**Asphalt Industry Award 2010**

This Fair Work Commission consolidated modern award incorporates all amendments up to and including 8 April 2020 ([PR718141](https://www.fwc.gov.au/documents/awardsandorders/html/pr718141.htm)).

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

Schedule X—Additional Measures During the COVID-19 Pandemic

Current review matter(s): [AM2014/47](https://www.fwc.gov.au/awards-agreements/awards/modern-award-reviews/4-yearly-review/common-issues/am201447-annual-leave); [AM2014/66](https://www.fwc.gov.au/awards-and-agreements/modern-award-reviews/4-yearly-review/award-stage/award-review-documents/MA000054?m=AM2014/66); [AM2014/190](https://www.fwc.gov.au/awards-agreements/awards/modern-award-reviews/4-yearly-review/common-issues/am2014190-transitional); [AM2014/196](https://www.fwc.gov.au/awards-agreements/awards/modern-award-reviews/4-yearly-review/common-issues/am2014196-part-time); [AM2014/197](https://www.fwc.gov.au/awards-agreements/awards/modern-award-reviews/4-yearly-review/common-issues/am2014197-casual); [AM2014/300](https://www.fwc.gov.au/awards-agreements/awards/modern-award-reviews/4-yearly-review/common-issues/am2014300-award); [AM2014/301](https://www.fwc.gov.au/awards-agreements/awards/modern-award-reviews/4-yearly-review/common-issues/am2014301-public); [AM2015/1](https://www.fwc.gov.au/awards-agreements/awards/modern-award-reviews/4-yearly-review/common-issues/am20151-family-and); [AM2015/2](https://www.fwc.gov.au/awards-and-agreements/modern-award-reviews/4-yearly-review/am20152-family-friendly-work-arrangemen-0); [AM2016/8](https://www.fwc.gov.au/awards-agreements/awards/modern-award-reviews/4-yearly-review/common-issues/am20168-payment-wages); [AM2016/15](https://www.fwc.gov.au/awards-agreements/awards/modern-award-reviews/4-yearly-review/common-issues/am201615-plain-language); [AM2016/17](https://www.fwc.gov.au/awards-agreements/awards/modern-award-reviews/4-yearly-review/common-issues/am201617-national)

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1. Application and Operation
2. Title

This award is the *Asphalt Industry Award 2010*.

1. Commencement and transitional

[Varied by [PR991562](http://www.fwc.gov.au/awardsandorders/html/PR991562.htm), [PR542174](http://www.fwc.gov.au/awardsandorders/html/PR542174.htm)]

* 1. This award commences on 1 January 2010.
  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.
  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 [PR542174](http://www.fwc.gov.au/awardsandorders/html/PR542174.htm) ppc 04Dec13]

* 1. 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 [PR542174](http://www.fwc.gov.au/awardsandorders/html/PR542174.htm) ppc 04Dec13]

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

[2.6 varied by [PR542174](http://www.fwc.gov.au/awardsandorders/html/PR542174.htm) ppc 04Dec13]

* 1. The Fair Work Commission may review the transitional arrangements:
     1. on its own initiative; or
     2. on application by an employer, employee, organisation or outworker entity covered by the modern award; or
     3. 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
     4. 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.

1. Definitions and interpretation

[Varied by [PR994428](http://www.fwc.gov.au/awardsandorders/html/PR994428.htm), [PR997772](http://www.fwc.gov.au/awardsandorders/html/PR997772.htm), [PR503673](http://www.fwc.gov.au/awardsandorders/html/PR503673.htm), [PR546029](http://www.fwc.gov.au/awardsandorders/html/PR546029.htm)]

* 1. In this award, unless the contrary intention appears:

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

[Definition of **agreement-based transitional instrument** inserted by [PR994428](http://www.fwc.gov.au/awardsandorders/html/PR994428.htm) from 01Jan10]

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

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

[Definition of **default** **fund employee** inserted by [PR546029](http://www.fwc.gov.au/awardsandorders/html/PR546029.htm) 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 [PR546029](http://www.fwc.gov.au/awardsandorders/html/PR546029.htm) 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 [PR503673](http://www.fwc.gov.au/awardsandorders/html/PR503673.htm) 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 [PR503673](http://www.fwc.gov.au/awardsandorders/html/PR503673.htm) 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 [PR997772](http://www.fwc.gov.au/awardsandorders/html/PR997772.htm) from 01Jan10]

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

[Definition of **employer** substituted by [PR997772](http://www.fwc.gov.au/awardsandorders/html/PR997772.htm) from 01Jan10]

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

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

**NES** means the National Employment Standards as contained in [sections 59 to 131](http://www.fwc.gov.au/awardmod/download/nes.pdf) of the *Fair Work Act 2009* (Cth)

[Definition of **on-hire** inserted by [PR994428](http://www.fwc.gov.au/awardsandorders/html/PR994428.htm) 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 rate for a Skill level 3 in clause 14—Minimum wages

[Definition of **transitional minimum wage instrument** inserted by [PR994428](http://www.fwc.gov.au/awardsandorders/html/PR994428.htm) from 01Jan10]

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

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

1. Coverage

[Varied by [PR994428](http://www.fwc.gov.au/awardsandorders/html/PR994428.htm)]

* 1. This industry award covers employers throughout Australia in the asphalt industry and their employees in the classifications listed in clause 13—Classifications, to the exclusion of any other modern award.

Definition of asphalt industry

For the purpose of this clause, **asphalt industry** means roadmaking and the manufacture or preparation, applying, laying or fixing of bitumen emulsion, asphalt emulsion, bitumen or asphalt preparations, hot pre-mixed asphalt, cold paved asphalt and mastic asphalt.

* 1. The award does not cover an employee excluded from award coverage by the Act.
  2. The award does not cover employees who are covered by a modern enterprise award, or an enterprise instrument (within the meaning of the *Fair Work (Transitional Provisions and Consequential Amendments) Act 2009* (Cth)), or employers in relation to those employees.

[New 4.4 inserted by [PR994428](http://www.fwc.gov.au/awardsandorders/html/PR994428.htm) from 01Jan10]

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

[4.5 inserted by [PR994428](http://www.fwc.gov.au/awardsandorders/html/PR994428.htm) from 01Jan10]

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

[4.6 inserted by [PR994428](http://www.fwc.gov.au/awardsandorders/html/PR994428.htm) from 01Jan10]

* 1. This award covers employers which provide group training services for trainees engaged in the industry and/or parts of industry set out at clause 4.1 and those trainees engaged by a group training service hosted by a company to perform work at a location where the activities described herein are being performed. This subclause operates subject to the exclusions from coverage in this award.

[4.4 renumbered as 4.7 by [PR994428](http://www.fwc.gov.au/awardsandorders/html/PR994428.htm) from 01Jan10]

* 1. 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.

1. 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.

1. The National Employment Standards and this award

The [NES](http://www.fwc.gov.au/awardmod/download/nes.pdf) and this award contain the minimum conditions of employment for employees covered by this award.

1. Individual flexibility arrangements

[Varied by [PR542174](http://www.fwc.gov.au/awardsandorders/html/PR542174.htm); 7—Award flexibility renamed and substituted by [PR610217](https://www.fwc.gov.au/documents/awardsandorders/html/pr610217) ppc 01Nov18]

* 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:
     1. arrangements for when work is performed; or
     2. overtime rates; or
     3. penalty rates; or
     4. allowances; or
     5. annual leave loading.
  2. An agreement must be one that is genuinely made by the employer and the individual employee without coercion or duress.
  3. An agreement may only be made after the individual employee has commenced employment with the employer.
  4. An employer who wishes to initiate the making of an agreement must:
     1. give the employee a written proposal; and
     2. 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.
  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.
  6. An agreement must do all of the following:
     1. state the names of the employer and the employee; and
     2. identify the award term, or award terms, the application of which is to be varied; and
     3. set out how the application of the award term, or each award term, is varied; and
     4. 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
     5. state the date the agreement is to start.
  7. An agreement must be:
     1. in writing; and
     2. signed by the employer and the employee and, if the employee is under 18 years of age, by the employee’s parent or guardian.
  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.
  9. The employer must keep the agreement as a time and wages record and give a copy to the employee.
  10. The employer and the employee must genuinely agree, without duress or coercion to any variation of an award provided for by an agreement.
  11. An agreement may be terminated:
      1. at any time, by written agreement between the employer and the employee; or
      2. 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](http://www.legislation.gov.au/Series/C2009A00028)).

* 1. 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.
  2. 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.

1. Consultation and Dispute Resolution
2. Consultation about major workplace change

[8—Consultation regarding major workplace change renamed and substituted by [PR546288](http://www.fwc.gov.au/awardsandorders/html/pr546288.htm), 8—Consultation renamed and substituted by [PR610217](https://www.fwc.gov.au/documents/awardsandorders/html/pr610217/htm) ppc 01Nov18]

* 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:
     1. give notice of the changes to all employees who may be affected by them and their representatives (if any); and
     2. discuss with affected employees and their representatives (if any):
        1. the introduction of the changes; and
        2. their likely effect on employees; and
        3. measures to avoid or reduce the adverse effects of the changes on employees; and
     3. commence discussions as soon as practicable after a definite decision has been made.
  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:
     1. their nature; and
     2. their expected effect on employees; and
     3. any other matters likely to affect employees.
  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.
  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).
  5. In clause 8:

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

* + 1. termination of employment; or
    2. major changes in the composition, operation or size of the employer’s workforce or in the skills required; or
    3. loss of, or reduction in, job or promotion opportunities; or
    4. loss of, or reduction in, job tenure; or
    5. alteration of hours of work; or
    6. the need for employees to be retrained or transferred to other work or locations; or
    7. job restructuring.
  1. 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 [PR610217](https://www.fwc.gov.au/documents/awardsandorders/html/pr610217.htm) 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:

* + 1. 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
    2. 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.

