**Labour Market Assistance 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); [AM2014/190](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); [AM2014/232](https://www.fwc.gov.au/awards-and-agreements/modern-award-reviews/4-yearly-review/award-stage/award-review-documents/MA000099?m=AM2014/232); [AM2014/301](https://www.fwc.gov.au/awards-agreements/awards/modern-award-reviews/4-yearly-review/common-issues/am2014301-public); [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 *Labour Market Assistance Industry Award 2010*.

1. Commencement and transitional

[Varied by [PR542219](http://www.fwc.gov.au/awardsandorders/html/PR542219.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 [PR542219](http://www.fwc.gov.au/awardsandorders/html/PR542219.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 [PR542219](http://www.fwc.gov.au/awardsandorders/html/PR542219.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 [PR542219](http://www.fwc.gov.au/awardsandorders/html/PR542219.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 [PR997772](http://www.fwc.gov.au/awardsandorders/html/PR997772.htm), [PR503708](http://www.fwc.gov.au/awardsandorders/html/PR503708.htm), [PR546087](http://www.fwc.gov.au/awardsandorders/html/PR546087.htm)]

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

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

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

**arrangement or contract with federal or State governments** does not include the delivery of recruitment, outplacement, on-hire or similar services to federal or state governments to address its own workforce needs

**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 [PR546087](http://www.fwc.gov.au/awardsandorders/html/PR546087.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 [PR546087](http://www.fwc.gov.au/awardsandorders/html/PR546087.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 [PR503708](http://www.fwc.gov.au/awardsandorders/html/PR503708.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 [PR503708](http://www.fwc.gov.au/awardsandorders/html/PR503708.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)

[Definition of **exempt public sector superannuation scheme** inserted by [PR546087](http://www.fwc.gov.au/awardsandorders/html/PR546087.htm) ppc 01Jan14]

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

**labour market assistance industry** means the provision of work placement, job searching, personal support, vocational training and related services in the welfare sector, delivered by arrangement or contract with federal and State governments, to assist persons seeking employment

**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

[Definition of **MySuper product** inserted by [PR546087](http://www.fwc.gov.au/awardsandorders/html/PR546087.htm) ppc 01Jan14]

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

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

**standard rate** means the minimum weekly wage for an Administrative assistant—Pay point 2 in clause 14.1

**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 [PR544804](http://www.fwc.gov.au/awardsandorders/html/PR544804.htm)]

* 1. This industry award covers employers in the labour market assistance industry throughout Australia and their employees in the classifications listed in Schedule B—Classification Definitions to the exclusion of any other modern award.
  2. The award does not cover employers and employees covered by the *Supported Employment Services Award 2010*.
  3. The award does not cover an employee excluded from award coverage by the Act.
  4. 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.
  5. 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.
  6. 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.

[4.7 substituted by [PR544804](http://www.fwc.gov.au/awardsandorders/html/PR544804.htm) ppc 01Jan14]

* 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 clause operates subject to the exclusions from coverage in this award.

[4.8 inserted by [PR544804](http://www.fwc.gov.au/awardsandorders/html/PR544804.htm) ppc 01Jan14]

* 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.

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 [PR542219](http://www.fwc.gov.au/awardsandorders/html/PR542219.htm); 7—Award flexibility renamed and substituted by [PR610265](https://www.fwc.gov.au/documents/awardsandorders/html/pr610265.htm) 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 [PR610265](https://www.fwc.gov.au/documents/awardsandorders/html/pr610265.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 [PR610265](https://www.fwc.gov.au/documents/awardsandorders/html/pr610265.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 [PR542219](http://www.fwc.gov.au/awardsandorders/html/PR542219.htm); substituted by [PR610265](https://www.fwc.gov.au/documents/awardsandorders/html/pr610265.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

[Varied by [PR528941](http://www.fwc.gov.au/awardsandorders/html/PR528941.htm), [PR700576](http://www.fwc.gov.au/awardsandorders/html/PR700576.htm), [PR715605](https://www.fwc.gov.au/documents/sites/awardsmodernfouryr/pr715605.pdf)]

Employment categories

* + 1. Employees under this award will be employed in one of the following categories:
       1. full-time employment;
       2. part-time employment;
       3. casual employment; or
       4. sessional employment.
    2. At the time of engagement, an employer must, for each new employee (except a casual employee), specify:
       1. an outline of the main duties of the position;

[10.1(b)(ii) varied by [PR528941](http://www.fwc.gov.au/awardsandorders/html/PR528941.htm) ppc 28Sep12]

* + - 1. the employee’s regular hours of work and the employee’s normal spread of hours for ordinary duty in accordance with clause 21**—**Ordinary hours of work;
      2. the employee’s classification and rate of pay; and
      3. the nature of the engagement in accordance with clause 10.1(a).

Full-time employment

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

Part-time employment

* + 1. A part-time employee is one who is engaged to work a specified number of regular hours being less than 38 hours per week or an average of 38 hours per week.
    2. A part-time employee’s hours of work may be temporarily varied up to a maximum of 38 hours per week by agreement between the employer and an individual employee.
    3. The terms of this award will apply to part-time employees as provided to full‑time employees on a pro rata basis.

[10.3(d) deleted by [PR715605](https://www.fwc.gov.au/documents/sites/awardsmodernfouryr/pr715605.pdf) ppc 24Dec19]

Casual employment

* + 1. A **casual employee** means an employee who is engaged intermittently by the hour for work of an unexpected or casual nature and does not include an employee who could properly be engaged as a full-time, part-time or sessional employee.
    2. An employee engaged as a casual employee will be engaged for a minimum period of two consecutive hours per engagement.
    3. A casual employee will be paid for each hour worked during the ordinary hours of work provided in clause 21—Ordinary hours of work, a rate equal to 1/38th of the weekly rate appropriate to the employee’s classification. In addition, a loading of 25% of that rate will be paid.

[10.4(d) varied by [PR528941](http://www.fwc.gov.au/awardsandorders/html/PR528941.htm) ppc 28Sep12]

* + 1. Where a casual employee is employed outside of the ordinary spread of hours provided in clause 21—Ordinary hours of work,the hourly rate (exclusive of the 25% loading) will be increased by the penalty rates provided in clause 23—Overtime and penalty rates.

Right to request casual conversion

[New 10.5 inserted by [PR700576](http://www.fwc.gov.au/awardsandorders/html/PR700576.htm) ppc 01Oct18]

