

The Exposure Draft was first published on 18 December 2014. Subsequent amendments to the draft are as follows:

Publication date	Reason for amendments	Clauses affected
1 December 2015	Incorporate changes resulting from <a href="#">[2014] FWCFB 9412</a>	1, 2, 3, 6, 10, 15-21, Schedule G
	Incorporate changes resulting from <a href="#">[2015] FWCFB 3500</a> , <a href="#">PR566739</a> , <a href="#">PR566873</a> and <a href="#">PR568050</a>	10, 11, Schedule B, Schedule C, Schedule D
	Incorporate changes resulting from <a href="#">[2015] FWCFB 4658</a>	1, 10.5
	Incorporate changes resulting from <a href="#">[2015] FWCFB 6656</a>	1
	Parties agreed changes ( <a href="#">Report to the Full Bench 30 November 2015</a> )	5.2, 6.4, 8.1, 9, 10.5, 11.3, 14.1, Schedule A, Schedule G

Changes agreed to by parties appear in red text. Underlined text indicates new text that is to be included. Strikethrough text indicates existing text that is to be deleted.

## EXPOSURE DRAFT

### Passenger Vehicle Transportation Award 2015

This exposure draft has been prepared by staff of the Fair Work Commission based on the *Passenger Vehicle Transportation Award 2010* (the Passenger Vehicle award) as at 18 December 2014. This exposure draft does not seek to amend any entitlements under the Passenger Vehicle award but has been prepared to address some of the structural issues identified in modern awards.

The review of this award in accordance with s.156 of the *Fair Work Act 2009* is being dealt with in matter [AM2014/208](#). Additionally a number of common issues are being dealt with by the Commission which may affect this award. Transitional provisions have not been included in this exposure draft pending the outcome of the review.

This draft does not represent the concluded view of the Commission in this matter.

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DRAFT

## Part 1—Application and Operation

### 1. Title and commencement

1.1 amended in accordance with para [4] of [\[2015\] FWCFB 4658](#)

**1.1** This award is the *Passenger Vehicle Transportation Award 2014*~~2015~~.

1.2 amended in accordance with para [11] [\[2014\] FWCFB 9412](#) and para [8] of [\[2015\] FWCFB 4658](#)

**1.2** ~~This award supersedes the *Passenger Vehicle Transportation Award 2010* but this~~ This modern award, as varied, commenced operation on 1 January 2010.

**1.3** A variation to this award does not affect any right, privilege, obligation or liability that a person acquired, accrued or incurred under the ~~superseded~~ award as it existed prior to that variation.

**1.4** Schedule G—Definitions sets out definitions that apply in this award.

1.4 deleted in accordance with para [74] [\[2015\] FWCFB 6656](#)

~~1.4 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.~~

New 1.5 inserted in accordance with para [16] of [\[2014\] FWCFB 9412](#)

**1.5** 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. The National Employment Standards and this award

2.1 amended in accordance with para [25] [\[2014\] FWCFB 9412](#)

**2.1** The [National Employment Standards](#) (NES) and ~~entitlements in~~ this award contain the minimum conditions of employment for employees covered by this award.

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

2.3 amended in accordance with para [29] [\[2014\] FWCFB 9412](#)

- 2.3 The employer must ensure that copies of this award and the NES are available to all employees to whom they apply, either on a notice board which is conveniently located at or near the workplace or through accessible electronic means.

### 3. Coverage

- 3.1 This industry award covers employers throughout Australia in the passenger vehicle transportation industry and their employees in the classifications listed in clause 10—Minimum wages to the exclusion of any other modern award.

- 3.2 **Passenger vehicle transportation industry** means the transport of passengers by

- (a) motor vehicle, limousine or hire car;
- (b) bus or coach; and
- (c) electric tramway, monorail or light rail.

- 3.3 This award covers any employer which supplies labour on an on-hire basis in the industry set out in clause 3.1 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.

- 3.4 This award covers employers which provide group training services for trainees engaged in the industry and/or parts of industry set out at clause 3.1 and those trainees engaged by a group training service hosted by a company to perform work at a location where the activities described in clause 3.1 are being performed. This subclause operates subject to the exclusions from coverage in this award.

- 3.5 This award does not cover:

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

Note deleted in accordance with para [35] [\[2014\] FWCFB 9412](#)

~~NOTE: Section [143\(7\)](#) of the Act describes classes of employees who are excluded from being covered by a modern award.~~

- 3.6 Where an employer is covered by more than one award, an employee of that employer is covered by the award classification which is most appropriate to the work performed by the employee and to the environment in which the employee normally performs the work.

NOTE: Where there is no classification for a particular employee in this award it is possible that the employer and that employee are covered by an award with occupational coverage.

#### 4. Award flexibility

This provision may be reviewed in [AM2014/208](#)

**4.1** Notwithstanding any other provision of this award, an employer and an individual employee may agree to vary the application of certain terms of this award to meet the genuine individual needs of the employer and the individual employee. The terms the employer and the individual employee may agree to vary the application of, are those concerning:

- (a) arrangements for when work is performed;
- (b) overtime rates;
- (c) penalty rates;
- (d) allowances; and
- (e) leave loading.

**4.2** The employer and the individual employee must have genuinely made the agreement without coercion or duress. An agreement under this clause can only be entered into after the individual employee has commenced employment with the employer.

**4.3** The agreement between the employer and the individual employee must:

- (a) be confined to a variation in the application of one or more of the terms listed in clause 4.1; and
- (b) result in the employee being better off overall at the time the agreement is made than the employee would have been if no individual flexibility agreement had been agreed to.

**4.4** The agreement between the employer and the individual employee must also:

- (a) be in writing, name the parties to the agreement and be signed by the employer and the individual employee and, if the employee is under 18 years of age, the employee's parent or guardian;
- (b) state each term of this award that the employer and the individual employee have agreed to vary;
- (c) detail how the application of each term has been varied by agreement between the employer and the individual employee;
- (d) detail how the agreement results in the individual employee being better off overall in relation to the individual employee's terms and conditions of employment; and
- (e) state the date the agreement commences to operate.

- 4.5 The employer must give the individual employee a copy of the agreement and keep the agreement as a time and wages record.
- 4.6 Except as provided in clause 4.4(a) the agreement must not require the approval or consent of a person other than the employer and the individual employee.
- 4.7 An employer seeking to enter into an agreement must provide a written proposal to the employee. Where the employee’s understanding of written English is limited the employer must take measures, including translation into an appropriate language, to ensure the employee understands the proposal.
- 4.8 The agreement may be terminated:
- (a) by the employer or the individual employee giving 13 weeks’ notice of termination, in writing, to the other party and the agreement ceasing to operate at the end of the notice period; or
  - (b) at any time, by written agreement between the employer and the individual employee.
- NOTE: If any of the requirements of [s.144\(4\)](#), which are reflected in the requirements of this clause, are not met then the agreement may be terminated by either the employee or the employer, giving written notice of not more than 28 days (see [s.145](#) of the Act).
- 4.9 The notice provisions in clause 4.8(a) only apply to an agreement entered into from the first full pay period commencing on or after 4 December 2013. An agreement entered into before that date may be terminated in accordance with clause 4.8(a), subject to four weeks’ notice of termination.
- 4.10 The right to make an agreement pursuant to this clause is in addition to, and is not intended to otherwise affect, any provision for an agreement between an employer and an individual employee contained in any other term of this award.

## 5. Facilitative provisions

5.1 amended in accordance with para [42] [\[2014\] FWCFB 9412](#)

5.1 A facilitative provision provides that the standard approach in an award provision may be departed from by agreement between an employer and an individual employee, or an employer and the majority of employees in the enterprise or part of the enterprise concerned. ~~Facilitative provisions are not to be used as a device to avoid award obligations nor should they result in unfairness to an employee or employees covered by this award.~~

5.2 Facilitative provisions in this award are contained in the following clauses:

Clause	Provision	Agreement between an employer and:
6.4(e)	<del>Part-time employment—additional hours</del>	An individual
8.1(c)(i)	<del>Ordinary hours of work and rostering—hours of work</del> <b>Accumulation of rostered days off</b>	An individual

8.2(c)	Ordinary hours of work and rostering—changes to roster	An individual
14.3	Overtime and penalty rates—time off instead of overtime	An individual
15.4	Annual leave—paid leave in advance of accrual	An individual
19.4	Substitution of public holidays by agreement	The majority of employees

## Part 2—Types of Employment and Classifications

### 6. Types of employment

6.1 Employees will be employed in one of the following categories:

- (a) full-time;
- (b) part-time; or
- (c) casual.

6.2 At the time of engagement, an employer will inform each employee of the terms of their engagement and, in particular, whether they are to be full-time, part-time or casual. This decision will then be recorded in a time and wages record.

