



STATEMENT

Fair Work Act 2009

s.156—4 yearly review of modern awards

4 yearly review of modern awards—Public Holidays

(AM2014/301 and AM2019/17)

JUSTICE ROSS, PRESIDENT

MELBOURNE, 20 DECEMBER 2019

Part-day public holidays.

[1] On 15 June 2018 and 18 July 2018, the public holidays Full Bench issued statements¹ concerning part-day public holiday provisions that are contained in most modern awards. The matter was listed for conference before Commissioner Hampton on 10 August 2018 and a Report² to the Full Bench was subsequently issued by Commissioner Hampton.

[2] In a decision published on 7 November 2018³ the Public Holidays Full Bench considered the Report and concluded that given the 4 yearly review it was ‘not presently necessary’⁴ to make provision for the further review of the part-day public holiday schedules in modern awards. In doing so, the Full Bench earlier noted that ‘if there is to be any award by award consideration of whether the Schedules are required in their present form, this will take some time and will require that all of the other terms of the modern awards that bear upon this issue have been finalised. This finalisation will not take place until the (other) terms of the modern awards are resolved as part of the 4 yearly review.’⁵

[3] In a decision⁶ issued on 17 December 2019 the part-day public holidays schedules in 113 modern awards was varied pursuant to s.160. The list of awards containing part-day public holidays schedules are set out at **Appendix A**. There are 5 different versions of the part-day public holiday schedule and these are set out at **Appendix B**.

[4] I have decided to transfer the further review of the part-day public holidays schedules from the Public Holidays Full Bench (AM2014/301) to the Finalisation of Exposure Drafts Full Bench (AM2019/17).

¹ [\[2018\] FWC 3516](#) and [\[2018\] FWC 4131](#)

² [\[2018\] FWC 4713](#)

³ [\[2018\] FWC 6540](#)

⁴ *Ibid* at [21]

⁵ *Ibid* at [18]

⁶ [\[2019\] FWC 8491](#)

[2019] FWC 8581

[5] This matter will be the subject of a conference before Commissioner Hampton in February 2020. A notice of listing will be published in due course.

PRESIDENT

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Appendix A—Awards with part-day public holidays schedules

Award title	Award ID	Schedule
<i>Aboriginal Community Controlled Health Services Award 2010</i>	MA000115	Schedule E
<i>Aged Care Award 2010</i>	MA000018	Schedule E
<i>Air Pilots Award 2010</i>	MA000046	Schedule F
<i>Aircraft Cabin Crew Award 2010</i>	MA000047	Schedule E
<i>Airline Operations—Ground Staff Award 2010</i>	MA000048	Schedule F
<i>Airport Employees Award 2010</i>	MA000049	Schedule F
<i>Ambulance and Patient Transport Industry Award 2010</i>	MA000098	Schedule C
<i>Amusement, Events and Recreation Award 2010</i>	MA000080	Schedule F
<i>Animal Care and Veterinary Services Award 2010</i>	MA000118	Schedule E
<i>Aquaculture Industry Award 2010</i>	MA000114	Schedule F
<i>Architects Award 2010</i>	MA000079	Schedule C
<i>Asphalt Industry Award 2010</i>	MA000054	Schedule E
<i>Banking, Finance and Insurance Award 2010</i>	MA000019	Schedule F
<i>Book Industry Award 2010</i>	MA000078	Schedule B
<i>Broadcasting and Recorded Entertainment Award 2010</i>	MA000091	Schedule K
<i>Building and Construction General On-site Award 2010</i>	MA000020	Schedule E
<i>Business Equipment Award 2010</i>	MA000021	Schedule F
<i>Car Parking Award 2010</i>	MA000095	Schedule E
<i>Cement and Lime Award 2010</i>	MA000055	Schedule F
<i>Cemetery Industry Award 2010</i>	MA000070	Schedule F
<i>Children's Services Award 2010</i>	MA000120	Schedule E
<i>Cleaning Services Award 2010</i>	MA000022	Schedule H
<i>Clerks—Private Sector Award 2010</i>	MA000002	Schedule E
<i>Commercial Sales Award 2010</i>	MA000083	Schedule D
<i>Concrete Products Award 2010</i>	MA000056	Schedule E
<i>Contract Call Centre Award 2010</i>	MA000023	Schedule E
<i>Corrections and Detention (Private Sector) Award 2010</i>	MA000110	Schedule F
<i>Dredging Industry Award 2010</i>	MA000085	Schedule B
<i>Dry Cleaning and Laundry Industry Award 2010</i>	MA000096	Schedule G