* + 1. A person engaged by a particular employer as a regular casual employee may request that their employment be converted to full-time or part-time employment.
    2. A **regular casual employee** is a casual employee who has in the preceding period of 12 months worked a pattern of hours on an ongoing basis which, without significant adjustment, the employee could continue to perform as a full-time employee or part-time employee under the provisions of this award.
    3. A regular casual employee who has worked equivalent full-time hours over the preceding period of 12 months’ casual employment may request to have their employment converted to full-time employment.
    4. A regular casual employee who has worked less than equivalent full-time hours over the preceding period of 12 months’ casual employment may request to have their employment converted to part-time employment consistent with the pattern of hours previously worked.
    5. Any request under this subclause must be in writing and provided to the employer.
    6. Where a regular casual employee seeks to convert to full-time or part-time employment, the employer may agree to or refuse the request, but the request may only be refused on reasonable grounds and after there has been consultation with the employee.
    7. Reasonable grounds for refusal include that:
       1. it would require a significant adjustment to the casual employee’s hours of work in order for the employee to be engaged as a full-time or part-time employee in accordance with the provisions of this award – that is, the casual employee is not truly a regular casual employee as defined in paragraph (b);
       2. it is known or reasonably foreseeable that the regular casual employee’s position will cease to exist within the next 12 months;
       3. it is known or reasonably foreseeable that the hours of work which the regular casual employee is required to perform will be significantly reduced in the next 12 months; or
       4. it is known or reasonably foreseeable that there will be a significant change in the days and/or times at which the employee’s hours of work are required to be performed in the next 12 months which cannot be accommodated within the days and/or hours during which the employee is available to work.
    8. For any ground of refusal to be reasonable, it must be based on facts which are known or reasonably foreseeable.
    9. Where the employer refuses a regular casual employee’s request to convert, the employer must provide the casual employee with the employer’s reasons for refusal in writing within 21 days of the request being made. If the employee does not accept the employer’s refusal, this will constitute a dispute that will be dealt with under the dispute resolution procedure in clause 9. Under that procedure, the employee or the employer may refer the matter to the Fair Work Commission if the dispute cannot be resolved at the workplace level.
    10. Where it is agreed that a casual employee will have their employment converted to full-time or part-time employment as provided for in this clause, the employer and employee must discuss and record in writing:
        1. the form of employment to which the employee will convert – that is, full-time or part-time employment; and
        2. if it is agreed that the employee will become a part-time employee, the days the employee will be required to attend for work and the starting and finishing times for each such day.
    11. The conversion will take effect from the start of the next pay cycle following such agreement being reached unless otherwise agreed.
    12. Once a casual employee has converted to full-time or part-time employment, the employee may only revert to casual employment with the written agreement of the employer.
    13. A casual employee must not be engaged and re-engaged (which includes a refusal to re-engage), or have their hours reduced or varied, in order to avoid any right or obligation under this clause.
    14. Nothing in this clause obliges a regular casual employee to convert to full-time or part-time employment, nor permits an employer to require a regular casual employee to so convert.
    15. Nothing in this clause requires an employer to increase the hours of a regular casual employee seeking conversion to full-time or part-time employment.
    16. An employer must provide a casual employee, whether a regular casual employee or not, with a copy of the provisions of this subclause within the first 12 months of the employee’s first engagement to perform work. In respect of casual employees already employed as at 1 October 2018, an employer must provide such employees with a copy of the provisions of this subclause by 1 January 2019.
    17. A casual employee’s right to request to convert is not affected if the employer fails to comply with the notice requirements in paragraph (p).

Sessional employment

[10.5 renumbered as 10.6 by [PR700576](http://www.fwc.gov.au/awardsandorders/html/PR700576.htm) ppc 01Oct18]

* + 1. An employee may be engaged on a sessional basis to provide training sessions to clients.
    2. A sessional employee will be engaged for a minimum of two consecutive hours in any one day.
    3. A sessional employee will be paid the minimum casual hourly rate equivalent to the casual hourly rate of pay for a Training and placement officer grade 1 Pay point 3.
    4. In addition, a sessional employee will be paid for preparation and associated non-teaching/training tasks. This payment can be paid by either:
       1. incorporating a loading of 33.3% into the hourly rate, provided that this rate is separately expressed; or
       2. paying the employee one hour’s preparation/associated non‑teaching/training tasks for every three hours’ teaching up to a maximum of five additional hours per week.
    5. An employer who employs a sessional employee under the terms of clause 10.6(d)(i) will not be obliged to pay the preparation loading in respect of any period involving staff training or staff meetings.
    6. Upon engagement, in addition to the requirements specified for contracts of employment provided in clause 10.1 of this award, the employer will provide written advice to the employee setting out the particular arrangements for preparation and associated non-teaching/training tasks which will apply in respect of the employee.

Cancellation provisions

If a training course is cancelled and the employer no longer requires the services of a sessional employee engaged for the course, the employer will provide the sessional employee with two weeks’ notice of termination or payment instead of notice equivalent to two weeks’ pay (inclusive of preparation loading or preparation time).

1. Termination of employment

[11 substituted by [PR610265](https://www.fwc.gov.au/documents/awardsandorders/html/pr610265.htm) 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 [PR503708](http://www.fwc.gov.au/awardsandorders/html/PR503708.htm), [PR561478](http://www.fwc.gov.au/awardsandorders/html/PR561478.htm); substituted by [PR706975](https://www.fwc.gov.au/documents/awardsandorders/html/pr706975.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 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 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 and definitions set out in Schedule B—Classification Definitions.

Progression

* + 1. At the end of each 12 months’ continuous employment, an employee will be eligible for progression from one pay point to the next within a classification if:
       1. the employee has demonstrated competency and satisfactory performance over a minimum of 12 months at each pay point within the classification; and
       2. the employee has acquired and satisfactorily used new or enhanced skills if required by the employer.
    2. Competency and satisfactory performance is deemed to be satisfactory by the employer in accordance with its employment policies and procedures.
    3. Movement to a higher classification will only occur by way of promotion or reclassification.

Salary packaging

Where agreed between the employer and a full-time or part-time employee, an employer may introduce remuneration packaging in respect of salary, as provided for in clause 14—Minimum weekly wages. The terms and conditions of such a package must not, when viewed objectively, be less favourable than the entitlements otherwise available under this award.

1. Minimum weekly wages

[14 substituted by [PR998000](http://www.fwc.gov.au/awardsandorders/html/PR998000.htm), [PR509130](http://www.fwc.gov.au/awardsandorders/html/PR509130.htm), [PR522961](http://www.fwc.gov.au/awardsandorders/html/PR522961.htm), [PR536764](http://www.fwc.gov.au/awardsandorders/html/pr536764.htm), [PR551687](http://www.fwc.gov.au/awardsandorders/html/PR551687.htm), [PR566779](https://www.fwc.gov.au/awardsandorders/html/PR566779.htm), [PR579886](http://www.fwc.gov.au/awardsandorders/html/PR579886.htm), [PR592200](http://www.fwc.gov.au/awardsandorders/html/pr592200.htm) ppc 01Jul17; varied by [PR593873](http://www.fwc.gov.au/awardsandorders/html/PR593873.htm), [PR606425](https://www.fwc.gov.au/documents/awardsandorders/html/pr606425.htm), [PR707516](https://www.fwc.gov.au/documents/awardsandorders/html/pr707516.htm)]

Administrative assistant

[14.1 varied by [PR606425](https://www.fwc.gov.au/documents/awardsandorders/html/pr606425.htm), [PR707516](https://www.fwc.gov.au/documents/awardsandorders/html/pr707516.htm) ppc 01Jul19]

|  | **Per week $** |
| --- | --- |
| Pay point 1 | 838.90 |
| Pay point 2 | 853.10 |
| Pay point 3 | 883.80 |
| Pay point 4 | 911.90 |

Administrative officer

[14.2 varied by [PR606425](https://www.fwc.gov.au/documents/awardsandorders/html/pr606425.htm), [PR707516](https://www.fwc.gov.au/documents/awardsandorders/html/pr707516.htm) ppc 01Jul19]

|  | **Per week $** |
| --- | --- |
| Pay point 1 | 965.80 |
| Pay point 2 | 987.50 |
| Pay point 3 | 1008.70 |
| Pay point 4 | 1036.80 |

Training and placement officer grade 1

[14.3 varied by [PR606425](https://www.fwc.gov.au/documents/awardsandorders/html/pr606425.htm), [PR707516](https://www.fwc.gov.au/documents/awardsandorders/html/pr707516.htm) ppc 01Jul19]

|  | **Per week $** |
| --- | --- |
| Pay point 1 | 937.60 |
| Pay point 2 | 965.80 |
| Pay point 3 | 987.50 |

