

The Hair and Beauty Industry Award—plain language exposure draft was first published on 28 October 2020. Changes since that date are as follows:

Publication date	Amendments	Clauses affected
28 October 2020	Exposure Draft	
21 January 2021	[2021] FWCFB 293 at [4]; Summary of Submissions – 21/01/21 item 3	2
	[2021] FWCFB 293 at [4]; Summary of Submissions – 21/01/21 item 6	4.1(b)
	[2021] FWCFB 293 at [4]; Summary of Submissions – 21/01/21 items 12, 13 and 14	7.2
	PR723908 (item 1)	11.4 (deleted)
	[2021] FWCFB 293 at [4]; Summary of Submissions – 21/01/21 item 21	11.5
	[2021] FWCFB 293 at [4]; Summary of Submissions – 21/01/21 item 31	14.4
	[2021] FWCFB 293 at [4]; Summary of Submissions – 21/01/21 items 35 and 37	15.2, 15.3
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	[2021] FWCFB 293 at [4]; Summary of Submissions – 21/01/21 item 51	22.5
	[2021] FWCFB 293 at [4]; Summary of Submissions – 21/01/21 items 57 and 62	24.2, 24.6(f)
	[2021] FWCFB 293 at [4]; Summary of Submissions – 21/01/21 items 67 and 68	34.1(c), 34.3(c)
	[2021] FWCFB 293 at [4]; Summary of Submissions – 21/01/21 items 69 and 70	B.5.3, B.5.4, B.5.5, B.5.6,
	[2021] FWCFB 293 at [4]; Summary of Submissions item 71	B.5.8
	Administrative changes made by Modern Awards team	18.5, 20.6, 22.5, 23.1, 33.1(b)
	Exposure Draft	

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The Hair and Beauty Industry Award—plain language exposure draft was first published on 28 October 2020. Changes since that date are as follows:		
18 February 2021	[2021] FWCFB 858 at [19] and Attachment B; Summary of Submissions – 18/02/21 item 1	2
	[2021] FWCFB 858 at [19] and Attachment B; Summary of Submissions – 18/02/21 item 2	2, 24.3(a)
	[2021] FWCFB 858 at [19] and Attachment B; Summary of Submissions – 18/02/21 items 7 and 11	4.2(e); 4.6
	[2021] FWCFB 858 at [19] and Attachment B; Summary of Submissions – 18/02/21 item 17	10.6
	[2021] FWCFB 858 at [19] and Attachment B; Summary of Submissions – 18/02/21 items 18 and 19	11.3, 11.4(a)
	[2021] FWCFB 858 at [19] and Attachment B; Summary of Submissions – 18/02/21 item 24	12.5
	[2021] FWCFB 858 at [19] and Attachment B; Summary of Submissions – 18/02/21 items 34 and 36	15.1(f); 15.3(d)
	[2021] FWCFB 858 at [19] and Attachment B; Summary of Submissions – 18/02/21 items 44 and 48	20.8, 20.10(b)
	[2021] FWCFB 858 at [19] and Attachment B; Summary of Submissions – 18/02/21 items 52 and 53	22.5

PLAIN LANGUAGE EXPOSURE DRAFT

Hair and Beauty Industry Award 20XX

The plain language exposure draft has been prepared by staff of the Fair Work Commission based on the **Hair and Beauty Industry Award 2010** (Hair and Beauty Award) as at 24 September 2020 and incorporates award updates to 20 November 2020. This exposure draft does not seek to amend any entitlements under the Hair and Beauty Award. Instead, it has been prepared to address some of the structural issues identified in modern awards and to apply plain language drafting principles and techniques.

The review of this award in accordance with section 156 of the *Fair Work Act 2009* is being dealt with in matters [AM2014/271](#) and [AM2016/15](#). Additionally, certain common issues are being finalised by the Commission and may affect this award. Transitional provisions have been deleted as a result of decisions during the review.

The Hair and Beauty Award is a Group 3 award for the purposes of the [Annual Wage Review 2019–20](#). The rates and allowances will be updated in February 2021.

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

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Part 1—Application and Operation of this Award

1. Title and commencement

- 1.1 This is the *Hair and Beauty Industry Award 20XX*.
- 1.2 This modern award commenced operation on 1 January 2010. The terms of the award have been varied since that date.
- 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 award as it existed prior to that variation.

2. Definitions

Clause 2 updated as a result of [\[2021\] FWCFB 858](#) at [19]; [Summary of Submissions – 18/02/21](#) items 1 and 2.

In this award:

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

adult apprentice means an apprentice who is 21 years of age or over at the start of their apprenticeship.

adult employee means an employee who is 18 years of age or over.