1. Dispute resolution

[Varied by [PR542174](http://www.fwc.gov.au/awardsandorders/html/PR542174.htm), substituted by [PR610217](https://www.fwc.gov.au/documents/awardsandorders/html/pr610217.htm) ppc 01Nov18]

* 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](https://www.fwc.gov.au/documents/awardmod/download/nes.pdf).
  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.
  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.
  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.
  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.
  6. If the dispute remains unresolved, the Fair Work Commission may use any method of dispute resolution that it is permitted by the [Act](http://www.legislation.gov.au/Series/C2009A00028) to use and that it considers appropriate for resolving the dispute.
  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.
  8. While procedures are being followed under clause 9 in relation to a dispute:
     1. work must continue in accordance with this award and the [Act](http://www.legislation.gov.au/Series/C2009A00028); and
     2. 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. Clause 9.8 is subject to any applicable work health and safety legislation.

1. Types of Employment and Termination of Employment
2. Types of employment

General

Employees may be employed in one of the following categories:

* + 1. full-time;
    2. part-time; or
    3. casual.

Full-time employment

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

Part-time employment

A part-time employee is an employee who:

* + - 1. is engaged to work an average of fewer than 38 ordinary hours per week; and
      2. receives, on a pro rata basis, equivalent pay and conditions to those of full-time employees who perform the same kind of work.
    1. 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 14—Minimum wages.
    2. At the time of commencing employment the employer and a part-time employee must agree in writing, on the ordinary hours to be worked each week and the days such hours will be worked. Provided that the regular number of ordinary hours once fixed may be varied in writing by mutual agreement between the employer and the employee concerned.
    3. All time worked in excess of the regular number of ordinary hours will be overtime and paid at the rates prescribed in clause 24—Overtime and penalty rates.

Casual employment

* + 1. 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.
    2. 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 14—Minimum wages, plus a casual loading of 25%. The loading constitutes part of the casual employee’s all purpose rate.
    3. The casual loading is paid instead of annual leave, paid personal/carer’s leave, notice of termination, redundancy benefits and the other attributes of full-time or part-time employment.
    4. A casual employee will receive a minimum of four hours’ pay per engagement.

Casual conversion

* + - 1. A casual employee, other than an irregular casual employee, who has been engaged by a particular employer for a sequence of periods of employment under this award during a period of six months, thereafter has the right to elect to have their contract of employment converted to full-time or part-time employment if the employment is to continue beyond the conversion process.
      2. Where the employee requests to have their employment converted, the employer will advise the employee in writing, within four weeks of the request, as to whether the employer can consent to the request. Any dispute as to whether such a full-time or part-time position is available will be processed through the dispute resolution procedure.
      3. Where such conversion occurs the details will be recorded in writing.
      4. Any dispute about the arrangements to apply to an employee converting from casual employment to full-time or part-time employment will be processed through the dispute resolution procedure.
      5. For the purposes of clause 10.4(e) an **irregular casual employee** is one who has been engaged to perform work on an occasional or non‑systematic or irregular basis.

1. Termination of employment

[11 substituted by [PR61021](https://www.fwc.gov.au/documents/awardsandorders/html/pr610217.htm)7 ppc 01Nov18]

Note: The [NES](https://www.fwc.gov.au/documents/awardmod/download/nes.pdf) sets out requirements for notice of termination by an employer. See ss.117 and 123 of the [Act](http://www.legislation.gov.au/Series/C2009A00028).

Notice of termination by an employee

* + 1. This clause applies to all employees except those identified in ss.123(1) and 123(3) of the [Act](http://www.legislation.gov.au/Series/C2009A00028).
    2. 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**

| **Column 1 Employee’s period of continuous service with the employer at the end of the day the notice is given** | **Column 2 Period of notice** |
| --- | --- |
| 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.

* + 1. In paragraph (b) **continuous service** has the same meaning as in s.117 of the [Act](http://www.legislation.gov.au/Series/C2009A00028).
    2. 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.
    3. 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).
    4. Any deduction made under paragraph (d) must not be unreasonable in the circumstances.

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.

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

1. Redundancy

[Varied by [PR994428](http://www.fwc.gov.au/awardsandorders/html/PR994428.htm), [PR503673](http://www.fwc.gov.au/awardsandorders/html/PR503673.htm), [PR561478](http://www.fwc.gov.au/awardsandorders/html/PR561478.htm); substituted by [PR706904](https://www.fwc.gov.au/documents/awardsandorders/html/pr706904.htm) ppc 03May19]

NOTE: Redundancy pay is provided for in the [NES](https://www.fwc.gov.au/documents/awardmod/download/nes.pdf). See sections 119–123 of the [Act](http://www.legislation.gov.au/Series/C2009A00028).

Transfer to lower paid duties on redundancy

* + 1. Clause 12.1 applies if, because of redundancy, an employee is transferred to new duties to which a lower ordinary rate of pay applies.
    2. The employer may:
       1. 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](http://www.legislation.gov.au/Series/C2009A00028) as if it were a notice of termination given by the employer; or
       2. 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).
    3. 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.

Employee leaving during redundancy notice period

* + 1. 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](http://www.legislation.gov.au/Series/C2009A00028).
    2. 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](http://www.legislation.gov.au/Series/C2009A00028) had they remained in employment until the expiry of the notice.
    3. 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.

Job search entitlement

* + 1. 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](http://www.legislation.gov.au/Series/C2009A00028) for the purpose of seeking other employment.
    2. 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.
    3. A statutory declaration is sufficient for the purpose of paragraph (b).
    4. An employee who fails to produce proof when required under paragraph (b) is not entitled to be paid for the time off.
    5. This entitlement applies instead of clauses 11.2 and 11.3.

1. Minimum Wages and Related Matters
2. Classifications
   1. All employees covered by this award must be classified according to the structure set out in Schedule B—Classification Descriptors. Employers must advise their employees in writing of their classification and any changes to their classification.
   2. The classification by the employer must be according to the Skill level or levels required to be exercised by the employee in order to carry out the principal functions of the employment as determined by the employer.
3. Minimum wages

[Varied by [PR997942](http://www.fwc.gov.au/awardsandorders/html/PR997942.htm), [PR509085](http://www.fwc.gov.au/awardsandorders/html/PR509085.htm), [PR522916](http://www.fwc.gov.au/awardsandorders/html/PR522916.htm), [PR536719](http://www.fwc.gov.au/awardsandorders/html/pr536719.htm), [PR551642](http://www.fwc.gov.au/awardsandorders/html/PR551642.htm), [PR566729](https://www.fwc.gov.au/awardsandorders/html/PR566729.htm), [PR579824](http://www.fwc.gov.au/awardsandorders/html/PR579824.htm), [PR592152](http://www.fwc.gov.au/awardsandorders/html/pr592152.htm), [PR593837](http://www.fwc.gov.au/awardsandorders/html/pr593837.htm), [PR606379](https://www.fwc.gov.au/documents/awardsandorders/html/pr606379.htm), [PR707466](https://www.fwc.gov.au/documents/awardsandorders/html/pr707466.htm)]

[14.1 varied by [PR997942](http://www.fwc.gov.au/awardsandorders/html/PR997942.htm), [PR509085](http://www.fwc.gov.au/awardsandorders/html/PR509085.htm), [PR522916](http://www.fwc.gov.au/awardsandorders/html/PR522916.htm), [PR536719](http://www.fwc.gov.au/awardsandorders/html/pr536719.htm), [PR551642](http://www.fwc.gov.au/awardsandorders/html/PR551642.htm), [PR566729](https://www.fwc.gov.au/awardsandorders/html/PR566729.htm), [PR579824](http://www.fwc.gov.au/awardsandorders/html/PR579824.htm), [PR592152](http://www.fwc.gov.au/awardsandorders/html/pr592152.htm), [PR606379](https://www.fwc.gov.au/documents/awardsandorders/html/pr606379.htm), [PR707466](https://www.fwc.gov.au/documents/awardsandorders/html/pr707466.htm) ppc 01Jul19]

* 1. A full-time employee must be paid a minimum weekly rate for their classification as set out in the table below:

| **Classification** | **Minimum weekly rate $** |
| --- | --- |
| Skill level 1 | 740.80 |
| Skill level 2 | 784.10 |
| Skill level 3 | 816.70 |
| Skill level 4 | 862.70 |
| Skill level 5 | 870.20 |

The classification structure and descriptors for the above classifications are contained in Schedule B—Classification Descriptors.

Supported wage system

See Schedule C

National training wage

[14.3 substituted by [PR593837](http://www.fwc.gov.au/awardsandorders/html/pr593837.htm) ppc 01Jul17; varied by [PR606379](https://www.fwc.gov.au/documents/awardsandorders/html/pr606379.htm)]

* + 1. Schedule E to the *Miscellaneous Award 2010* sets out minimum wage rates and conditions for employees undertaking traineeships.

[14.3(b) varied by [PR606379](https://www.fwc.gov.au/documents/awardsandorders/html/pr606379.htm), [PR707466](http://www.fwc.gov.au/documents/awardsandorders/html/pr707466.htm) ppc 01Jul19]

* + 1. 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 *Asphalt Industry Award 2010* and not the *Miscellaneous Award 2010.*

1. Allowances

To view the current monetary amounts of work-related allowances refer to the [Allowances Sheet](http://www.fwc.gov.au/documents/documents/modern_awards/allowances/MA000054-all.pdf).

