) to be taken at a time designated by management; or

(f) by any other method agreed between the employer and employee(s).

Provided that the ordinary hours of work do not exceed an average of 38 over an agreed and specified work cycle.

24.3 Rostered day off falling on a holiday with pay

(a) An employee entitled to a rostered day off must not have that day off rostered on a holiday as specified in clause 32—Public holidays.

(b) In the event that a public holiday is prescribed after notice is given to an employee of the taking of the rostered day off and the public holiday falls on the day the employee is to take off, the employer must allow the employee to take the day off on any alternative day where the employee is normally rostered to work ordinary hours.

(c) Where an employee is sick or injured on the day rostered off in accordance with this clause, the employee will not be entitled to personal leave nor will the employee’s personal leave entitlement be reduced as a result of such sickness or injury that day.

24.4 At each establishment an assessment should be made as to which method of implementation best suits that establishment and the proposal will be discussed with employees concerned, the objective being to reach agreement on the method of implementation.

24.5 Employees may be required to work in excess of eight ordinary hours per day but not more than 10 ordinary hours per day.

24.6 Circumstances may arise where different methods of implementation of the 38 hour week apply to various groups, individuals or sections of employees in the plant or establishment concerned.

24.7 Where the method of implementation adopted is in accordance with clauses 24.2(c), (d) or (e) the wages paid each week for ordinary hours will be paid so that in each week when 40 hours (or more) are worked, the time in excess of 38 hours will be kept in hand and paid to the employee in the pay week(s) that the rostered day(s) off
occur; to enable an averaging of payments for ordinary time to occur over the particular work cycle.

25. Breaks

25.1 Meal breaks

(a) Employees must receive a break of not less than 30 minutes duration within the first five hours of work.

(b) By agreement with the majority of employees, the meal break may be shortened to not less than 20 minutes with a consequential adjustment to the daily time of cessation of work.

25.2 Delayed meal breaks

An employee who is required to defer a meal break prescribed by clause 25.1 must, for the duration of such deferment, be paid at a rate of 200% in addition.

25.3 Overtime crib breaks

(a) An employee working overtime must be allowed a crib break of 20 minutes without deduction of pay after each four hours of overtime worked if the employee continues work after such crib time.

(b) An employee working at least one and a half hours of overtime must be allowed a crib break of 20 minutes (before starting overtime after working ordinary hours, inclusive of time worked for accrual purposes in clause 24—Ordinary hours of work and rostering and clause 26.6) which will be paid for at ordinary rates.

25.4 Tea breaks

(a) Two tea breaks of 7.5 minutes duration each must be allowed to employees without deduction of pay on each day or shift.

(b) The times for taking such tea breaks will be set by agreement between the employer and employees concerned.

25.5 Extension of breaks

(a) The duration of any break prescribed by this clause may be extended by agreement between the employer and employees concerned.

(b) The employer will not be required to pay for any such extension.

26. Overtime and penalty rates

[Varied by PR584154]

26.1 Overtime

Except as otherwise provided in this clause, all time worked by an employee in excess of or outside the ordinary hours of work (inclusive of time worked for accrual
purposes) must be paid at a rate of 150% of the appropriate rate for the first two hours and 200% thereafter.

26.2 **Rest period after overtime duty**

(a) Overtime will be arranged so that employees have at least 10 consecutive hours off duty between the work of successive days.

(b) Where an employee works so much overtime that there are fewer than 10 hours between finishing overtime on one day and the commencement of ordinary work on the next day, the employee will be released, subject to clause 26.2(c), until they have had at least 10 consecutive hours off without loss of pay for ordinary working time occurring during such absence.

(c) If, on the instructions of the employer, an employee resumes work or continues work without having had 10 consecutive hours off duty, they will be paid at the rate of 200% until released from duty for such period and can then be absent until they have had 10 consecutive hours off duty without loss of pay for ordinary working time occurring during such absence.

26.3 **Transport after overtime work**

When an employee, after having worked overtime, finishes work at a time when reasonable means of transport are not available, the employer must provide them with conveyance to their usual place of residence or to the nearest appropriate public transport.

26.4 **Weekend and public holiday work**

(a) **Saturday work**

(i) All time worked on a Saturday must be paid for at the rate of 150% of the appropriate minimum wage for the first two hours and 200% after that.

(ii) All work performed on the Saturday following Good Friday must be paid for at the rate of 250%.

