

# Banking, Finance and Insurance Award 2010

This Fair Work Commission consolidated modern award incorporates all amendments up to and including 19 December 2019 ([PR715102](#)).

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

Schedule F—Part-day Public Holidays

Current review matter(s): [AM2014/47](#); [AM2014/190](#); [AM2014/196](#); [AM2014/197](#); [AM2014/217](#); [AM2014/300](#); [AM2014/301](#); [AM2015/1](#); [AM2015/2](#); [AM2016/13](#); [AM2016/15](#); [AM2016/17](#); [AM2016/8](#)

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## Part 1—Application and Operation

### 1. Title

This award is the *Banking, Finance and Insurance Award 2010*.

### 2. Commencement and transitional

[Varied by [PR988363](#), [PR542139](#)]

**2.1** This award commences on 1 January 2010.

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

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

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

[2.4 varied by [PR542139](#) ppc 04Dec13]

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

[2.5 varied by [PR542139](#) ppc 04Dec13]

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

[2.6 varied by [PR542139](#) 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 [PR994548](#), [PR997772](#), [PR503623](#), [PR545986](#)]

**3.1** In this award, unless the contrary intention appears:

[Definition of **Act** substituted by [PR994548](#) from 01Jan10]

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

[Definition of **agreement-based transitional instrument** inserted by [PR994548](#) 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 [PR994548](#) from 01Jan10]

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

[Definition of **Commission** deleted by [PR994548](#) from 01Jan10]

[Definition of **default fund employee** inserted by [PR545986](#) 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 [PR545986](#) 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 [PR503623](#) 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 [PR503623](#) 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)

[Definition of **employee** substituted by [PR994548](#), [PR997772](#) from 01Jan10]

**employee** means national system employee within the meaning of the Act

[Definition of **employer** substituted by [PR994548](#), [PR997772](#) from 01Jan10]

**employer** means national system employer within the meaning of the Act

[Definition of **enterprise award** deleted by [PR994548](#) from 01Jan10]

[Definition of **enterprise award-based instrument** inserted by [PR994548](#) from 01Jan10]

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

[Definition of **enterprise NAPSA** deleted by [PR994548](#) from 01Jan10]

[Definition of **exempt public sector superannuation scheme** inserted by [PR545986](#) ppc 01Jan14]

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

[Definition of **MySuper product** inserted by [PR545986](#) ppc 01Jan14]

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

[Definition of **NAPSA** deleted by [PR994548](#) from 01Jan10]

[Definition of **NES** substituted by [PR994548](#) from 01Jan10]

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

[Definition of **on-hire** inserted by [PR994548](#) from 01Jan10]

**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 weekly wage for a Level 2 employee in clause 13.1

[Definition of **transitional minimum wage instrument** inserted by [PR994548](#) from 01Jan10]

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

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

## **4. Coverage**

[Varied by [PR994548](#)]

**4.1** This industry award covers employers throughout Australia who are engaged in the banking, finance and insurance industry in respect of work by their employees in a classification in this award and those employees to the exclusion of any other modern award.

### **4.2 Definition of banking, finance and insurance industry**

**Banking, finance and insurance industry** means the industries of banking, lending, loaning, providing credit, investment, finance, superannuation, all forms of insurance, credit unions, building societies, financial intermediaries, trustee creditors

and agencies, money market dealers, credit or charge card institutions, wool broking, agribusiness and services to the above industries such as broking, trading, debt recovery, financial consulting, valuation, money changing, data processing, transaction accounts, telephone enquiries and transaction processing.

### **4.3 Exclusions**

[4.3 substituted by [PR994548](#) from 01Jan10]

This award does not cover:

- (a) an employee excluded from award coverage by the Act;
- (b) employees who are covered by a modern enterprise award, or an enterprise instrument (within the meaning of the *Fair Work (Transitional Provisions and Consequential Amendments) Act 2009* (Cth)), or employers in relation to those employees;
- (c) employees who are covered by a State reference public sector modern award, or a State reference public sector transitional award (within the meaning of the *Fair Work (Transitional Provisions and Consequential Amendments) Act 2009* (Cth)), or employers in relation to those employees; or
- (d) contract call centres covered by the *Contract Call Centres Award 2010*.

[New 4.4 inserted by [PR994548](#) from 01Jan10]

**4.4** This award covers any employer which supplies labour on an on-hire basis in the industries set out in clause 4.2 in respect of on-hire employees in classifications covered by this award, and those on-hire employees, while engaged in the performance of work for a business in those industries. This subclause operates subject to the exclusions from coverage in this award.

[4.5 inserted by [PR994548](#) from 01Jan10]

**4.5** This award covers employers which provide group training services for trainees engaged in the industries and/or parts of industry set out at clause 4.2 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 4.6 by [PR994548](#) from 01Jan10]

**4.6** 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 [PR542139](#); 7—Award flexibility renamed and substituted by [PR610179](#) 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

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- (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 [PR610179](#) 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 [PR610179](#) 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 [PR994548](#), [PR542139](#); substituted by [PR610179](#)]

**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 [PR700545](#), [PR700648](#)]

An employee may be engaged on a full-time, part-time or casual basis.

#### **10.1 Full-time employment**

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

#### **10.2 Part-time employment**

- (a) A part-time employee is an employee who:
- (i) is engaged to work an average of fewer than 38 ordinary hours per week; and
  - (ii) receives, on a pro rata basis, equivalent pay and conditions to those of full-time employees who do the same kind of work.
- (b) For each ordinary hour worked, a part-time employee will be paid no less than 1/38th of the minimum weekly rate of pay for the relevant classification in clause 13—Classifications and minimum wage rates.
- (c) An employer must inform a part-time employee of the ordinary hours of work and starting and finishing times. All time worked at the direction of the employer in excess of these hours will be paid at the appropriate overtime rate.

### 10.3 Casual employment

- (a) A casual employee is one engaged and paid as such. A casual employee's ordinary hours of work are the lesser of an average of 38 hours per week or the hours required to be worked by the employer.
- (b) For each hour worked, a casual employee will be paid no less than 1/38th of the minimum weekly rate of pay for their classification in clause 13—Classifications and minimum wage rates, plus a casual loading of 25%.
- (c) The casual loading is paid instead of annual leave, personal/carer's leave, notice of termination, redundancy benefits and the other attributes of full-time or part-time employment.