Training and placement officer grade 2

[14.4 varied by [PR606425](https://www.fwc.gov.au/documents/awardsandorders/html/pr606425.htm), [PR707516](https://www.fwc.gov.au/documents/awardsandorders/html/pr707516.htm) ppc 01Jul19]

|  | **Per week $** |
| --- | --- |
| Pay point 1 | 1008.70 |
| Pay point 2 | 1036.80 |
| Pay point 3 | 1065.00 |
| Pay point 4 | 1093.10 |
| Pay point 5 | 1118.70 |

Training and placement co-ordinator

[14.5 varied by [PR606425](https://www.fwc.gov.au/documents/awardsandorders/html/pr606425.htm), [PR707516](https://www.fwc.gov.au/documents/awardsandorders/html/pr707516.htm) ppc 01Jul19]

|  | **Per week $** |
| --- | --- |
| Pay point 1 | 1118.70 |
| Pay point 2s | 1147.00 |
| Pay point 3 | 1172.80 |
| Pay point 4 | 1200.90 |

Manager grade 1

[14.6 varied by [PR606425](https://www.fwc.gov.au/documents/awardsandorders/html/pr606425.htm), [PR707516](https://www.fwc.gov.au/documents/awardsandorders/html/pr707516.htm) ppc 01Jul19]

|  | **Per week $** |
| --- | --- |
| Pay point 1 | 1118.70 |
| Pay point 2 | 1147.00 |
| Pay point 3 | 1172.80 |
| Pay point 4 | 1200.90 |
| Pay point 5 | 1229.10 |
| Pay point 6 | 1257.20 |

Manager grade 2

[14.7 varied by [PR606425](https://www.fwc.gov.au/documents/awardsandorders/html/pr606425.htm), [PR707516](https://www.fwc.gov.au/documents/awardsandorders/html/pr707516.htm) ppc 01Jul19]

|  | **Per week $** |
| --- | --- |
| Pay point 1 | 1285.30 |
| Pay point 2 | 1313.60 |
| Pay point 3 | 1341.80 |
| Pay point 4 | 1369.80 |
| Pay point 5 | 1398.00 |

National training wage

[14.8 inserted by [PR593873](http://www.fwc.gov.au/awardsandorders/html/PR593873.htm) ppc 01Jul17]

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

[14.8(b) varied by [PR606425](https://www.fwc.gov.au/documents/awardsandorders/html/pr606425.htm), [PR707516](https://www.fwc.gov.au/documents/awardsandorders/html/pr707516.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 *Labour Market Assistance Industry Award 2010* and not the *Miscellaneous Award 2010.*

1. Supported wage system

See Schedule C

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/MA000099-all.pdf).

[Varied by [PR998122](http://www.fwc.gov.au/awardsandorders/html/PR998122.htm), [PR509251](http://www.fwc.gov.au/awardsandorders/html/PR509251.htm), [PR523081](http://www.fwc.gov.au/awardsandorders/html/PR523081.htm), [PR536884](http://www.fwc.gov.au/awardsandorders/html/pr536884.htm), [PR551807](http://www.fwc.gov.au/awardsandorders/html/PR551807.htm), [PR566908](http://www.fwc.gov.au/awardsandorders/html/PR566908.htm), [PR579606](http://www.fwc.gov.au/awardsandorders/html/PR579606.htm), [PR592354](https://www.fwc.gov.au/documents/awardsandorders/html/pr592354.htm), [PR606577](https://www.fwc.gov.au/documents/awardsandorders/html/pr606577.htm), [PR704161](https://www.fwc.gov.au/documents/awardsandorders/html/pr704161.htm), [PR707744](https://www.fwc.gov.au/documents/awardsandorders/html/pr707744.htm)]

Meal allowance

[16.1 varied by [PR998122](http://www.fwc.gov.au/awardsandorders/html/PR998122.htm), [PR509251](http://www.fwc.gov.au/awardsandorders/html/PR509251.htm), [PR523081](http://www.fwc.gov.au/awardsandorders/html/PR523081.htm), [PR536884](http://www.fwc.gov.au/awardsandorders/html/pr536884.htm), [PR551807](http://www.fwc.gov.au/awardsandorders/html/PR551807.htm), [PR566908](http://www.fwc.gov.au/awardsandorders/html/PR566908.htm), [PR579606](http://www.fwc.gov.au/awardsandorders/html/PR579606.htm), [PR592354](https://www.fwc.gov.au/documents/awardsandorders/html/pr592354.htm), [PR606577](https://www.fwc.gov.au/documents/awardsandorders/html/pr606577.htm), [PR704161](https://www.fwc.gov.au/documents/awardsandorders/html/pr704161.htm), [PR707744](https://www.fwc.gov.au/documents/awardsandorders/html/pr707744.htm) ppc 01Jul19]

Employees will be entitled to a meal allowance of $15.70 in the following circumstances:

* + 1. where the employee works overtime in excess of two hours on any of the days upon which ordinary hours are worked; or
    2. where the employee works five hours or more on a day which is not an ordinary working day.

First aid allowance

An employee who is required by their employer to perform first aid duty at their workplace who holds a current first aid certificate issued by St John Ambulance or the Australian Red Cross Society or equivalent qualification will be paid a weekly allowance of 1.67% of the [standard rate](#standard_rate).

Vehicle allowance

[16.3(a) varied by [PR523081](http://www.fwc.gov.au/awardsandorders/html/PR523081.htm), [PR536884](http://www.fwc.gov.au/awardsandorders/html/pr536884.htm), [PR551807](http://www.fwc.gov.au/awardsandorders/html/PR551807.htm) ppc 01Jul14]

* + 1. Where an employee is required to use their own motor vehicle on the employer’s business, the employee is entitled to be reimbursed at the rate of $0.78 per kilometre.
    2. An employee required to travel by other means in connection with their work will be reimbursed all reasonable travelling expenses so incurred with reasonable proof of such expenses to be provided by the employee to the employer.
    3. Where an employee is called on duty at night or other than their normal hours, or on any non-working day, they will be reimbursed their fares, or if using their own vehicle to travel between home and the place of work, receive a vehicle allowance, as provided in clause 16.3(a).
    4. Where an employee is required to use their own motor vehicle on the employer’s business and, by reason of that use, the employee is required, under the law in force in the State or Territory in which the motor vehicle is registered, to pay a fee for the registration of the motor vehicle that exceeds the fee that they would otherwise have been required to pay under that law for the registration of the motor vehicle, the employee is entitled to be paid, by way of reimbursement, an amount equal to the amount of the excess.
    5. Where an employee is required to use their own motor vehicle on the employer’s business and, by reason of that use, the employee is required to pay an amount by way of full comprehensive insurance premium that exceeds the amount that the employee would otherwise have been required to pay by way of full comprehensive insurance premium, the employee is entitled to be paid by way of reimbursement an amount equal to the amount of the excess.

Travelling expenses

An employee required to stay away from home overnight will be reimbursed the cost of reasonable board, lodging and meals. Reasonable proof of costs so incurred is to be provided by the employee to the employer.

Excursions

Where an employee is required to supervise clients in excursion activities involving overnight stays away from home, the following provisions will apply:

* + 1. payment at ordinary rates of pay for time worked between the hours of 8.00 am to 6.00 pm Monday to Sunday up to a maximum of eight hours per day; and
    2. in addition, payment of a sleepover allowance of 7.76% of the [standard rate](#standard_rate) will be made for every night spent away from home while on excursions.