#### 6.3 Full-time employment

A full-time employee:

- (a) is engaged to work an average of 38 ordinary hours per week; and
- (b) must receive a minimum payment of four hours for each shift/day engaged.

#### 6.4 Part-time employment

(a) A part-time employee:

- (i) is engaged to work less than 38 ordinary hours per week; **and**
- (ii) has reasonably predictable hours of work. ~~and~~
- ~~(iii) receives on a pro rata basis, pay and conditions equivalent to those of full-time employees working 38 hours who do the same kind of work.~~
- (b) The terms of this award must apply pro rata to part-time employees on the basis that ordinary weekly hours for full-time employees are 38.**
- (c) Before commencing part-time employment, the employee and employer must agree upon:
  - (i) the usual hours to be worked by the employee;
  - (ii) the days upon which they will be worked;
  - (iii) the expected commencing and finishing times for the work; and



- (iv) the classification applying to the work to be performed.
- (d) The terms of the agreement in clause 6.4(c) may be varied by consent.
- (e) The terms of the agreement or any variation to it must be in writing and retained by the employer. The employer must provide a copy of the agreement, and any variation to it, to the employee.
- (f) Additional hours to those specified in clause 6.4(c)(i) to 6.4(c)(iii) may be offered and worked by agreement. Where a part-time employee agrees to work additional time then that time will stand alone and count towards the ordinary hours of duty for that week.
- (g) Except as otherwise provided in this award, a part-time employee is entitled to be paid for the hours agreed upon in accordance with clause 6.4(c)(i) to 6.4(c)(iii) and clause 6.4(f) at the minimum hourly rate for the employee's the classification.
- (h) A part-time employee must receive a minimum payment of three hours for each day they are engaged.
- (i) All time worked in excess of the agreed hours referred to in clause 6.4(c)(i) to 6.4(c)(iii) and clause 6.4(f) will be paid at the appropriate overtime rate.

## 6.5 Casual employment

- (a) A casual employee is an employee who is engaged as a casual employee and paid by the hour.
- (b) An employer must, wherever practicable, notify a casual employee if their services are not required the next working day.
- (c) **Casual loading**

For each ordinary hour worked, a casual employee must be paid:

- (i) the minimum hourly rate; and
  - (ii) a loading of 25% of the minimum hourly rate,
- for the classification in which they are employed.

- (d) **Minimum engagement for a casual employee**

A casual employee must receive:

- (i) a minimum payment of three hours for each shift; or
- (ii) where solely engaged for the purpose of transportation of school children to and from school, a minimum payment of two hours for each engagement.

Parties are asked to clarify whether the minimum payment applies to each shift i.e. two hours 'to school' plus two hours 'from school'.

6.5(e) deleted in accordance with para [69] [\[2014\] FWCFB 9412](#)

~~(e) The following provisions of this award do not apply to casual employees:~~

~~Parties are asked to provide a list of provisions that do not apply to casual employees.~~

## 7. Classifications

The classification definitions of employees are set out in Schedule A—Classifications.

## Part 3—Hours of Work

### 8. Ordinary hours of work and rostering

This provision may be reviewed in [AM2014/208](#)

#### 8.1 Ordinary hours and roster cycles

- (a) The ordinary hours of work ~~for a full-time employee~~ will be an average of 38 hours per week.

Parties are asked to consider whether a span of ordinary hours for employees on two-driver operations and others should be specified as per the times in clauses 10.5(a) and 10.5(c)

- (b) The ordinary hours of work may be worked on any day of the week averaged as follows:
- (i) 38 hours on up to five days within a work cycle not exceeding seven consecutive days;
  - (ii) 76 hours on up to 10 days within a work cycle not exceeding 14 consecutive days;
  - (iii) 114 hours on up to 15 days within a work cycle not exceeding 21 consecutive days; or
  - (iv) 152 hours on up to 20 days within a work cycle not exceeding 28 consecutive days.
- (c) Ordinary hours may be worked by:
- (i) providing for one accrued rostered day off (eight hours) and 19 days of work over a continuous four week period. Provided that, by agreement between **the** employer and employee, accrued rostered days off may be accumulated to a maximum of 10 such days over a 40 week period; or
  - (ii) in accordance with clause 8.1(b).
- (d) Ordinary hours, exclusive of meal breaks, must not exceed 10 hours on any one day.

#### 8.2 Notice requirements

- (a) All known rostered duty, which may include broken shifts and days off, must be displayed at least seven days before the start of the rostered duty.

- (b) Changes to the roster, including alterations to days off, must be displayed at least 24 hours in advance and the employee must be notified.
- (c) Any changes for which less than 24 hours' notice has been given must be agreed to by the employee.

**8.3 Coach/bus driver employees on single day charters**

- (a) An employee engaged as a coach driver or a bus driver on a single day charter may have a rostered shift divided into two working periods with no requirement to return to the depot during a rostered shift.
- (b) The coach/bus driver will be paid waiting time at the rate of **50% of the minimum hourly rate** plus any applicable penalty or loading.
- (c) Paid waiting time will not be taken into account when calculating overtime.

**9. Unpaid meal ~~breaks~~ Breaks**

- 9.1 An employee may be rostered for an unpaid meal break of between 30 minutes and one hour to be taken at the depot or any other reasonable location.
- 9.2 An employee must not be required to work for more than five and a half hours without a break for a meal.
- 9.3 Where a rostered meal break cannot be provided, an employee will be provided with a paid crib break of between 15 and 30 minutes to be taken at any reasonable location.

**Part 4—Wages and Allowances**

**10. Minimum wages**

Rates updated as a result of AWR 2015; casual hourly rates deleted in accordance with para [54] of [\[2015\] FWCFB 4658](#)

- 10.1 An employer must pay adult employees the following minimum wage rates for ordinary hours worked by the employee:

<b>Employee classification</b>	<b>Minimum weekly rate \$</b>	<b>Minimum hourly rate \$</b>	<b><del>Casual hourly rate</del> \$</b>
Grade 1	708.70	18.65	<del>23.31</del>
Grade 2	725.90	19.10	<del>23.88</del>
Grade 3	767.50	20.20	<del>25.25</del>
Grade 4	794.30	20.90	<del>26.13</del>
Grade 5	838.20	22.06	<del>27.58</del>
Grade 6	875.10	23.03	<del>28.79</del>

See Schedule B for a summary of hourly rates of pay including overtime and penalties.

## 10.2 Juniors

- (a) Junior employees will be entitled to a percentage of the applicable adult rate for their classification as follows:

Age	% of applicable adult rate
Under 19 years	70
19 years	80
20 years	100

- (b) Where a junior employee aged 18 years or more is required to drive a passenger vehicle and is in sole charge of that vehicle, the employee must be paid the adult rate assigned to the class of driving work that the employee is required to perform.

## 10.3 Supported wage system

For employees who because of the effects of a disability are eligible for a supported wage, see Schedule D—Supported Wage System.

## 10.4 National training wage

For employees undertaking a traineeship, see Schedule E—National Training Wage.

## 10.5 Payment of wages

- (a) All earnings, including overtime, must be paid either weekly or fortnightly in the employer's time on a day to be fixed by the employer. Payment will be no later than Thursday in the pay week **period**.
- (b) Once fixed, the pay day must not be altered more than once in three months.
- (c) All earnings, including overtime, must be paid within two days of the expiration of the pay period in which they accrue.
- (d) Notwithstanding anything contained in this clause, the employer must pay to an employee who leaves or is dismissed all money due to the employee within two working days.
- (e) The employer may pay an employee by electronic funds transfer to a bank account nominated by an employee.

10.5(f) deleted in accordance with para [35] [\[2014\] FWCFB 9412](#)

- ~~(f) Section [536](#) of the Act requires the employer to give a pay slip to an employee within one working day of paying an amount to the employee in relation to the performance of work. The [Fair Work Regulations 2009](#) specify the information that must be included in a pay slip.~~

Note inserted in accordance with para [57] [\[2015\] FWCFB 4658](#)

NOTE: Regulations 3.33(3) and 3.46(1)(g) of *Fair Work Regulations 2009* set out the requirements for pay records and the content of payslips including the requirement to separately identify any allowance paid.

## 10.6 Higher duties

An employee required by the employer to perform the duties of a higher grade for at least two hours on any shift or day, must be paid the higher rate for all work done on that day or shift.

## 11. Allowances

Monetary amounts in this clause adjusted as a result of AWR 2015

**11.1** Employers must pay to an employee the allowances the employee is entitled to under this clause. See Schedule C for a summary of monetary allowances and method of adjustment.

### 11.2 Wage related allowances

#### (a) First aid allowance

An employee who has been trained to provide first aid and who is the current holder of appropriate first aid qualifications such as a certificate from St John Ambulance or similar body must be paid a weekly allowance of **\$14.58** if appointed by the employer as a first aid officer.