Award title	Award ID	Schedule
<i>Educational Services (Post-Secondary Education) Award 2010</i>	MA000075	Schedule G
<i>Educational Services (Schools) General Staff Award 2010</i>	MA000076	Schedule F
<i>Educational Services (Teachers) Award 2010</i>	MA000077	Schedule C
<i>Electrical, Electronic and Communications Contracting Award 2010</i>	MA000025	Schedule F
<i>Electrical Power Industry Award 2010</i>	MA000088	Schedule F
<i>Fast Food Industry 2010</i>	MA000003	Schedule E
<i>Fire Fighting Industry Award 2010</i>	MA000111	Schedule C
<i>Fitness Industry Award 2010</i>	MA000094	Schedule E
<i>Food, Beverage and Tobacco Manufacturing Award 2010</i>	MA000073	Schedule F
<i>Funeral Industry Award 2010</i>	MA000105	Schedule F
<i>Gardening and Landscaping Services Award 2010</i>	MA000101	Schedule F
<i>Gas Industry Award 2010</i>	MA000061	Schedule F
<i>General Retail Industry Award 2010</i>	MA000004	Schedule F
<i>Graphic Arts, Printing and Publishing Award 2010</i>	MA000026	Schedule G
<i>Hair and Beauty Industry Award 2010</i>	MA000005	Schedule F
<i>Health Professionals and Support Services Award 2010</i>	MA000027	Schedule F
<i>Higher Education Industry—Academic Staff—Award 2010</i>	MA000006	Schedule B
<i>Higher Education Industry—General Staff—Award 2010</i>	MA000007	Schedule H
<i>Horse and Greyhound Training Award 2010</i>	MA000008	Schedule D
<i>Horticulture Award 2010</i>	MA000028	Schedule E
<i>Hydrocarbons Field Geologists Award 2010</i>	MA000064	Schedule D
<i>Hydrocarbons Industry (Upstream) Award 2010</i>	MA000062	Schedule F
<i>Joinery and Building Trades Award 2010</i>	MA000029	Schedule F
<i>Journalists Published Media Award 2010</i>	MA000067	Schedule C
<i>Labour Market Assistance Industry Award 2010</i>	MA000099	Schedule E
<i>Legal Services Award 2010</i>	MA000116	Schedule E
<i>Live Performance Award 2010</i>	MA000081	Schedule F
<i>Local Government Industry Award 2010</i>	MA000112	Schedule F
<i>Mannequins and Models Award 2010</i>	MA000117	Schedule C

Award title	Award ID	Schedule
<i>Manufacturing and Associated Industries and Occupations Award 2010</i>	MA000010	Schedule F
<i>Marine Tourism and Charter Vessels Award 2010</i>	MA000093	Schedule E
<i>Marine Towage Award 2010</i>	MA000050	Schedule B
<i>Maritime Offshore Oil and Gas Award 2010</i>	MA000086	Schedule C
<i>Market and Social Research Award 2010</i>	MA000030	Schedule E
<i>Meat Industry Award 2010</i>	MA000059	Schedule F
<i>Medical Practitioners Award 2010</i>	MA000031	Schedule B
<i>Mining Industry Award 2010</i>	MA000011	Schedule F
<i>Miscellaneous Award 2010</i>	MA000104	Schedule F
<i>Mobile Crane Hiring Award 2010</i>	MA000032	Schedule E
<i>Nursery Award 2010</i>	MA000033	Schedule E
<i>Nurses Award 2010</i>	MA000034	Schedule C
<i>Oil Refining and Manufacturing Award 2010</i>	MA000072	Schedule F
<i>Passenger Vehicle Transportation Award 2010</i>	MA000063	Schedule E
<i>Pastoral Award 2010</i>	MA000035	Schedule D
<i>Pest Control Industry Award 2010</i>	MA000097	Schedule E
<i>Pharmaceutical Industry Award 2010</i>	MA000069	Schedule E
<i>Pharmacy Industry Award 2010</i>	MA000012	Schedule E
<i>Plumbing and Fire Sprinklers Award 2010</i>	MA000036	Schedule F
<i>Ports, Harbours and Enclosed Water Vessels Award 2010</i>	MA000052	Schedule B
<i>Poultry Processing Award 2010</i>	MA000074	Schedule E
<i>Premixed Concrete Award 2010</i>	MA000057	Schedule E
<i>Professional Diving Industry (Industrial) Award 2010</i>	MA000108	Schedule C
<i>Professional Diving Industry (Recreational) Award 2010</i>	MA000109	Schedule C
<i>Quarrying Award 2010</i>	MA000037	Schedule F
<i>Racing Clubs Events Award 2010</i>	MA000013	Schedule E
<i>Racing Industry Ground Maintenance Award 2010</i>	MA000014	Schedule E
<i>Real Estate Industry Award 2010</i>	MA000106	Schedule F
<i>Registered and Licensed Clubs Award 2010</i>	MA000058	Schedule G
<i>Restaurant Industry Award 2010</i>	MA000119	Schedule F