~~**apprentice** means an employee who is bound by a training agreement registered with the appropriate State or Territory training authority.~~

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

employee means a national system employee as defined by section 13 of the [Act](#). See also section 30C and 30M of the [Act](#).

employer means a national system employer as defined by section 14 of the [Act](#). See also section 30C and 30M of the [Act](#).

enterprise instrument has the meaning given by subitem 2(1) of Schedule 6 to the [Fair Work \(Transitional Provisions and Consequential Amendments\) Act 2009](#) (Cth).

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

Fair Work Regulations means the *Fair Work Regulations 2009* (Cth).

hair and beauty industry is defined in clause 4.2.

immediate family has the meaning given by section 12 of the [Act](#).

junior employee means an employee who is under 18 years of age.

long term casual employee has the meaning given by section 12 of the [Act](#).

minimum hourly rate means the minimum hourly rate specified in clause 17—Minimum rates [or clause 18](#)—Apprentice, trainee and graduate rates [as applicable](#).

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

NES means the National Employment Standards as contained in [sections 59 to 131](#) of the [Act](#).

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

standard weekly rate means the minimum weekly rate for a Hair and beauty employee level 3 in **Table 4—Minimum rates**.

State reference public sector modern award has the meaning given by subitem 3(2) of Schedule 6A to the [Fair Work \(Transitional Provisions and Consequential Amendments\) Act 2009](#) (Cth).

State reference public sector transitional award has the meaning given by subitem 2(1) of Schedule 6A to the [Fair Work \(Transitional Provisions and Consequential Amendments\) Act 2009](#) (Cth).

Table 1—Facilitative provisions means the Table in clause 7.2.

Table 2—Span of ordinary hours means the Table in clause 14.4.

Table 3—Entitlements to meal and rest breaks means the Table in clause 16.1.

Table 4—Minimum rates means the Table in clause 17.1.

Table 5—Junior rates means the Table in clause 17.2.

Table 6—Hairdressing apprentice minimum rates—has not completed Year 12 means the Table in clause 18.1(a).

Table 7—Hairdressing apprentice minimum rates—has completed Year 12 means the Table in clause 18.1(b).

Table 8—Beauty therapy apprentice minimum rates—has not completed Year 12 means the table in clause 18.2(a).

Table 9—Beauty therapy apprentice minimum rates—has completed Year 12 means the Table in clause 18.2(b).

Table 13—Overtime rates means the Table in clause 18.3(a).

Table 11—Pre-apprentice minimum rates—has completed Year 12 means the Table in clause 18.3(b).

Table 12—Trainee and graduate minimum rates means the Table in clause 18.6(b).

Table 13—Overtime rates means the Table in clause 22.5.

Table 14—Penalty rates means the Table in clause 23.1.

Table 15—Period of notice means the Table in clause 33.1(b).

training agreement means the apprenticeship training arrangement relevant to the State and Territory apprenticeship legislation that has been entered into by an apprentice and an employer.

3. The National Employment Standards and this award

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

3.2 The minimum conditions in the [NES](#) relate to the following matters:

- (a) maximum weekly hours (Division 3);
- (b) requests for flexible working arrangements (Division 4);
- (c) parental leave and related entitlements (Division 5);
- (d) annual leave (Division 6);
- (e) personal/carer's leave, compassionate leave and unpaid family and domestic violence leave (Division 7);
- (f) community service leave (Division 8);
- (g) long service leave (Division 9);
- (h) public holidays (Division 10);
- (i) notice of termination and redundancy pay (Division 11);
- (j) Fair Work Information Statement (Division 12).

3.3 Where this award refers to a condition of employment provided for in the [NES](#), the [NES](#) definition applies.

3.4 The employer must ensure that copies of this award and of the [NES](#) are available to all employees to whom they apply, either on a notice board conveniently located at or near the workplace or through accessible electronic means.

4. Coverage

Clauses 4.2(e) and 4.6 updated as a result of [\[2021\] FWCFCB 858](#) at [19]; [Summary of Submissions – 18/02/21](#) items 7 and 11.

4.1 This industry award covers, to the exclusion of any other modern award:

- (a) employers in the hair and beauty industry throughout Australia; and

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- (b) employees with a classification defined in Schedule A—Classification Structure and Definitions of employers mentioned in clause 4.1(a).