[Varied by [PR998066](http://www.fwc.gov.au/awardsandorders/html/PR998066.htm), [PR509207](http://www.fwc.gov.au/awardsandorders/html/PR509207.htm), [PR523037](http://www.fwc.gov.au/awardsandorders/html/PR523037.htm), [PR536840](http://www.fwc.gov.au/awardsandorders/html/pr536840.htm), [PR551763](http://www.fwc.gov.au/awardsandorders/html/PR551763.htm), [PR566864](http://www.fwc.gov.au/awardsandorders/html/PR566864.htm), [PR579558](http://www.fwc.gov.au/awardsandorders/html/PR579558.htm), [PR592314](http://www.fwc.gov.au/awardsandorders/html/pr592314.htm), [PR606534](https://www.fwc.gov.au/documents/awardsandorders/html/pr606534.htm), [PR704108](https://www.fwc.gov.au/documents/awardsandorders/html/pr704108.htm), [PR707667](https://www.fwc.gov.au/documents/awardsandorders/html/pr707667.htm)]

General

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.

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

Leading hand

A leading hand must be paid an allowance of 3.5% of the [standard rate](#standard_rate) per week.

First aid

* + - 1. If an employee is appointed by an employer to perform first aid duties they must be paid an allowance of 0.4% of the [standard rate](#standard_rate) per day.
      2. To avoid any doubt:
* If an employee is appointed to perform first aid they must hold a current first aid certificate.
* Just because an employee holds a first aid certificate or occupational first aid certificate does not mean that they will be appointed by the employer in accordance with clause 15.2(b)(i).

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

Industry allowance

In addition to the rates prescribed in clause 14—Minimum wages, each employee will be paid an industry allowance of 4.0% of the [standard rate](#standard_rate) per week for all purposes of the award.

Inclement weather

* + - 1. Employees will be paid an inclement weather allowance of 4.1% of the [standard rate](#standard_rate) per week. This allowance will be treated as part of the employee’s ordinary wage for all purposes of this award.
      2. This allowance is intended to compensate employees for all the additional disabilities of being required to work when exposed to inclement weather and for working in isolated and under-developed locations. For the purpose of this clause, **inclement weather** means wet weather and/or abnormal climatic conditions such as hail, cold, high winds, severe dust storms, extreme high temperatures or any combination thereof.
      3. Where employees cannot be gainfully employed on their normal duties or on other productive work because of wet weather, they will carry out alternative work out of the rain, where available.

Reimbursement and expense related allowances

Meal allowance for overtime work

If an employee is required to work overtime for:

[15.4(a)(i) varied by [PR998066](http://www.fwc.gov.au/awardsandorders/html/PR998066.htm), [PR509207](http://www.fwc.gov.au/awardsandorders/html/PR509207.htm), [PR523037](http://www.fwc.gov.au/awardsandorders/html/PR523037.htm), [PR536840](http://www.fwc.gov.au/awardsandorders/html/pr536840.htm), [PR551763](http://www.fwc.gov.au/awardsandorders/html/PR551763.htm), [PR566864](http://www.fwc.gov.au/awardsandorders/html/PR566864.htm), [PR579558](http://www.fwc.gov.au/awardsandorders/html/PR579558.htm), [PR592314](http://www.fwc.gov.au/awardsandorders/html/pr592314.htm), [PR606534](https://www.fwc.gov.au/documents/awardsandorders/html/pr606534.htm), [PR704108](https://www.fwc.gov.au/documents/awardsandorders/html/pr704108.htm), [PR707667](https://www.fwc.gov.au/documents/awardsandorders/html/pr707667.htm) ppc 01Jul19]

* + - 1. More than one and a half hours after their usual ceasing time, without having been notified the previous day or earlier, the employee will be paid an allowance at the rate of $15.75; and

[15.4(a)(ii) varied by [PR998066](http://www.fwc.gov.au/awardsandorders/html/PR998066.htm), [PR509207](http://www.fwc.gov.au/awardsandorders/html/PR509207.htm), [PR523037](http://www.fwc.gov.au/awardsandorders/html/PR523037.htm), [PR536840](http://www.fwc.gov.au/awardsandorders/html/pr536840.htm), [PR551763](http://www.fwc.gov.au/awardsandorders/html/PR551763.htm), [PR566864](http://www.fwc.gov.au/awardsandorders/html/PR566864.htm), [PR579558](http://www.fwc.gov.au/awardsandorders/html/PR579558.htm), [PR592314](http://www.fwc.gov.au/awardsandorders/html/pr592314.htm), [PR606534](https://www.fwc.gov.au/documents/awardsandorders/html/pr606534.htm), [PR704108](https://www.fwc.gov.au/documents/awardsandorders/html/pr704108.htm), [PR707667](https://www.fwc.gov.au/documents/awardsandorders/html/pr707667.htm) ppc 01Jul19]

* + - 1. Five and a half hours or more after their usual ceasing time (and for each four hours thereafter) the employee will be paid an allowance at the rate of $15.75.

This clause will not apply if a meal and any subsequent meal is provided by the employer.

Protective clothing, equipment and tools

* + - 1. Where an employee is required to wear protective clothing and equipment such as safety boots, headwear or wet-weather clothing, the employer must reimburse the employee for the cost of purchasing such clothing and equipment. The provisions of this paragraph do not apply where the clothing and equipment is paid for by the employer.
      2. Where the employer requires an employee to wear any special clothing such as uniforms, the employer must reimburse the employee for the cost of purchasing three sets of uniforms. The provisions of this paragraph do not apply where the clothing and equipment is paid for by the employer.
      3. Where the protective clothing or uniforms are supplied to the employee without cost, it will remain the property of the employer and will be returned in good condition to the employer (subject to fair wear and tear) on leaving the service of the employer.
      4. Provided that should an employee leave the service of the employer within six months of commencement and not return all clothing issued, the employee will be liable for 50% of the cost of such clothing.
      5. Where an employer requires an employee to provide and use any tools, the employer must reimburse the employee for the cost of purchasing such equipment. The provisions of this clause will not apply where the employer supplies such items without cost to the employee.

Country and distant work

Travelling to country work

[15.4(c)(i) varied by [PR998066](http://www.fwc.gov.au/awardsandorders/html/PR998066.htm), [PR509207](http://www.fwc.gov.au/awardsandorders/html/PR509207.htm), [PR523037](http://www.fwc.gov.au/awardsandorders/html/PR523037.htm), [PR536840](http://www.fwc.gov.au/awardsandorders/html/pr536840.htm), [PR551763](http://www.fwc.gov.au/awardsandorders/html/PR551763.htm), [PR566864](http://www.fwc.gov.au/awardsandorders/html/PR566864.htm), [PR579558](http://www.fwc.gov.au/awardsandorders/html/PR579558.htm), [PR592314](http://www.fwc.gov.au/awardsandorders/html/pr592314.htm), [PR606534](https://www.fwc.gov.au/documents/awardsandorders/html/pr606534.htm), [PR704108](https://www.fwc.gov.au/documents/awardsandorders/html/pr704108.htm), [PR707667](https://www.fwc.gov.au/documents/awardsandorders/html/pr707667.htm) ppc 01Jul19]

* **Reimbursement of fares**

All employees sent by the employer from the city to the country or from one country centre to another country centre or from a country centre to the city will have their fares reimbursed by the employer. Employees remaining until the completion of the job, or until the special work on which they were sent to perform is completed and no other work is provided by the employer, will be entitled to reimbursement of fares back to the place of employment. Alternatively, an employer may pay to the employee an allowance representing the actual cost of the fares. In such case fares will not be reimbursed.

* **Travelling time**

Where an employee is sent from one centre to another and is required to remain away from home while necessarily travelling between such centres, the rate of pay for the travelling time will be at ordinary rates. The maximum time to be paid for when travelling will be eight hours per day in addition to wages otherwise earned for work performed. Provided that this paragraph will not alter any current practice.

* **Travelling expenses**

Employees while travelling will be paid $15.75 per meal with a maximum of three meals per day and if required to spend a night en route will be paid $70.30. Provided that where an employee is provided with meals and accommodation the employee will not be entitled to the respective allowances.

Distant work—accommodation and incidentals allowance

[15.4(c)(ii) varied by [PR998066](http://www.fwc.gov.au/awardsandorders/html/PR998066.htm), [PR523037](http://www.fwc.gov.au/awardsandorders/html/PR523037.htm), [PR536840](http://www.fwc.gov.au/awardsandorders/html/pr536840.htm), [PR551763](http://www.fwc.gov.au/awardsandorders/html/PR551763.htm), [PR566864](http://www.fwc.gov.au/awardsandorders/html/PR566864.htm), [PR606534](https://www.fwc.gov.au/documents/awardsandorders/html/pr606534.htm), [PR704108](https://www.fwc.gov.au/documents/awardsandorders/html/pr704108.htm), [PR707667](https://www.fwc.gov.au/documents/awardsandorders/html/pr707667.htm) ppc 01Jul19]

In circumstances whereby an employee is required to work at a distance from the employee’s usual commencement point, such that the employee is unable to return home the same night, the following provisions will apply:

* The employer will pay an allowance of $504.54 per week for seven days for reasonable board and lodging, but such allowance will not be wages.
* In the case of broken parts of a week the allowance will be all living expenses actually and reasonably incurred but not exceeding $504.54 per week.
* Provided that the foregoing allowance will not be paid by the employer where reasonable board and lodging is provided.
* The employer will pay each employee an incidentals allowance of $5.38 per night.

Distant work—return home allowance

Where country work continues for more than two months, an employee on such job will be entitled to be paid fares reasonably incurred in returning home for a weekend, or must be provided with normal transport at the employer’s cost. Such entitlement to fares will accrue for only one weekend every four weeks after the completion of two months’ continuous service on such distant work. Provided that fares will not be payable by the employer unless the employee works their full ordinary hours on the ordinary working day before and the ordinary working day after such weekend. Provided further that such fares will not be payable unless the distant work continues for at least two weeks after such weekend.