[10.3(d) inserted by [PR700648](#) ppc 01Oct18]

- (d) 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.

### 10.4 Right to request casual conversion

[10.4 inserted by [PR700545](#) 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 10.2(c)
  - (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 [PR610179](#) 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 1—Period of notice**

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

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

- (c) In 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 [PR994548](#), [PR503623](#), [PR561478](#); substituted by [PR706906](#) 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 and minimum wage rates

[Varied by [PR988363](#), [PR990706](#), [PR997963](#), [PR509050](#), [PR522881](#), [PR536684](#), [PR551607](#), [PR566687](#), [PR579780](#), [PR592115](#), [PR606343](#), [PR707429](#)]

#### 13.1 Adult employees

[13.1(a) varied by [PR997963](#), [PR509050](#), [PR522881](#), [PR536684](#), [PR551607](#); substituted by [PR566687](#) 01Jul15; varied by [PR579780](#), [PR592115](#), [PR606343](#), [PR707429](#) ppc 01Jul19]

- (a) A full-time adult employee must be paid a minimum rate for their classification as set out in the table below:

Level	Minimum annual salary \$	Minimum weekly rate \$
Level 1	40,955	787.60
Level 2	44,850	862.50
Level 3	47,372	911.00
Level 4	49,748	956.70
Level 5	51,766	995.50
Level 6	57,980	1115.00

- (b) The classification structure and descriptors for the above classifications are contained in Schedule B—Classification Structure.



### 13.2 Junior employees

Where the law permits junior employees to perform work in the banking, finance and insurance industry, the junior employee will be entitled to the percentage of the applicable adult weekly wage (in the case of part-time or casual employees the hourly rate) for their classification as set out in the table below:

Age	Percentage of adult rate
	%
16 years or less	50
At 17 years	60
At 18 years	70
At 19 years	80
At 20 years	90

## 14. Annualised salaries

[14 inserted by [PR990706](#) from 01Jan10; varied by [PR994548](#)]

### 14.1 Annual salary instead of award provisions

- (a) An employer may pay an employee an annual salary in satisfaction of any or all of the following provisions of the award:

[14.1(a)(i) varied by [PR994548](#) from 01Jan10]

- (i) clause 13—Classifications and minimum wage rates;
  - (ii) clause 18—Allowances;
  - (iii) clause 23—Overtime and penalty rates; and
  - (iv) clause 24.3—Annual leave loading.
- (b) Where an annual salary is paid the employer must advise the employee in writing of the annual salary that is payable and which of the provisions of this award will be satisfied by payment of the annual salary.

### 14.2 Annual salary not to disadvantage employees

- (a) The annual salary must be no less than the amount the employee would have received under this award for the work performed over the year for which the salary is paid (or if the employment ceases earlier over such lesser period as has been worked).
- (b) The annual salary of the employee must be reviewed by the employer at least annually to ensure that the compensation is appropriate having regard to the award provisions which are satisfied by the payment of the annual salary.

### 14.3 Base rate of pay for employees on annual salary arrangements

For the purposes of the NES, the base rate of pay of an employee receiving an annual salary under this clause comprises the portion of the annual salary equivalent to the relevant rate of pay in clause 13—Classifications and minimum wage rates and excludes any incentive-based payments, bonuses, loadings, monetary allowances, overtime and penalties.

## 15. School-based apprentices

[Varied by [PR988363](#); 14 renumbered as 15 by [PR990706](#) from 01Jan10]

See Schedule C

## 16. National Training Wage

[New 16 inserted by [PR507824](#) ppc 24Mar11; substituted by [PR593815](#) ppc 01Jul17; varied by [PR606343](#), [PR707429](#)]

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

[16.2 varied by [PR606343](#), [PR707429](#) ppc 01Jul19]

**16.2** This award incorporates the terms of Schedule E to the *Miscellaneous Award 2010* as at 1 July 2019. Provided that any reference to “this award” in Schedule E to the *Miscellaneous Award 2010* is to be read as referring to the *Banking, Finance and Insurance Award 2010* and not the *Miscellaneous Award 2010*.

## 17. Supported wage system

[15 renumbered as 16 by [PR990706](#), 16 renumbered as 17 by [PR507824](#) ppc 24Mar11]

See Schedule D

## 18. Allowances

To view the current monetary amounts of work-related allowances refer to the [Allowances Sheet](#).

[16 renumbered as 17 by [PR990706](#); varied by [PR994548](#), [PR998164](#), [PR509172](#), [PR523002](#), [PR536805](#), [PR551728](#), [PR561478](#); 17 renumbered as 18 by [PR507824](#) ppc 24Mar11; 18 varied by [PR561478](#), [PR566829](#), [PR579524](#), [PR592277](#), [PR606501](#), [PR704116](#), [PR707626](#)]

**18.1** Allowances are all-purpose allowances only if expressly stated in this clause. Where an employee is paid by the hour, the allowance will be 1/38th of the weekly allowance.

**18.2 Allowances for responsibilities or skills that are not taken into account in rates of pay**

**(a) First aid allowance**

Where an employer is required by legislation to appoint an accredited first aid officer(s) to perform first aid duties, such appointed employee(s) must be paid 1.84% of the [standard rate](#) per week for full-time employees and a pro rata amount for part-time employees.

**(b) Stand-by and call-back allowances**

(i) An employee required to be available by roster for stand-by to perform work outside their ordinary working hours must be paid a stand-by payment at the following rate:

Days	Percentage per day of the <a href="#">standard rate</a> %
Monday to Friday inclusive	2.12
Saturdays, Sundays and public holidays	4.33

(ii) An employee who formally is rostered to stand by and is recalled to work must be paid in accordance with the provisions of clause 23—Overtime and penalty rates. For the purposes of assessing the duration of the call-out, time spent on the journey from home to work and from work to home by the most direct route must be included. Provided that the minimum payment for work performed under this clause must be two hours.

(iii) Where an employee provides their own car, and uses it in connection with the employer's business in the above circumstances, they must be paid an allowance as provided by clause 18.3(b)(iv) when so using the car. Payment will be calculated on a home to home basis.