(iii) An employee required to work prearranged overtime on a Saturday must be afforded at least three hours’ work or must be paid for three hours at the appropriate rate.

(b) **Sunday work**

(i) All time worked on a Sunday must be paid for at the rate of 200% of the appropriate minimum wage.

(ii) An employee required to work prearranged overtime on a Sunday must be afforded at least four hours’ work or must be paid for four hours at the appropriate rate.

(c) **Public holiday work**

(i) All work performed on any of the holidays prescribed in clause 32—Public holidays, or substituted, must be paid for at the rate of 250% of the appropriate minimum wage.
(ii) An employee required to work on a public holiday will be afforded at least four hours’ work or paid for four hours at the appropriate rate.

26.5 Computation of overtime

For the purpose of computing overtime under this clause:

(a) each day’s work will stand alone;

(b) day means all the time between the normal commencing time of one day and the normal commencing time of the next day;

(c) Saturday means all the time between midnight Friday and midnight Saturday; and

(d) Sunday means all the time between midnight Saturday and midnight Sunday.

26.6 Call-outs

(a) Mondays to Fridays

(i) An employee called out to work after they have left work for the day must be paid for a minimum of three hours’ work calculated at the rate of 150% of the appropriate minimum wage for each time they are called out.

(ii) If the employee is required to work for two hours or more, they must be paid for a minimum of four hours’ work calculated at the rate of the appropriate minimum wage for the first two hours and 200% after that.

(b) Saturdays

(i) An employee called out to work on a Saturday must be paid for a minimum of three hours’ work calculated at the rate of 150% of the appropriate minimum wage for each time they are so called out.

(ii) If the employee is required to work for two hours or more, they must be paid for a minimum of three hours’ work calculated at the rate of 150% of the appropriate minimum wage for the first two hours and 200% after that.

(c) Sundays

An employee called out to work on a Sunday must, for the first call out, be paid for a minimum of three hours’ work at the rate of 200% of the appropriate minimum wage. Each subsequent call out must be paid at the rate of 200% for the actual time worked.

(d) Public holidays

An employee called out to work on a public holiday must, for the first call out, be paid for a minimum of three hours’ work at the rate of 250% of the appropriate minimum wage. Each subsequent call out must be paid at the rate of 250% for the actual time worked.
26.7 Time off instead of payment for overtime

[26.7 inserted by PR584154 ppc 22Aug16]

(a) An employee and employer may agree in writing to the employee taking time off instead of being paid for a particular amount of overtime that has been worked by the employee.

(b) Any amount of overtime that has been worked by an employee in a particular pay period and that is to be taken as time off instead of the employee being paid for it must be the subject of a separate agreement under clause 26.7.

(c) An agreement must state each of the following:

(i) the number of overtime hours to which it applies and when those hours were worked;

(ii) that the employer and employee agree that the employee may take time off instead of being paid for the overtime;

(iii) that, if the employee requests at any time, the employer must pay the employee, for overtime covered by the agreement but not taken as time off, at the overtime rate applicable to the overtime when worked;

(iv) that any payment mentioned in subparagraph (iii) must be made in the next pay period following the request.

Note: An example of the type of agreement required by this clause is set out at Schedule G. There is no requirement to use the form of agreement set out at Schedule G. An agreement under clause 26.7 can also be made by an exchange of emails between the employee and employer, or by other electronic means.

(d) The period of time off that an employee is entitled to take is the same as the number of overtime hours worked.

EXAMPLE: By making an agreement under clause 26.7 an employee who worked 2 overtime hours is entitled to 2 hours’ time off.

(e) 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.

(f) If the employee requests at any time, to be paid for overtime covered by an agreement under clause 26.7 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.

(g) If time off for overtime that has been worked is not taken within the period of 6 months mentioned in paragraph (e), 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.

(h) The employer must keep a copy of any agreement under clause 26.7 as an employee record.
(i) 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.

(j) 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 26.7 will apply, including the requirement for separate written agreements under paragraph (b) 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).

(k) If, on the termination of the employee’s employment, time off for overtime worked by the employee to which clause 26.7 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 26.7.

27. **Bushfire fighting**

This clause applies to situations where a fire is burning out of control requiring emergency attendance. It does not apply to regeneration burns and the mopping up operations associated with regeneration burns or wildfires.

27.1 **Retention classification**

(a) An employee will retain the classification applicable immediately prior to the outbreak of a wildfire.