#### (b) Articulated bus allowance

An employee required to drive an articulated bus will be paid an additional **\$11.97** for that shift.

### 11.3 Expense related allowances and reimbursements

#### (a) Meal allowance

A meal allowance of **\$12.28** will be paid to employees who work more than two hours' overtime beyond their ordinary finishing time.

#### (b) Log book/work diary allowance

An employee who is required to purchase a log book/work diary for the purpose of recording driving hours will be reimbursed by the employer for the cost of the log book/work diary.

#### (c) Uniform allowance

An employee required to wear a uniform (including boots or other required footwear) will be reimbursed for all reasonable and necessary costs incurred in purchasing that uniform if the uniform is not provided by the employer.

#### (d) Living away from home allowance

This provision may be reviewed in [AM2014/208](#)

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- (i) An employee whose employment requires them to be absent from home and who is unable to conveniently return home will be paid:
  - a minimum of eight hours per day Monday to Sunday; plus
  - penalty rates for actual time worked on days worked where penalties apply under Part 5—Penalties and Overtime.
- (ii) The employer will either reimburse the employee for reasonable costs incurred by the employee when living away from home or provide accommodation and all meals.

### (e) Fares and travelling time

- (i) An employee starting or finishing work at a place, other than the ordinary starting or finishing place, will be paid at ordinary rates for travelling time in excess of that normally spent in travelling to and from home.
- (ii) Travelling time will not be taken into account when calculating overtime.
- (iii) The employer will reimburse an employee for any reasonable travelling expenses incurred in connection with the provisions of this clause.

### (f) Vehicle allowance

- (i) An employee will be paid an allowance of **\$0.78** per kilometre where no form of public transport is available and the employee is required to use a personal vehicle for transportation between:
  - the ordinary starting and finishing place; and
  - any other place of work decided by the employer.
- (ii) An allowance of **\$0.78** per kilometre will be paid to an employee who by agreement with their employer uses the employee's own vehicle in the course of their work.

### (g) Medical examination allowance

- (i) An employer may require an employee, and the employee will agree, to submit to a medical examination upon engagement, and periodically after that at the discretion of the employer.
- (ii) All medical evidence **provided that the medical evidence is limited to ensuring that the employee is capable of performing the inherent requirements of the job** will be made available to the employer/employee on request.
- (iii) Where the employer requires an employee to undertake a medical examination the employer will pay the employee an allowance equal to the difference between the cost of the examination and the Medicare rebate.
- (iv) An employee required to undertake a medical examination for the purposes of obtaining a relevant licence will be paid an allowance in accordance with 11.3(g)(iii), provided that the employer determines the certified medical practitioner who is to perform the examination.

## **12. Superannuation**

### **12.1 Superannuation legislation**

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

### **12.2 Employer contributions**

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

### **12.3 Voluntary employee contributions**

- (a) Subject to the governing rules of the relevant superannuation fund, an employee may, in writing, authorise their employer to pay on behalf of the employee a specified amount from the post-taxation wages of the employee into the same superannuation fund as the employer makes the superannuation contributions provided for in clause 12.2.
- (b) An employee may adjust the amount the employee has authorised their employer to pay from the wages of the employee from the first of the month following the giving of three months' written notice to their employer.
- (c) The employer must pay the amount authorised under clauses 12.3(a) or (b) no later than 28 days after the end of the month in which the deduction authorised under clauses 12.3(a) or (b) was made.

### **12.4 Superannuation fund**

Unless, to comply with superannuation legislation, the employer is required to make the superannuation contributions provided for in clause 12.2 to another superannuation fund that is chosen by the employee, the employer must make the superannuation contributions provided for in clause 12.2 and pay the amount authorised under clauses 12.3(a) or (b) to one of the following superannuation funds or its successor:

- (a) Tasplan;
- (b) TWUSUPER;
- (c) AustralianSuper;
- (d) QBIC Super Fund (MLC MasterKey Business Super);

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

## Part 5—Penalties and Overtime

### 13. Penalty rates

#### 13.1 Employees other than employees on two-driver operations

- (a) An employee other than an employee on two-driver operations will be paid the following penalty rates for all ordinary hours worked by the employee during the following periods:

Time worked	Penalty rate	Casual penalty rate (inclusive of 25% loading)
	% of minimum hourly rate	
Early or late work <sup>1</sup>	115%	140%
Saturday all hours	150%	175%
Sunday all hours	200%	225%
Public holiday all hours	250%	275%

<sup>1</sup>Early or late work means work before 6.00 am or after 7.00 pm.

- (b) Penalty rates and overtime rates (as set out in clauses 13 and 14) are not cumulative. Where an employee is entitled to overtime and penalty rates the employee will be paid the applicable rate that is higher.

#### 13.2 Employees on two-driver operations

This provision may be reviewed in [AM2014/208](#)

An employee on two-driver operations will be paid the following rates for all ordinary hours worked by the employee during the following periods:

Time worked	Rate	Casual rate (inclusive of 25% loading)



	% of minimum hourly rate	
Monday to Friday—all hours	100%	125%
Saturday—all hours	125%	150%
Sunday—all hours	150%	175%
Public holiday other than Good Friday and Christmas day <sup>1</sup>	100% plus an additional eight hours at ordinary time	100% plus an additional eight hours at ordinary time
Good Friday and Christmas Day	125% plus an additional eight hours at ordinary time	150% plus an additional eight hours at ordinary time

Parties are asked to comment on the application of this clause in relation to payment for work performed on public holidays. Is an employee always entitled to be paid an additional 8 hours on a public holiday (even where the employee does not work an eight hour shift) or is an employee entitled to double time for all hours actually worked on a public holiday?

## 14. Overtime

### 14.1 Definition of overtime

- (a) Overtime is any time worked in excess of:
- (i) the hours in clauses **8.1(a) and (b)**~~8.1(b)~~; or
  - (ii) the rostered ordinary hours on any day.

**14.2** Overtime as defined in clause 14.1 must be paid for at **150%** of the minimum hourly rate for the first three hours and **200%** of the minimum hourly rate after three hours.

### 14.3 Time off instead of payment for overtime

This provision may be affected by [AM2014/300](#) – see [draft determination](#)

- (a) An employee may elect, with the consent of the employer, to take time off instead of payment for overtime at a time or times agreed with the employer.
- (b) Time off instead of overtime will be taken on the basis of an hour for each hour worked.

**14.4** Overtime rates and penalty rates (as set out in clauses 13 and 14) are not cumulative. Where the employee is entitled to overtime and penalty rates the employee will be paid the applicable rate that is higher.

## Part 6—Leave, Public Holidays and Other NES Entitlements

### 15. Annual leave

This annual leave provision may be affected by [AM2014/47](#) – see [draft determination](#).

15.1 and 15.2 substituted in accordance with para [35] [\[2014\] FWCFB 9412](#)

**15.1** Annual leave is provided for in the NES. ~~Casual employees are not entitled to paid annual leave. The NES provides for the accrual of four weeks paid leave per year (five weeks paid leave per year for certain shiftworkers). For the full NES annual leave entitlement see [ss.86–94](#) of the Act.~~

#### **15.2 Additional leave for certain shiftworkers**

~~For the purposes of the additional week’s leave referred to in clause 0, **shiftworker**, means an employee who is a seven day shiftworker who is regularly rostered to work on Sundays and public holidays.~~

**15.2** For the purposes of Division 6 of the NES, a **shiftworker** means an employee who is a seven day shiftworker who is regularly rostered to work on Sundays and public holidays.

#### **15.3 Payment for annual leave**

During each period of annual leave a full-time employee must be paid a loading of 17.5% on the minimum wage rate prescribed for their classification under this award. The loading does not apply to proportionate leave on termination of employment.

Note inserted in accordance with para [94] of [\[2015\] FWCFB 4658](#)

NOTE: Where an employee is receiving overaward payments such that the employee’s base rate of pay is higher than the rate specified under this award, the employee is entitled to receive the higher rate while on a period of paid annual leave (see ss.16 and 90 of the Act).

#### **15.4 Paid leave in advance of accrual**

- (a) By agreement between an employer and an employee a period of annual leave may be taken in advance of the entitlement accruing.
- (b) If leave is taken in advance and the employment terminates before the entitlement has accrued the employer may make a corresponding deduction from any money due to the employee on termination.

#### **15.5 Taking annual leave**

- (a) An employer may direct an employee to take paid annual leave if the employee has accrued more than eight weeks’ paid annual leave, and the employer and employee are unable to reach agreement on the taking of the leave.
- (b) An employer must give an employee at least 28 days’ notice prior to the date the employee is required to start the leave.