(iv) Where the employee uses public transport, including the use of taxis with the approval of the employer, the fare will be reimbursed.

[17.2(b)(v) varied by [PR994548](#) from 01Jan10]

(v) An employee while rostered on stand-by duty must be reimbursed for all business calls.

(vi) An employee who is not formally rostered to stand by but is recalled to work must be paid in accordance with the provision of clause 23—Overtime and penalty rates and must be entitled to a minimum payment of two hours at the appropriate overtime rate. The duration of the call-out will be assessed as in 18.2(b)(ii) of this clause.

**(c) Higher duties allowance**

Where an employee is required by the employer to relieve in a job which is at a level higher than the job in which the employee usually works, for a period of

more than four consecutive working days, the employee must be paid at least the minimum salary prescribed in this award for the higher job level.

**18.3 Allowances for disabilities associated with the performance of particular tasks or work in particular conditions or locations**

[18.3 deleted by [PR561478](#) ppc 05Mar15]

**18.3 Reimbursement and expense related allowances**

[18.4 renumbered as 18.3 by [PR561478](#) ppc 05Mar15]

**(a) Meal allowance**

[17.4(a) varied by [PR998164](#); 18.4(a) varied by [PR509172](#), [PR523002](#), [PR536805](#), [PR551728](#); 18.3(a) varied by [PR566829](#), [PR579524](#), [PR592277](#), [PR606501](#), [PR704116](#), [PR707626](#) ppc 01Jul19]

An employee must be paid a meal allowance of \$17.00, or be provided with a suitable meal if required to work one and a half hours overtime, and the period of overtime extends beyond 6.00 pm. A further allowance of \$13.98 must be paid if the overtime exceeds five and a half hours.

**(b) Travelling expenses**

(i) When an employee in the course of their duty, is required to go to any place away from their usual place of employment they must be paid all reasonable expenses actually incurred.

(ii) When employees, in the course of their duty, are required to travel to any place away from their usual place of employment outside ordinary working hours, they must be paid all reasonable expenses actually incurred plus payment at half the ordinary rate for the time the travelling time exceeds normal travel time from home to work. Provided that no extra payment is payable when an employee is being paid overtime for the time spent travelling.

**(iii) Motor vehicle allowance**

[18.4(b)(iii) varied by [PR523002](#), [PR536805](#), [PR551728](#) ppc 01Jul14]

Any employee required to provide a motor vehicle as a condition of their employment must be paid an allowance of:

	<b>Per week</b>
	<b>\$</b>
For a vehicle 1500 cc and under	101.86
For a vehicle over 1500 cc	125.65

[18.4(b)(iv) varied by [PR523002](#), [PR536805](#), [PR551728](#) ppc 01Jul14]

(iv) Where an employer approves the use by any other employee of a private motor vehicle on a casual or incidental basis, they must be paid an allowance of \$0.78 per kilometre travelled.

(v) Where an employer provides a vehicle they must pay the whole of the cost of the upkeep, registration, insurance, maintenance and running

expenses but may deduct from an employee's salary a contribution towards running costs with respect to private use.

#### 18.4 Adjustment of expense related allowances

[17.5 substituted by [PR994548](#) from 01Jan10; 18.5 renumbered as 18.4 by [PR561478](#) ppc 05Mar15]

- (a) 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.
- (b) 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:

<b>Allowance</b>	<b>Applicable Consumer Price Index figure</b>
Meal allowance	Take away and fast foods sub-group
Motor vehicle allowance	Private motoring sub-group

#### 19. Accident pay

[17 renumbered as 18 by [PR990706](#); varied by [PR994548](#), [PR503623](#); 18 renumbered as 19 by [PR507824](#); deleted by [PR561478](#) ppc 05Mar15]

#### 20. Payment of wages

[Varied by [PR989301](#); 18 renumbered as 19 by [PR990706](#), 19 renumbered as 20 by [PR507824](#) ppc 24Mar11; varied by [PR610052](#)]

**20.1** Employees must be paid their salaries weekly or fortnightly as determined by the employer or monthly if mutually agreed. Where payment is made monthly it must be on the basis of two weeks in advance and two weeks in arrears.

**20.2** Wages must be paid either by cash, cheque or electronic funds transfer, the method of which will be determined by the employer.

#### 20.3 Payment on termination of employment

[20.3 inserted by [PR610052](#) 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.

## 21. Superannuation

[19 renumbered as 20 by [PR990706](#); varied by [PR994548](#), [PR500140](#), [PR514728](#), [PR545986](#); 20 renumbered as 21 by [PR507824](#) ppc 24Mar11]

### 21.1 Superannuation legislation

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

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

### 21.2 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.

### 21.3 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 21.2.

- (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 21.3(a) or (b) no later than 28 days after the end of the month in which the deduction authorised under clauses 21.3(a) or (b) was made.

#### **21.4 Superannuation fund**

[20.4 varied by [PR994548](#); substituted by [PR500140](#) from 11Aug10; 21.4 varied by [PR514728](#) ppc 12Sep11]

Unless, to comply with superannuation legislation, the employer is required to make the superannuation contributions provided for in clause 21.2 to another superannuation fund that is chosen by the employee, the employer must make the superannuation contributions provided for in clause 21.2 and pay the amount authorised under clauses 21.3(a) or (b) to one of the following superannuation funds or its successor:

- (a) CareSuper;
- (b) AustralianSuper;
- (c) Sunsuper;
- (d) HESTA;
- (e) Statewide Superannuation;
- (f) Tasplan;

[21.4(g) deleted by [PR545986](#) ppc 01Jan14]

[21.4(h) deleted by [PR545986](#) ppc 01Jan14]

[21.4(i) renumbered as 21.4(g) by [PR545986](#) ppc 01Jan14]

- (g) NGS Super;

[21.4(j) deleted by [PR545986](#) ppc 01Jan14]

[21.4(k) renumbered as 21.4(h) by [PR545986](#) ppc 01Jan14]

- (h) MTAA Superannuation Fund;

[21.4(l) renumbered as 21.4(i) and varied by [PR545986](#) ppc 01Jan14]