Award title	Award ID	Schedule
<i>Road Transport and Distribution Award 2010</i>	MA000038	Schedule F
<i>Road Transport (Long Distance Operations) Award 2010</i>	MA000039	Schedule D
<i>Salt Industry Award 2010</i>	MA000107	Schedule F
<i>Seafood Processing Award 2010</i>	MA000068	Schedule E
<i>Seagoing Industry Award 2010</i>	MA000122	Schedule C
<i>Security Services Industry Award 2010</i>	MA000016	Schedule E
<i>Silviculture Award 2010</i>	MA000040	Schedule D
<i>Social, Community, Home Care and Disability Services Industry Award 2010</i>	MA000100	Schedule H
<i>Sporting Organisations Award 2010</i>	MA000082	Schedule E
<i>State Government Agencies Award 2010</i>	MA000121	Schedule E
<i>Stevedoring Industry Award 2010</i>	MA000053	Schedule F
<i>Storage Services and Wholesale Award 2010</i>	MA000084	Schedule E
<i>Supported Employment Services Award 2010</i>	MA000103	Schedule E
<i>Surveying Award 2010</i>	MA000066	Schedule E
<i>Telecommunications Services Award 2010</i>	MA000041	Schedule F
<i>Textile, Clothing, Footwear and Associated Industries Award 2010</i>	MA000017	Schedule H
<i>Timber Industry Award 2010</i>	MA000071	Schedule I
<i>Transport (Cash in Transit) Award 2010</i>	MA000042	Schedule D
<i>Travelling Shows Award 2010</i>	MA000102	Schedule D
<i>Vehicle Manufacturing, Repair, Services and Retail Award 2010</i>	MA000089	Schedule G
<i>Victorian Local Government Award 2015</i>	MA000132	Schedule E
<i>Waste Management Award 2010</i>	MA000043	Schedule E
<i>Water Industry Award 2010</i>	MA000113	Schedule F
<i>Wine Industry Award 2010</i>	MA000090	Schedule F
<i>Wool Storage, Sampling and Testing Award 2010</i>	MA000044	Schedule E

Appendix B

Version 1:

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

X.1 Where a part-day public holiday is declared or prescribed between **6pm and midnight, or 7.00 pm and midnight** on Christmas Eve (24 December in each year) or New Year’s Eve (31 December in each year) the following will apply on Christmas Eve and New Year’s Eve and will override any provision in this award relating to public holidays to the extent of the inconsistency:

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

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

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

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

(e) Where an employee works any hours **on the declared or prescribed part-day public holiday** ~~between 7.00 pm and midnight~~ they will be entitled to the appropriate public holiday penalty rate (if any) in this award for those hours worked.

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

(g) Nothing in this schedule affects the right of an employee and employer to agree to substitute public holidays.