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

16.1 to 16.3 substituted in accordance with para [35] [\[2014\] FWCFB 9412](#)

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

~~Personal/carer's leave and compassionate leave are provided for in the NES. Casual employees are not entitled to paid personal/carer's leave or paid compassionate leave. The NES provides for:~~

- ~~• the accrual of 10 days' paid personal/carer's leave per year;~~
- ~~• 2 days' unpaid carer's leave (as required); and~~
- ~~• 2 days' paid (unpaid for casuals) compassionate leave (as required).~~

16.2 ~~For the full NES entitlement to personal/carer's leave and compassionate leave see [ss.95-107](#) of the Act.~~

16.3 ~~Personal/carer's leave and compassionate leave are not paid on termination of employment.~~

## 17. Parental leave and related entitlements

17 substituted in accordance with para [35] [\[2014\] FWCFB 9412](#)

Parental leave and related entitlements are provided for in the NES.

~~Parental leave and related entitlements are provided for in the NES. The NES provides up to 12 months' unpaid leave to eligible employees, plus a right to request an additional 12 months' unpaid leave, plus other forms of maternity, paternity and adoption related leave. For the full NES parental leave entitlement see [ss.67-85](#) of the Act.~~

## 18. Community service leave

18 substituted in accordance with para [35] [\[2014\] FWCFB 9412](#)

Community service leave is provided for in the NES.

~~Community service leave is provided for in the NES. The NES provides unpaid leave for voluntary emergency activities and up to 10 days' paid leave for jury service (after 10 days, leave is unpaid). For the full NES community service leave entitlement see [ss.108-112](#) of the Act.~~

## 19. Public holidays

19 substituted in accordance with para [35] [\[2014\] FWCFB 9412](#)

19.1 ~~Public holiday entitlements are provided for in the NES. The NES provides a paid day off on each public holiday, except where reasonably requested to work. For the full NES public holiday entitlement see [ss.114-116](#) of the Act.~~

**19.2** ~~A casual employee who does not work on a public holiday is not entitled to a paid day off.~~

**19.3** Where an employee works on a public holiday they will be paid in accordance with clauses 13 or 14.

**19.4 Substitution of public holidays by agreement**

The employer and the majority of employees in an enterprise may agree to substitute another day for a public holiday.

**19.5 Part-day public holidays**

19.5 inserted on **XX Month 2015**.

For provisions relating to part-day public holidays see Schedule F—2014 Part-day public holidays.

**20. Termination of employment**

20.1 amended in accordance with para [35] [\[2014\] FWCFB 9412](#)

**20.1** Notice of termination is provided for in the NES.

~~Notice of termination is provided for in the NES. The NES provides between one and four weeks' notice of termination based on length of service. Employees over 45 years old who have been with the employer for at least two years are entitled to an extra week's notice. For the full NES notice of termination entitlement see [ss.117-118](#) of the Act.~~

20.2 amended in accordance with para [35] [\[2014\] FWCFB 9412](#)

**20.2 Notice of termination by an employee**

The notice of termination required to be given by an employee is the same as that required of an employer ~~except that there is no requirement for employees over 45 years old to give additional notice~~ except that there is no requirement on the employee to give additional notice based on the age of the employee concerned. If an employee fails to give the required notice, the employer may withhold from any money due to the employee on termination under this award or the NES, an amount not exceeding the amount the employee would have been paid under this award in respect of the period of notice required by this clause, less any period of notice actually given by the employee.

**20.3 Job search entitlement**

Where an employer has given notice of termination to an employee, an employee must be allowed up to one day's time off without loss of pay for the purpose of seeking other employment. The time off is to be taken at times that are convenient to the employee after consultation with the employer.

## 21. Redundancy

21.1 and 21.2 substituted in accordance with para [35] [\[2014\] FWCFB 9412](#)

**21.1** Redundancy pay is provided for in the NES.

~~Redundancy pay is provided for in the NES. The NES provides between zero and 16 weeks' redundancy pay upon redundancy, depending on length of service. Small business employers are excluded from the obligation to pay redundancy pay. For the full NES redundancy pay entitlement see [ss.119–122](#) of the Act.~~

~~21.2 A **small business employer** is defined in the Act as an employer that employs fewer than 15 employees. The way that the number of employees is calculated is set out in [s.23](#) of the Act.~~

**21.2 Transfer to lower paid duties**

Where an employee is transferred to lower paid duties by reason of redundancy, the same period of notice must be given as if the employment had been terminated and the employer may, at the employer's option, make payment instead. The payment will be equal to the difference between the former ordinary time rate of pay and the ordinary time rate of pay for the number of weeks of notice still owing.

**21.3 Employee leaving during notice period**

An employee given notice of termination in circumstances of redundancy may terminate their employment during the period of notice. The employee is entitled to receive the benefits and payments they would have received under this clause had they remained in employment until the expiry of the notice, but is not entitled to payment instead of notice.

**21.4 Job search entitlement**

- (a) An employee given notice of termination in circumstances of redundancy must be allowed up to one day's time off without loss of pay during each week of notice for the purpose of seeking other employment.
- (b) If the employee has been allowed paid leave for more than one day during the notice period for the purpose of seeking other employment, the employee must, at the request of the employer, produce proof of attendance at an interview or they will not be entitled to payment for the time absent. For this purpose a statutory declaration is sufficient.
- (c) This entitlement applies instead of clause 0.

## Part 7—Consultation and Dispute Resolution

### 22. Consultation

#### 22.1 Consultation regarding major workplace change

##### (a) Employers to notify

- (i) Where an employer has made a definite decision to introduce major changes in production, program, organisation, structure or technology that are likely to have significant effects on employees, the employer must notify the employees who may be affected by the proposed changes and their representatives, if any.
- (ii) **Significant effects** include termination of employment; major changes in the composition, operation or size of the employer's workforce or in the skills required; the elimination or diminution of job opportunities, promotion opportunities or job tenure; the alteration of hours of work; the need for retraining or transfer of employees to other work or locations; and the restructuring of jobs. Provided that where this award makes provision for alteration of any of these matters an alteration is deemed not to have significant effect.

##### (b) Employers to discuss change

- (i) The employer must discuss with the employees affected and their representatives, if any, the introduction of the changes referred to in clause 22.1(a), the effects the changes are likely to have on employees and measures to avert or mitigate the adverse effects of such changes on employees and must give prompt consideration to matters raised by the employees and/or their representatives in relation to the changes.
- (ii) The discussions must commence as early as practicable after a definite decision has been made by the employer to make the changes referred to in clause 22.1(a).
- (iii) For the purposes of such discussion, the employer must provide in writing to the employees concerned and their representatives, if any, all relevant information about the changes including the nature of the changes proposed, the expected effects of the changes on employees and any other matters likely to affect employees provided that no employer is required to disclose confidential information the disclosure of which would be contrary to the employer's interests.

#### 22.2 Consultation about changes to rosters or hours of work

- (a) Where an employer proposes to change an employee's regular roster or ordinary hours of work, the employer must consult with the employee or employees affected and their representatives, if any, about the proposed change.
- (b) The employer must:

- (i) provide to the employee or employees affected and their representatives, if any, information about the proposed change (for example, information about the nature of the change to the employee's regular roster or ordinary hours of work and when that change is proposed to commence);
  - (ii) invite the employee or employees affected and their representatives, if any, to give their views about the impact of the proposed change (including any impact in relation to their family or caring responsibilities); and
  - (iii) give consideration to any views about the impact of the proposed change that are given by the employee or employees concerned and/or their representatives.
- (c) The requirement to consult under this clause does not apply where an employee has irregular, sporadic or unpredictable working hours.
- (d) These provisions are to be read in conjunction with other award provisions concerning the scheduling of work and notice requirements.

## **23. Dispute resolution**

- 23.1** In the event of a dispute about a matter under this award, or a dispute in relation to the NES, in the first instance the parties must attempt to resolve the matter at the workplace by discussions between the employee or employees concerned and the relevant supervisor. If such discussions do not resolve the dispute, the parties will endeavour to resolve the dispute in a timely manner by discussions between the employee or employees concerned and more senior levels of management as appropriate.
- 23.2** If a dispute about a matter arising under this award or a dispute in relation to the NES is unable to be resolved at the workplace, and all appropriate steps under clause 23.1 have been taken, a party to the dispute may refer the dispute to the Fair Work Commission.
- 23.3** The parties may agree on the process to be utilised by the Fair Work Commission including mediation, conciliation and consent arbitration.
- 23.4** Where the matter in dispute remains unresolved, the Fair Work Commission may exercise any method of dispute resolution permitted by the Act that it considers appropriate to ensure the settlement of the dispute.
- 23.5** An employer or employee may appoint another person, organisation or association to accompany and/or represent them for the purposes of this clause.
- 23.6** While the dispute resolution procedure is being conducted, work must continue in accordance with this award and the Act. Subject to applicable occupational health and safety legislation, an employee must not unreasonably fail to comply with a direction by the employer to perform work, whether at the same or another workplace, that is safe and appropriate for the employee to perform.