(b) For the purpose of and during any period of wildfire firefighting operations the employer may specifically assign an employee to another classification for which a higher wage rate is prescribed. In this case, payment must be made in accordance with clause 20—Higher duties.

27.2 **Normal hours of work**

The weekly total of hours at ordinary time will not exceed 38 per week to be worked in accordance with the normal accrual provisions.

27.3 **Work periods**

The minimum work period, except as provided for stand-by and call outs, will be eight consecutive hours inclusive of time worked for normal accrual purposes. A work period can only be terminated by a rest period of a minimum of eight hours.

27.4 **Rest period**

(a) An employee must receive a rest period of at least eight consecutive hours between successive work periods.
(b) If a rest period exceeds 16 hours, a new work period will be deemed to commence at the expiration of that 16 hours.

27.5 Paid rest period

(a) If a work period exceeds 16 hours due to an extreme emergency or lack of transport, an employee must, at the conclusion of such work period, receive a rest period of at least eight hours duration and must, in respect of such rest period, be paid eight hours at ordinary rates.

(b) After eight hours of any paid rest period, a new work period will be deemed to commence.

27.6 Meal breaks

Meal breaks must not exceed 45 minutes and must be counted as time worked.

27.7 Monday to Friday payment

All time worked Monday to Friday (including time worked prior to firefighting work) must be paid for at the rate of ordinary time for the first eight hours and at the rate of 150% of the appropriate rate for the next two hours, and at the rate of 200% after that.

Provided that:

(a) the wage rate will revert to ordinary time when the employee has received a rest period of eight hours; and

(b) when penalty rates are being paid, and a work period extends beyond midnight, such penalty rates must continue until the end of the work period.

27.8 Saturday work

Except where the provisions of clause 27.7(b) apply, all time worked by an employee on a Saturday must be paid for at the rate of 150% for the first two hours and at 200% after that.

27.9 Sunday and holiday work

All time worked by an employee on a Sunday must be paid for at the rate of 200%. All time worked on a holiday must be paid for at the rate of 250%.

27.10 Stand-by

(a) **Stand-by** means all time during which an employee is required to be available for an immediate call to work.

(b) An employee on stand-by will be available either at home or at such other place as is mutually agreed with the employer.

(c) Stand-by payment must be at the rate of 50% of the employee’s hourly rate.

(d) Stand-by for employees on Saturdays, Sundays and public holidays means the eight hour period between 10.00 am and 6.00 pm.
(e) An employee who is requested to stand by on a Saturday, Sunday or public holiday will be entitled to eight hours’ stand-by payment for each day so requested.

Provided that the employee will be entitled to only eight hours stand-by pay if by 5.00 pm on their last normal working day preceding a weekend, they are notified that stand-by for that weekend has been cancelled.

(f) Between November and April, an employer may, on any normal weekday which has a high fire danger rating, place an employee on stand-by at the end of the normal working time for the day and/or their departure from the place where they normally cease work for the day. Payment must be made from the normal time of ceasing work at the rate as provided in clause 27.10(c).

(g) Where an employee is called upon to perform firefighting work on any day that they are on stand-by, they must be paid for all time worked at the appropriate prescribed rate in addition to any entitlement for stand-by performed on that day.

27.11 Call-outs

(a) An employee recalled to perform work in or in connection with wildfire fighting must be paid for a minimum of four hours’ work at the appropriate wage rate each time they are recalled.

(b) The employee must not be required to work the full hours if the job for which they are recalled is completed in a shorter period.

(c) If such work continues for more than four hours, the employee must be paid for a minimum work period of eight consecutive hours.

27.12 Travelling time

All time spent by an employee getting to and from a wildfire at the direction of the employer will be deemed to be time worked. Payment must commence from, and cease at, the employer’s depot, camp or normal pick-up place in the home district.

27.13 Resumption of normal duties

(a) Each employee who has been engaged on firefighting work will be entitled upon the cessation of such work and prior to the resumption of normal duties to a clear break of ten hours without loss of pay for recognised working time occurring during such break.

(b) An employee who has been camped out for at least three nights will be entitled to a clear break of twelve hours in accordance with this subclause.

(c) These provisions will not apply with respect to any firefighting operations commenced and completed between the hours of 7.00 am and 5.00 pm on the same day.

27.14 Provision of meals

(a) The employer must provide three meals per day.
(b) Where an employee is required to work at night, the employer must provide suitable provisions at reasonable intervals. All food supplied by the employer must be free of charge.