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

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

Version 1 is included in the following awards:

Award title	Award ID	Schedule
<i>Airline Operations—Ground Staff Award 2010</i>	MA000048	Schedule F
<i>Building and Construction General On-site Award 2010</i>	MA000020	Schedule E
<i>Electrical, Electronic and Communications Contracting Award 2010</i>	MA000025	Schedule F
<i>Electrical Power Industry Award 2010</i>	MA000088	Schedule F
<i>Food, Beverage and Tobacco Manufacturing Award 2010</i>	MA000073	Schedule F
<i>Graphic Arts, Printing and Publishing Award 2010</i>	MA000026	Schedule G
<i>Joinery and Building Trades Award 2010</i>	MA000029	Schedule F
<i>Mobile Crane Hiring Award 2010</i>	MA000032	Schedule E
<i>Plumbing and Fire Sprinklers Award 2010</i>	MA000036	Schedule F
<i>Surveying Award 2010</i>	MA000066	Schedule E
<i>Textile, Clothing, Footwear and Associated Industries Award 2010</i>	MA000017	Schedule H
<i>Vehicle Manufacturing, Repair, Services and Retail Award 2010</i>	MA000089	Schedule G

Version 2:

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

X.1 Where a part-day public holiday is declared or prescribed between **6pm and midnight, or 7.00 pm and midnight** on Christmas Eve (24 December in each year) or New Year’s Eve (31 December in each year) the following will apply on Christmas Eve and New Year’s Eve and will override any provision in this award relating to public holidays to the extent of the inconsistency:

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

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

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

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

(e) Excluding annualised salaried employees to whom clause F.1(f) applies, where an employee works any hours **on the declared or prescribed part-day public holiday** ~~between 7.00 pm and midnight~~ they will be entitled to the appropriate public holiday penalty rate (if any) in this award for those hours worked.

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

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

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

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

Version 2 is included in the following awards:

Award title	Award ID	Schedule
<i>Aboriginal Community Controlled Health Services Award 2010</i>	MA000115	Schedule E
<i>Aged Care Award 2010</i>	MA000018	Schedule E
<i>Air Pilots Award 2010</i>	MA000046	Schedule F
<i>Aircraft Cabin Crew Award 2010</i>	MA000047	Schedule E
<i>Ambulance and Patient Transport Industry Award 2010</i>	MA000098	Schedule C
<i>Amusement, Events and Recreation Award 2010</i>	MA000080	Schedule F
<i>Animal Care and Veterinary Services Award 2010</i>	MA000118	Schedule E
<i>Architects Award 2010</i>	MA000079	Schedule C
<i>Banking, Finance and Insurance Award 2010</i>	MA000019	Schedule F
<i>Book Industry Award 2010</i>	MA000078	Schedule B
<i>Broadcasting and Recorded Entertainment Award 2010</i>	MA000091	Schedule K
<i>Business Equipment Award 2010</i>	MA000021	Schedule F
<i>Car Parking Award 2010</i>	MA000095	Schedule E
<i>Cemetery Industry Award 2010</i>	MA000070	Schedule F
<i>Children’s Services Award 2010</i>	MA000120	Schedule E
<i>Cleaning Services Award 2010</i>	MA000022	Schedule H
<i>Clerks—Private Sector Award 2010</i>	MA000002	Schedule E
<i>Commercial Sales Award 2010</i>	MA000083	Schedule D
<i>Contract Call Centre Award 2010</i>	MA000023	Schedule E
<i>Corrections and Detention (Private Sector) Award 2010</i>	MA000110	Schedule E
<i>Dry Cleaning and Laundry Industry Award 2010</i>	MA000096	Schedule G
<i>Educational Services (Post-Secondary Education) Award 2010</i>	MA000075	Schedule G
<i>Educational Services (Schools) General Staff Award 2010</i>	MA000076	Schedule F
<i>Educational Services (Teachers) Award 2010</i>	MA000077	Schedule C
<i>Fire Fighting Industry Award 2010</i>	MA000111	Schedule C
<i>Fitness Industry Award 2010</i>	MA000094	Schedule E