4.2 In this award **hair and beauty industry** means carrying out or performing any of the following activities:

- (a) hair cutting, hair dressing, hair trimming, hair curling, hair waving, shampooing, hair working, hair dyeing; or
- (b) shaving, beard trimming, or
- (c) any other process or treatment of the hair, head or face carried out or performed in a hairdressing salon, including the sharpening or setting of razors; or
- (d) wig-making; or
- (e) facial or body waxing; or
- (f) face or head massaging; or
- ~~(f)~~(g) eyebrow waxing, eyebrow tinting, eyebrow arching, eyelash tinting; or
- ~~(g)~~(h) body hair removal including waxing chemical methods, electrolysis and laser hair removal; or
- ~~(h)~~(i) manicures, pedicures, nail enhancement and nail artistry techniques; or
- ~~(i)~~(j) make-up application, skin analysis, development of treatment plans, facial treatments including massage and other specialised treatments such as lymphatic drainage; or
- ~~(j)~~(k) body massage including high frequency body treatments and other specialised treatments using machinery and other cosmetic applications and techniques; or
- ~~(k)~~(l) aromatherapy and the application of aromatic plant oils for beauty treatments; or
- ~~(l)~~(m) using various types of electrical equipment for both body and facial treatments.

4.3 This industry award also covers:

- (a) on-hire employees working in the hair and beauty industry (with a classification defined in Schedule A—Classification Structure and Definitions) and the on-hire employers of those employees; and
- (b) apprentices or trainees employed by a group training employer and hosted by an employer covered by this award to work in the hair and beauty industry (with a classification defined in Schedule A—Classification Structure and Definitions) at a location where the employees mentioned in clause 4.1(b) also perform work and the group training employers of those trainees.

4.4 However, this industry award does not cover employees who perform hair and beauty work in the general retailing, theatrical, amusement and entertainment industries.

4.5 This industry award also does not cover any of the following:

- (a) employees excluded from award coverage by the Act; or

Commented [FWC1]: Item 8 – [Ai Group – 25/11/2020](#) submission; [SDA – 9/12/2020](#) reply sub; [AWU – 9/12/2020](#) reply sub

Commented [FWC2]: Item 9 – [Ai Group – 25/11/2020](#) submission; [SDA – 9/12/2020](#) reply sub; [AWU – 9/12/2020](#) reply sub

NOTE: See section 143(7) of the [Act](#).

- (b) employees covered by a modern enterprise award or an enterprise instrument; or
- (c) employees covered by a State reference public sector modern award or a State reference public sector transitional award; or
- (d) employers of employees mentioned in clauses 4.5(b) or 4.5(c).

- 4.6 If an employer is covered by more than one award, an employee of the employer is covered by the award containing the classification that is most appropriate to the work performed by the employee and the environment in which [the employee normally performs the work](#), ~~the work is normally performed~~.

NOTE: An employee working in the hair and beauty industry who is not covered by this industry award may be covered by an award with occupational coverage.

5. Individual flexibility arrangements

- 5.1 Despite anything else in this award, an employer and an individual employee may agree to vary the application of the terms of this award relating to any of the following in order to meet the genuine needs of both the employee and the employer:

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

- 5.2 An agreement must be one that is genuinely made by the employer and the individual employee without coercion or duress.

- 5.3 An agreement may only be made after the individual employee has commenced employment with the employer.

- 5.4 An employer who wishes to initiate the making of an agreement must:

- (a) give the employee a written proposal; and
- (b) if the employer is aware that the employee has, or should reasonably be aware that the employee may have, limited understanding of written English, take reasonable steps (including providing a translation in an appropriate language) to ensure that the employee understands the proposal.

- 5.5 An agreement must result in the employee being better off overall at the time the agreement is made than if the agreement had not been made.

- 5.6 An agreement must do all of the following:

- (a) state the names of the employer and the employee; and

Commented [FWC3]: Item 10 – [Ai Group](#) – 25/11/2020 submission; [SDA](#) – 9/12/2020 reply sub; [AWU](#) – 9/12/2020 reply sub

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- (b) identify the award term, or award terms, the application of which is to be varied; and
- (c) set out how the application of the award term, or each award term, is varied; and
- (d) set out how the agreement results in the employee being better off overall at the time the agreement is made than if the agreement had not been made; and
- (e) state the date the agreement is to start.

5.7 An agreement must be:

- (a) in writing; and
- (b) signed by the employer and the employee and, if the employee is under 18 years of age, by the employee's parent or guardian.

5.8 Except as provided in clause 5.7(b), an agreement must not require the approval or consent of a person other than the employer and the employee.

5.9 The employer must keep the agreement as a time and wages record and give a copy to the employee.

5.10 The employer and the employee must genuinely agree, without duress or coercion to any variation of an award provided for by an agreement.

5.11 An agreement may be terminated:

- (a) at any time, by written agreement between the employer and the employee; or
- (b) by the employer or employee giving 13 weeks' written notice to the other party (reduced to 4 weeks if the agreement was entered into before the first full pay period starting on or after 4 December 2013).