## **Schedule A—Classifications**

### **A.1 Grade 1**

Grade 1 employees are:

- (a) employees engaged in various activities not involving the driving of passenger vehicles, whilst carrying passengers, and includes yard and vehicle cleaning/washing, oil and greasing, refuelling, changing tyres, assisting in tyre repairs and supervision of school children on passenger vehicles; and
- (b) coach attendants employed to travel on a passenger vehicle undertaking long tours and performing other duties incidental and associated with such work.

### **A.2 Grade 2**

Grade 2 employees are employees with skills in excess of Grade 1 and includes:

- (a) employees engaged in duties associated with effective ticketing, conducting and customer relations service in all contact with passengers and the general public. Duties include operating and issuing tickets; ensuring correct revenue is collected; balancing and accounting for all tickets to ensure correct money has been received; pre-departure checks of passenger vehicles; driver monitoring and reporting vehicle defects; liaising and communicating with passengers and the general public to provide information and directions and performing various administrative procedures associated with Grade 2 duties;
- (b) a driver of a passenger vehicle with a carrying capacity of less than 25 school children to and/or from school; and
- (c) a driver of a motor vehicle, limousine or hire car capable of carrying less than eight persons and used for hire or reward but excluding motor vehicles used for private purposes.

### **A.3 Grade 3**

Grade 3 employees are:

- (a) employees with skills in excess of Grade 2 and includes all employees engaged in driving a passenger vehicle with a carrying capacity of 25 or more school children to and/or from school;
- (b) employees engaged in driving a passenger vehicle with a carrying capacity of less than 25 passengers on a specified route service which operates regularly between fixed terminals;
- (c) a coach driver of a passenger vehicle which undertakes charter, single day tours or which operates regularly between fixed terminals with a return distance of less than 650 km; and
- (d) a bus driver of a passenger vehicle who undertakes charter, single day tours which operates regularly between fixed terminals with a return distance of less than 650 km and who is not otherwise classified at the grade 4 by virtue of the specified route work normally performed or the carrying capacity of the bus.



#### **A.4 Grade 4**

Grade 4 employees are employees with skills in excess of Grade 3 who efficiently operate passenger vehicles and issue tickets; balance and account for tickets and revenue; practice basic customer relations when providing information to passengers and the general public; inspect and monitor general conditions of the passenger vehicle; perform basic mechanical support duties; report and record information and includes:

- (a) employees engaged in driving a passenger vehicle with a carrying capacity of 25 or more passengers on a specified route which operates regularly between fixed terminals; and
- (b) a coach driver driving a passenger vehicle with a carrying capacity of 25 or more passengers on extended trip/tour with a return distance of 650 km or more and who may be required to deliver descriptive commentary and/or be absent overnight from their place of residence.

#### **A.5 Grade 5**

Grade 5 employees are employees with skills in excess of Grade 4. An employee at this level:

- (a) performs the duties of driver with a sound understanding of operational work practices and procedures;
- (b) performs activities of increasing complexity with some scope to exercise initiative in the application of established work procedures;
- (c) may instruct other employees including on-the-job training; operates special services with a sound knowledge of the routes of other depots;
- (d) instructs new drivers in route and passenger vehicle operations;
- (e) inducts new drivers to aspects of depot operations and information;
- (f) communicates with all types of customers with an advanced degree of courtesy and accuracy of information; and
- (g) carries out duties associated with passenger surveys and service monitoring.

#### **A.6 Grade 6**

(a) Grade 6 employees are employees with skills in excess of Grade 5 who are classified as supervisors and/or trainers who perform more complex activities, which may require the exercise of knowledge and initiative in the application and establishment of work procedures.

- (b) An employee at this level:
  - (i) performs the duties of driver plus, as required, provides training, supervision and inducting and monitoring of trainee drivers;
  - (ii) drives routes in other depots to cover vehicle schedules and assists in preparing rosters and amendments;

- ~~(iii)~~ is required to have a customer service focus;
- to have a customer service focus; and
  - to provide support to operations officers at special events including supervision and co-ordination of transport movements; and is responsible for routine probationary service monitoring and assessment of new drivers’;
- (iv) provides support to operations officers at special events including supervision and co-ordination of transport movements; and
- (v) is responsible for routine probationary service monitoring and assessment of new drivers.

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## Schedule B—Summary of Hourly Rates of Pay

Rates updated as a result of AWR 2015; note inserted in accordance with para [63] of [\[2015\] FWCFB 4658](#)

NOTE: Employers who meet their obligations under this schedule are meeting their obligations under the award.

### B.1 Full-time and part-time employees

#### B.1.1 Full-time and part-time employees other than two-driver operations—ordinary and penalty rates

	Ordinary hours	Early or late work <sup>1</sup>	Saturday	Sunday	Public holiday
	% of minimum hourly rate				
	100%	115%	150%	200%	250%
	\$	\$	\$	\$	\$
Grade 1	18.65	21.45	27.98	37.30	46.63
Grade 2	19.10	21.97	28.65	38.20	47.75
Grade 3	20.20	23.23	30.30	40.40	50.50
Grade 4	20.90	24.04	31.35	41.80	52.25
Grade 5	22.06	25.37	33.09	44.12	55.15
Grade 6	23.03	26.48	34.55	46.06	57.58

<sup>1</sup> Early or late work means work before 6.00 am or after 7.00 pm.

#### B.1.2 Full-time and part-time employees on two-driver operations—ordinary and penalty rates

	Ordinary hours	Saturday	Sunday	Public holiday	Good Friday or Christmas day
	% of minimum hourly rate				
	100%	125%	150%	N/A	N/A
	\$	\$	\$	\$ per shift <sup>1</sup>	\$ per shift <sup>2</sup>
Grade 1	18.65	23.31	27.98	149.20	149.20
Grade 2	19.10	23.88	28.65	152.80	152.80
Grade 3	20.20	25.25	30.30	161.60	161.60
Grade 4	20.90	26.13	31.35	167.20	167.20
Grade 5	22.06	27.58	33.09	176.48	176.48
Grade 6	23.03	28.79	34.55	184.24	184.24

<sup>1</sup> This amount is payable in addition to 100% of the minimum hourly rate for hours worked (see clause 10.1).

<sup>2</sup> This amount is payable in addition to 125% of the minimum hourly rate for hours worked (see clause 10.1).

**B.1.3 Full-time and part-time employees—overtime**

	In excess of ordinary hours		Public holiday
	First 3 hours	After 3 hours	
% of minimum hourly rate			
	150%	200%	250%
	\$	\$	\$
Grade 1	27.98	37.30	46.63
Grade 2	28.65	38.20	47.75
Grade 3	30.30	40.40	50.50
Grade 4	31.35	41.80	52.25
Grade 5	33.09	44.12	55.15
Grade 6	34.55	46.06	57.58

**B.2 Casual employees**

**B.2.1 Casual employees other than two-driver operations—ordinary and penalty rates**

	Ordinary hours	Early or late work <sup>1</sup>	Saturday	Sunday	Public holiday
% of minimum hourly rate					
	125%	140%	175%	225%	275%
	\$	\$	\$	\$	\$
Grade 1	23.31	26.11	32.64	41.96	51.29
Grade 2	23.88	26.74	33.43	42.98	52.53
Grade 3	25.25	28.28	35.35	45.45	55.55
Grade 4	26.13	29.26	36.58	47.03	57.48
Grade 5	27.58	30.88	38.61	49.64	60.67
Grade 6	28.79	32.24	40.30	51.82	63.33

<sup>1</sup> Early or late work means work before 6.00 am or after 7.00 pm.

**B.2.2 Casual employees on two-driver operations—ordinary and penalty rates**

	<b>Ordinary hours</b>	<b>Saturday</b>	<b>Sunday</b>	<b>Public holiday</b>	<b>Good Friday or Christmas day</b>
	<b>% of minimum hourly rate</b>				
	<b>100%</b>	<b>125%</b>	<b>150%</b>	<b>N/A</b>	<b>N/A</b>
	<b>\$</b>	<b>\$</b>	<b>\$</b>	<b>\$ per shift<sup>1</sup></b>	<b>\$ per shift<sup>2</sup></b>
Grade 1	18.65	23.31	27.98	149.20	149.20
Grade 2	19.10	23.88	28.65	152.80	152.80
Grade 3	20.20	25.25	30.30	161.60	161.60
Grade 4	20.90	26.13	31.35	167.20	167.20
Grade 5	22.06	27.58	33.09	176.48	176.48
Grade 6	23.03	28.79	34.55	184.24	184.24
<sup>1</sup> This amount is payable in addition to the minimum hourly rate for hours worked (see clause 10.1).					
<sup>2</sup> This amount is payable in addition to 125% of the minimum hourly rate for hours worked (see clause 10.1).					