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 |
| Vehicle allowance | Private motoring sub-group |

1. District allowances

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

1. Accident pay

[Varied by [PR503708](http://www.fwc.gov.au/awardsandorders/html/PR503708.htm); deleted by [PR561478](http://www.fwc.gov.au/awardsandorders/html/PR561478.htm) ppc 05Mar15; new 18 inserted by [PR571826](https://www.fwc.gov.au/awardsandorders/html/PR571826.htm) ppc 15Oct15]

* 1. For the purpose of this clause, the following definitions will apply:
     1. **Accident pay** means a weekly payment made to an employee by the employer that is the difference between the weekly amount of compensation paid, or required to be paid to an employee pursuant to the applicable workers’ compensation legislation and the employee’s ordinary rate of pay (not including over award payments, shift loadings or overtime).
     2. **Injury** will be given the same meaning and application as applying under the applicable workers’ compensation legislation covering the employer.

Entitlement to accident pay

The employer must pay accident pay where an employee suffers an injury and weekly payments of compensation are paid to the employee under the applicable workers’ compensation legislation for a maximum period of 39 weeks.

Calculation of the period of accident pay

* + 1. The 39 week period commences from the first day of incapacity for work, which may be subsequent to the date of injury. In the event of more than one absence arising from one injury, such absences are to be cumulative in the assessment of the 39 week period.
    2. Entitlement to accident pay ceases on termination of the employee’s employment, except where such termination:
       1. is by the employer other than for reason of the employee’s serious and/or wilful misconduct; or
       2. arises from a declaration of bankruptcy or liquidation of the employer, in which case the employee’s entitlement in the absence of agreement will be referred to the Fair Work Commission to determine.
    3. For a period of less than one week, accident pay (as defined) will be calculated on a pro rata basis.

When not entitled to accident pay

An employee will not be entitled to any payment under this clause in respect of the following.

* + 1. Any period of paid annual leave or long service leave, or for any paid public holiday.
    2. Any injury during the first five normal working days of incapacity.
    3. Any incapacity occurring during the first two weeks of employment unless such incapacity continues beyond the first two weeks.
    4. Where in accordance with the applicable workers’ compensation legislation a medical practitioner provides information to an employer of an employee’s fitness for work or specifies work for which an employee has a capacity and such work is made available by an employer but not commenced by an employee.
    5. Industrial diseases contracted by a gradual process or injuries subject to recurrence, aggravation or acceleration shall not be subject to the accident pay unless the employee has been employed with the employer at the time of the incapacity for a minimum period of one month.
    6. Where an employee receives a weekly payment under this section and subsequently such payment is reduced pursuant to the applicable workers’ compensation legislation, such reduction will not render the employer liable to increase the amount of accident pay in respect of that injury.

Return to work

If an employee entitled to accident pay under this clause returns to work on reduced hours or modified duties, the amount of accident pay due will be reduced by any amounts paid for the performance of such work.

Redemptions

In the event that an employee receives a lump sum payment in lieu of weekly payments under the applicable workers compensation legislation, the liability of the employer to pay accident pay as herein provided will cease from the date the employee receives that payment.

Casual employees

For a casual employee, the weekly payment referred to in clause 18.1(a) will be calculated using the employee’s average weekly ordinary hours with the employer over the previous 12 months or, if the employee has been employed for less than 12 months by the employer, the employee’s average weekly ordinary hours over the period of employment with the employer. The weekly payment will include casual loading but will not include over award payments.

Other

This clause does not operate to diminish an employee’s entitlement to compensation payments under the applicable workers’ compensation legislation.

1. Superannuation

[Varied by [PR546087](http://www.fwc.gov.au/awardsandorders/html/PR546087.htm)]

Superannuation legislation

* + 1. Superannuation legislation, including the *Superannuation Guarantee (Administration) Act 1992* (Cth), the *Superannuation Guarantee Charge Act 1992* (Cth), the *Superannuation Industry (Supervision) Act 1993* (Cth) and the *Superannuation (Resolution of Complaints) Act 1993* (Cth), deals with the superannuation rights and obligations of employers and employees. Under superannuation legislation individual employees generally have the opportunity to choose their own superannuation fund. If an employee does not choose a superannuation fund, any superannuation fund nominated in the award covering the employee applies.
    2. The rights and obligations in these clauses supplement those in superannuation legislation.

Employer contributions

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

Voluntary employee contributions

* + 1. Subject to the governing rules of the relevant superannuation fund, an employee may, in writing, authorise their employer to pay on behalf of the employee a specified amount from the post-taxation wages of the employee into the same superannuation fund as the employer makes the superannuation contributions provided for in clause 19.2.
    2. An employee may adjust the amount the employee has authorised their employer to pay from the wages of the employee from the first of the month following the giving of three months’ written notice to their employer.
    3. The employer must pay the amount authorised under clauses 19.3(a) or (b) no later than 28 days after the end of the month in which the deduction authorised under clauses 19.3(a) or (b) was made.

Superannuation fund

[19.4 substituted by [PR546087](http://www.fwc.gov.au/awardsandorders/html/PR546087.htm) ppc 01Jan14]

Unless, to comply with superannuation legislation, the employer is required to make the superannuation contributions provided for in clause 19.2 to another superannuation fund that is chosen by the employee, the employer must make the superannuation contributions provided for in clause 19.2 and pay the amount authorised under clauses 19.3(a) or (b) to one of the following superannuation funds or its successor:

* + 1. any superannuation fund to which the employer was making superannuation contributions for the benefit of its employees before 12 September 2008, provided the superannuation fund is an eligible choice fund and is a fund that offers a MySuper product or is an exempt public sector scheme; or
    2. a superannuation fund or scheme which the employee is a defined benefit member of.

Absence from work

Subject to the governing rules of the relevant superannuation fund, the employer must also make the superannuation contributions provided for in clause 19.2 and pay the amount authorised under clauses 19.3(a) or (b):

* + 1. Paid leave—while the employee is on any paid leave;
    2. Work-related injury or illness—for the period of absence from work (subject to a maximum of 52 weeks) of the employee due to work-related injury or work-related illness provided that:
       1. the employee is receiving workers compensation payments or is receiving regular payments directly from the employer in accordance with the statutory requirements; and
       2. the employee remains employed by the employer.

1. Payment of wages

[Varied by [PR610133](https://www.fwc.gov.au/documents/awardsandorders/html/pr610133.htm)]

[Paragraph numbered as 20.1 by [PR610133](https://www.fwc.gov.au/documents/awardsandorders/html/pr610133.htm) ppc 01Nov18]

* 1. All wages will be paid weekly, fortnightly, four weekly or monthly by cash, cheque or electronic transfer in accordance with the arrangements determined by the employer and not more than five days following the end of the pay period.

Payment on termination of employment

[20.2 inserted by [PR610133](https://www.fwc.gov.au/documents/awardsandorders/html/pr610133.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.legislation.gov.au/Series/C2009A00028).

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.

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

[Varied by [PR528941](http://www.fwc.gov.au/awardsandorders/html/PR528941.htm)]

Ordinary hours of work

The ordinary hours of work will be no more than an average of 38 hours per week to be worked over 152 hours within a work cycle not exceeding 28 days and not exceeding 10 hours in any one day.

Spread of hours

[21.2 renamed and substituted by [PR528941](http://www.fwc.gov.au/awardsandorders/html/PR528941.htm) ppc 28Sep12]

Except in relation to an employee engaged and paid to work their ordinary hours in accordance with clause 23.7—Penalty rates for ordinary hours of work, the ordinary hours of work will be performed between 6.00 am and 8.00 pm Monday to Friday.