- (i) any superannuation fund to which the employer was making superannuation contributions for the benefit of its employees before 12 September 2008, provided the superannuation fund is an eligible choice fund and is a fund that offers a MySuper product or is an exempt public sector scheme; or

[New 21.4(j) inserted by [PR545986](#) ppc 01Jan14]

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

## 21.5 Absence from work

Subject to the governing rules of the relevant superannuation fund, the employer must also make the superannuation contributions provided for in clause 21.2 and pay the amount authorised under clauses 21.3(a) or (b):

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

## Part 5—Hours of Work and Related Matters

### 22. Ordinary hours of work

[20 renumbered as 21 by [PR990706](#); varied by [PR992144](#), [PR994548](#), [PR501433](#), [PR501873](#), [PR543670](#); 21 renumbered as 22 by [PR507824](#) ppc 24Mar11]

#### 22.1 Span of hours

[21.1 varied by [PR501433](#) ppc 07Sep10; operative date corrected by [PR501873](#) ppc 07 Sep10]

The span of ordinary hours will be 7.00 am to 7.00 pm Monday to Friday, and 8.00 am to 12 noon Saturday.

Provided that on not more than one night per week, which must be specified in advance by the employer, the span of ordinary hours may be worked up to 9.00 pm.

#### 22.2 Ordinary hours of work exclusive of meal breaks will be an average of 38 per week to be worked on one of the following bases:

- (a) 38 hours within a work cycle of one week;
- (b) 76 hours within a work cycle of two weeks;
- (c) 114 hours within a work cycle of three weeks; or
- (d) 152 hours within a work cycle of four weeks.

**Week** will mean any five consecutive days to be worked Monday to Friday, or five and a half consecutive days, Monday to Saturday.



[22.3 varied by [PR543670](#) ppc 21Oct13]

**22.3** When an employee is asked to work beyond their normal scheduled finishing time and where the usual means of transport is either unavailable, impracticable or unsafe, the employer will arrange suitable transport for the employee between the place of work and the employee's place of residence provided that where an employee chooses to use their own motor vehicle with the agreement of the employer they must be reimbursed as per clause 18.3(b) of this award.

**22.4 Meal and rest breaks**

Meal breaks will be no less than 30 minutes, as determined by the employer provided that an employee will not be called upon to work in excess of five hours without a meal break except where the daily hours to be worked are six hours or less and the employee applies to work for that extended period without such breaks and the employer agrees. Provided further that in emergency circumstances a meal break may be deferred by mutual agreement. All employees will be allowed a rest break or breaks during a working day at a time or times and in a manner agreed between the employer and employee or, if no agreement is reached, as determined by the employer.

**22.5** Commencing and ceasing times within the span of hours may be staggered by the employer to improve operational efficiency.

**22.6 Make-up time**

Notwithstanding provisions elsewhere in this award, an employer and the majority of employees in a section or sections of an employer's business may agree to establish a system of make-up time.

- (a) An employee may elect, with the consent of an employer, to work make-up time under which the employee takes time off during ordinary hours, and works those hours at a later time, during the spread of ordinary hours provided in this award.
- (b) An employee on shiftwork may elect, with the consent of their employer, to work make-up time under which the employee takes time off ordinary hours and works those hours at a later time, at the shiftwork rate which would have been applicable to the hours taken off.
- (c) Once a decision has been taken to introduce an enterprise system of make-up time, in accordance with this clause, its terms must be set out in the time and wages records kept pursuant to relevant regulations.
- (d) An employer will record make-up time arrangements in the time and wages book each time this provision is used.

**22.7 Rostered days off**

Notwithstanding provisions elsewhere in this award, an employer and the majority of employees at an enterprise may agree to establish a system of rostered days off to provide that:

- (a) an employee may elect, with the consent of an employer to take a rostered day off at any time;

- (b) an employee may elect with the consent of an employer, to take rostered days off in part day amounts;
- (c) an employee may elect, with the consent of an employer, to accrue some or all rostered days off for the purpose of creating a bank to be drawn upon by the employee at times mutually agreed by an employer, or subject to reasonable notice by the employee or an employer;
- (d) once a decision has been taken to introduce an enterprise system of rostered days off flexibility, in accordance with this clause, its terms must be set out in the time and wages records kept pursuant to relevant regulations; and
- (e) an employer will record rostered days off arrangements in the time and wages book at each time this provision is used.

## 22.8 Shiftwork

Shiftwork may be worked on the following basis.

- (a) The following definitions will apply in relation to this clause:
  - (i) **shiftworker** means an employee whose ordinary hours of work are worked in accordance with the shifts defined in this clause;
  - (ii) **afternoon shift** means any shift finishing between 6.00 pm and midnight;
  - (iii) **early morning shift** means any shift commencing between 4.00 am and 7.00 am; and
  - (iv) **night shift** means any shift finishing between midnight and 8.00 am.

Provided that employees who, in accordance with this clause, work ordinary hours up to 9.00 pm on any one night between Monday to Friday inclusive, will not be considered shiftworkers for the purposes of this award.

- (b) The following loadings will apply in relation to the working of shiftwork on Monday to Friday and on Saturday between 8.00 am and 12.00 pm:
  - afternoon shift at the rate of 20%;
  - early morning shift at the rate of 12.5%;
  - night shift at the rate of 25%; and
  - employees who permanently work afternoon or night shift or a combination thereof will be paid an additional 5% loading.

[21.8(c) varied by [PR994548](#) from 01Jan10]

- (c) Casual and part-time shiftworkers will receive the loading prescribed in this clause.

Provided that casual and part-time employees who are employed between the hours of 7.00 am and 7.00 pm (and up to 9.00 pm on any one night between

Monday to Friday inclusive) in accordance with this clause, will not be considered shiftworkers for the purposes of this award.