Adjustment of expense related allowances

* + 1. At the time of any adjustment to the [standard rate](#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.
    2. The applicable index figure is the index figure published by the Australian Bureau of Statistics for the Eight Capitals Consumer Price Index (Cat No. 6401.0), as follows:

|  |  |
| --- | --- |
| **Allowance** | **Applicable Consumer Price Index figure** |
| Meal allowance | Take away and fast foods sub-group |
| Country and distant work | Domestic holiday travel and accommodation sub-group |

1. District allowances

[Varied by [PR994428](http://www.fwc.gov.au/awardsandorders/html/PR994428.htm); deleted by [PR561478](http://www.fwc.gov.au/awardsandorders/html/PR561478.htm) ppc 05Mar15]

1. Accident pay

[Varied by [PR994428](http://www.fwc.gov.au/awardsandorders/html/PR994428.htm), [PR503673](http://www.fwc.gov.au/awardsandorders/html/PR503673.htm); deleted by [PR561478](http://www.fwc.gov.au/awardsandorders/html/PR561478.htm) ppc 05Mar15]

1. Higher duties

Subject to Schedule B—Classification Descriptors an employee who is required to do work for which a higher rate is fixed will be entitled to receive such higher rate for all work done on that day.

1. Payment of wages

[Varied by [PR533917](http://www.fwc.gov.au/awardsandorders/html/pr533917.htm); [PR610082](https://www.fwc.gov.au/documents/awardsandorders/html/pr610082.htm)]

Period of payment

Wages will be paid weekly or fortnightly, by agreement between the employer and employee.

Method of payment

An employer may pay an employee’s wages by cash, cheque or electronic funds transfer into the employee’s bank or other recognised financial institution account.

Payment of wages on termination of employment

[19.3 substituted by [PR533917](http://www.fwc.gov.au/awardsandorders/html/pr533917.htm), [PR610082](https://www.fwc.gov.au/documents/awardsandorders/html/pr610082.htm) ppc 01Nov18]

* + 1. The employer must pay an employee no later than 7 days after the day on which the employee’s employment terminates:
       1. the employee’s wages under this award for any complete or incomplete pay period up to the end of the day of termination; and
       2. all other amounts that are due to the employee under this award and the [NES](http://www.fwc.gov.au/awardmod/download/nes.pdf).
    2. 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](http://www.legislation.gov.au/Series/C2009A00028).

Note 1: Section 117(2) of the [Act](http://www.legislation.gov.au/Series/C2009A00028) 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](http://www.legislation.gov.au/Series/C2009A00028) for the Commission to reduce the amount of redundancy pay an employee is entitled to under the [NES](http://www.fwc.gov.au/awardmod/download/nes.pdf).

Note 3: State and Territory long service leave laws or long service leave entitlements under s.113 of the [Act](http://www.legislation.gov.au/Series/C2009A00028), 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.

Day off coinciding with pay day

Where an employee is paid wages by cash or cheque and the employee is, by virtue of the arrangement of their ordinary hours, to take a day off on a day which coincides with pay day, such employee must be paid no later than the working day immediately following pay day. However, if the employer is able to make suitable arrangements, wages may be paid on the working day preceding pay day.

Wages to be paid during working hours

* + 1. Where an employee is paid wages by cash or cheque, such wages are to be paid during the employee’s ordinary hours.
    2. If an employee is paid wages by cash and is kept waiting for their wages on pay day, after the usual time for ceasing work, the employee is to be paid at overtime rates for the period they are kept waiting.

1. Superannuation

[New 20 inserted by [PR546029](http://www.fwc.gov.au/awardsandorders/html/PR546029.htm)]

Superannuation contributions for defined benefit members

An employer is permitted to make superannuation contributions to a superannuation fund or scheme in relation to a default fund employee who is a defined benefit member of the fund or scheme.

1. Hours of Work and Related Matters
2. Ordinary hours of work

[Varied by [PR994428](http://www.fwc.gov.au/awardsandorders/html/PR994428.htm); 20 renumbered as 21 by [PR546029](http://www.fwc.gov.au/awardsandorders/html/PR546029.htm)]

Ordinary hours of work

* + 1. The ordinary hours of work will be an average of 38 hours per week over a four week cycle. Employees will work eight hours each day and 0.4 of one hour of each day worked will accrue as an entitlement to take a rostered day off in each cycle as a day off paid for as though worked.
    2. The ordinary hours of part-time and casual employees will be in accordance with clause 10—Types of employment.

Employees—other than shiftworkers

* + 1. Employees other than shiftworkers may be required to work up to 10 ordinary hours per day, between the hours of 6.00 am and 6.00 pm Monday to Friday.
    2. An employer may agree with a majority of affected employees to alter the spread of hours in clause 21.2(a).
    3. A schedule of rostered days off will be determined and agreed between the parties in advance.
    4. Such scheduled rostered days off may be deferred and accumulated up to a maximum of four rostered days off, by agreement between the employer and any individual employee concerned.
    5. Where the majority of employees in any particular section of work agree, and the employer or employer’s representative agrees, an alternative day in the four week cycle may be substituted for the scheduled rostered day off, and where such agreement is reached all provisions of this award will apply as if the substituted day were the scheduled rostered day off.
    6. Each day of paid leave taken e.g. annual leave, and any public holidays occurring during any cycle of four weeks will be regarded as a day worked for accrual purposes (this does not include periods of long service leave).

[20.2(g) varied by [PR994428](http://www.fwc.gov.au/awardsandorders/html/PR994428.htm) from 01Jan10]

* + 1. An employee who has not worked, or is not regarded by reason of clause 21.2(f) above as having worked, a complete four week cycle will receive pro rata accrued entitlements for each day worked (or each fraction of a day worked) or regarded as having been worked in such cycle, payable for the rostered day off, or in the case of termination of employment, on termination.
    2. The accrued rostered day off prescribed in this subclause will be taken as a paid day off provided that the day may be worked where that is required by the employer and such work is necessary:
* to allow other employees to be employed productively;
* to carry out maintenance outside ordinary working hours;
* because of unforeseen delays to a particular project or a section of it; or
* for other reasons arising from unforeseen or emergency circumstances on a project;

in which case the employee will take one paid day off before the end of the succeeding work cycle, and the employee must be paid for the day worked at the rates prescribed for Saturday work in clause 24.3.

Methods of arranging ordinary working hours

* + 1. Subject to the employer’s right to fix the daily hours of work for employees other than shiftworkers and to fix the commencing and finishing time of shifts, the arrangement of ordinary working hours is to be by agreement between the employer and the majority of employees affected. This does not preclude the employer reaching agreement with individual employees about how their working hours are to be arranged.
    2. Matters upon which agreement may be reached include:
       1. how the hours are to be averaged within a work cycle;
       2. the duration of the work cycle for employees other than shiftworkers provided that such duration will not exceed three months;
       3. rosters which specify the starting and finishing times of working hours;
       4. a period of notice of a rostered day off which is less than four weeks;
       5. substitution of rostered days off;
       6. accumulation of rostered days off;
       7. arrangements which allow for flexibility in relation to the taking of rostered days off; and
       8. any arrangements of ordinary hours which exceed eight hours in any day.
    3. By agreement between the employer and the majority of employees in the enterprise or part of the enterprise concerned, 12 hour days or shifts may be introduced subject to:
* proper health monitoring procedures being introduced;
* suitable roster arrangements being made;
* proper supervision being provided; and
* adequate breaks being provided.
  + 1. Employees may be required to work on their rostered day off and if so will be granted a day off within 14 days of the original rostered day off.

Daylight saving

* + 1. Where by reason of State legislation, summer time is prescribed as being in advance of the standard time in that State the length of any shift:
       1. commencing before the time prescribed by the relevant legislation for the commencement of a summer time period; and
       2. 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 of the shift. The time of the clock in each case is to be set to the time fixed by the relevant State legislation.

* + 1. The expressions standard time and summer time will bear the same meaning as are prescribed by the relevant State legislation.

1. Shiftwork

[21 renumbered as 22 by [PR546029](http://www.fwc.gov.au/awardsandorders/html/PR546029.htm)]

Definitions

* + 1. For the purpose of this clause:

**rostered shift** means any shift of which the employee concerned has had at least 48 hours’ notice

**day shift** means any shift starting at or after 6.00 am and before 10.00 am

**afternoon shift** means any shift starting at or after 10.00 am and before 8.00 pm

**night shift** means any shift starting at or after 8.00 pm and before 6.00 am

* + 1. By agreement between the employer and the majority of affected employees the span of hours over which shifts may be worked may be altered by up to one hour at either end of the span.

Afternoon and night shift allowances

* + 1. Employees whilst working on afternoon or night shift will be paid 15% more than their ordinary rate.
    2. An employee who is required to work on any afternoon or night shift that does not continue for at least five successive afternoons or nights will be paid at the rate of time and a half and all time worked in excess of eight hours must be paid for at the rate of double time.
    3. An employee who (except at the employee’s own request):
       1. during a period of engagement on shift, works night shift only;
       2. remains on a night shift longer than four successive weeks; or
       3. works on a night shift which does not rotate or alternate with another shift or with day work so as to give that employee at least one third of working time off the night shift cycle each cycle

will, during such engagement, period or cycle be paid 30% more than the employee’s ordinary rate for all time worked during ordinary working hours on such night shift.

* + 1. The loadings provided for in clause 22.2 are not cumulative.