28. **Shiftwork**

28.1 **Definitions**

For the purposes of this award:

(a) **day shift** means any shift starting at or after 5.00 am and before 10.00 am;

(b) **afternoon shift** means any shift starting at or after 10.00 am and before 8.00 pm;

(c) **night shift** means any shift starting at or after 8.00 pm and before 5.00 am; and

(d) **rostered shift** means a shift for which the employee concerned has had at least 48 hours’ notice.

28.2 **Roster**

Shifts must be worked according to a roster which will:

(a) provide for rotation of shifts unless all the employees concerned agree otherwise;

(b) provide for not more than eight shifts to be worked in any nine consecutive days; and

(c) specify the commencing and finishing times of each shift.

28.3 **Ordinary hours**

(a) The ordinary hours of work for shiftworkers must not exceed an average of 38 per week over a cycle of two, three or four weeks.

(b) A shift will consist of not more than eight consecutive hours inclusive of a crib time of 30 minutes which will be counted as time worked.

28.4 **Rostered day off shift**

Twenty-four minutes of each eight hour shift worked during a shift cycle will accrue as an entitlement to take a rostered day off shift after each 19 shifts worked. The rostered off shift will be paid for as though worked.

28.5 **Paid leave**

Each day of paid leave taken and any public holiday occurring during any shift cycle will be regarded as a shift worked for accrual purposes.

28.6 **Pro rata accrued entitlements**

A shiftworker who has not worked or is not regarded by reason of clause 28.5 as having worked a complete shift cycle will receive pro rata accrued entitlements for each shift worked or regarded as having been worked in that cycle. Such pro rata
entitlements will be payable for the rostered off shift or, in the case of termination of employment, on such termination.

28.7 Taking rostered day off

The employer and employees concerned must agree in writing upon arrangements for the taking of rostered days off or for their accumulation. Such accumulation must be limited to not more than five shifts before they are taken as rostered days off. When rostered days off shifts are taken, they will be regarded as shifts worked for accrual purposes in the particular shift cycle in which they are taken.

28.8 Work on a rostered day off

(a) The rostered day off prescribed by this clause will be taken as a paid rostered day off.

(b) Where an employer, for emergency reasons, requires an employee to work on their rostered day off, the employee will, in addition to their accrued entitlements, be paid at overtime rates for all work performed on the rostered day off.

28.9 Overtime

(a) All time worked by a shiftworker in excess of or outside the ordinary hours (inclusive of time worked for accrual purposes), or on a shift other than a rostered shift, must be paid for at the rate of 200% of the appropriate rate.

(b) This will not apply when the overtime is worked by arrangements between the employees themselves or for the purpose of effecting the customary rotation of shifts.

28.10 Shift allowances

A shiftworker whilst on afternoon or night shift (other than on a Saturday, Sunday or holiday) must be paid at 115% of the appropriate rate for such shift.

28.11 Saturdays

Employees working shifts between midnight on Friday and midnight on Saturday must be paid at 150% of the minimum rate for ordinary hours of work, inclusive of time worked for accrual purposes as prescribed in clause 28.5.

28.12 Sundays and public holidays

(a) Subject to this clause, the provisions of clause 32—Public holidays will apply to shiftworkers. Where shifts commence between 11.00 pm and midnight on a Sunday or public holiday, the time so worked before midnight will not entitle the employee to the Sunday or public holiday rate.

(b) The time worked by an employee on a shift commencing before midnight on the day preceding a Sunday or public holiday and extending into a Sunday or public holiday must be regarded as time worked on such Sunday or public holiday. Where shifts fall partly on a Sunday or a holiday that shift the major portion of which falls on a Sunday or a public holiday will be regarded as the Sunday or public holiday shift.
28.13 Five successive shifts

Shiftworkers who work on any afternoon or night shift which does not continue for at least five successive afternoons or nights must be paid for at the rate of 150% of the appropriate minimum wage for all ordinary time occurring during such shift.

28.14 Call-outs

(a) A shiftworker called out to work after the expiration of their customary working time and after they have left work for the shift, or called out to work on a day on which they are rostered off, must be paid for a minimum of three hours work calculated at the rate of 200% of the appropriate minimum wage for each time they are so called out.

(b) If called out on a public holiday payment will be calculated at the rate prescribed in clause 26.4(c) of this award.