## Schedule C—Summary of Monetary Allowances

Monetary amounts in this schedule adjusted as a result of AWR 2015

See clause 11 for full details of allowances payable under this award.

### C.1 Wage related allowances

The wage related allowances in this award are based on the [standard rate](#) as defined in Schedule G as the minimum weekly rate for a Grade 3 employee in clause 11 = \$767.50

Allowance	Clause	% of <a href="#">standard rate</a> \$767.50	\$ per week unless stated otherwise
First aid allowance	11.2(a)	1.90	14.58
Articulated bus allowance	11.2(b)	1.56	11.97 per shift

#### C.1.1 Adjustment of wage related allowances

Wage related allowances are adjusted in accordance with increases to wages and are based on a percentage of the [standard rate](#) as specified.

### C.2 Expense related allowances

The following expense related allowances will be payable to employees in accordance with clause 11.3:

Allowance	Clause	\$
Meal allowance—more than two hours' overtime beyond ordinary finishing time	11.3(a)	12.28 per occasion
Vehicle allowance—use of own vehicle between starting and finishing place	11.3(f)(i)	0.78 per km
Vehicle allowance—use of own vehicle in the course of work	11.3(f)(ii)	0.78 per km

#### C.2.1 Adjustment of expense related allowances

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

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

<b>Allowance</b>	<b>Applicable Consumer Price Index figure</b>
Meal allowance	Take away and fast foods sub-group
Vehicle/fares and travelling time allowance	Private motoring sub-group

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## Schedule D—Supported Wage System

Schedule updated in accordance with [PR568050](#)

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

**D.2** 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

**D.3 Eligibility criteria**

**D.3.1** Employees covered by this schedule will be those who are unable to perform the range of duties to the competence level required within the class of work for which the employee is engaged under this award, because of the effects of a disability on their productive capacity and who meet the impairment criteria for receipt of a disability support pension.

**D.3.2** This schedule does not apply to any existing employee who has a claim against the employer which is subject to the provisions of workers compensation legislation or any provision of this award relating to the rehabilitation of employees who are injured in the course of their employment.

**D.4 Supported wage rates**

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



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

**D.4.2** Provided that the minimum amount payable must be not less than \$81 per week.

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

**D.5 Assessment of capacity**

**D.5.1** For the purpose of establishing the percentage of the relevant minimum wage, the productive capacity of the employee will be assessed in accordance with the Supported Wage System by an approved assessor, having consulted the employer and employee and, if the employee so desires, a union which the employee is eligible to join.

**D.5.2** All assessments made under this schedule must be documented in an SWS wage assessment agreement, and retained by the employer as a time and wages record in accordance with the Act.

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

**D.6.1** All SWS wage assessment agreements under the conditions of this schedule, including the appropriate percentage of the relevant minimum wage to be paid to the employee, must be lodged by the employer with the Fair Work Commission.

**D.6.2** All SWS wage assessment agreements must be agreed and signed by the employee and employer parties to the assessment. Where a union which has an interest in the award is not a party to the assessment, the assessment will be referred by the Fair Work Commission to the union by certified mail and the agreement will take effect unless an objection is notified to the Fair Work Commission within 10 working days.

**D.7 Review of assessment**

The assessment of the applicable percentage should be subject to annual or more frequent review on the basis of a reasonable request for such a review. The process of review must be in accordance with the procedures for assessing capacity under the supported wage system.

## **D.8 Other terms and conditions of employment**

Where an assessment has been made, the applicable percentage will apply to the relevant minimum wage only. Employees covered by the provisions of this schedule will be entitled to the same terms and conditions of employment as other workers covered by this award on a pro rata basis.

## **D.9 Workplace adjustment**

An employer wishing to employ a person under the provisions of this schedule must take reasonable steps to make changes in the workplace to enhance the employee's capacity to do the job. Changes may involve re-design of job duties, working time arrangements and work organisation in consultation with other workers in the area.

## **D.10 Trial period**

**D.10.1** In order for an adequate assessment of the employee's capacity to be made, an employer may employ a person under the provisions of this schedule for a trial period not exceeding 12 weeks, except that in some cases additional work adjustment time (not exceeding four weeks) may be needed.

**D.10.2** During that trial period the assessment of capacity will be undertaken and the percentage of the relevant minimum wage for a continuing employment relationship will be determined.

**D.10.3** The minimum amount payable to the employee during the trial period must be no less than \$81 per week.

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

**D.10.5** Where the employer and employee wish to establish a continuing employment relationship following the completion of the trial period, a further contract of employment will be entered into based on the outcome of assessment under clause D.5.

## Schedule E—National Training Wage

Schedule replaced in accordance with para [67] [\[2014\] FWCFB 9412](#); rates updated in accordance with [PR566739](#)

### E.1 Title

This is the *National Training Wage Schedule*.

### E.2 Definitions

In this schedule:

**adult trainee** is a trainee who would qualify for the highest minimum wage in Wage Level A, B or C if covered by that wage level

**approved training** means the training specified in the training contract

**Australian Qualifications Framework (AQF)** is a national framework for qualifications in post-compulsory education and training

**out of school** refers only to periods out of school beyond Year 10 as at the first of January in each year and is deemed to:

- (a) include any period of schooling beyond Year 10 which was not part of or did not contribute to a completed year of schooling;
- (b) include any period during which a trainee repeats in whole or part a year of schooling beyond Year 10; and
- (c) not include any period during a calendar year in which a year of schooling is completed

**relevant State or Territory training authority** means the bodies in the relevant State or Territory which exercise approval powers in relation to traineeships and register training contracts under the relevant State or Territory vocational education and training legislation

**relevant State or Territory vocational education and training legislation** means the following or any successor legislation:

Australian Capital Territory: *Training and Tertiary Education Act 2003*;

New South Wales: *Apprenticeship and Traineeship Act 2001*;

Northern Territory: *Northern Territory Employment and Training Act 1991*;

Queensland: *Vocational Education, Training and Employment Act 2000*;

South Australia: *Training and Skills Development Act 2008*;

Tasmania: *Vocational Education and Training Act 1994*;

Victoria: *Education and Training Reform Act 2006*; or

Western Australia: *Vocational Education and Training Act 1996*

**trainee** is an employee undertaking a traineeship under a training contract

**traineeship** means a system of training which has been approved by the relevant State or Territory training authority, which meets the requirements of a training package developed by the relevant Industry Skills Council and endorsed by the National Quality Council, and which leads to an AQF certificate level qualification

**training contract** means an agreement for a traineeship made between an employer and an employee which is registered with the relevant State or Territory training authority

**training package** means the competency standards and associated assessment guidelines for an AQF certificate level qualification which have been endorsed for an industry or enterprise by the National Quality Council and placed on the National Training Information Service with the approval of the Commonwealth, State and Territory Ministers responsible for vocational education and training, and includes any relevant replacement training package

**year 10** includes any year before Year 10

### E.3 Coverage

**E.3.1** Subject to clauses E.3.2 to E.3.6 of this schedule, this schedule applies in respect of an employee covered by this award who is undertaking a traineeship whose training package and AQF certificate level is allocated to a wage level by clause **Error! Reference source not found.** to this schedule or by clause E.5.4 of this schedule.

**E.3.2** This schedule only applies to AQF Certificate Level IV traineeships for which a relevant AQF Certificate Level III traineeship is listed in clause **Error! Reference source not found.** to this schedule.

**E.3.3** This schedule does not apply to:

- (a) the apprenticeship system;
- (b) qualifications not identified in training packages; or
- (c) qualifications in training packages which are not identified as appropriate for a traineeship.

Parties are asked to identify “any training program which applies to the same occupation and achieves essentially the same training outcome as an existing apprenticeship in an award as at 25 June 1997” that they consider should not be covered by this Schedule.

**E.3.4** This schedule does not apply to qualifications not identified in training packages or to qualifications in training packages which are not identified as appropriate for a traineeship.

**E.3.5** Where the terms and conditions of this schedule conflict with other terms and conditions of this award dealing with traineeships, the other terms and conditions of this award prevail.

**E.3.6** At the conclusion of the traineeship, this schedule ceases to apply to the employee.

## E.4 Types of Traineeship

The following types of traineeship are available under this schedule:

- E.4.1** a full-time traineeship based on 38 ordinary hours per week, with 20% of ordinary hours being approved training; and
- E.4.2** a part-time traineeship based on less than 38 ordinary hours per week, with 20% of ordinary hours being approved training solely on-the-job or partly on-the-job and partly off-the-job, or where training is fully off-the-job.