Flexible hours—accrued days off option

[21.3 renamed by [PR528941](http://www.fwc.gov.au/awardsandorders/html/PR528941.htm) ppc 28Sep12]

Accrued days/time off

[21.3(a) varied by [PR528941](http://www.fwc.gov.au/awardsandorders/html/PR528941.htm) ppc 28Sep12]

An employer may offer and an employee may agree to accept to work their ordinary hours, in accordance with the following arrangements:

* + - 1. Within each workplace there will be a written roster which provides full‑time employees with at least two weeks’ notice of the accrued days/time off in accordance with the working hours arrangements under this option.
      2. Except in unforeseen circumstances, in any workplace where more than one employee is employed, accrued days/time off will be rostered in such a manner that the service will not be closed on any weekday on which the service would normally be open.
      3. Accrued days/time off will be taken in accordance with the roster. However, on the initiative of either the employer or the employee, and by agreement between the employer and the employee, or in exceptional or emergency situations, such time off may be deferred, in which case it must be taken off as soon as possible thereafter.
      4. Where possible, an accrued day off will be taken in conjunction with normal weekend days off.

Accrued days off falling on public holidays

Where an employee’s accrued day off falls on a public holiday, another day will be determined by mutual agreement of the employee and the employer to be taken instead, such day to be taken within the same or next four weekly work cycle.

Hours of work—flexible working hours option

Flexible working hours option—limitations

Notwithstanding the provisions of clause 21—Ordinary hours of work, an employer may offer and an employee may agree to accept to work flexible working hours (flexitime). Such agreement will be recorded and signed by the employee and employer and filed with the relevant wage and time records.

Definitions

* + - 1. **Flexible working hours** **(flexitime)** means a system which allows employees to set their own patterns of attendance at work subject to the provisions of this award and the requirements of the workplace.
      2. **Standard day** means seven hours and 36 minutes per day worked in a continuous shift at any time within a designated 12 hour spread of hours, such designated spread being between 6.00 am and 8.00 pm Monday to Friday.

[21.4(b)(iii) varied by [PR528941](http://www.fwc.gov.au/awardsandorders/html/PR528941.htm) ppc 28Sep12]

* + - 1. **Bandwidth** means the spread of any time on any day within which an employee may work as part of a flexible working hours arrangement subject to this award.
      2. **Core time** means the period during the day when all employees will perform ordinary duty unless absent upon approved leave or core time leave. Unless otherwise agreed in a workplace, core time will be between the hours of 9.30 am and 12 noon as well as between 2.00 pm and 4.30 pm.
      3. **Core time leave** means any approved absence during core time other than approved leave.
      4. **Approved leave** means any leave of absence other than core time approved by the employer.
      5. **Flex credit** means the accumulated amount of time worked by an employee in excess of the standard days in the settlement period, including any carry-over, provided that any such time worked as overtime will not be taken into account.
      6. **Flex debit** means the difference between the sum of the standard days in a settlement period and the aggregate amount of time worked by an employee where the total time worked is less than the sum of the standard days in the settlement period after any necessary adjustment has been made for an absence of approved paid leave and includes any carry over.
      7. **Carry over** means the aggregate of flex credit or flex debit which an employee has accumulated during a settlement period which, subject to this award, the employee may carry over to the next settlement period.
      8. **Settlement period** means the ordinary working days over which calculations are made to determine flex credit or flex debit carry over and will be a fixed period of 10 working days aligned with the fortnightly pay period operating in the workplace.
    1. Under flexible working hour’s arrangements, the times of commencement and cessation of duty will be subject to agreement between the employer and the employee.
    2. An employee’s attendance outside the hours of a standard day will be subject to the availability of work and the approval, which may be general or specific, of the employer.
    3. Where it is reasonable to do so because an employee has failed to comply with the provisionsof flexible working hours (flexitime), an employer may for a specified period require that an employee will revert to working an average 38 hour week prescribed in clause 21.1.

Bandwidth

Unless otherwise agreed in a workplace, a bandwidth will commence at 8.00 am and will conclude at 6.00 pm.

[21.5 inserted by [PR528941](http://www.fwc.gov.au/awardsandorders/html/PR528941.htm) ppc 28Sep12]

Nothing in this clause prevents other mutually agreed methods of working flexible hours from applying in accordance with clause 21.1.

1. Breaks

Meal breaks

An employee will not work more than five hours without being entitled to an unpaid meal break of not less than 30 minutes and not more than 60 minutes duration.

Rest breaks

A paid rest period of 10 minutes will be allowed each morning between the time of commencing work and the usual meal interval.

1. Overtime and penalty rates

[Varied by [PR528941](http://www.fwc.gov.au/awardsandorders/html/PR528941.htm), [PR585799](https://www.fwc.gov.au/documents/awardsandorders/html/pr585799.htm)]

Entitlement to payment for overtime

* + 1. A full-time employee will be entitled to overtime where the employee works more than 152 hours in any 28 day period or where the employee works outside of the spread of ordinary hours provided for in clause 21—Ordinary hours of work.
    2. A part-time employee will be entitled to overtime where they work in excess of their prescribed hours of duty provided that overtime will not be paid where the employer and employee have agreed to a temporary variation of working hours in which case overtime will apply for work in excess of the mutually agreed varied working hours. A part-time employee will be entitled to overtime if they work in excess of 38 hours in any one week on greater than 10 hours in any one day .
    3. A casual employee will be entitled to overtime if they work in excess of 38 hours in any one week or greater than 10 hours in any one day.
    4. Overtime will only be worked with the prior approval of the employer except in emergency situations where prior approval has not been obtained.

Overtime rates

* + 1. An employee who is required to work overtime will be paid at the rate of time and a half for the first two hours of overtime worked and double time thereafter for overtime worked Monday to Saturday.
    2. An employee who is required to work overtime will be paid double time for all overtime worked on Sundays.
    3. An employee who, with the approval of the employer, works on a public holiday will be paid, in addition to the payment for the public holiday, at the following rates:
       1. time and a half for work performed during ordinary hours of work; and/or
       2. double time and a half for work performed outside ordinary hours of work.

Time off instead of payment for overtime

[23.3 substituted by [PR585799](https://www.fwc.gov.au/documents/awardsandorders/html/pr585799.htm) ppc 14Dec16]

* + 1. An employee and employer may agree to the employee taking time off instead of being paid for a particular amount of overtime that has been worked by the employee.
    2. The period of time off that an employee is entitled to take is equivalent to the overtime payment that would have been made.

EXAMPLE: By making an agreement under clause 23.3 an employee who worked 2 overtime hours at the rate of time and a half is entitled to 3 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 23.3 but not taken as time off, the employer must pay the employee for the overtime, in the next pay period following the request, at the overtime rate applicable to the overtime when worked.
    3. If time off for overtime that has been worked is not taken within the period of 6 months mentioned in paragraph (c), the employer must pay the employee for the overtime, in the next pay period following those 6 months, at the overtime rate applicable to the overtime when worked.
    4. 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.
    5. An employee may, under section 65 of the Act, request to take time off, at a time or times specified in the request or to be subsequently agreed by the employer and the employee, instead of being paid for overtime worked by the employee. If the employer agrees to the request then clause 23.3 will apply for overtime that has been worked.

Note: If an employee makes a request under section 65 of the Act for a change in working arrangements, the employer may only refuse that request on reasonable business grounds (see section 65(5) of the Act).

* + 1. If, on the termination of the employee’s employment, time off for overtime worked by the employee to which clause 23.3 applies has not been taken, the employer must pay the employee for the overtime at the overtime rate applicable to the overtime when worked.