- (d) Meal breaks will be of 20 minutes' duration and paid as if worked. An employee will not be called upon to work in excess of five hours without a meal break except where the daily hours to be worked are six hours or less and the employee applies to work for that extended period without such break and the employer agrees. Provided further that in emergency circumstances a meal break may be deferred by mutual agreement.
- (e) An employer may implement such measures as deemed necessary to enable continuity of operations during shift changeovers.
- (f) No employee under 18 years of age will be employed on shiftwork except with the written consent of the employee's parent/guardian.
- (g) Arrangements for transport for employees finishing or commencing a shift between the hours of 8.00 pm to 6.00 am are to be satisfactorily established by the employer concerned, taking into account the requirements of the particular location, and having regard to any special circumstances.
- (h) Notwithstanding anything contained elsewhere in this award, in any area where, by reason of the legislation of a State summer time is prescribed as being in advance of the standard time of that State the length of any shift:
  - (i) commencing before the time prescribed by the relevant legislation for the commencement of a summer time period; and
  - (ii) commencing on or before the time prescribed by such legislation for the termination of a summer time period will be deemed to be the number of hours represented by the difference between the time recorded by the clock at the beginning of the shift and the time so recorded at the end thereof, the time of the clock in each case to be set to the time fixed pursuant to the relevant State legislation.

In this clause the expression **standard time** and **summer time** will bear the same meaning as are prescribed by the relevant State legislation.

## **23. Overtime and penalty rates**

[21 renumbered as 22 by [PR990706](#); varied by [PR992144](#); 22 renumbered as 23 by [PR507824](#) ppc 24Mar11; varied by [PR584076](#)]

[22.1 varied by [PR994548](#) from 01Jan10]

- 23.1** All time worked at the direction of the employer outside ordinary hours of work prescribed by this award, will be paid for at the rate of:
- (a) time and a half for the first three hours and double time thereafter
  - (b) double time for all work on Saturday outside an employee's weekly hours; and
  - (c) double time for all work performed on Sunday.

In computing overtime each day's work will stand alone.

**23.2** An employee working overtime will be allowed a 20 minute paid rest break once the employee has worked five hours since the last rest break.

**23.3** Meal breaks may be extended by mutual agreement to a period not exceeding one hour provided that any time taken in excess of the paid break determined by this clause will be unpaid.

**23.4 Time off instead of payment for overtime**

[23.4 substituted by [PR584076](#) 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 23.4.
- (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 I. There is no requirement to use the form of agreement set out at Schedule I. An agreement under clause 23.4 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 23.4 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 23.4 but not taken as time off, the employer must pay the employee for the overtime, in the next pay period following the request, at the overtime rate applicable to the overtime when worked.

- (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 23.4 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 23.4 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 23.4 applies has not been taken, the employer must pay the employee for the overtime at the overtime rate applicable to the overtime when worked.

Note: Under section 345(1) of the Act, a person must not knowingly or recklessly make a false or misleading representation about the workplace rights of another person under clause 23.4.

[23.5 deleted by [PR584076](#) ppc 22Aug16]

[23.7 renumbered as 23.5 by [PR584076](#) ppc 22Aug16]

**23.5** An employer may require any employee to work reasonable overtime at overtime rates and such employee will work overtime in accordance with such requirement.

[23.6 deleted by [PR584076](#) ppc 22Aug16]

[23.8 renumbered as 23.6 by [PR584076](#) ppc 22Aug16]

**23.6** When overtime work is necessary, it will wherever reasonably practicable, be so arranged that employees have at least 10 consecutive hours off duty between the work of successive days.

An employee (other than a casual employee) who works so much overtime between the termination of their ordinary work on one day and the commencement of their ordinary work on the next day that they have not had at least 10 consecutive hours off duty between those times will, subject to this clause, be released after completion of such overtime until they have had 10 consecutive hours off duty without loss of pay for ordinary working time occurring during such absence.

If on the instruction of the employer such an employee resumes or continues work without having had such 10 consecutive hours off duty they must be paid at double rates until they are released from duty for such period. They will then be entitled to be absent until they have had 10 consecutive hours off duty without loss of pay for ordinary working time occurring during such absence.

The provisions of this clause will apply in the case of shiftworkers as if eight hours were substituted for 10 hours when overtime is worked:

- (a) for the purpose of changing shift rosters;
- (b) where a shiftworker does not report for duty and a day worker or shiftworker is required to replace such shiftworker; or
- (c) where a shift is worked by arrangement between the employees themselves.

Overtime worked in the circumstances specified in clause 18.2(b) will not be regarded as overtime for the purposes of this clause when the actual time worked is less than two hours on such recall or on each of such recalls.

## **23A. Requests for flexible working arrangements**

[23A inserted by [PR701413](#) ppc 01Dec18]

### **23A.1 Employee may request change in working arrangements**

Clause 23A 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 23A is an addition to s.65.

### **23A.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)).

### **23A.3 What the written response must include if the employer refuses the request**

Clause 23A.3 applies if the employer refuses the request and has not reached an agreement with the employee under clause 23A.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 23A.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.

### **23A.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 23A.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.

### **23A.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 23A, can be dealt with under clause 9—Dispute resolution.

## **Part 6—Leave and Public Holidays**

### **24. Annual leave**

[22 renumbered as 23 by [PR990706](#), 23 renumbered as 24 by [PR507824](#) ppc 24Mar11]

[Varied by [PR582967](#)]

**24.1** Annual leave is provided for in the NES.

### **24.2 Definition of shiftworker**

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

### 24.3 Annual leave loading

(a) During a period of annual leave an employee will receive a loading calculated on the rate of wage prescribed in clause 13—Classifications and minimum wage rates. Annual leave loading payment is payable on leave accrued.

(b) The loading is as follows:

(i) **Day work**

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

(ii) **Shiftwork**

Employees who would have worked on shiftwork had they not been on leave—17.5% or the shift loadings and relevant weekend penalty rates, whichever is the greater but not both.

### 24.4 Annual leave in advance

[24.4 renamed and substituted by [PR582967](#) 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 24.4 is set out at Schedule G. There is no requirement to use the form of agreement set out at Schedule G.

(c) The employer must keep a copy of any agreement under clause 24.4 as an employee record.

(d) If, on the termination of the employee's employment, the employee has not accrued an entitlement to all of a period of paid annual leave already taken in accordance with an agreement under clause 24.4, the employer may deduct from any money due to the employee on termination an amount equal to the amount that was paid to the employee in respect of any part of the period of annual leave taken in advance to which an entitlement has not been accrued.