## E.5 Minimum Wages

### E.5.1 Minimum wages for full-time traineeships

#### (a) Wage Level A

Subject to clause E.5.3 of this schedule, the minimum wages for a trainee undertaking a full-time AQF Certificate Level I–III traineeship whose training package and AQF certificate levels are allocated to Wage Level A by clause E.7.1 are:

	Highest year of schooling completed		
	Year 10	Year 11	Year 12
	per week	per week	per week
	\$	\$	\$
School leaver	295.10	325.00	387.20
Plus 1 year out of school	325.00	387.20	450.60
Plus 2 years out of school	387.20	450.60	524.40
Plus 3 years out of school	450.60	524.40	600.40
Plus 4 years out of school	524.40	600.40	
Plus 5 or more years out of school	600.40		

#### (b) Wage Level B

Subject to clause E.5.3 of this schedule, the minimum wages for a trainee undertaking a full-time AQF Certificate Level I–III traineeship whose training package and AQF certificate levels are allocated to Wage Level B by clause E.7.2 are:

	Highest year of schooling completed		
	Year 10	Year 11	Year 12
	per week	Per week	per week
	\$	\$	\$
School leaver	295.10	325.00	376.80
Plus 1 year out of school	325.00	376.80	433.40
Plus 2 years out of school	376.80	433.40	508.20
Plus 3 years out of school	433.40	508.20	579.70

	<b>Highest year of schooling completed</b>		
	<b>Year 10</b>	<b>Year 11</b>	<b>Year 12</b>
	<b>per week</b>	<b>Per week</b>	<b>per week</b>
	<b>\$</b>	<b>\$</b>	<b>\$</b>
Plus 4 years out of school	508.20	579.70	
Plus 5 or more years out of school	579.70		

**(c) Wage Level C**

Subject to clause E.5.3 of this schedule, the minimum wages for a trainee undertaking a full-time AQF Certificate Level I–III traineeship whose training package and AQF certificate levels are allocated to Wage Level C by clause E.7.3 are:

	<b>Highest year of schooling completed</b>		
	<b>Year 10</b>	<b>Year 11</b>	<b>Year 12</b>
	<b>per week</b>	<b>per week</b>	<b>per week</b>
	<b>\$</b>	<b>\$</b>	<b>\$</b>
School leaver	295.10	325.00	376.80
Plus 1 year out of school	325.00	376.80	424.10
Plus 2 years out of school	376.80	424.10	473.80
Plus 3 years out of school	424.10	473.80	527.90
Plus 4 years out of school	473.80	527.90	
Plus 5 or more years out of school	527.90		

**(d) AQF Certificate Level IV traineeships**

- (i) Subject to clause E.5.3 of this schedule, the minimum wages for a trainee undertaking a full-time AQF Certificate Level IV traineeship are the minimum wages for the relevant full-time AQF Certificate Level III traineeship with the addition of 3.8% to those minimum wages.
- (ii) Subject to clause E.5.3 of this schedule, the minimum wages for an adult trainee undertaking a full-time AQF Certificate Level IV traineeship are as follows, provided that the relevant wage level is that for the relevant AQF Certificate Level III traineeship:

<b>Wage level</b>	<b>First year of traineeship</b>	<b>Second and subsequent years of traineeship</b>
	<b>per week</b>	<b>per week</b>
	<b>\$</b>	<b>\$</b>
Wage Level A	623.50	647.70
Wage Level B	601.60	624.70
Wage Level C	547.50	568.20

**E.5.2 Minimum wages for part-time traineeships**

**(a) Wage Level A**

Subject to clauses E.5.2(f) and E.5.3 of this schedule, the minimum wages for a trainee undertaking a part-time AQF Certificate Level I–III traineeship whose training package and AQF certificate levels are allocated to Wage Level A by clause E.7.1 are:

	<b>Highest year of schooling completed</b>		
	<b>Year 10</b>	<b>Year 11</b>	<b>Year 12</b>
	<b>per hour</b>	<b>per hour</b>	<b>per hour</b>
	<b>\$</b>	<b>\$</b>	<b>\$</b>
School leaver	9.71	10.70	12.74
Plus 1 year out of school	10.70	12.74	14.83
Plus 2 years out of school	12.74	14.83	17.25
Plus 3 years out of school	14.83	17.25	19.74
Plus 4 years out of school	17.25	19.74	
Plus 5 or more years out of school	19.74		

**(b) Wage Level B**

Subject to clauses E.5.2(f) and E.5.3 of this schedule, the minimum wages for a trainee undertaking a part-time AQF Certificate Level I–III traineeship whose training package and AQF certificate levels are allocated to Wage Level B by clause E.7.2 are:

	<b>Highest year of schooling completed</b>		
	<b>Year 10</b>	<b>Year 11</b>	<b>Year 12</b>
	<b>per hour</b>	<b>per hour</b>	<b>per hour</b>
	<b>\$</b>	<b>\$</b>	<b>\$</b>
School leaver	9.71	10.70	12.40
Plus 1 year out of school	10.70	12.40	14.26
Plus 2 years out of school	12.40	14.26	16.73
Plus 3 years out of school	14.26	16.73	19.08
Plus 4 years out of school	16.73	19.08	
Plus 5 or more years out of school	19.08		

**(c) Wage Level C**

Subject to clauses E.5.2(f) and E.5.3 of this schedule, the minimum wages for a trainee undertaking a part-time AQF Certificate Level I–III traineeship whose training package and AQF certificate levels are allocated to Wage Level C by clause E.7.3 are:

	<b>Highest year of schooling completed</b>		
	<b>Year 10</b>	<b>Year 11</b>	<b>Year 12</b>
	<b>per hour</b>	<b>per hour</b>	<b>per hour</b>
	<b>\$</b>	<b>\$</b>	<b>\$</b>
School leaver	9.71	10.70	12.40
Plus 1 year out of school	10.70	12.40	13.95
Plus 2 years out of school	12.40	13.95	15.58
Plus 3 years out of school	13.95	15.58	17.36
Plus 4 years out of school	15.58	17.36	
Plus 5 or more years out of school	17.36		

**(d) School-based traineeships**

Subject to clauses E.5.2(f) and E.5.3 of this schedule, the minimum wages for a trainee undertaking a school-based AQF Certificate Level I–III traineeship whose training package and AQF certificate levels are allocated to Wage Levels A, B or C by clause **Error! Reference source not found.** are as follows when the trainee works ordinary hours:

<b>Year of schooling</b>	
<b>Year 11 or lower</b>	<b>Year 12</b>
<b>per hour</b>	<b>per hour</b>
<b>\$</b>	<b>\$</b>
9.71	10.70

**(e) AQF Certificate Level IV traineeships**

(i) Subject to clauses E.5.2(f) and E.5.3 of this schedule, the minimum wages for a trainee undertaking a part-time AQF Certificate Level IV traineeship are the minimum wages for the relevant part-time AQF Certificate Level III traineeship with the addition of 3.8% to those minimum wages.

(ii) Subject to clauses E.5.2(f) and E.5.3 of this schedule, the minimum wages for an adult trainee undertaking a part-time AQF Certificate Level IV traineeship are as follows, provided that the relevant wage level is that for the relevant AQF Certificate Level III traineeship:

<b>Wage level</b>	<b>First year of traineeship</b>	<b>Second and subsequent years of traineeship</b>
	<b>per hour</b>	<b>per hour</b>
	<b>\$</b>	<b>\$</b>
Wage Level A	20.51	21.31
Wage Level B	19.77	20.54
Wage Level C	18.01	18.70



**(f) Calculating the actual minimum wage**

- (i)** Where the full-time ordinary hours of work are not 38 or an average of 38 per week, the appropriate hourly minimum wage is obtained by multiplying the relevant minimum wage in clauses E.5.2(a)–(e) of this schedule by 38 and then dividing the figure obtained by the full-time ordinary hours of work per week.
- (ii)** Where the approved training for a part-time traineeship is provided fully off-the-job by a registered training organisation, for example at school or at TAFE, the relevant minimum wage in clauses E.5.2(a)–(e) of this schedule applies to each ordinary hour worked by the trainee.
- (iii)** Where the approved training for a part-time traineeship is undertaken solely on-the-job or partly on-the-job and partly off-the-job, the relevant minimum wage in clauses E.5.2(a)–(e) of this schedule minus 20% applies to each ordinary hour worked by the trainee.

**E.5.3 Other minimum wage provisions**

- (a)** An employee who was employed by an employer immediately prior to becoming a trainee with that employer must not suffer a reduction in their minimum wage per week or per hour by virtue of becoming a trainee. Casual loadings will be disregarded when determining whether the employee has suffered a reduction in their minimum wage.
- (b)** If a qualification is converted from an AQF Certificate Level II to an AQF Certificate Level III traineeship, or from an AQF Certificate Level III to an AQF Certificate Level IV traineeship, then the trainee must be paid the next highest minimum wage provided in this schedule, where a higher minimum wage is provided for the new AQF certificate level.