Hours of work

* + 1. The ordinary working hours of employees on shiftwork will not exceed an average of 38 hours per week spread over a period of two, three, or four weeks and must not exceed 144 hours in 28 consecutive days. Such hours are to be worked in shifts of eight hours inclusive of a meal break of 30 minutes which will be counted as time worked.
    2. By agreement between the employer and the majority of employees concerned, a roster system may operate on the basis that the weekly average of 38 ordinary hours is allowed over a period which exceeds 28 consecutive days but does not exceed 12 months.
    3. The ordinary hours of work are to be worked continuously, except for meal breaks, at the discretion of the employer.
    4. Except at changeover of shifts an employee will not be required to work more than one shift in each 24 hours.
    5. Employees on shiftwork will accrue 0.4 of one hour for each eight hour shift worked to allow one complete shift to be taken off as a paid shift for every 20 shift cycle. This 20th shift will be paid for at the appropriate shift rate as prescribed by clause 22—Shiftwork.
    6. Each day of paid leave taken and any public holiday occurring during any cycle of four weeks will be regarded as a shift worked for accrual purposes.
    7. Except as provided for above, employees not working a complete four week cycle will be paid pro rata accrued entitlements for each shift worked, on the programmed shift off or, in the case of termination of employment, on termination.
    8. The employer and employees will agree in writing upon arrangements for rostered paid days or for accumulation of accrued days to be taken at or before the end of a particular contract.
    9. Once such days have been rostered they will be taken as paid days off. Provided that where an employer, for emergency reasons, requires a shiftworker to work on a rostered day off the employee will be paid, in addition to the accrued entitlement, the rates prescribed for Saturday work for employees other than shiftworkers in clause 24.3.

Shift rosters

There will be a roster of shifts which will:

* + 1. provide for rotation unless all the employees concerned desire otherwise; and
    2. provide for not more than eight shifts to be worked in any nine consecutive days.

Overtime

* + 1. Subject to clause 22.5(b) work done by shiftworkers in excess of and outside the ordinary working hours inclusive of time worked for accrual purposes as per clause 22.3 of their shift or on a shift other than a rostered shift will be paid at the rate of double time.
    2. This provision will not apply to arrangements between the employees themselves or in cases due to rotation of shift or when the relief does not come on duty at the proper time. For all time worked after finishing an ordinary shift, unrelieved employees will be paid at the rate of time and a half for the first eight hours and double time thereafter.

Saturday shifts

Employees working Saturday shifts will be paid for ordinary hours of work inclusive of time worked for accrual purposes as prescribed in clause 22.3 between midnight on Friday and midnight on Saturday at the minimum rate of time and a half.

Sundays and public holidays

* + 1. Subject to this clause, Sundays and public holidays will apply to shiftworkers as follows:
       1. Where shifts commence between 11.00 pm and midnight on a Sunday or public holiday, the time so worked before midnight will not entitle the employee to the Sunday or public holiday rate.
       2. The time worked by an employee on a shift commencing before midnight on the day preceding a Sunday or public holiday and extending into a Sunday or public holiday will be regarded as time worked on such Sunday or public holiday.
       3. Where shifts fall partly on a Sunday or a public holiday that shift, the major portion of which falls on a Sunday or a public holiday, will be regarded as the Sunday or public holiday shift.
  1. An employer may require an employee other than a shiftworker to change to shiftwork provided at least 24 hours’ notice is given of the change. Overtime rates will be paid if the shifts do not continue for at least five consecutive afternoons or nights.

1. Meal breaks and rest periods

[22 renumbered as 23 by [PR546029](http://www.fwc.gov.au/awardsandorders/html/PR546029.htm)]

Rest period

A rest break of one 15 minute period or two rest periods of seven and a half minutes duration on each day to be counted as time worked will be allowed to employees, other than shiftworkers, without deduction of pay. The employer will fix the time for the commencement of the rest period and this period will not involve a complete stoppage of work.

Meal break

Employees, other than shiftworkers, will be entitled to an unpaid meal break after every five hours worked of not less than 30 minutes.

Shiftworker meal break

A shiftworker working 10 hours or less will be entitled to a paid meal break of 30 minutes per shift.

Operational requirements

Breaks will be scheduled by the employee’s supervisor based upon operational requirements so as to ensure continuity of operations. The employer will not require an employee to work more than five hours before the first meal is taken or between subsequent meal breaks, if any.

Working during meal breaks

Employees called to work during recognised meal breaks will be paid at overtime rates for all time worked until they receive a meal break of the usual period. Provided that where it is necessary to alter the time of the recognised meal break employees may be called upon to work for not more than one hour beyond such recognised meal break without additional rates of pay provided that they receive the equivalent meal time.

* 1. **Overtime meal break**

Refer to clause 24.7.

1. Overtime and penalty rates

[23 renumbered as 24 by [PR546029](http://www.fwc.gov.au/awardsandorders/html/PR546029.htm); varied by [PR584075](http://www.fwc.gov.au/awardsandorders/html/PR584075.htm)]

Payment for working overtime

* + 1. Except as provided below, all time worked in excess of and outside the ordinary hours of work inclusive of time worked for accrual purposes as prescribed in clause 21—Ordinary hours of work and clause 22—Shiftwork will be paid for at:
       1. one and a half times the ordinary prescribed rate for the first two hours; and
       2. double the ordinary prescribed rate for all time thereafter.
    2. In computing overtime, each day’s work will stand alone.

Application of this clause

This clause will not apply:

* + 1. to any time spent by an employee in the course of travelling to or from any yard, camp, depot or picking up place of the employer; or
    2. in the course of going into a place of work for the purpose of starting work, or in the course of returning after ceasing work.

Saturday work

An employee other than a shiftworker required to work overtime on a Saturday will be paid for a minimum of four hours’ work at overtime rates.

Sunday work

Employees required to work overtime on Sundays will be paid for a minimum of four hours’ work at double time. The double time is to be paid until the employee is relieved from duty.

Recall and stand-by

If an employee is recalled to work overtime after leaving the job (whether notified before or after leaving) the employee will be paid for a minimum of three hours’ work (whether worked or not) or where the employee has been paid for standing by the employee will be paid a minimum of three hours’ pay at the appropriate rates.

Rest period after overtime

* + 1. When overtime work is necessary it must, wherever reasonably practicable, be so arranged that employees have at least 10 consecutive hours off duty between the work of successive working days.
    2. An employee (other than a casual employee) who works so much overtime between the termination of ordinary work on one day and the commencement of ordinary work on the next day that the employee has not had at least 10 consecutive hours off duty between those times must, subject to this subclause, be released after completion of the overtime until the employee has had 10 consecutive hours off duty without loss of pay for ordinary working time occurring during such absence.
    3. If, on the instructions of the employer, an employee resumes or continues work without having had the 10 consecutive hours off duty, the employee must be paid at double time rates until released from duty for such period. The employee is then entitled to be absent until the employee has had 10 consecutive hours off duty without loss of pay for ordinary working time occurring during the absence.
    4. The provisions of this subclause will apply in the case of shiftworkers as if eight hours were substituted for 10 hours when overtime is worked:
       1. for the purpose of changing shift rosters;
       2. where a shiftworker does not report for duty and an employee other than a shiftworker or a shiftworker is required to replace the shiftworker; or
       3. where a shift is worked by arrangement between the employees themselves.

Overtime meal break

* + 1. An employee must be entitled to a 20 minute paid break after two hours of work past the normal finishing time and after each additional four hours of continuous overtime, provided that such work is to continue after the break and further provided that in respect of this condition, time worked will mean time worked on the job and excludes time spent travelling from the job back to the depot.
    2. An employer and employee may agree to any variation of this subclause to meet the circumstances of the work in hand provided that the employer is not required to make any payment in excess of or less than what would otherwise be required under this subclause.

Time off instead of payment for overtime

[24.8 substituted by [PR584075](http://www.fwc.gov.au/awardsandorders/html/PR584075.htm) ppc 22Aug16]

* + 1. 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.
    2. 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 24.8.
    3. An agreement must state each of the following:
       1. the number of overtime hours to which it applies and when those hours were worked;
       2. that the employer and employee agree that the employee may take time off instead of being paid for the overtime;
       3. 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;
       4. 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 H. There is no requirement to use the form of agreement set out at Schedule H. An agreement under clause 24.8 can also be made by an exchange of emails between the employee and employer, or by other electronic means.

* + 1. 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 24.8 an employee who worked 2 overtime hours is entitled to 2 hours’ time off.

* + 1. Time off must be taken:
       1. within the period of 6 months after the overtime is worked; and
       2. at a time or times within that period of 6 months agreed by the employee and employer.
    2. If the employee requests at any time, to be paid for overtime covered by an agreement under clause 24.8 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.
    3. 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.
    4. The employer must keep a copy of any agreement under clause 24.8 as an employee record.
    5. 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.
    6. An employee may, under section 65 of the Act, request to take time off, at a time or times specified in the request or to be subsequently agreed by the employer and the employee, instead of being paid for overtime worked by the employee. If the employer agrees to the request then clause 24.8 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).

* + 1. If, on the termination of the employee’s employment, time off for overtime worked by the employee to which clause 24.8 applies has not been taken, the employer must pay the employee for the overtime at the overtime rate applicable to the overtime when worked.

Note: Under section 345(1) of the Act, a person must not knowingly or recklessly make a false or misleading representation about the workplace rights of another person under clause 24.8.

24A. Requests for flexible working arrangements

[24A inserted by [PR701457](http://www.fwc.gov.au/documents/awardsandorders/html/pr701457.htm) ppc 01Dec18]

24A.1 Employee may request change in working arrangements

Clause 24A applies where an employee has made a request for a change in working arrangements under s.65 of the [Act](http://www.legislation.gov.au/Series/C2009A00028).

Note 1: Section 65 of the [Act](http://www.legislation.gov.au/Series/C2009A00028) 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 24A is an addition to s.65.

24A.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:

* + 1. the needs of the employee arising from their circumstances;
    2. the consequences for the employee if changes in working arrangements are not made; and
    3. 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)).

24A.3 What the written response must include if the employer refuses the request

Clause 24A.3 applies if the employer refuses the request and has not reached an agreement with the employee under clause 24A.2.