NOTE: If an employer and employee agree to an arrangement that purports to be an individual flexibility arrangement under this award term and the arrangement does not meet a requirement set out in section 144 of the [Act](#) then the employee or the employer may terminate the arrangement by giving written notice of not more than 28 days (see section 145 of the [Act](#)).

5.12 An agreement terminated as mentioned in clause 5.11(b) ceases to have effect at the end of the period of notice required under that clause.

5.13 The right to make an agreement under clause 5 is additional to, and does not affect, any other term of this award that provides for an agreement between an employer and an individual employee.

6. Requests for flexible working arrangements

6.1 Employee may request change in working arrangements

Clause 6 applies where an employee has made a request for a change in working arrangements under section 65 of the [Act](#).

NOTE 1: Section 65 of the [Act](#) provides for certain employees to request a change in their working arrangements because of their circumstances, as set out in section 65(1A).

NOTE 2: An employer may only refuse a section 65 request for a change in working arrangements on “reasonable business grounds” (see sections 65(5) and (5A)).

NOTE 3: Clause 6 is an addition to section 65.

6.2 Responding to the request

Before responding to a request made under section 65, the employer must discuss the request with the employee and genuinely try to reach agreement on a change in working arrangements that will reasonably accommodate the employee’s circumstances having regard to:

- (a) the needs of the employee arising from their circumstances;
- (b) the consequences for the employee if changes in working arrangements are not made; and
- (c) any reasonable business grounds for refusing the request.

NOTE 1: The employer must give the employee a written response to an employee’s section 65 request within 21 days, stating whether the employer grants or refuses the request (see section 65(4)).

NOTE 2: If the employer refuses the request, the written response must include details of the reasons for the refusal (see section 65(6)).

6.3 What the written response must include if the employer refuses the request

Clause 6.3 applies if the employer refuses the request and has not reached an agreement with the employee under clause 6.2.

- (a) The written response under section 65(4) must include details of the reasons for the refusal, including the business ground or grounds for the refusal and how the ground or grounds apply.
- (b) If the employer and employee could not agree on a change in working arrangements under clause 6.2, the written response under section 65(4) must:
 - (i) state whether or not there are any changes in working arrangements that the employer can offer the employee so as to better accommodate the employee’s circumstances; and
 - (ii) if the employer can offer the employee such changes in working arrangements, set out those changes in working arrangements.

6.4 What the written response must include if a different change in working arrangements is agreed

If the employer and the employee reached an agreement under clause 6.2 on a change in working arrangements that differs from that initially requested by the employee, the

employer must provide the employee with a written response to their request setting out the agreed change(s) in working arrangements.

6.5 Dispute resolution

Disputes about whether the employer has discussed the request with the employee and responded to the request in the way required by clause 6, can be dealt with under clause 32—Dispute resolution.

7. Facilitative provisions

7.1 A facilitative provision allows for the standard approach in an award provision to be changed by agreement between an employer and an individual employee at the workplace.

7.2 The following clauses in this award contain facilitative provisions:

Table 1—Facilitative provisions

Clause	Provision
11.7	Casual employment (payment arrangements)
14.9	Ordinary hours of work (working up to 10.5 ordinary hours on more than one day during a week)
15.1(e)	Rostering on a Sunday
15.1(f)(ii)	Consecutive days off (written request for different arrangements)
16.1	Breaks (duration of unpaid meal break)
22.6	Time off instead of payment for overtime
23.2	Rostered day off—payment for working
24.5	Annual leave in advance
24.6	Cashing out of annual leave
29.2	Substitution of public holidays

Part 2—Types of Employment and Classifications

8. Types of employment

8.1 An employee covered by this award must be one of the following:

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

8.2 At the time of engaging an employee, the employer must inform the employee of the terms of their engagement, including whether they are engaged as a full-time, part-time or casual employee.

8.3 Moving between types of employment

- (a) A full-time or casual employee can only become a part-time employee with the employee's written consent.
- (b) Moving to part-time employment does not affect the continuity of any leave entitlements.
- (c) A full-time employee:
 - (i) may request to become a part-time employee; and
 - (ii) if that request is granted by the employer, may return to full-time employment at a future date agreed in writing with the employer.

9. Full-time employees

A full-time employee is an employee who is engaged to work an average of 38 ordinary hours per week over a period of no more than 4 weeks.

NOTE: See clause 14—Ordinary hours of work for averaging terms.

10. Part-time employees

Clause 10.6 updated as a result of [\[2021\] FWCFB 858](#) at [19]; [Summary of Submissions – 18/02/21](#) item 17.

10.1 A part-time employee is an employee who:

- (a) works less than 38 ordinary hours per week; and
- (b) has reasonably predictable hours of work.