### 24.5 Close-down

[24.5 renamed and substituted by [PR582967](#) ppc 29Jul16]

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



## 24.6 Excessive leave accruals: general provision

[24.6 inserted by [PR582967](#) ppc 29Jul16]

Note: Clauses 24.6 to 24.8 contain provisions, additional to the National Employment Standards, about the taking of paid annual leave as a way of dealing with the accrual of excessive paid annual leave. See Part 2.2, Division 6 of the Fair Work Act.

- (a) An employee has an **excessive leave accrual** if the employee has accrued more than 8 weeks' paid annual leave (or 10 weeks' paid annual leave for a shiftworker, as defined by clause 24.2).
- (b) If an employee has an excessive leave accrual, the employer or the employee may seek to confer with the other and genuinely try to reach agreement on how to reduce or eliminate the excessive leave accrual.
- (c) Clause 24.7 sets out how an employer may direct an employee who has an excessive leave accrual to take paid annual leave.
- (d) Clause 24.8 sets out how an employee who has an excessive leave accrual may require an employer to grant paid annual leave requested by the employee.

## 24.7 Excessive leave accruals: direction by employer that leave be taken

[24.7 inserted by [PR582967](#) ppc 29Jul16]

- (a) If an employer has genuinely tried to reach agreement with an employee under clause 24.6(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 24.6, 24.7 or 24.8 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 24.7(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.

## **24.8 Excessive leave accruals: request by employee for leave**

[24.8 inserted by [PR582967](#) ppc 29Jul16; substituted by [PR582967](#) ppc 29Jul17]

- (a) If an employee has genuinely tried to reach agreement with an employer under clause 24.6(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 24.7(a) that, when any other paid annual leave arrangements (whether made under clause 24.6, 24.7 or 24.8 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 24.6, 24.7 or 24.8 or otherwise agreed by the employer and employee) are taken into account; or
  - (ii) provide for the employee to take any period of paid annual leave of less than one week; or
  - (iii) provide for the employee to take a period of paid annual leave beginning less than 8 weeks, or more than 12 months, after the notice is given; or
  - (iv) be inconsistent with any leave arrangement agreed by the employer and employee.
- (d) An employee is not entitled to request by a notice under paragraph (a) more than 4 weeks' paid annual leave (or 5 weeks' paid annual leave for a shiftworker, as defined by clause 24.2) in any period of 12 months.
- (e) The employer must grant paid annual leave requested by a notice under paragraph (a).

## 24.9 Cashing out of annual leave

[24.9 inserted by [PR582967](#) ppc 29Jul16]

- (a) Paid annual leave must not be cashed out except in accordance with an agreement under clause 24.9.
- (b) Each cashing out of a particular amount of paid annual leave must be the subject of a separate agreement under clause 24.9.
- (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 24.9 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 24.9 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 24.9 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 24.9.

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 24.9.

Note 3: An example of the type of agreement required by clause 24.9 is set out at Schedule H. There is no requirement to use the form of agreement set out at Schedule H.

## 25. Personal/carer's leave and compassionate leave

[23 renumbered as 24 by [PR990706](#), 24 renumbered as 25 by [PR507824](#) ppc 24Mar11]

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

## 26. Community service leave

[24 renumbered as 25 by [PR990706](#), 25 renumbered as 26 by [PR507824](#) ppc 24Mar11]

Community service leave is provided for in the NES.

## 27. Public holidays

[25 renumbered as 26 by [PR990706](#), 26 renumbered as 27 by [PR507824](#) ppc 24Mar11; varied by [PR712229](#)]

**27.1** Public holidays are provided for in the NES.

[27.2 substituted by [PR712229](#) ppc 04Oct19]

**27.2** An employer and employee may agree to substitute another day for a day that would otherwise be a public holiday under the NES.

[New 27.3 inserted by [PR712229](#) ppc 04Oct19]

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

[27.3 renumbered as 27.4 by [PR712229](#) ppc 04Oct19]

**27.4** Work on a public holiday or a substituted day must be paid at double time and a half. Where both a public holiday and substitute day are worked, public holiday penalties are payable on one of those days at the election of the employee. An employee required to work on a public holiday is entitled to not less than four hours pay at the rates prescribed by this clause, provided the employee is available to work for four hours.

[Note inserted by [PR712229](#) ppc 04Oct19]

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

## 28. Leave to deal with Family and Domestic Violence

[28 inserted by [PR609336](#) ppc 01Aug18]

**28.1** This clause applies to all employees, including casuals.

### 28.2 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 28.2(a) includes a former spouse or de facto partner.

### **28.3 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.

### **28.4 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.

### **28.5 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.

### **28.6 Notice and evidence requirements**

#### **(a) Notice**

An employee must give their employer notice of the taking of leave by the employee under clause 28. 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 28 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 28.4.

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.

**28.7 Confidentiality**

- (a) Employers must take steps to ensure information concerning any notice an employee has given, or evidence an employee has provided under clause 28.6 is treated confidentially, as far as it is reasonably practicable to do so.
- (b) Nothing in clause 28 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.

**28.8 Compliance**

An employee is not entitled to take leave under clause 28 unless the employee complies with clause 28.

## Schedule A—Transitional Provisions

[Sched A inserted by [PR988363](#) from 01Jan10; varied by [PR990706](#), [PR994548](#), [PR503623](#)]

### A.1 General

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

[A.1.2 substituted by [PR994548](#) 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 [PR994548](#) 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**

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

**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 [PR994548](#) 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 [PR994548](#) 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 [PR994548](#) 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**

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

**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 [PR994548](#) 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 [PR994548](#) 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 [PR994548](#) 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 [PR994548](#) 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 [PR994548](#) 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 Exemption clauses**

**A.8.1** This provision applies to an employer which, immediately prior to 1 January 2010:

- (a) was entitled,
- (b) but for the operation of an agreement-based transitional instrument would have been entitled, or
- (c) if it had been an employer in the industry or of the occupations covered by this award would have been entitled

by a term in an award-based transitional instrument (the exemption clause) to not apply certain provisions of the instrument to an employee paid above a specified rate of pay.

**A.8.2** Until 30 June 2010 the exemption clause will continue to apply to an employer of the kind in clause A.8.1 as if the clause were a term of this award and operated in relation to the corresponding provisions of this award rather than the provisions of the instrument.