Award title	Award ID	Schedule
<i>Funeral Industry Award 2010</i>	MA000105	Schedule F
<i>Gardening and Landscaping Services Award 2010</i>	MA000101	Schedule F
<i>General Retail Industry Award 2010</i>	MA000004	Schedule F
<i>Hair and Beauty Industry Award 2010</i>	MA000005	Schedule F
<i>Health Professionals and Support Services Award 2010</i>	MA000027	Schedule F
<i>Higher Education Industry—Academic Staff—Award 2010</i>	MA000006	Schedule B
<i>Higher Education Industry—General Staff—Award 2010</i>	MA000007	Schedule H
<i>Horse and Greyhound Training Award 2010</i>	MA000008	Schedule D
<i>Horticulture Award 2010</i>	MA000028	Schedule E
<i>Hospitality Industry (General) Award 2010</i>	MA000009	Schedule H
<i>Journalists Published Media Award 2010</i>	MA000067	Schedule C
<i>Labour Market Assistance Industry Award 2010</i>	MA000099	Schedule E
<i>Legal Services Award 2010</i>	MA000116	Schedule E
<i>Live Performance Award 2010</i>	MA000081	Schedule F
<i>Local Government Industry Award 2010</i>	MA000112	Schedule F
<i>Mannequins and Models Award 2010</i>	MA000117	Schedule C
<i>Market and Social Research Award 2010</i>	MA000030	Schedule E
<i>Meat Industry Award 2010</i>	MA000059	Schedule F
<i>Medical Practitioners Award 2010</i>	MA000031	Schedule B
<i>Mining Industry Award 2010</i>	MA000011	Schedule F
<i>Miscellaneous Award 2010</i>	MA000104	Schedule F
<i>Nursery Award 2010</i>	MA000033	Schedule E
<i>Nurses Award 2010</i>	MA000034	Schedule C
<i>Passenger Vehicle Transportation Award 2010</i>	MA000063	Schedule E
<i>Pastoral Award 2010</i>	MA000035	Schedule D
<i>Pest Control Industry Award 2010</i>	MA000097	Schedule E
<i>Pharmacy Industry Award 2010</i>	MA000012	Schedule E
<i>Racing Clubs Events Award 2010</i>	MA000013	Schedule E
<i>Racing Industry Ground Maintenance Award 2010</i>	MA000014	Schedule E
<i>Real Estate Industry Award 2010</i>	MA000106	Schedule F
<i>Registered and Licensed Clubs Award 2010</i>	MA000058	Schedule G

Award title	Award ID	Schedule
<i>Restaurant Industry Award 2010</i>	MA000119	Schedule F
<i>Road Transport (Long Distance Operations) Award 2010</i>	MA000039	Schedule D
<i>Road Transport and Distribution Award 2010</i>	MA000038	Schedule F
<i>Salt Industry Award 2010</i>	MA000107	Schedule F
<i>Security Services Industry Award 2010</i>	MA000016	Schedule E
<i>Silviculture Award 2010</i>	MA000040	Schedule D
<i>Social, Community, Home Care and Disability Services Industry Award 2010</i>	MA000100	Schedule H
<i>Sporting Organisations Award 2010</i>	MA000082	Schedule E
<i>State Government Agencies Administration Award 2010</i>	MA000121	Schedule E
<i>Storage Services and Wholesale Award 2010</i>	MA000084	Schedule E
<i>Supported Employment Services Award 2010</i>	MA000103	Schedule E
<i>Telecommunications Services Award 2010</i>	MA000041	Schedule F
<i>Transport (Cash in Transit) Award 2010</i>	MA000042	Schedule D
<i>Travelling Shows Award 2010</i>	MA000102	Schedule D
<i>Waste Management Award 2010</i>	MA000043	Schedule E
<i>Wine Industry Award 2010</i>	MA000090	Schedule F
<i>Wool Storage, Sampling and Testing Award 2010</i>	MA000044	Schedule E

Version 3:

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

X.1 Where a part-day public holiday is declared or prescribed between **6pm and midnight, or 7.00 pm and midnight** on Christmas Eve (24 December in each year) or New Year’s Eve (31 December in each year) the following will apply on Christmas Eve and New Year’s Eve and will override any provision in this award relating to public holidays to the extent of the inconsistency:

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

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

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

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

(e) Excluding annualised salaried employees to whom clause F.1(f) applies, where an employee works any hours **on the declared or prescribed part-day public holiday** ~~between 7.00 pm and midnight~~ they will be entitled to the appropriate public holiday penalty rate (if any) in this award for those hours worked.

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

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

(h) Nothing in this schedule affects the right of an employee and employer to agree to substitute public holidays.