10.2 The minimum daily engagement for a part-time employee is 3 consecutive hours.

10.3 At the time of engaging a part-time employee, the employer and the employee must agree in writing on a regular pattern of work. That agreement must include at least all of the following:

- (a) the number of ordinary hours to be worked each day; and
- (b) the days of the week on which the employee will work; and
- (c) the times at which the employee will start and finish work each day; and
- (d) when meal breaks may be taken and their duration; and
- (e) that the daily engagement is a minimum of 3 consecutive hours; and

Commented [FWC4]: Item 15 – [SDA – 1/12/2020](#) submission;
[Ai Group – 9/12/2020](#) reply sub

Commented [FWC5]: Item 16 – [SDA – 1/12/2020](#) submission;
[Ai Group – 9/12/2020](#) reply sub

- (f) that any variation will be in writing, including by any electronic means of communication.

10.4 The employer and the employee may vary an agreement made under clause 10.3. Any variation must be recorded in writing before the variation occurs.

10.5 The employer must keep a copy of any agreement under clause 10.3, and any variation under clause 10.4, and give a copy to the employee.

10.6 A part-time employee must be paid in accordance with clause 17—Minimum rates or clause 18—Apprentice, trainee and graduate rates, as applicable.

NOTE: Penalty rates applicable to part-time employees are set out in clauses 23—Penalty rates.

10.7 All time worked in excess of the number of ordinary hours agreed under clause 10.3, or varied under clause 10.4, is overtime and must be paid at the overtime rate in accordance with clause 22—Overtime.

11. Casual employees

New clause 11.3 inserted and new clause 11.4 updated as a result of [\[2021\] FWC68 858](#) at [19]; [Summary of Submissions – 18/02/21](#) items 18 and 19.

11.1 A casual employee is an employee engaged as such.

11.2 An employee who is not covered by clause 9—Full-time employees or clause 10—Part-time employees must be engaged and paid as a casual employee.

11.3 The ordinary hours of work for a casual employee:

(a) may be no more than 38 ordinary hours per week; or

(b) where the employee works in accordance with a roster, may be no more than 38 ordinary hours per week averaged over the course of the roster cycle.

11.4 An employer must pay a casual employee for each ordinary hour worked between 7.00 am and 9.00 pm Monday to Friday:

(a) the minimum hourly rate in clause 17—Minimum rates or clause 18—Apprentice, trainee and graduate rates, as applicable. for the classification in which they are employed; plus

(b) a loading of **25%** of the minimum hourly rate.

NOTE: The casual loading is paid instead of entitlements from which casuals are excluded by the terms of this award and the [NES](#). See sections 86 to 93 of the [Act](#).

~~**11.4** An employer must pay a casual employee working outside the span of hours in clause 14.4 at the rates specified in clause 23—Penalty rates.~~

11.5 An employer must pay a casual employee for working overtime as set out in clause 22.4 at the rates specified in clause 22—Overtime.

Commented [FWC6]: Item 20 – [Ai Group – 25/11/2020](#) submission; [SDA – 9/12/2020](#) reply sub; [AWU – 9/12/2020](#) reply sub

- 11.6** The minimum daily engagement for a casual employee is 3 consecutive hours.
- 11.7** An employer must pay a casual employee at the end of each engagement, unless the employer and the employee agree that the employee will be paid either weekly or fortnightly.
- 11.8 Right to request casual conversion**
- (a) A person engaged by a particular employer as a regular casual employee may request that their employment be converted to full-time or part-time employment.
 - (b) A **regular casual employee** is a casual employee who has in the preceding period of 12 months worked a pattern of hours on an ongoing basis which, without significant adjustment, the employee could continue to perform as a full-time employee or part-time employee under the provisions of this award.
 - (c) A regular casual employee who has worked equivalent full-time hours over the preceding period of 12 months' casual employment may request to have their employment converted to full-time employment.
 - (d) A regular casual employee who has worked less than equivalent full-time hours over the preceding period of 12 months' casual employment may request to have their employment converted to part-time employment consistent with the pattern of hours previously worked.
 - (e) Any request under clause 11.8 must be in writing and provided to the employer.
 - (f) Where a regular casual employee seeks to convert to full-time or part-time employment, the employer may agree to or refuse the request, but the request may only be refused on reasonable grounds and after there has been consultation with the employee.
 - (g) Reasonable grounds for refusal include that:
 - (i) it would require a significant adjustment to the casual employee's hours of work in order for the employee to be engaged as a full-time or part-time employee in accordance with the provisions of this award—that is, the casual employee is not truly a regular casual employee as defined in clause 11.8(b);
 - (ii) it is known or reasonably foreseeable that the regular casual employee's position will cease to exist within the next 12 months;
 - (iii) it is known or reasonably foreseeable that the hours of work which the regular casual employee is required to perform will be significantly reduced in the next 12 months; or
 - (iv) it is known or reasonably foreseeable that there will be a significant change in the days and/or times at which the employee's hours of work are required to be performed in the next 12 months which cannot be accommodated within the days and/or hours during which the employee is available to work.