## **A.9 Former Division 2B employers**

[A.9 inserted by [PR503623](#) ppc 01Jan11]

**A.9.1** This clause applies to an employer which, immediately prior to 1 January 2011, was covered by a Division 2B State award.

**A.9.2** 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.9.3** 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.9.4** Despite clause A.9.3, 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.9.5** Despite clause A.9.3, 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.9.6** 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—Classification Structure

[Sched A renumbered as Sched B by [PR988363](#) from 01Jan10; varied by [PR543670](#)]

### B.1 Level 1

A Level 1 position is one in which employees work within established routines, methods and procedures that are predictable and may require the exercise of limited discretion.

Typical activities and skills may include but are not limited to:

- applying basic office procedures;
- operating office equipment;
- receiving, sorting, distributing and filing correspondence and documents;
- performing basic manual or technical duties;
- performing defined data entry/inquiry tasks; and/or
- answering enquiries using a general knowledge of the employer's services.

**Indicative job list**—office trainee, filing clerk, mail sorting clerk, switchboard operator, assistant receptionist, messenger, yardhand, canteen worker, cleaner, deposit officer, scanning officer.

### B.2 Level 2

A Level 2 position performs tasks and service requirements given authority within defined limits and employer established guidelines, using a more extensive range of skills and knowledge at a level higher than in Level 1.

Level 2 employees are responsible for their own work which is performed within established routines, methods and procedures.

Typical activities and skills may include but are not limited to:

- processing of standard documentation;
- undertaking cashiering functions;
- answering enquiries from members and external parties using a detailed knowledge of specific business activities;
- drafting correspondence appropriate to job function;
- organising own work schedule; and/or
- providing information/assistance to other staff members.

**Indicative job list**—telemarketers, sales and service trainees, data processing officers, teller/customer service representatives with less than 12 months experience, entry level claims officer.

### B.3 Level 3

A Level 3 position is one in which tasks and service requirements are performed using a more extensive range of skills and knowledge at a higher level than required in Level 2.

The position encompasses limited discretion in achieving task outcomes. A level of delegation and authority may be employed consistent with the job function and is performed predominantly within established policies and guidelines.

Those employed at this level are responsible and accountable for their own work, and may be expected to provide direction to other staff.

Typical activities and skills may include but are not limited to:

- undertaking of projects;
- preparing reports and recommendations within their own job function;
- drafting of routine correspondence;
- administering/maintaining staff records; and/or
- delivery and/or co-ordination of learning and development activities.

**Indicative job list**—receptionist, loans, processing officer, helpdesk operator, credit analyst, card services operator, contact centre officer, payroll clerk, teller or sales representative with at least 12 months experience, insurance clerk, case manager, account manager, technical officer, statistical clerk.

### B.4 Level 4

A Level 4 position is one in which tasks and service requirements are performed using a more extensive range of skills and knowledge at a level higher than required at Level 3. Those employed at this level are responsible for their own work and any employees under their control.

Positions at this level require the application of relevant specialist knowledge and experience.

Those employed at this level would be required to advise on a range of activities and contribute to the determination of objectives within the required area of expertise.

Typical activities and skills may include but are not limited to:

- managing and maintaining service standards;
- overseeing day-to-day operations of functional areas of responsibilities;
- implementing and maintaining effective controls;
- initiating disciplinary processes;
- assisting with the recruitment and selection of staff; and/or
- preparing of reports.

**Indicative job list**—human resource officer, learning and development officer, compliance officer, personal assistant, assistant accountant, accounts officer, claims officer, assistant underwriter, customer relationship manager, settlement officer, collections officer, lending officer, administrative officer, personal lending relationship officer, personal banker, customer service specialist agency officer, branch services officer, senior case manager, entry level team leader, senior technical officer.

## **B.5 Level 5**

A Level 5 position is one in which tasks, service requirements and supervisory functions are performed using a more extensive range of skills and knowledge at a higher level than required at Level 4.

The position may be:

- (a) a specialised role, possibly supported by one or two junior staff members, requiring formal qualifications and/or specialised vocational training; and/or
- (b) a managerial role (managing 5–10 people) responsible for the operation of part or parts of the employer's business.

Those employed at this level exercise considerable discretion and/or are responsible for operational planning.

**Indicative job list**—human resources consultant, senior learning and development officer, accountant, senior claims officer, analyst programmer, fraud investigator, call centre team leader, credit controller, administration manager, underwriter, sales manager, customer service team leader, assessor, loss control officer, business analyst, assistant branch manager, personal lending specialist, team leader.

## **B.6 Level 6**

[B.6 substituted by [PR543670](#) ppc 21Oct13]

A Level 6 position typically performs a middle managerial role primarily to control the conduct of a part of the employer's business and in which decisions are regularly made and responsibility accepted on matters relating to the administration and conduct of the part of the business. Those responsible for managing more than 10 people must be classified at this level provided that this level 6 classification does not cover classes of employees:

- (a) who, because of the nature or seniority of their role, were not traditionally covered at all by awards; or
- (b) who perform work that is not of a similar nature to work that has previously been regulated at all by awards.

**Indicative job list**—branch manager, human resources or fraudulent relations manager, financial planners, information technology specialists, relationship manager, senior analyst, subject matter manager, divisional manager.

## Schedule C—School-based Apprentices

[Sched B renumbered as Sched C by [PR988363](#) from 01Jan10]