Note: Under section 345(1) of the Act, a person must not knowingly or recklessly make a false or misleading representation about the workplace rights of another person under clause 23.3.

[New 23.4 inserted by [PR585799](https://www.fwc.gov.au/documents/awardsandorders/html/pr585799.htm) ppc 14Dec16]

* 1. No employee will be entitled to payment for overtime or to time off instead of payment for overtime for a meal break not taken by the employee unless the employee was the only staff member on duty at the workplace at that time.

Rest period after overtime

[23.4 renumbered as 23.5 by [PR585799](https://www.fwc.gov.au/documents/awardsandorders/html/pr585799.htm) ppc 14Dec16]

* + 1. When overtime is worked it will, wherever reasonably practicable, be so arranged that employees have at least 10 consecutive hours off duty between work on successive shifts.
    2. An employee who works so much overtime between the termination of their last previous rostered ordinary hours of duty and the commencement of the next succeeding rostered period of duty that they would not have at least 10 consecutive hours off duty between those times, will, subject to this subclause, be released after completion of such overtime until they have had 10 consecutive hours off duty without loss of pay for rostered ordinary hours occurring during such absence.
    3. If, on the instructions of the employer, such an employee resumes or continues work without having had such 10 consecutive hours off duty they will be paid at the rate of double time until released from duty for such rest period and will then be entitled to be absent until they have had 10 consecutive hours off duty without loss of pay for rostered ordinary hours occurring during such absence.

Recall to work overtime

[23.5 renumbered as 23.6 by [PR585799](https://www.fwc.gov.au/documents/awardsandorders/html/pr585799.htm) ppc 14Dec16]

* + 1. An employee recalled to work overtime after leaving the employer’s business premises (whether notified before or after leaving the premises) will be paid for a minimum of four hours’ work at the appropriate rate for each time they are recalled or be granted equivalent time off instead of payment for overtime in accordance with clause 23.3.
    2. Except, in the case of unforeseen circumstances, the employee will not be required to work the full four hours if the job they were recalled to perform is completed within a shorter period.

Penalty rates for ordinary hours of work

[23.6 renumbered as 23.7 by [PR585799](https://www.fwc.gov.au/documents/awardsandorders/html/pr585799.htm) ppc 14Dec16]

[23.6(a) varied by [PR528941](http://www.fwc.gov.au/awardsandorders/html/PR528941.htm) ppc 28Sep12]

* + 1. An employee will receive the following payment for working any of their ordinary hours outside the normal spread of hours provided in clause 21.2:
       1. a loading of 20% on their ordinary rate of pay for work performed between 8.00 pm and midnight Monday to Friday inclusive;
       2. a loading of 35% on their ordinary rate of pay for work performed between the hours of midnight and 6.00 am from Sunday to Friday inclusive;
       3. a loading of 75% on their ordinary rate of pay for work performed between midnight Friday and midnight Saturday; and
       4. a loading of 100% on their ordinary rate of pay for work performed between midnight Saturday and midnight Sunday.
    2. An employee will be rostered so as to provide two consecutive days off in any seven day period.
    3. An employee required to work between midnight Saturday and midnight Sunday as part of their ordinary hours of duty will be provided with a minimum of two hours ordinary time on each occasion so engaged.
    4. By mutual agreement, employees who work between midnight Saturday and midnight Sunday may take the equivalent time off instead of payment of the loading.
    5. The loadings payable in clause 23.7(a) will be in substitution of and not cumulative on overtime and time off instead of payment for overtime as provided for in clauses 23.1 and 23.3.

1. Higher duties

An employee who is called upon by the employer to perform the duties of another employee in a higher classification for five consecutive working days or more will be paid for the period for which duties are assumed at a rate not less than the minimum rate prescribed for the higher classification. Where the minimum rate of the higher classification is the same as the relieving employee’s current rate, the relieving employee will be paid at the higher classification at the first pay point above their current rate.

24A. Requests for flexible working arrangements

[24A inserted by [PR701502](https://www.fwc.gov.au/documents/awardsandorders/html/pr701502.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

[Varied by [PR567222](https://www.fwc.gov.au/awardsandorders/html/PR567222.htm), [PR583023](http://www.fwc.gov.au/awardsandorders/html/PR583023.htm)]

* 1. Annual leave is provided for in the NES. This clause contains additional provisions.

Annual leave loading

In addition to their ordinary pay, an employee will be paid an annual leave loading of 17.5% of their ordinary rate of pay.

Illness or injury during annual leave

[25.3 substituted by [PR567222](https://www.fwc.gov.au/awardsandorders/html/PR567222.htm) ppc 16Oct15]

Where an employee falls ill or suffers an injury while on annual leave and provides to their employer a medical certificate to show that they are or were incapacitated to the extent that they would be unfit to perform their normal duties, the period of certified incapacity will be paid for and debited as personal/carer’s leave, subject to the employee having accrued sufficient personal/carer’s leave.

Annual leave in advance

[25.4 renamed and substituted by [PR583023](http://www.fwc.gov.au/awardsandorders/html/PR583023.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 25.4 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 25.4 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 25.4, the employer may deduct from any money due to the employee on termination an amount equal to the amount that was paid to the employee in respect of any part of the period of annual leave taken in advance to which an entitlement has not been accrued.

Cashing out of annual leave

[25.5 inserted by [PR583023](http://www.fwc.gov.au/awardsandorders/html/PR583023.htm) ppc 29Jul16]

* + 1. Paid annual leave must not be cashed out except in accordance with an agreement under clause 25.5.
    2. Each cashing out of a particular amount of paid annual leave must be the subject of a separate agreement under clause 25.5.
    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 25.5 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 25.5 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 25.5 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 25.5.

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 25.5.

Note 3: An example of the type of agreement required by clause 25.5 is set out at 0. There is no requirement to use the form of agreement set out at 0.

Excessive leave accruals: general provision

[25.6 inserted by [PR583023](http://www.fwc.gov.au/awardsandorders/html/PR583023.htm) ppc 29Jul16]

Note: Clauses 25.6 to 25.8 contain provisions, additional to the National Employment Standards, about the taking of paid annual leave as a way of dealing with the accrual of excessive paid annual leave. See Part 2.2, Division 6 of the Fair Work Act.

* + 1. An employee has an **excessive leave accrual** if the employee has accrued more than 8 weeks’ paid annual leave.
    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 25.7 sets out how an employer may direct an employee who has an excessive leave accrual to take paid annual leave.
    4. Clause 25.8 sets out how an employee who has an excessive leave accrual may require an employer to grant paid annual leave requested by the employee.

Excessive leave accruals: direction by employer that leave be taken

[25.7 inserted by [PR583023](http://www.fwc.gov.au/awardsandorders/html/PR583023.htm) ppc 29Jul16]

* + 1. If an employer has genuinely tried to reach agreement with an employee under clause 25.6(b) but agreement is not reached (including because the employee refuses to confer), the employer may direct the employee in writing to take one or more periods of paid annual leave.
    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 25.6, 25.7 or 25.8 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 25.7(b)(i).

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

Excessive leave accruals: request by employee for leave

[25.8 inserted by [PR583023](http://www.fwc.gov.au/awardsandorders/html/PR583023.htm); substituted by [PR583023](http://www.fwc.gov.au/awardsandorders/html/PR583023.htm) ppc 29Jul17]

* + 1. If an employee has genuinely tried to reach agreement with an employer under clause 25.6(b) but agreement is not reached (including because the employer refuses to confer), the employee may give a written notice to the employer requesting to take one or more periods of paid annual leave.
    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 25.7(a) that, when any other paid annual leave arrangements (whether made under clause 25.6, 25.7 or 25.8 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 25.6, 25.7 or 25.8 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 in any period of 12 months.
    5. The employer must grant paid annual leave requested by a notice under paragraph (a).