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- (h) For any ground of refusal to be reasonable, it must be based on facts which are known or reasonably foreseeable.
- (i) Where the employer refuses a regular casual employee's request to convert, the employer must provide the casual employee with the employer's reasons for refusal in writing within 21 days of the request being made.
- (j) If the employee does not accept the employer's refusal, this will constitute a dispute that will be dealt with under the dispute resolution procedure in clause 32—Dispute resolution. Under that procedure, the employee or the employer may refer the matter to the Fair Work Commission if the dispute cannot be resolved at the workplace level.
- (k) Where it is agreed that a casual employee will have their employment converted to full-time or part-time employment as provided for in clause 11.8, the employer and employee must discuss and record in writing:
 - (i) the form of employment to which the employee will convert—that is, full-time or part-time employment; and
 - (ii) if it is agreed that the employee will become a part-time employee, the matters referred to in clause 10.3.
- (l) The conversion will take effect from the start of the next pay cycle following such agreement being reached unless otherwise agreed.
- (m) Once a casual employee has converted to full-time or part-time employment, the employee may only revert to casual employment with the written agreement of the employer.
- (n) A casual employee must not be engaged and re-engaged (which includes a refusal to re-engage), or have their hours reduced or varied, in order to avoid any right or obligation under clause 11.8.
- (o) Nothing in clause 11.8 obliges a regular casual employee to convert to full-time or part-time employment, nor permits an employer to require a regular casual employee to so convert.
- (p) Nothing in clause 11.8 requires an employer to increase the hours of a regular casual employee seeking conversion to full-time or part-time employment.
- (q) An employer must provide a casual employee, whether a regular casual employee or not, with a copy of the provisions of clause 11.8 within the first 12 months of the employee's first engagement to perform work.
- (r) A casual employee's right to request to convert is not affected if the employer fails to comply with the notice requirements in clause 11.8(q).

12. Apprentices

Clause 12.5 updated as a result of [\[2021\] FWCFB 858](#) at [19]; [Summary of Submissions – 18/02/21](#) item 24.

12.1 An employer may engage apprentices.

12.2 Any engagement must be in accordance with the law regulating apprenticeships in force in the place in which the apprentice is engaged.

12.3 This award applies to an apprentice in the same way that it applies to a full-time employee except as otherwise expressly provided by this award.

12.4 An employer must pay an apprentice in accordance with clause 18—Apprentice, trainee and graduate rates.

12.5 Except in an emergency, an ~~apprentice must not work or be required~~ ~~employer must not require an apprentice~~ to work overtime or shiftwork at any time that would prevent their attendance at training in accordance with their training agreement.

12.6 Training

(a) An employer must release an apprentice from work to attend training or any assessment in accordance with their training agreement without loss of pay or continuity of employment.

(b) Subject to Schedule E—School-based Apprentices, time spent by an apprentice in attending training or any assessment in accordance with their training agreement is to be regarded as time worked for the employer for the purpose of calculating the apprentice's wages and determining the apprentice's employment conditions.

(c) An employer must reimburse an apprentice for all fees paid by the apprentice themselves to a registered training organisation (RTO) for courses that the apprentice is required to attend, and all costs incurred by the apprentice in purchasing textbooks (not provided or otherwise made available by the employer) that the apprentice is required to study, for the purposes of the apprenticeship.

(d) The employer must make any reimbursement required under clause 12.6(c) by whichever of the following is the later:

- (i) within 6 months after starting the apprenticeship; or
- (ii) within 6 months after the relevant stage of the apprenticeship; or
- (iii) within 3 months after starting the training provided by the RTO.

(e) Reimbursement under clause 12.6(c) is subject to the employer being satisfied that the apprentice is making satisfactory progress in the apprenticeship.