28.15 Transport after overtime or shift

When a shiftworker, after having worked overtime or a shift for which they have not been regularly rostered, finishes work at a time when reasonable means of transport are not available, the employer must provide the shiftworker with conveyance to their usual place of residence or to the nearest appropriate public transport.

28A. Requests for flexible working arrangements

[28A inserted by PR701440 ppc 01Dec18]

28A.1 Employee may request change in working arrangements

Clause 28A 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 28A is an addition to s.65.

28A.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)).

28A.3 What the written response must include if the employer refuses the request

Clause 28A.3 applies if the employer refuses the request and has not reached an agreement with the employee under clause 28A.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 28A.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.

28A.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 28A.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.

28A.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 28A, can be dealt with under clause 9—Dispute resolution.

Part 6—Leave and Public Holidays

29. Annual leave

[Varied by PR994505, PR546346, PR583076, PR588734]

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

[29.2 substituted by PR583076 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 29.2 is set out at Schedule E. There is no requirement to use the form of agreement set out at Schedule E.

(c) The employer must keep a copy of any agreement under clause 29.2 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 29.2, 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.

29.3 Shut-down

(a) Where an employer intends temporarily to close (or reduce to nucleus) the place of employment or a section of it for the purpose, amongst others, of allowing annual leave to the employees concerned or a majority of them, the employer may give those employees one month’s notice in writing of an intention to apply the provisions of this clause. In the case of any employee engaged after notice has been given, notice must be given to that employee on the date of their engagement.

[29.3(b) substituted by PR546346 ppc 24Jan14]

(b) Where an employee has been given notice pursuant to clause 29.3(a) and the employee has:

(i) accrued sufficient annual leave to cover the full period of closing, the employee must take paid annual leave for the full period of closing;

(ii) insufficient accrued annual leave to cover the full period of closing, the employee must take paid annual leave to the full amount accrued and leave without pay for the remaining period of the closing; or

(iii) no accrued annual leave, the employee must take leave without pay for the full period of closing.
[29.3(c) substituted by PR546346 ppc 24Jan14]

(c) Public holidays that fall within the period of close down will be paid as provided for in this award and will not count as a day of annual leave or leave without pay.

29.4 Excessive leave accruals: general provision

[29.4 varied by PR994505; substituted by PR588734 ppc 20Dec16]

Note: Clauses 29.4 to 29.6 contain provisions, additional to the National Employment Standards, about the taking of paid annual leave as a way of dealing with the accrual of excessive paid annual leave. See Part 2.2, Division 6 of the Fair Work Act.

(a) An employee has an **excessive leave accrual** if the employee has accrued more than 8 weeks’ paid annual leave.

(b) If an employee has an excessive leave accrual, the employer or the employee may seek to confer with the other and genuinely try to reach agreement on how to reduce or eliminate the excessive leave accrual.

(c) Clause 29.5 sets out how an employer may direct an employee who has an excessive leave accrual to take paid annual leave.

(d) Clause 29.6 sets out how an employee who has an excessive leave accrual may require an employer to grant paid annual leave requested by the employee.

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

[New 29.5 inserted by PR588734 ppc 20Dec16]

(a) If an employer has genuinely tried to reach agreement with an employee under clause 29.4(b) but agreement is not reached (including because the employee refuses to confer), the employer may direct the employee in writing to take one or more periods of paid annual leave.

(b) However, a direction by the employer under paragraph (a):

(i) is of no effect if it would result at any time in the employee’s remaining accrued entitlement to paid annual leave being less than 6 weeks when any other paid annual leave arrangements (whether made under clause 29.4, 29.5 or 29.6 or otherwise agreed by the employer and employee) are taken into account; and

(ii) must not require the employee to take any period of paid annual leave of less than one week; and

(iii) must not require the employee to take a period of paid annual leave beginning less than 8 weeks, or more than 12 months, after the direction is given; and

(iv) must not be inconsistent with any leave arrangement agreed by the employer and employee.

(c) The employee must take paid annual leave in accordance with a direction under paragraph (a) that is in effect.
(d) An employee to whom a direction has been given under paragraph (a) may request to take a period of paid annual leave as if the direction had not been given.

Note 1: Paid annual leave arising from a request mentioned in paragraph (d) may result in the direction ceasing to have effect. See clause 29.5(b)(i).