**E.5.4 Default wage rate**

The minimum wage for a trainee undertaking an AQF Certificate Level I–III traineeship whose training package and AQF certificate level are not allocated to a wage level by clause **Error! Reference source not found.** is the relevant minimum wage under this schedule for a trainee undertaking an AQF Certificate to Level I–III traineeship whose training package and AQF certificate level are allocated to Wage Level B.

**E.6 Employment conditions**

- E.6.1** A trainee undertaking a school-based traineeship may, with the agreement of the trainee, be paid an additional loading of 25% on all ordinary hours worked instead of paid annual leave, paid personal/carer's leave and paid absence on public holidays, provided that where the trainee works on a public holiday then the public holiday provisions of this award apply.
- E.6.2** A trainee is entitled to be released from work without loss of continuity of employment and to payment of the appropriate wages to attend any training and assessment specified in, or associated with, the training contract.
- E.6.3** Time spent by a trainee, other than a trainee undertaking a school-based traineeship, in attending any training and assessment specified in, or associated with, the training

contract is to be regarded as time worked for the employer for the purposes of calculating the trainee’s wages and determining the trainee’s employment conditions.

**Note:** The time to be included for the purpose of calculating the wages for part-time trainees whose approved training is fully off-the-job is determined by clause E.5.2(f)(ii) and not by this clause.

**E.6.4** Subject to clause E.3.5 of this schedule, all other terms and conditions of this award apply to a trainee unless specifically varied by this schedule.

## **E.7 Allocation of Traineeships to Wage Levels**

Parties are asked to review the packages listed to ensure the lists are complete and up-to-date.

The wage levels applying to training packages and their AQF certificate levels are:

### **E.7.1 Wage Level A**

<b>Training package</b>	<b>AQF certificate level</b>
Aeroskills	II
Aviation	I, II, III
Beauty	III
Business Services	I, II, III
Chemical, Hydrocarbons and Refining	I, II, III
Civil Construction	III
Coal Training Package	II, III
Community Services	II, III
Construction, Plumbing and Services Integrated Framework	I, II, III
Correctional Services	II, III
Drilling	II, III
Electricity Supply Industry—Generation Sector	II, III (III in Western Australia only)
Electricity Supply Industry—Transmission, Distribution and Rail Sector	II
Electrotechnology	I, II, III (III in Western Australia only)
Financial Services	I, II, III
Floristry	III
Food Processing Industry	III
Gas Industry	III
Information and Communications Technology	I, II, III
Laboratory Operations	II, III

<b>Training package</b>	<b>AQF certificate level</b>
Local Government (other than Operational Works Cert I and II)	I, II, III
Manufactured Mineral Products	III
Manufacturing	I, II, III
Maritime	I, II, III
Metal and Engineering (Technical)	II, III
Metalliferous Mining	II, III
Museum, Library and Library/Information Services	II, III
Plastics, Rubber and Cablemaking	III
Public Safety	III
Public Sector	II, III
Pulp and Paper Manufacturing Industries	III
Retail Services (including wholesale and Community pharmacy)	III
Telecommunications	II, III
Textiles, Clothing and Footwear	III
Tourism, Hospitality and Events	I, II, III
Training and Assessment	III
Transport and Distribution	III
Water Industry (Utilities)	III

**E.7.2 Wage Level B**

<b>Training package</b>	<b>AQF certificate level</b>
Animal Care and Management	I, II, III
Asset Maintenance	I, II, III
Australian Meat Industry	I, II, III
Automotive Industry Manufacturing	II, III
Automotive Industry Retail, Service and Repair	I, II, III
Beauty	II
Caravan Industry	II, III
Civil Construction	I
Community Recreation Industry	III
Entertainment	I, II, III
Extractive Industries	II, III

<b>Training package</b>	<b>AQF certificate level</b>
Fitness Industry	III
Floristry	II
Food Processing Industry	I, II
Forest and Forest Products Industry	I, II, III
Furnishing	I, II, III
Gas Industry	I, II
Health	II, III
Local Government (Operational Works)	I, II
Manufactured Mineral Products	I, II
Metal and Engineering (Production)	II, III
Outdoor Recreation Industry	I, II, III
Plastics, Rubber and Cablemaking	II
Printing and Graphic Arts	II, III
Property Services	I, II, III
Public Safety	I, II
Pulp and Paper Manufacturing Industries	I, II
Retail Services	I, II
Screen and Media	I, II, III
Sport Industry	II, III
Sugar Milling	I, II, III
Textiles, Clothing and Footwear	I, II
Transport and Logistics	I, II
Visual Arts, Craft and Design	I, II, III
Water Industry	I, II

**E.7.3 Wage Level C**

<b>Training package</b>	<b>AQF certificate level</b>
Agri-Food	I
Amenity Horticulture	I, II, III
Conservation and Land Management	I, II, III
Funeral Services	I, II, III
Music	I, II, III
Racing Industry	I, II, III
Rural Production	I, II, III
Seafood Industry	I, II, III

## Schedule F—2014 Part-day public holidays

This provision is being reviewed in [AM2014/301](#)

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

- F.1** Where a part-day public holiday is declared or prescribed between 7.00 pm and midnight on Christmas Eve (24 December 2014) or New Year's Eve (31 December 2014) the following will apply on Christmas Eve and New Year's Eve and will override any provision in this award relating to public holidays to the extent of the inconsistency:
- (a) All employees will have the right to refuse to work on the part-day public holiday if the request to work is not reasonable or the refusal is reasonable as provided for in the NES.
  - (b) Where a part-time or full-time employee is usually rostered to work ordinary hours between 7.00 pm and midnight but as a result of exercising their right under the NES does not work, they will be paid their ordinary rate of pay for such hours not worked.
  - (c) Where a part-time or full-time employee is usually rostered to work ordinary hours between 7.00 pm and midnight but as a result of being on annual leave does not work, they will be taken not to be on annual leave between those hours of 7.00 pm and midnight that they would have usually been rostered to work and will be paid their ordinary rate of pay for such hours.
  - (d) Where a part-time or full-time employee is usually rostered to work ordinary hours between 7.00 pm and midnight, but as a result of having a rostered day off (RDO) provided under this award, does not work, the employee will be taken to be on a public holiday for such hours and paid their ordinary rate of pay for those hours.
  - (e) Excluding annualised salaried employees to whom clause F.1(f) applies, where an employee works any hours between 7.00 pm and midnight they will be entitled to the appropriate public holiday penalty rate (if any) in this award for those hours worked.
  - (f) Where an employee is paid an annualised salary under the provisions of this award and is entitled under this award to time off in lieu or additional annual leave for work on a public holiday, they will be entitled to time off in lieu or pro-rata annual leave equivalent to the time worked between 7.00 pm and midnight.
  - (g) An employee not rostered to work between 7.00 pm and midnight, other than an employee who has exercised their right in accordance with clause 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.

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

This schedule is an interim provision and subject to further review.

## Schedule G—Definitions

In this award, unless the contrary intention appears:

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

**broken shift** means a shift with a spread of hours permitted under the relevant State or Territory driving hours legislation and with an unpaid break of greater than 60 minutes between the two portions of work

**defined benefit member** has the meaning given by the *Superannuation Guarantee (Administration) Act 1992* (Cth)

**early or late work** means work performed before 6.00 am and after 7.00 pm

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

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

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

**motor vehicle** means any motorised vehicle capable of carrying less than eight persons and used for hire, charter or reward

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

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

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

**passenger vehicle** includes motor vehicle, limousine, hire car, bus, coach, electric tramway, monorail and light rail

**Passenger vehicle transportation industry** means the transport of passengers by:

- (a) motor vehicle, limousine or hire car;
- (b) bus or coach; and
- (c) electric tramway, monorail or light rail.

**rostered day off** means an authorised day's leave derived from the implementation of a working pattern under clause 8.1(c)(i)

~~**shiftworker** means an employee who is a seven day shiftworker who is regularly rostered to work on Sundays and public holidays~~

Definition of ‘small business employer’ deleted as a result of para [35] [\[2014\] FWCFCB 9412](#)

~~**small business employer** is defined in the Act as an employer that employs fewer than 15 employees. The way that the number of employees is calculated is set out in [s.23](#) of the Act~~

**specified route service** means any route service on which a passenger vehicle operates, excluding a dedicated school bus service, for which the employer is obliged to run, including operations under a contract with the Federal or any State Government or any instrumentality

**standard rate** means the minimum weekly rate for a Grade 3 employee in clause 10.1

**two-driver operation** means any express, charter or tour operation upon which a driver is employed with another driver in a two-driver team and required to share the driving and associated duties for the whole or substantial part of that operation (but will not include a related feeder or shuttle service driven by another driver)

**waiting time** means time, excluding meal breaks, in which no demand for work is made upon the driver and the driver is placed under no restraint as to their movements and is not otherwise on call by the employer

DRAFT