Commented [FWC7]: Item 22 – [Ai Group – 25/11/2020](#) submission; [SDA – 9/12/2020](#) reply sub; [AWU – 9/12/2020](#) reply sub

Commented [FWC8]: Item 23 – [Ai Group – 25/11/2020](#) submission; [SDA – 9/12/2020](#) reply sub; [AWU – 9/12/2020](#) reply sub

Commented [FWC9]: Item 25 – [Ai Group – 25/11/2020](#) submission; [AWU – 9/12/2020](#) reply sub

12.7 Block release training

- (a) Clause 12.7 applies to an apprentice who is required to attend block release training in accordance with their training agreement.
- (b) If the training requires an overnight stay, the employer must pay for the reasonable travel costs incurred by the apprentice in travelling to and from the training.
- (c) The employer is not obliged to pay costs under clause 12.7(b) if the apprentice could have attended training at a closer venue and attending the more distant training had not been agreed between the employer and the apprentice.
- (d) Reasonable travel costs in clause 12.7(b) include:
 - (i) the total cost of reasonable transportation (including transportation of tools, where required) to and from the training; and
 - (ii) accommodation costs; and
 - (iii) reasonable expenses, including for meals, incurred which exceed those incurred in the normal course of travelling to and from the workplace.
- (e) Reasonable costs in clause 12.7(b) do not include payment for travelling time or expenses incurred while not travelling to and from the block release training.
- (f) The amount an employer must pay under clause 12.7(b) may be reduced by any amount that the apprentice has received, or was eligible to receive, for travel costs to attend block release training under a Government apprentice assistance scheme.
- (g) The employer may only make a reduction under clause 12.7(f) for an amount that an apprentice was eligible to receive, but did not receive, if the employer advised the apprentice in writing of the availability of the assistance and the apprentice choose not to seek it.

Commented [FWC10]: Item 26 – [Ai Group – 25/11/2020](#) submission; [SDA – 9/12/2020](#) reply sub; [AWU – 9/12/2020](#) reply sub

Commented [FWC11]: Item 27 – [Ai Group – 25/11/2020](#) submission; [SDA – 9/12/2020](#) reply sub; [AWU – 9/12/2020](#) reply sub

13. Classifications

- 13.1 An employer must classify an employee covered by this award in accordance with Schedule A—Classification Structure and Definitions.

NOTE: The minimum rates applicable to the classifications in this award are in clause 17—Minimum rates.

- 13.2 The classification by the employer must be based on the competencies that the employee is required to have, and skills that the employee is required to exercise, in order to carry out the principal functions of the employment.
- 13.3 Employers must notify employees in writing of their classification and of any change to it.

Commented [FWC12]: Item 28 – [ABI & NSWBC – 25/11/2020](#) submission; [SDA – 9/12/2020](#) reply sub; [AWU – 9/12/2020](#) reply sub; [Ai Group – 9/12/2020](#) reply sub

Commented [FWC13]: Item 29 – [Ai Group – 25/11/2020](#) submission; [SDA – 9/12/2020](#) reply sub; [SDA – 1/12/2020](#) submission; [AWU – 9/12/2020](#) reply sub; [Ai Group – 9/12/2020](#) reply sub

Part 3—Hours of Work

14. Ordinary hours of work

- 14.1 Clause 14 applies to full-time and part-time employees.
- 14.2 The ordinary hours of work for a full-time employee are an average of 38 ordinary hours per week worked in a period of no more than 4 weeks.
- 14.3 The ordinary hours of work for a part-time employee are as agreed under clause 10—Part-time employees.
- 14.4 Ordinary hours may be worked by an employee within the following span of hours:

Table 2—Span of ordinary hours

Days	Span of hours
Monday to Friday, inclusive	7.00 am – 9.00 pm
Saturday	7.00 am – 6.00 pm
Sunday	10.00 am – 5.00 pm

- 14.5 A full-time employee can work an average of 38 ordinary hours per week in a period of no more than 4 weeks in one of the following ways:
- (a) 38 ordinary hours in one week;
 - (b) 76 ordinary hours in 2 consecutive weeks;
 - (c) 114 ordinary hours in 3 consecutive weeks;
 - (d) 152 ordinary hours in 4 consecutive weeks.
- 14.6 Ordinary hours of work are continuous, except for rest breaks and meal breaks as specified in clause 16—Breaks.
- 14.7 The maximum number of ordinary hours that can be worked on any day is 9 hours, except as provided by clauses 14.8 and 14.9.
- 14.8 An employer may roster an employee to work 10.5 ordinary hours on one day per week.
- 14.9 An employer and employee may agree in writing that the employer may roster the employee to work 10.5 ordinary hours on a second day during that week.
- 14.10 Clause 14 does not operate to limit or increase or in any way alter the trading hours of any employer as determined by any relevant State or Territory legislation.

15. Rostering arrangements

Clauses 15.1(f)(i) deleted and 15.3(d) updated as a result of [\[2021\] FWCFB 858](#) at [19]; [Summary of Submissions –18/02/21](#) items 34 and 36.