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

29.6 Excessive leave accruals: request by employee for leave

[New 29.6 inserted by PR588734; substituted by PR588734 ppc 20Dec17]

(a) If an employee has genuinely tried to reach agreement with an employer under clause 29.4(b) but agreement is not reached (including because the employer refuses to confer), the employee may give a written notice to the employer requesting to take one or more periods of paid annual leave.

(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 29.5(a) that, when any other paid annual leave arrangements (whether made under clause 29.4, 29.5 or 29.6 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 29.4, 29.5 or 29.6 or otherwise agreed by the employer and employee) are taken into account; or

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

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

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

(d) An employee is not entitled to request by a notice under paragraph (a) more than 4 weeks’ paid annual leave in any period of 12 months.

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

[29.5 renumbered as 29.7 by PR588734 ppc 20Dec16]

29.7 Before the start of the employee’s annual leave the employer must pay the employee:
[29.5(a) varied by PR994505 from 01Jan10]

(a) instead of the base rate of pay referred to in s.90(1) of the Act, the amount the employee would have earned for working their normal hours, exclusive of overtime, had they not been on leave; and

(b) an additional loading of 17.5% of the minimum rate prescribed in clause 14—Minimum wages.

29.8 Electronic funds transfer (EFT) payment of annual leave

[29.6 inserted by PR583076 ppc 29Jul16; renumbered as 29.8 by PR588734 ppc 20Dec16]

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

29.9 Cashing out of annual leave

[29.7 inserted by PR583076 ppc 29Jul16; renumbered as 29.9 by PR588734 ppc 20Dec16]

(a) Paid annual leave must not be cashed out except in accordance with an agreement under clause 29.9.

(b) Each cashing out of a particular amount of paid annual leave must be the subject of a separate agreement under clause 29.9.

(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 29.9 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 29.9 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 29.9 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 29.9.
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 29.9.

Note 3: An example of the type of agreement required by clause 29.9 is set out at Schedule F. There is no requirement to use the form of agreement set out at Schedule F.

30. Personal/carer’s leave and compassionate leave

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

31. Community service leave

Community service leave is provided for in the NES.

32. Public holidays

Public holidays are provided for in the NES.

33. Leave to deal with Family and Domestic Violence

[33 inserted by PR609357 ppc 01Aug18]

33.1 This clause applies to all employees, including casuals.

33.2 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

(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 33.2(a) includes a former spouse or de facto partner.

33.3 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.

33.4 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.

33.5 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.

33.6 Notice and evidence requirements

(a) Notice

An employee must give their employer notice of the taking of leave by the employee under clause 33. 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 33 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 33.4.

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.
33.7 Confidentiality

(a) Employers must take steps to ensure information concerning any notice an employee has given, or evidence an employee has provided under clause 33.6 is treated confidentially, as far as it is reasonably practicable to do so.

(b) Nothing in clause 33 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.

33.8 Compliance

An employee is not entitled to take leave under clause 33 unless the employee complies with clause 33.
Schedule A—Transitional Provisions

[Varied by PR988420, PR994505, PR503653]

A.1 General

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

[A.1.2 substituted by PR994505 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 PR994505 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>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.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,

[A.3.1(b) substituted by PR994505 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 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**

- 1 July 2010 80%
- 1 July 2011 60%
- 1 July 2012 40%
- 1 July 2013 20%

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 PR994505 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.

[A.5.2 substituted by PR994505 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:

**First full pay period on or after**

<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 PR994505 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 PR994505 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 PR994505 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**
- 1 July 2010: 80%
- 1 July 2011: 60%
- 1 July 2012: 40%
- 1 July 2013: 20%

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 PR994505 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 PR994505 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**
- 1 July 2010: 20%
- 1 July 2011: 40%
- 1 July 2012: 60%
- 1 July 2013: 80%

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 PR503653 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—Supported Wage System

[B.2 varied by PR568050 ppc 01Jul15]

B.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.

B.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*, 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** 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](http://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

B.3 **Eligibility criteria**

B.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.

B.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.
B.4 Supported wage rates

B.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 B.5)</th>
<th>Relevant minimum wage</th>
</tr>
</thead>
<tbody>
<tr>
<td>%</td>
<td>%</td>
</tr>
<tr>
<td>10</td>
<td>10</td>
</tr>
<tr>
<td>20</td>
<td>20</td>
</tr>
<tr>
<td>30</td>
<td>30</td>
</tr>
<tr>
<td>40</td>
<td>40</td>
</tr>
<tr>
<td>50</td>
<td>50</td>
</tr>
<tr>
<td>60</td>
<td>60</td>
</tr>
<tr>
<td>70</td>
<td>70</td>
</tr>
<tr>
<td>80</td>
<td>80</td>
</tr>
<tr>
<td>90</td>
<td>90</td>
</tr>
</tbody>
</table>

[B.4.2 varied by PR994505, PR998748, PR510670, PR525068, PR537893, PR551831, PR568050, PR581528, PR592689, PR606630, PR709080] ppc 01Jul19

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

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

B.5 Assessment of capacity

B.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.