* + 1. 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.
    2. If the employer and employee could not agree on a change in working arrangements under clause 24A.2, the written response under s.65(4) must:
       1. 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
       2. if the employer can offer the employee such changes in working arrangements, set out those changes in working arrangements.

24A.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 24A.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.

24A.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 24A, can be dealt with under clause 9—Dispute resolution.

1. Leave and Public Holidays
2. Annual leave

[24 renumbered as 25 by [PR546029](http://www.fwc.gov.au/awardsandorders/html/PR546029.htm); varied by [PR546275](http://www.fwc.gov.au/awardsandorders/html/PR546275.htm), [PR582966](http://www.fwc.gov.au/awardsandorders/html/PR582966.htm), [PR588738](https://www.fwc.gov.au/documents/awardsandorders/html/pr588738.htm), [PR700441](https://www.fwc.gov.au/documents/awardsandorders/html/pr700441.htm)]

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

[25.2 substituted by [PR700441](https://www.fwc.gov.au/documents/awardsandorders/html/pr700441.htm) ppc 17Sep18]

Seven day shiftworkers

For the purpose of the additional week of annual leave provided for in s.87(1)(b) of the Act, a **shiftworker** is a seven day shiftworker who is regularly rostered to work on Sundays and public holidays.

Annual leave in advance

[25.3 renamed and substituted by [PR582966](http://www.fwc.gov.au/awardsandorders/html/PR582966.htm) ppc 29Jul16]

* + 1. 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.
    2. An agreement must:
       1. state the amount of leave to be taken in advance and the date on which leave is to commence; and
       2. 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 25.3 is set out at Schedule F. There is no requirement to use the form of agreement set out at Schedule F.

* + 1. The employer must keep a copy of any agreement under clause 25.3 as an employee record.
    2. 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 25.3, 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.

Close-down

* + 1. Where an employer intends temporarily to close (or reduce to nucleus) during the Christmas/New Year period for the purpose, amongst others, of allowing annual leave to the employees concerned or a majority of them, the employer may give those employees one month’s notice in writing of an intention to apply the provisions of this clause.
    2. In the case of any employee employed after notice has been given, notice must be given to that employee on the date they are offered employment.

[25.4(c) substituted by [PR546275](http://www.fwc.gov.au/awardsandorders/html/PR546275.htm) ppc 24Jan14]

* + 1. Where an employee has been given notice pursuant to clauses 25.4(a) or (b) and the employee has:
       1. accrued sufficient annual leave to cover the full period of closing, the employee must take paid annual leave for the full period of closing;
       2. insufficient accrued annual leave to cover the full period of closing, the employee must take paid annual leave to the full amount accrued and leave without pay for the remaining period of the closing; or
       3. no accrued annual leave, the employee must take leave without pay for the full period of closing.

[25.4(d) substituted by [PR546275](http://www.fwc.gov.au/awardsandorders/html/PR546275.htm) ppc 24Jan14]

* + 1. Public holidays that fall within the period of close down will be paid as provided for in this award and will not count as a day of annual leave or leave without pay.

Excessive leave accruals: general provision

[25.5 renamed and substituted by [PR588738](https://www.fwc.gov.au/documents/awardsandorders/html/pr588738.htm) ppc 20Dec16]

Note: Clauses 25.5 to 25.7 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.

* + 1. 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 25.2).
    2. 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.
    3. Clause 25.6 sets out how an employer may direct an employee who has an excessive leave accrual to take paid annual leave.
    4. Clause 25.7 sets out how an employee who has an excessive leave accrual may require an employer to grant paid annual leave requested by the employee.

Excessive leave accruals: direction by employer that leave be taken

[New 25.6 inserted by [PR588738](https://www.fwc.gov.au/documents/awardsandorders/html/pr588738.htm) ppc 20Dec16]

* + 1. If an employer has genuinely tried to reach agreement with an employee under clause 25.5(b) but agreement is not reached (including because the employee refuses to confer), the employer may direct the employee in writing to take one or more periods of paid annual leave.
    2. However, a direction by the employer under paragraph (a):
       1. 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 25.5, 25.6 or 25.7 or otherwise agreed by the employer and employee) are taken into account; and
       2. must not require the employee to take any period of paid annual leave of less than one week; and
       3. 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
       4. must not be inconsistent with any leave arrangement agreed by the employer and employee.
    3. The employee must take paid annual leave in accordance with a direction under paragraph (a) that is in effect.
    4. 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 25.6(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.

Excessive leave accruals: request by employee for leave

[New 25.7 inserted by [PR588738](https://www.fwc.gov.au/documents/awardsandorders/html/pr588738.htm); substituted by [PR588738](https://www.fwc.gov.au/documents/awardsandorders/html/pr588738.htm) ppc 20Dec17]

* + 1. If an employee has genuinely tried to reach agreement with an employer under clause 25.5(b) but agreement is not reached (including because the employer refuses to confer), the employee may give a written notice to the employer requesting to take one or more periods of paid annual leave.
    2. However, an employee may only give a notice to the employer under paragraph (a) if:
       1. the employee has had an excessive leave accrual for more than 6 months at the time of giving the notice; and
       2. the employee has not been given a direction under clause 25.6(a) that, when any other paid annual leave arrangements (whether made under clause 25.5, 25.6 or 25.7 or otherwise agreed by the employer and employee) are taken into account, would eliminate the employee’s excessive leave accrual.
    3. A notice given by an employee under paragraph (a) must not:
       1. 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 25.5, 25.6 or 25.7 or otherwise agreed by the employer and employee) are taken into account; or
       2. provide for the employee to take any period of paid annual leave of less than one week; or
       3. 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
       4. be inconsistent with any leave arrangement agreed by the employer and employee.
    4. 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 25.2) in any period of 12 months.
    5. The employer must grant paid annual leave requested by a notice under paragraph (a).

Payment and loading

[25.6 renumbered as 25.8 by [PR588738](https://www.fwc.gov.au/documents/awardsandorders/html/pr588738.htm) ppc 20Dec16]

Before the start of an employee’s annual leave the employer must pay the employee:

* + 1. instead of the base rate of pay referred to in s.90(1) of the Act, the amount the employee would have earned for working their ordinary hours had they not been on leave; and
    2. an additional loading of 17.5% of the wages prescribed by this award for the ordinary hours of work as performed between Monday and Friday or if they were a shiftworker prior to entering leave, their shift penalty, whichever is greater.

Electronic funds transfer (EFT) payment of annual leave

[25.7 inserted by [PR582966](http://www.fwc.gov.au/awardsandorders/html/PR582966.htm) ppc 29Jul16; renumbered as 25.9 by [PR588738](https://www.fwc.gov.au/documents/awardsandorders/html/pr588738.htm) ppc 20Dec16]

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

Cashing out of annual leave

[25.8 inserted by [PR582966](http://www.fwc.gov.au/awardsandorders/html/PR582966.htm) ppc 29Jul16; renumbered as 25.10 by [PR588738](https://www.fwc.gov.au/documents/awardsandorders/html/pr588738.htm) ppc 20Dec16]

* + 1. Paid annual leave must not be cashed out except in accordance with an agreement under clause 25.10.
    2. Each cashing out of a particular amount of paid annual leave must be the subject of a separate agreement under clause 25.10.
    3. 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.
    4. An agreement under clause 25.10 must state:
       1. the amount of leave to be cashed out and the payment to be made to the employee for it; and
       2. the date on which the payment is to be made.
    5. An agreement under clause 25.10 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.
    6. 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.
    7. An agreement must not result in the employee’s remaining accrued entitlement to paid annual leave being less than 4 weeks.
    8. The maximum amount of accrued paid annual leave that may be cashed out in any period of 12 months is 2 weeks.
    9. The employer must keep a copy of any agreement under clause 25.10 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 25.10.

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 25.10.

Note 3: An example of the type of agreement required by clause 25.10 is set out at 0. There is no requirement to use the form of agreement set out at 0.

1. Personal/carer’s leave and compassionate leave

[25 renumbered as 26 by [PR546029](http://www.fwc.gov.au/awardsandorders/html/PR546029.htm)]

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

1. Community service leave

[26 renumbered as 27 by [PR546029](http://www.fwc.gov.au/awardsandorders/html/PR546029.htm)]

Community service leave is provided for in the NES.

1. Public holidays

[27 renumbered as 28 by [PR546029](http://www.fwc.gov.au/awardsandorders/html/PR546029.htm); varied by [PR712276](https://www.fwc.gov.au/documents/awardsandorders/html/pr712276.htm)]

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

Substitution of public holidays by agreement

[28.2 substituted by [PR712276](https://www.fwc.gov.au/documents/awardsandorders/html/pr712276.htm) ppc 04Oct19]

* + 1. An employer and employee may agree to substitute another day for a day that would otherwise be a public holiday under the NES.
    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.

Payment for work on a public holiday

If an employee works on any of the public holidays arising from this clause or any day substituted for such public holidays the employee will be paid at the rate of double time and one half of their ordinary rate of pay, with a minimum payment of four hours at such rate.

[Note inserted by [PR712276](https://www.fwc.gov.au/documents/awardsandorders/html/pr712276.htm) ppc 04Oct19]

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

1. Leave to deal with Family and Domestic Violence

[29 inserted by [PR609372](http://www.fwc.gov.au/awardsandorders/html/PR609372.htm) ppc 01Aug18]

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

Definitions

* + 1. 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:

* + - 1. a spouse, de facto partner, child, parent, grandparent, grandchild or sibling of the employee; or
      2. a child, parent, grandparent, grandchild or sibling of a spouse or de facto partner of the employee; or
      3. a person related to the employee according to Aboriginal or Torres Strait Islander kinship rules.
    1. A reference to a spouse or de facto partner in the definition of family member in clause 29.2(a) includes a former spouse or de facto partner.