1. Personal/carer’s leave and compassionate leave

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

1. Community service leave

Community service leave is provided for in the NES.

1. Public holidays

[Varied by [PR712213](https://www.fwc.gov.au/documents/awardsandorders/html/pr712213.htm)]

* 1. Public holidays are provided for in the NES. This clause contains additional provisions.

Payment for working on a public holiday

An employee who works on a public holiday will be paid at the rate of double time and a half of their ordinary rate of pay for all time worked.

Public holiday substitution

[28.3(a) substituted by [PR712213](https://www.fwc.gov.au/documents/awardsandorders/html/pr712213.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.

[New 28.3(b) inserted by [PR712213](https://www.fwc.gov.au/documents/awardsandorders/html/pr712213.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.

[28.3(b) renumbered as 28.3(c) by [PR712213](https://www.fwc.gov.au/documents/awardsandorders/html/pr712213.htm) ppc 04Oct19]

* + 1. An employer and an individual employee may agree to substitute a public holiday specified in the NES for the National Aboriginal Day of Celebration, without loss of pay, on the day it is celebrated in the State in which the employee is employed. Provided that by mutual agreement instead of this day being taken as a substituted public holiday it may be taken as an annual leave day or a flexitime day.

[Note inserted by [PR712213](https://www.fwc.gov.au/documents/awardsandorders/html/pr712213.htm) ppc 04Oct19]

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

1. Aboriginal and Torres Strait Islander ceremonial leave
   1. An employee who is legitimately required by the employee’s Aboriginal or Torres Strait Islander tradition to be absent from work for ceremonial purposes will be entitled to up to 10 working days unpaid leave in any one year. The employee must be able to establish to the employer that they have an obligation under Aboriginal or Torres Strait Islander custom and/or traditional law to participate in ceremonial activities in order to be granted such leave without pay for a maximum period of 10 days per year, or for such extension granted by the employer. Such leave will not affect the employee’s entitlement to personal/carer’s leave and compassionate leave provided by the NES.
   2. Approval of all Aboriginal and Torres Strait Islander ceremonial leave will be subject to the employer’s convenience and will not unreasonably affect the operation of the work concerned but will not be unreasonably withheld.
2. Leave to deal with Family and Domestic Violence

[30 inserted by [PR609428](http://www.fwc.gov.au/awardsandorders/html/PR609428.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 30.2(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 30. 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 30 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 30.4.

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 30.6 is treated confidentially, as far as it is reasonably practicable to do so.
    2. Nothing in clause 30 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 30 unless the employee complies with clause 30.

1. —Transitional Provisions

[Varied by [PR503708](http://www.fwc.gov.au/awardsandorders/html/PR503708.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 [PR503708](http://www.fwc.gov.au/awardsandorders/html/PR503708.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 Definitions

Administrative assistant

* + 1. **Administrative assistant** means a person engaged to perform a range of clearly defined administrative, including financial and clerical duties, under the direct supervision of the Manager or another employee with delegated supervisory responsibility. The duties will be clearly defined. Once familiar with the workplace, an Administrative assistant may be expected to exercise limited discretion and solve minor problems arising in the course of their duties and within clearly defined procedures, guidelines and policies of the service. Instruction and assistance will be readily available.

Requirements

* + - 1. A person employed as an Administrative assistant will be able to:
         1. satisfactorily perform a range of routine general office duties of a clerical and/or support nature including, but not limited to, filing and the maintenance of existing records systems;
         2. perform general reception and telephonist duties including the accurate provision of information;
         3. demonstrate proficiency in the straightforward operation of keyboard equipment including data input and basic word processing; and
         4. demonstrate proficiency in the use of available office technology.
      2. With experience, an Administrative assistant will be able to perform program support and/or more complex administrative duties including, but not limited to, petty cash control, ordering and invoicing under the direction of the project manager or another employee with delegated supervisory responsibility. Such an employee may also provide limited direct support to clients of the service undertaking self-paced instructional packages and/or limited pre-employment activities and services which do not require a level of skill and/or responsibility more properly exercised by a more senior employee. Such duties may also include provision of assistance to more senior employees in client selection and referral activities, and preparation and maintenance of client records under supervision.
      3. An Administrative assistant performing these duties will receive payment at no less than Pay point 2 within this classification.
      4. An Administrative assistant will not be required to supervise other staff or volunteers.
      5. No formal qualifications are required.

Administrative officer

* + 1. **Administrative officer** means a person engaged to perform and be responsible to the Manager of a service for a range of administrative duties and including, but not limited to financial, accounting and clerical duties ranging from the simple to the complex, for office management and for supervision of other administrative and support employees including trainees. In keeping with the nature of client services offered by the employer, an Administrative officer will also liaise from time to time with clients of the service and other service providers.

Requirements

A person employed as an Administrative officer will, in addition to any of the duties of an Administrative assistant, be able to:

* + - 1. set up and administer a bookkeeping and/or accounting system including a chart of accounts for the organisation and each of its programs and services;
      2. produce a range of accurate and timely financial reports, which clearly reflect the financial position of the organisation and each of its programs and services and which will enable cross-program financial management, including:
         1. profit and loss statements; and
         2. cash flow analysis reports;
      3. under the direction of the Manager, assist in the preparation of budgets for the organisation or for individual programs and services;
      4. supervise and provide necessary office-based training to administrative or other support employees;
      5. operate purchasing, inventory, asset control, payroll and other administrative procedures;
      6. set up and maintain a full range of personnel, client data base and other management and administrative records required by the employer;
      7. be computer literate and demonstrate expertise in the use of financial and other software packages; and
      8. set up and maintain statistical information systems.

Training and placement officer grade 1

* + 1. **Training and placement officer grade 1** means a person engaged to deliver training or placement support where the employee exercises a lower range of skills and responsibilities than an employee classified as a Training and placement officer grade 2. A person engaged to perform training duties under a formal training program would be limited to one vocational area of training at this level.
       1. A person engaged to perform training duties as part of placement support will not be limited to one vocational area but will operate within clearly defined guidelines under the direction of the Manager or another more senior employee.
       2. An employee who undertakes training or placement support duties and performs a wider range of duties than the following will be classified as a Training and placement officer grade 2 and not as a Training and placement officer grade 1.

Requirements

* + - 1. In respect of an employee engaged primarily to deliver training to clients of the service, the employee may be expected to perform the following duties:
         1. participate in the client selection and assessment of client needs or suitability for the area in which they provide instruction or placement support;
         2. assist in following up client outcomes for their area of instruction or placement support;
         3. liaise with employers to organise work experience, work placement and industry support in their area of instruction or placement support; and
         4. undertake necessary planning and evaluation under supervision.
      2. In respect of an employee engaged primarily to provide placement support to clients of the service, the employee may be expected to provide on-the-job training, placement and support to clients according to the individual client service program under the direction of a more senior employee. While the employee may assist a more senior officer to carry out client selection, assessment and/or preparation of individual client service programs, they would not exercise sole or principal responsibility for such functions.
      3. An employee classified as an Administrative assistant who temporarily performs duties at the Training and placement officer grade 1 level will be paid a higher duties allowance equivalent to the difference between their ordinary rate of pay and the rate of pay of a Training and placement officer grade 1 Pay point 1 for any day in which all or a substantial part of the functions of a Training and placement officer grade 1 are performed.
      4. To assist in the facilitation of career advancement of Administrative assistants, employers may structure the job of an Administrative assistant to incorporate some functions of a Training and placement officer grade 1 should they wish to design a mixed function job incorporating duties normally performed in both classifications. In such instances, the higher duties allowance provided for in clause 24—Higher duties will apply in respect to any Administrative assistant who performs a mixed function job.
      5. Provided that where a substantial part of the mixed function job incorporates the functions of a Training and placement officer grade 1 the Administrative assistant will be re-classified to that classification and be deemed to be a Training and placement officer grade 1.