B.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.

B.6 Lodgement of SWS wage assessment agreement

[B.6.1 varied by PR994505; PR542160] ppc 04Dec13

B.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.

[B.6.2 varied by PR994505; PR542160] ppc 04Dec13

B.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.
B.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.

B.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.

B.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.

B.10 Trial period

B.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.

B.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.

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

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

B.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 B.5.
Schedule C—National Training Wage

[Varied by PR988420; substituted by PR994505; varied by PR997921, PR509071, PR522902, PR536705, PR545787, PR551628, PR566711, PR579805; deleted by PR593830 ppc 01Jul17]
Schedule D—Part-day Public Holidays

[Sched D inserted by PR532630 ppc 23Nov12; renamed and varied by PR544519 ppc 21Nov13; renamed and varied by PR557581, PR573679, PR580863, PR598110, PR701683 ppc 21Nov18]

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

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

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

(b) Where a part-time or full-time employee is usually rostered to work ordinary hours between 7.00 pm and midnight but as a result of exercising their right under the NES does not work, they will be paid their ordinary rate of pay for such hours not worked.

(c) Where a part-time or full-time employee is usually rostered to work ordinary hours between 7.00 pm and midnight but as a result of being on annual leave does not work, they will be taken not to be on annual leave between those hours of 7.00 pm and midnight that they would have usually been rostered to work and will be paid their ordinary rate of pay for such hours.

(d) Where a part-time or full-time employee is usually rostered to work ordinary hours between 7.00 pm and midnight, but as a result of having a rostered day off (RDO) provided under this award, does not work, the employee will be taken to be on a public holiday for such hours and paid their ordinary rate of pay for those hours.

(e) Excluding annualised salaried employees to whom clause D.1(f) applies, where an employee works any hours between 7.00 pm and midnight they will be entitled to the appropriate public holiday penalty rate (if any) in this award for those hours worked.

(f) Where an employee is paid an annualised salary under the provisions of this award and is entitled under this award to time off in lieu or additional annual leave for work on a public holiday, they will be entitled to time off in lieu or pro-rata annual leave equivalent to the time worked between 7.00 pm and midnight.

(g) An employee not rostered to work between 7.00 pm and midnight, other than an employee who has exercised their right in accordance with clause D.1(a), will not be entitled to another day off, another day’s pay or another day of annual leave as a result of the part-day public holiday.

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

[_schedE inserted by PR583076 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 F—Agreement to Cash Out Annual Leave

[Schedule F inserted by PR583076 ppc 29Jul16]

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

Name of employee: _____________________________________________
Name of employer: _____________________________________________

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

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

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

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

Signature of employee: ________________________________
Date signed: ___/___/20___

Name of employer representative: ______________________________________
Signature of employer representative: ________________________________
Date signed: ___/___/20___

Include if the employee is under 18 years of age:

Name of parent/guardian: ________________________________
Signature of parent/guardian: ________________________________
Date signed: ___/___/20___
Schedule G—Agreement for Time Off Instead of Payment for Overtime

[_sched G inserted by PR584154 ppc 22Aug16]

Link to PDF copy of Agreement for Time Off Instead of Payment for Overtime.

Name of employee: _____________________________________________

Name of employer: _____________________________________________

The employer and employee agree that the employee may take time off instead of being paid for the following amount of overtime that has been worked by the employee:

Date and time overtime started: ___/___/20___ ____ am/pm

Date and time overtime ended: ___/___/20___ ____ am/pm

Amount of overtime worked: _______ hours and ______ minutes

The employer and employee further agree that, if requested by the employee at any time, the employer must pay the employee for overtime covered by this agreement but not taken as time off. Payment must be made at the overtime rate applying to the overtime when worked and must be made in the next pay period following the request.

Signature of employee: ________________________________________

Date signed: ___/___/20___

Name of employer representative: __________________________________

Signature of employer representative: ________________________________

Date signed: ___/___/20___