Entitlement to unpaid leave

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

* + 1. the leave is available in full at the start of each 12 month period of the employee’s employment; and
    2. the leave does not accumulate from year to year; and
    3. 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.

Taking unpaid leave

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

* + 1. is experiencing family and domestic violence; and
    2. 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.

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.

Notice and evidence requirements

Notice

An employee must give their employer notice of the taking of leave by the employee under clause 29. The notice:

* + - 1. must be given to the employer as soon as practicable (which may be a time after the leave has started); and
      2. must advise the employer of the period, or expected period, of the leave.

Evidence

An employee who has given their employer notice of the taking of leave under clause 29 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 29.4.

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.

Confidentiality

* + 1. Employers must take steps to ensure information concerning any notice an employee has given, or evidence an employee has provided under clause 29.6 is treated confidentially, as far as it is reasonably practicable to do so.
    2. Nothing in clause 29 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.

Compliance

An employee is not entitled to take leave under clause 29 unless the employee complies with clause 29.

1. —Transitional Provisions

[Varied by [PR991562](http://www.fwc.gov.au/awardsandorders/html/PR991562.htm), [PR503673](http://www.fwc.gov.au/awardsandorders/html/PR503673.htm)]

General

* + 1. The provisions of this schedule deal with minimum obligations only.
    2. The provisions of this schedule are to be applied:
       1. 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;
       2. when a loading or penalty in a relevant transitional minimum wage instrument or award-based transitional instrument has no equivalent provision in this award;
       3. 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
       4. when there is a loading or penalty in this award but there is no relevant transitional minimum wage instrument or award-based transitional instrument.

Minimum wages – existing minimum wage lower

* + 1. The following transitional arrangements apply to an employer which, immediately prior to 1 January 2010:
       1. was obliged,
       2. but for the operation of an agreement-based transitional instrument or an enterprise agreement would have been obliged, or
       3. 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.

* + 1. In this clause minimum wage includes:
       1. a minimum wage for a junior employee, an employee to whom training arrangements apply and an employee with a disability;
       2. a piecework rate; and
       3. any applicable industry allowance.
    2. 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.
    3. 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.
    4. 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% |

* + 1. The employer must apply any increase in minimum wages in this award resulting from an annual wage review.
    2. These provisions cease to operate from the beginning of the first full pay period on or after 1 July 2014.

Minimum wages – existing minimum wage higher

* + 1. The following transitional arrangements apply to an employer which, immediately prior to 1 January 2010:
       1. was obliged,
       2. but for the operation of an agreement-based transitional instrument or an enterprise agreement would have been obliged, or
       3. 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.

* + 1. In this clause minimum wage includes:
       1. a minimum wage for a junior employee, an employee to whom training arrangements apply and an employee with a disability;
       2. a piecework rate; and
       3. any applicable industry allowance.
    2. 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.
    3. 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.
    4. 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% |

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

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.

Loadings and penalty rates – existing loading or penalty rate lower

* + 1. The following transitional arrangements apply to an employer which, immediately prior to 1 January 2010:
       1. was obliged,
       2. but for the operation of an agreement-based transitional instrument or an enterprise agreement would have been obliged, or
       3. 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.

* + 1. 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.
    2. 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.
    3. 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% |

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

Loadings and penalty rates – existing loading or penalty rate higher

* + 1. The following transitional arrangements apply to an employer which, immediately prior to 1 January 2010:
       1. was obliged,
       2. but for the operation of an agreement-based transitional instrument or an enterprise agreement would have been obliged, or
       3. 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.

* + 1. 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.
    2. 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.
    3. 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% |

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

Loadings and penalty rates – no existing loading or penalty rate

* + 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.
    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.
    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% |

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

Former Division 2B employers

[A.8 inserted by [PR503673](http://www.fwc.gov.au/awardsandorders/html/PR503673.htm) ppc 01Jan11]

* + 1. This clause applies to an employer which, immediately prior to 1 January 2011, was covered by a Division 2B State award.
    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.
    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.
    4. Despite clause A.8.3, where a minimum wage, loading or penalty rate in a Division 2B State award immediately prior to 1 February 2011 was lower than the corresponding minimum wage, loading or penalty rate in this award, nothing in this Schedule requires a Division 2B employer to pay more than the minimum wage, loading or penalty rate in this award.
    5. Despite clause A.8.3, where a minimum wage, loading or penalty rate in a Division 2B State award immediately prior to 1 February 2011 was higher than the corresponding minimum wage, loading or penalty rate in this award, nothing in this Schedule requires a Division 2B employer to pay less than the minimum wage, loading or penalty rate in this award.
    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.

1. —Classification Descriptors

[Varied by [PR991562](http://www.fwc.gov.au/awardsandorders/html/PR991562.htm)]

Skill level 1

Skill level 1 is an employee who has no experience in the industry and who may be undertaking up to 38 hours induction training.

Skill level 2

Skill level 2 is an employee who has completed the employer’s induction course and/or is undertaking up to three months’ on-the-job training and is not undertaking a traineeship.

Skill level 3

Skill level 3 is an employee who has completed up to three months’ on-the-job training; is capable of working productively under routine supervision; but is not yet a fully productive member of a spray or paving crew.

Skill level 4

Skill level 4 is a multi-skilled employee who is assessed by the employer to be competent to perform all of the duties required within the work team.

* + 1. Typically this will mean that the employee has an endorsed licence for the operation of heavy vehicles, is competent in the operation of the major pieces of plant and equipment utilised in the work team and who can perform all manual tasks in the work team.
    2. In asphalt production plants this will mean an employee who is deemed competent to operate the plant with a minimum of supervision.

Skill level 5

Skill level 5 is an employee who has been appointed by the employer to be in charge of a mixing plant or to lead a spray or paving crew.

1. —Supported Wage System

[Varied by [PR991562](http://www.fwc.gov.au/awardsandorders/html/PR991562.htm), [PR994428](http://www.fwc.gov.au/awardsandorders/html/PR994428.htm), [PR998748](http://www.fwc.gov.au/awardsandorders/html/PR998748.htm), [PR510670](http://www.fwc.gov.au/awardsandorders/html/PR510670.htm), [PR525068](http://www.fwc.gov.au/awardsandorders/html/PR525068.htm), [PR537893](http://www.fwc.gov.au/awardsandorders/html/pr537893.htm), [PR542174](http://www.fwc.gov.au/awardsandorders/html/PR542174.htm), [PR551831](http://www.fwc.gov.au/awardsandorders/html/PR551831.htm), [PR568050](http://www.fwc.gov.au/awardsandorders/html/PR568050.htm), [PR581528](http://www.fwc.gov.au/awardsandorders/html/PR581528.htm), [PR592689](http://www.fwc.gov.au/awardsandorders/html/PR592689.htm), [PR606630](https://www.fwc.gov.au/documents/awardsandorders/html/pr606630.htm), [PR709080](https://www.fwc.gov.au/documents/awardsandorders/html/pr709080.htm)]

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

[C.2 varied by [PR568050](http://www.fwc.gov.au/awardsandorders/html/PR568050.htm) ppc 01Jul15]

* 1. In this schedule:

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

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

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

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

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

Eligibility criteria

* + 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.
    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.

Supported wage rates

* + 1. Employees to whom this schedule applies will be paid the applicable percentage of the relevant minimum wage according to the following schedule:

| **Assessed capacity (clause C.5)**  **%** | **Relevant minimum wage**  **%** |
| --- | --- |
| 10 | 10 |
| 20 | 20 |
| 30 | 30 |
| 40 | 40 |
| 50 | 50 |
| 60 | 60 |
| 70 | 70 |
| 80 | 80 |
| 90 | 90 |

[C.4.2 varied by [PR994428](http://www.fwc.gov.au/awardsandorders/html/PR994428.htm), [PR998748](http://www.fwc.gov.au/awardsandorders/html/PR998748.htm), [PR510670](http://www.fwc.gov.au/awardsandorders/html/PR510670.htm), [PR525068](http://www.fwc.gov.au/awardsandorders/html/PR525068.htm), [PR537893](http://www.fwc.gov.au/awardsandorders/html/pr537893.htm), [PR551831](http://www.fwc.gov.au/awardsandorders/html/PR551831.htm), [PR568050](http://www.fwc.gov.au/awardsandorders/html/PR568050.htm), [PR581528](http://www.fwc.gov.au/awardsandorders/html/PR581528.htm), [PR592689](http://www.fwc.gov.au/awardsandorders/html/PR592689.htm), [PR606630](https://www.fwc.gov.au/documents/awardsandorders/html/pr606630.htm), [PR709080](https://www.fwc.gov.au/documents/awardsandorders/html/pr709080.htm) ppc 01Jul19]

* + 1. Provided that the minimum amount payable must be not less than $87 per week.
    2. Where an employee’s assessed capacity is 10%, they must receive a high degree of assistance and support.

Assessment of capacity

* + 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.
    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.

Lodgement of SWS wage assessment agreement

[C.6.1 varied by [PR542174](http://www.fwc.gov.au/awardsandorders/html/PR542174.htm) ppc 04Dec13]

* + 1. All SWS wage assessment agreements under the conditions of this schedule, including the appropriate percentage of the relevant minimum wage to be paid to the employee, must be lodged by the employer with the Fair Work Commission.

[C.6.2 varied by [PR542174](http://www.fwc.gov.au/awardsandorders/html/PR542174.htm) ppc 04Dec13]

* + 1. 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.

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.

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.

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.