Training and placement officer grade 2

* + 1. **Training and placement officer grade 2** means a multi-functioned employee who is engaged to provide direct services to participants in training courses, placement or support services and other programs and activities provided by the employer.

Requirements

* + - 1. Such employees would be required to assist in the development and administration of programs. This may include arranging and conducting training courses, preparation of training curriculum and plans, client assessment activities, preparation of individual client service programs, the conduct of employment placement and/or support services and other activities. They may exercise some organising functions in respect of sessional employees, Training and placement officers grade 1 and/or Administrative assistants. They may be expected to participate in processes:
         1. to evaluate course and program effectiveness and relevance;
         2. to monitor and review individual client service programs;
         3. to monitor, report and advise on client outcomes; and/or
         4. to carry out case management functions and duties.
      2. A Training and placement officer grade 2 is required to exercise professional judgment within the policy parameters of the employer and may also be required to:
         1. write reports and assist in the preparation of funding proposals;
         2. liaise with and market to employers, industry and the community;
         3. participate in co-ordination activities with other agencies;
         4. refer clients to appropriate agencies and programs; and
         5. carry out client placement activities.
      3. An employee engaged to conduct job clubs and/or primarily to market services and/or clients to employers would normally be engaged as a Training and placement officer grade 2 however the size of the organisation and the level of complexity within their role may see them placed within the Training and placement co-ordinator definition and classification. Where a job club leader is responsible for the management and co-ordination of the service they will be engaged in accordance with the Training and placement co-ordinator classification.

Training and placement co-ordinator

* + 1. **Training and placement co-ordinator** means a person engaged to assist the Manager of a larger and more complex service in the management of all or part of the service and whose responsibilities primarily involve management/co-ordination functions.

Requirements

* + - 1. A Training and placement co-ordinator will in all cases report to the Manager of the organisation.
      2. Such officers will be required to assist in the management of the service within the policy parameters of the employer and may also be required to develop policy proposals and other reports for consideration by the employer and/or funding authorities. They may also be expected to assist the Manager to develop and implement strategies to ensure community and business support for the service.
      3. Such employees may be required to co-ordinate the development, implementation and evaluation of programs and/or services of the employer including the preparation of funding proposals and budgets on behalf of the employer and the monitoring of program performance and budgets. They would be expected to exercise a staff leadership role and supervise other employees of the service. This may include the co-ordination of induction of new employees, training and other human resource development strategies and co-ordination of work tasks and responsibilities. They may be expected to represent the employer in dealings with local employers, government and community agencies and in dealings with local media.
      4. A Training and placement co-ordinator may also be expected to deliver training courses for clients of the service or to undertake placement support or other operational duties though these responsibilities would not form the major part of the employee’s job.

Manager grade 1

* + 1. **Manager grade 1** means a person engaged to manage the operations of a small to medium size service where the total weekly staffing of the service is less than 285 hours.

Requirements

* + - 1. A Manager grade 1 may directly exercise delegated management functions of the employer.
      2. Such employees will be required to manage the service within the policy parameters set by the employer and may be required to develop policy proposals and other reports for consideration by the employer and/or funding authorities. They may also be expected to develop and implement strategies to ensure community and business support for the service.
      3. Such employees may be required to co-ordinate the development, implementation and evaluation of programs and/or services of the employer including the preparation of funding proposals and budgets on behalf of the employer and the monitoring of program performance and budgets. They would be expected to exercise a staff leadership role and supervise other employees of the service. This may include the co-ordination of induction of new employees, training and other human resource development strategies and co-ordination of work tasks and responsibilities. They would be expected to represent the employer in dealings with local employers, government and community agencies and in dealings with local media.
      4. No Manager grade 1 of a service with total weekly staffing of up to and including 190 staffing hours may advance beyond Pay point 4.

Manager grade 2

* + 1. **Manager grade 2** means:
       1. an employee engaged to manage a single service or multiple projects sponsored by the same employer with total weekly staffing in excess of 285 staffing hours; or
       2. a person engaged to manage a SkillShare Disability Access and Support Unit.

Requirements

Functions would generally be similar to a Manager grade 1 except that their position would involve significantly increased responsibility as a result of the size and complexity of the service(s) which they manage. They may also be required to supervise the work of Managers grade 1 and/or Training and placement co-ordinators where such employees are employed by the same employer.

1. —Supported Wage System

[Varied by [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), [PR542219](http://www.fwc.gov.au/awardsandorders/html/PR542219.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 [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 [PR542219](http://www.fwc.gov.au/awardsandorders/html/PR542219.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 [PR542219](http://www.fwc.gov.au/awardsandorders/html/PR542219.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 [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

[Varied by [PR998000](http://www.fwc.gov.au/awardsandorders/html/PR998000.htm), [PR509130](http://www.fwc.gov.au/awardsandorders/html/PR509130.htm), [PR522961](http://www.fwc.gov.au/awardsandorders/html/PR522961.htm), [PR536764](http://www.fwc.gov.au/awardsandorders/html/pr536764.htm), [PR545787](http://www.fwc.gov.au/awardsandorders/html/PR545787.htm), [PR551687](http://www.fwc.gov.au/awardsandorders/html/PR551687.htm), [PR566779](https://www.fwc.gov.au/awardsandorders/html/PR566779.htm), [PR579886](http://www.fwc.gov.au/awardsandorders/html/PR579886.htm); deleted by [PR593873](http://www.fwc.gov.au/awardsandorders/html/PR593873.htm) ppc 01Jul17]

1. —Part-day Public Holidays

[Sched E inserted by [PR532630](http://www.fwc.gov.au/awardsandorders/html/pr532630.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 [PR712213](https://www.fwc.gov.au/documents/awardsandorders/html/pr712213.htm), [PR715136](https://www.fwc.gov.au/documents/awardsandorders/html/pr715136.htm)]

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

[E.1 varied by [PR715136](https://www.fwc.gov.au/documents/awardsandorders/html/pr715136.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 [PR715136](https://www.fwc.gov.au/documents/awardsandorders/html/pr715136.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 [PR715136](https://www.fwc.gov.au/documents/awardsandorders/html/pr715136.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 [PR715136](https://www.fwc.gov.au/documents/awardsandorders/html/pr715136.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 [PR715136](https://www.fwc.gov.au/documents/awardsandorders/html/pr715136.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[[PR715136](https://www.fwc.gov.au/documents/awardsandorders/html/pr715136.htm)](https://www.fwc.gov.au/documents/awardsandorders/html/pr715136.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 [PR715136](https://www.fwc.gov.au/documents/awardsandorders/html/pr715136.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.

[E.2 inserted by [PR712213](https://www.fwc.gov.au/documents/awardsandorders/html/pr712213.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 [PR583023](http://www.fwc.gov.au/awardsandorders/html/PR583023.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 [PR583023](http://www.fwc.gov.au/awardsandorders/html/PR583023.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. —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](http://www.fwc.gov.au/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.