- C.1** This schedule applies to school-based apprentices. A school-based apprentice is a person who is undertaking an apprenticeship in accordance with this schedule while also undertaking a course of secondary education.
- C.2** A school-based apprenticeship may be undertaken in the trades covered by this award under a training agreement or contract of training for an apprentice declared or recognised by the relevant State or Territory authority.
- C.3** The relevant minimum wages for full-time junior and adult apprentices provided for in this award, calculated hourly, will apply to school-based apprentices for total hours worked including time deemed to be spent in off-the-job training.
- C.4** For the purposes of clause C.3, where an apprentice is a full-time school student, the time spent in off-the-job training for which the apprentice must be paid is 25% of the actual hours worked each week on-the-job. The wages paid for training time may be averaged over the semester or year.
- C.5** A school-based apprentice must be allowed, over the duration of the apprenticeship, the same amount of time to attend off-the-job training as an equivalent full-time apprentice.
- C.6** For the purposes of this schedule, off-the-job training is structured training delivered by a Registered Training Organisation separate from normal work duties or general supervised practice undertaken on the job.
- C.7** The duration of the apprenticeship must be as specified in the training agreement or contract for each apprentice but must not exceed six years.
- C.8** School-based apprentices progress through the relevant wage scale at the rate of 12 months progression for each two years of employment as an apprentice.
- C.9** The apprentice wage scales are based on a standard full-time apprenticeship of four years (unless the apprenticeship is of three years duration). The rate of progression reflects the average rate of skill acquisition expected from the typical combination of work and training for a school-based apprentice undertaking the applicable apprenticeship.
- C.10** If an apprentice converts from school-based to full-time, all time spent as a full-time apprentice will count for the purposes of progression through the relevant wage scale in addition to the progression achieved as a school-based apprentice.
- C.11** School-based apprentices are entitled pro rata to all of the other conditions in this award.



## Schedule D—Supported Wage System

[Sched C renumbered as Sched D by [PR988363](#) from 01Jan10; varied by [PR994548](#), [PR998748](#), [PR510670](#), [PR525068](#), [PR537893](#), [PR542139](#), [PR551831](#), [PR568050](#), [PR581528](#), [PR592689](#), [PR606630](#), [PR709080](#)]

**D.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.

[D.2 varied by [PR568050](#) ppc 01Jul15]

**D.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

### **D.3 Eligibility criteria**

**D.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.

**D.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.

## **D.4 Supported wage rates**

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

<b>Assessed capacity (clause D.5)</b>	<b>Relevant minimum wage</b>
%	%
10	10
20	20
30	30
40	40
50	50
60	60
70	70
80	80
90	90

[D.4.2 varied by [PR994548](#), [PR998748](#), [PR510670](#), [PR525068](#), [PR537893](#), [PR551831](#), [PR568050](#), [PR581528](#), [PR592689](#), [PR606630](#), [PR709080](#) ppc 01Jul19]

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

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

## **D.5 Assessment of capacity**

**D.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.

**D.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.

## **D.6 Lodgement of SWS wage assessment agreement**

[D.6.1 varied by [PR994548](#), [PR542139](#) ppc 04Dec13]

**D.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.

[D.6.2 varied by [PR994548](#), [PR542139](#) ppc 04Dec13]

**D.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.

#### **D.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.

#### **D.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.

#### **D.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.

#### **D.10 Trial period**

**D.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.

**D.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.

[D.10.3 varied by [PR994548](#), [PR998748](#), [PR510670](#), [PR525068](#), [PR537893](#), [PR551831](#), [PR568050](#), [PR581528](#), [PR592689](#), [PR606630](#), [PR709080](#) ppc 01Jul19]

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

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

**D.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 D.5.

## Schedule E—National Training Wage

[Sched E inserted by [PR507824](#) ppc 24Mar11; varied by [PR509050](#), [PR522881](#), [PR536684](#), [PR545787](#), [PR551607](#), [PR566687](#), [PR579780](#); deleted by [PR593815](#) ppc 01Jul17]

## Schedule F—Part-day Public Holidays

[Sched F inserted by [PR532630](#) ppc 23Nov12; renamed and varied by [PR544519](#) ppc 21Nov13; renamed and varied by [PR557581](#), [PR573679](#), [PR580863](#), [PR598110](#), [PR701683](#) ppc 21Nov18; varied by [PR712229](#), [PR715102](#)]

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

[F.1 varied by [PR715102](#) ppc 18Nov19]

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

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

[F.1(b) varied by [PR715102](#) ppc 18Nov19]

- (b) Where a part-time or full-time employee is usually rostered to work ordinary hours on the declared or prescribed part-day public holiday but as a result of exercising their right under the NES does not work, they will be paid their ordinary rate of pay for such hours not worked.

[F.1(c) substituted by [PR715102](#) ppc 18Nov19]

- (c) Where a part-time or full-time employee is usually rostered to work ordinary hours on the declared or prescribed part-day public holiday but as a result of being on annual leave does not work, they will be taken not to be on annual leave during the hours of the declared or prescribed part-day public holiday that they would have usually been rostered to work and will be paid their ordinary rate of pay for such hours.

[F.1(d) varied by [PR715102](#) ppc 18Nov19]

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

[F.1(e) varied by [PR715102](#) ppc 18Nov19]

- (e) Excluding annualised salaried employees to whom clause F.1(f) applies, where an employee works any hours on the declared or prescribed part-day public holiday they will be entitled to the appropriate public holiday penalty rate (if any) in this award for those hours worked.

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[F.1(f) varied by [PR715102](#) ppc 18Nov19]

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

[F.1(g) varied by [PR715102](#) ppc 18Nov19]

- (g) An employee not rostered to work on the declared or prescribed part-day public holiday, other than an employee who has exercised their right in accordance with clause F.1(a), will not be entitled to another day off, another day's pay or another day of annual leave as a result of the part-day public holiday.

[F.2 inserted by [PR712229](#) ppc 04Oct19]

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

This schedule is not intended to detract from or supplement the NES.

## Schedule G—Agreement to Take Annual Leave in Advance

[Sched G inserted by [PR582967](#) ppc 29Jul16]

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

Name of employee: \_\_\_\_\_

Name of employer: \_\_\_\_\_

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

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

The leave in advance will commence on: \_\_\_\_/\_\_\_\_/20\_\_\_\_

Signature of employee: \_\_\_\_\_

Date signed: \_\_\_\_/\_\_\_\_/20\_\_\_\_

Name of employer representative: \_\_\_\_\_

Signature of employer representative: \_\_\_\_\_

Date signed: \_\_\_\_/\_\_\_\_/20\_\_\_\_

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

**I agree that:**

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

Name of parent/guardian: \_\_\_\_\_

Signature of parent/guardian: \_\_\_\_\_

Date signed: \_\_\_\_/\_\_\_\_/20\_\_\_\_

## Schedule H—Agreement to Cash Out Annual Leave

[Sched H inserted by [PR582967](#) 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 I—Agreement for Time Off Instead of Payment for Overtime

[Sched I inserted by [PR584076](#) 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\_\_\_