Trial period

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

[C.10.3 varied by [PR994428](http://www.fwc.gov.au/awardsandorders/html/PR994428.htm), [PR998748](http://www.fwc.gov.au/awardsandorders/html/PR998748.htm), [PR510670](http://www.fwc.gov.au/awardsandorders/html/PR510670.htm), [PR525068](http://www.fwc.gov.au/awardsandorders/html/PR525068.htm), [PR537893](http://www.fwc.gov.au/awardsandorders/html/pr537893.htm), [PR551831](http://www.fwc.gov.au/awardsandorders/html/PR551831.htm), [PR568050](http://www.fwc.gov.au/awardsandorders/html/PR568050.htm), [PR581528](http://www.fwc.gov.au/awardsandorders/html/PR581528.htm), [PR592689](http://www.fwc.gov.au/awardsandorders/html/PR592689.htm), [PR606630](https://www.fwc.gov.au/documents/awardsandorders/html/pr606630.htm), [PR709080](https://www.fwc.gov.au/documents/awardsandorders/html/pr709080.htm) ppc 01Jul19]

* + 1. The minimum amount payable to the employee during the trial period must be no less than $87 per week.
    2. Work trials should include induction or training as appropriate to the job being trialled.
    3. Where the employer and employee wish to establish a continuing employment relationship following the completion of the trial period, a further contract of employment will be entered into based on the outcome of assessment under clause C.5.

1. —National Training Wage

[Sched D inserted by [PR994428](http://www.fwc.gov.au/awardsandorders/html/PR994428.htm) ppc 01Jan10; varied by [PR991562](http://www.fwc.gov.au/awardsandorders/html/PR991562.htm), [PR997942](http://www.fwc.gov.au/awardsandorders/html/PR997942.htm), [PR509085](http://www.fwc.gov.au/awardsandorders/html/PR509085.htm), [PR522916](http://www.fwc.gov.au/awardsandorders/html/PR522916.htm), [PR536719](http://www.fwc.gov.au/awardsandorders/html/pr536719.htm), [PR545787](http://www.fwc.gov.au/awardsandorders/html/PR545787.htm), [PR551642](http://www.fwc.gov.au/awardsandorders/html/PR551642.htm), [PR566729](https://www.fwc.gov.au/awardsandorders/html/PR566729.htm), [PR579824](http://www.fwc.gov.au/awardsandorders/html/PR579824.htm); deleted by [PR593837](http://www.fwc.gov.au/awardsandorders/html/pr593837.htm) ppc 01Jul17]

1. —Part-day Public Holidays

[Sched E inserted by [PR532631](http://www.fwc.gov.au/awardsandorders/html/pr532631.htm) ppc 23Nov12; renamed and varied by [PR544519](http://www.fwc.gov.au/awardsandorders/html/pr544519.htm) ppc 21Nov13; renamed and varied by [PR557581](http://www.fwc.gov.au/awardsandorders/html/PR557581.htm), [PR573679](http://www.fwc.gov.au/awardsandorders/html/PR573679.htm), [PR580863](http://www.fwc.gov.au/awardsandorders/html/PR580863.htm), [PR598110](http://www.fwc.gov.au/documents/awardsandorders/html/pr598110.htm), [PR701683](http://www.fwc.gov.au/documents/awardsandorders/html/pr701683.htm) ppc 21Nov18; varied by [PR712276](https://www.fwc.gov.au/documents/awardsandorders/html/pr712276.htm), [PR715181](https://www.fwc.gov.au/documents/awardsandorders/html/pr715181.htm)]

This schedule operates in conjunction with award provisions dealing with public holidays.

[E.1 varied by [PR715181](https://www.fwc.gov.au/documents/awardsandorders/html/pr715181.htm) ppc 18Nov19]

* 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:
     + 1. 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.

[E.1(b) varied by [PR715181](https://www.fwc.gov.au/documents/awardsandorders/html/pr715181.htm) ppc 18Nov19]

* + - 1. 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.

[E.1(c) substituted by [PR715181](https://www.fwc.gov.au/documents/awardsandorders/html/pr715181.htm) ppc 18Nov19]

* + - 1. 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.

[E.1(d) varied by [PR715181](https://www.fwc.gov.au/documents/awardsandorders/html/pr715181.htm) ppc 18Nov19]

* + - 1. Where a part-time or full-time employee is usually rostered to work ordinary hours on the declared or prescribed part-day public holiday, but as a result of having a rostered day off (RDO) provided under this award, does not work, the employee will be taken to be on a public holiday for such hours and paid their ordinary rate of pay for those hours.

[E.1(e) varied by [PR715181](https://www.fwc.gov.au/documents/awardsandorders/html/pr715181.htm) ppc 18Nov19]

* + - 1. Excluding annualised salaried employees to whom clause E.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.

[E.1(f) varied by [PR715181](https://www.fwc.gov.au/documents/awardsandorders/html/pr715181.htm) ppc 18Nov19]

* + - 1. 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.

[E.1(g) varied by [PR715181](https://www.fwc.gov.au/documents/awardsandorders/html/pr715181.htm) ppc 18Nov19]

* + - 1. 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 E.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.
      2. Nothing in this schedule affects the right of an employee and employer to agree to substitute public holidays.

[E.2 inserted by [PR712276](https://www.fwc.gov.au/documents/awardsandorders/html/pr712276.htm) ppc 04Oct19]

* 1. 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.

1. —Agreement to Take Annual Leave in Advance

[Sched F inserted by [PR582966](http://www.fwc.gov.au/awardsandorders/html/PR582966.htm) ppc 29Jul16]

Link to PDF copy of [Agreement to Take Annual Leave in Advance](http://www.fwc.gov.au/documents/documents/modern_awards/leave-in-advance-agreement.pdf).

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\_\_\_ |

1. —Agreement to Cash Out Annual Leave

[Sched G inserted by [PR582966](http://www.fwc.gov.au/awardsandorders/html/PR582966.htm) ppc 29Jul16]

Link to PDF copy of [Agreement to Cash Out Annual Leave](http://www.fwc.gov.au/documents/documents/modern_awards/cash-out-agreement.pdf).

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\_\_\_ |

1. —Agreement for Time Off Instead of Payment for Overtime

[Sched H inserted by [PR584075](http://www.fwc.gov.au/awardsandorders/html/PR584075.htm) ppc 22Aug16]

Link to PDF copy of [Agreement for Time Off Instead of Payment for Overtime](http://www.fwc.gov.au/documents/documents/modern_awards/toil-agreement.pdf).

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\_\_\_

1. —Additional Measures During the COVID-19 Pandemic

[Sched X inserted by [PR718141](https://www.fwc.gov.au/documents/awardsandorders/html/pr718141.htm) ppc 08Apr20]

* 1. Subject to clauses X.2.1(d) and X.2.2(c), Schedule X operates from 8 April 2020 until 30 June 2020. The period of operation can be extended on application.
  2. During the operation of Schedule X, the following provisions apply:

Unpaid pandemic leave

* + - 1. Subject to clauses X.2.1(b), (c) and (d), any employee is entitled to take up to 2 weeks’ unpaid leave if the employee is required by government or medical authorities or on the advice of a medical practitioner to self-isolate and is consequently prevented from working, or is otherwise prevented from working by measures taken by government or medical authorities in response to the COVID-19 pandemic.
      2. The employee must give their employer notice of the taking of leave under clause X.2.1(a) and of the reason the employee requires the leave, as soon as practicable (which may be a time after the leave has started).
      3. An employee who has given their employer notice of taking leave under clause X.2.1(a) must, if required by the employer, give the employer evidence that would satisfy a reasonable person that the leave is taken for a reason given in clause X.2.1(a).
      4. A period of leave under clause X.2.1(a) must start before 30 June 2020, but may end after that date.
      5. Leave taken under clause X.2.1(a) does not affect any other paid or unpaid leave entitlement of the employee and counts as service for the purposes of entitlements under this award and the [NES](https://www.fwc.gov.au/documents/awardmod/download/nes.pdf).

NOTE: The employer and employee may agree that the employee may take more than 2 weeks’ unpaid pandemic leave.

Annual leave at half pay

* + - 1. Instead of an employee taking paid annual leave on full pay, the employee and their employer may agree to the employee taking twice as much leave on half pay.
      2. Any agreement to take twice as much annual leave at half pay must be recorded in writing and retained as an employee record.
      3. A period of leave under clause X.2.2(a) must start before 30 June 2020, but may end after that date.

EXAMPLE: Instead of an employee taking one week’s annual leave on full pay, the employee and their employer may agree to the employee taking 2 weeks’ annual leave on half pay. In this example:

* the employee’s pay for the 2 weeks’ leave is the same as the pay the employee would have been entitled to for one week’s leave on full pay (where one week’s full pay includes leave loading under the Annual Leave clause of this award); and
* one week of leave is deducted from the employee’s annual leave accrual.

NOTE 1: A employee covered by this award who is entitled to the benefit of clause X.2.1 or X.2.2 has a workplace right under section 341(1)(a) of the[Act](http://www.legislation.gov.au/Series/C2009A00028).

NOTE 2: Under section 340(1) of the[Act](http://www.legislation.gov.au/Series/C2009A00028), an employer must not take adverse action against an employee because the employee has a workplace right, has or has not exercised a workplace right, or proposes or does not propose to exercise a workplace right, or to prevent the employee exercising a workplace right. Under section 342(1) of the[Act](http://www.legislation.gov.au/Series/C2009A00028), an employer takes adverse action against an employee if the employer dismisses the employee, injures the employee in his or her employment, alters the position of the employee to the employee’s prejudice, or discriminates between the employee and other employees of the employer.

NOTE 3: Under section 343(1) of the[Act](http://www.legislation.gov.au/Series/C2009A00028), a person must not organise or take, or threaten to organise or take, action against another person with intent to coerce the person to exercise or not exercise, or propose to exercise or not exercise, a workplace right, or to exercise or propose to exercise a workplace right in a particular way.