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

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

Version 3 is included in the following awards:

Award title	Award ID	Schedule
<i>Airport Employees Award 2010</i>	MA000049	Schedule F
<i>Aquaculture Industry Award 2010</i>	MA000114	Schedule F
<i>Asphalt Industry Award 2010</i>	MA000054	Schedule E
<i>Cement and Lime Award 2010</i>	MA000055	Schedule F
<i>Concrete Products Award 2010</i>	MA000056	Schedule E
<i>Dredging Industry Award 2010</i>	MA000085	Schedule B
<i>Gas Industry Award 2010</i>	MA000061	Schedule F
<i>Hydrocarbons Field Geologists Award 2010</i>	MA000064	Schedule D
<i>Hydrocarbons Industry (Upstream) Award 2010</i>	MA000062	Schedule F
<i>Manufacturing and Associated Industries and Occupations Award 2010</i>	MA000010	Schedule F
<i>Marine Tourism and Charter Vessels Award 2010</i>	MA000093	Schedule E
<i>Marine Towage Award 2010</i>	MA000050	Schedule B
<i>Maritime Offshore Oil and Gas Award 2010</i>	MA000086	Schedule C
<i>Oil Refining and Manufacturing Award 2010</i>	MA000072	Schedule F
<i>Pharmaceutical Industry Award 2010</i>	MA000069	Schedule E
<i>Ports, Harbours and Enclosed Water Vessels Award 2010</i>	MA000052	Schedule B
<i>Poultry Processing Award 2010</i>	MA000074	Schedule E
<i>Premixed Concrete Award 2010</i>	MA000057	Schedule E
<i>Professional Diving Industry (Industrial) Award 2010</i>	MA000108	Schedule C
<i>Professional Diving Industry (Recreational) Award 2010</i>	MA000109	Schedule C
<i>Quarrying Award 2010</i>	MA000037	Schedule F
<i>Seafood Processing Award 2010</i>	MA000068	Schedule E
<i>Seagoing Industry Award 2010</i>	MA000122	Schedule C
<i>Stevedoring Industry Award 2010</i>	MA000053	Schedule F
<i>Water Industry Award 2010</i>	MA000113	Schedule F

Version 4:

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

X.1 Where a part-day public holiday is declared or prescribed between **6pm and midnight, or 7.00 pm and midnight** on Christmas Eve (24 December in each year) or New Year’s Eve (31 December in each year) the following will apply on Christmas Eve and New Year’s Eve and will override any provision in this award relating to public holidays to the extent of the inconsistency:

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

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

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

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

(e) Excluding annualised salaried employees to whom clause E.1(f) applies, where an employee works any hours **on the declared or prescribed part-day public holiday** ~~between 7.00 pm and midnight~~ they will be entitled to the appropriate public holiday penalty rate (if any) in this award for those hours worked.

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

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

Version 4 is included in the following award:

Award title	Award ID	Schedule
<i>Fast Food Industry 2010</i>	<u>MA000003</u>	Schedule E

Version 5:

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

X.1 Where a part-day public holiday is declared or prescribed between **6pm and midnight, or 7.00 pm and midnight** on Christmas Eve (24 December in each year) or New Year’s Eve (31 December in each year) the following will apply on Christmas Eve and New Year’s Eve and will override any provision in this award relating to public holidays to the extent of the inconsistency:

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

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

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

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

(e) Where an employee works any hours **on the declared or prescribed part-day public holiday** ~~between 7.00 pm and midnight~~ they will be entitled to the appropriate public holiday penalty rate (if any) in this award for those hours worked.

(f) An employee whose ordinary pattern of work involves rostered shifts which include the hours **on the declared or prescribed part-day public holiday** ~~between 7.00 pm and midnight~~ but who is not rostered to work **on the declared or prescribed part-day public holiday** ~~between 7.00 pm and midnight~~ on 24 December 2017 or 31 December 2017, and who is entitled to the benefit of clause 36.3 or 36.4 of this award, shall be entitled to the benefit of those clauses on a pro-rata basis, by reference to the number of ordinary hours falling **on the declared or prescribed part-day public holiday** ~~between 7.00 pm and midnight~~. An employee whose ordinary pattern of work DOES NOT include rostered shifts which include the hours **on the declared or prescribed part-day public holiday** ~~between 7.00 pm and midnight~~ shall not be entitled to the benefit of clauses 36.3 and 36.4 of this award.

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

Version 5 is included in the following award:

Award title	Award ID	Schedule
<i>Timber Industry Award 2010</i>	<u>MA000071</u>	Schedule I