Commented [FWC14]: Item 30 – [AWU – 25/11/2020](#) submission; [Ai Group – 9/12/2020](#) reply sub

15.1 Rostering principles—all employees

- (a) The employer must prepare a roster for each employee for a maximum of a 4-week period.
- (b) Ordinary hours must not be worked on more than 5 days in each week, except as provided in clause 15.1(c).
- (c) Ordinary hours can only be worked on 6 days in one week if ordinary hours in the following week are worked on no more than 4 days.
- (d) Ordinary hours and any reasonable additional hours must not be worked over more than 6 consecutive days.
- (e) If an employee elects to work ordinary hours on a Sunday, then the employer must roster the employee so that they have at least one Sunday off every 4 weeks. The employer and the employee may agree to a different arrangement.

(f) Consecutive days off

- ~~(i)~~ The employer must not roster an employee to work ordinary hours on more than 5 days per week, except as provided in clause 15.1(c).
- ~~(ii)~~ (i) The employer must roster an employee to work ordinary hours so they have 2 consecutive days off per week or 3 consecutive days off per 2 week period.
- ~~(iii)~~ (ii) The employer and an individual employee can make different arrangements to those made in clause 15.1(f)(i) at the written request of the employee.
- ~~(iv)~~ (iii) The employer cannot make it a condition of employment that an employee make this type of request.
- ~~(v)~~ (iv) The employer must keep a copy of the written request mentioned in clause 15.1(f)(ii) as a time and wages record.
- ~~(vi)~~ (v) The employee may terminate the agreement by giving 4 weeks' notice to the employer.

15.2 Rostering—full-time employees

- (a) The employer must provide a full-time employee with a written roster, which may be accessible by electronic means, at least 14 days in advance.
- (b) The roster must state all of the following for each employee:
 - (i) the number of ordinary hours to be worked by them each week in that period; and
 - (ii) the days of the week on which they will work; and
 - (iii) the times at which they start and finish work each day.
- (c) An employer may change an employee's roster at any time:

Commented [FWC15]: Item 32 – [Ai Group – 25/11/2020](#) submission; [SDA – 9/12/2020](#) reply sub

Commented [FWC16]: Item 33 – [Ai Group – 25/11/2020](#) submission; [SDA – 9/12/2020](#) reply sub; [AWU – 9/12/2020](#) reply sub

- (i) by mutual agreement between the employer and employee; or
 - (ii) in an emergency, by giving the employee giving 48 hours' notice of the change.
- (d) An employer must not change the roster of an employee in order to avoid paying the employee any award entitlement applicable to the employee. If a roster is changed in those circumstances, then the employee will be entitled to the award entitlement as if the roster had not been changed.

NOTE: The employer and employee may seek to resolve a dispute about a roster change in accordance with clause 32—Dispute resolution.

15.3 Rostering—part-time employees

- (a) The employer must provide a part-time employee with a written roster, which may be accessible by electronic means, at least 14 days in advance.
- (b) The roster must state all of the following for each employee:
 - (i) the number of ordinary hours to be worked by them each week in that period; and
 - (ii) the days of the week on which they will work; and
 - (iii) the times at which they start and finish work each day.
- (c) An employer must roster an employee to work on any shift for a minimum of 3 consecutive hours.
- (d) An employer may change an employee's roster, but not the number of hours agreed under clause 10.3 [or as varied under clause 10.4](#):
 - (i) by giving the employee 7 days' written notice of the change; or
 - (ii) in an emergency, by giving the employee 48 hours' notice of the change.
- (e) The employer must not change the employee's roster from week to week or fortnight to fortnight.
- (f) An employer must not change the roster of an employee in order to avoid paying the employee any award entitlement applicable to the employee. If a roster is changed in those circumstances, then the employee will be entitled to the award entitlement as if the roster had not been changed.

NOTE: The employer and employee may seek to resolve a dispute about a roster change in accordance with clause 32—Dispute resolution.

16. Breaks

- 16.1 Employees are entitled to meal and rest breaks in the following circumstances:

Table 3—Entitlements to meal and rest breaks

Type of break	Length of break (Monday to Sunday inclusive)
Unpaid meal break	
Full-time, part-time and casual employees—after 5 hours of work	One unpaid meal break of between 45 and 60 minutes. The meal break can be shortened to 30 minutes by agreement between the employee and employer.
Paid rest break	
Full-time employees—per shift	Two 10-minute paid rest breaks (one before and one after the unpaid meal break).
Part-time employees—shifts of 4 or more hours but less than 7 hours	One 10-minute paid rest break. If a meal break is included in the work period then the paid rest break is to be taken in the longer work period or, if the work periods are of equal length, at a time agreed between the employer and employee.
Part-time and casual employees—shifts of 7 or more hours	Two 10-minute paid rest breaks (one to be taken before the unpaid meal break and one after).

NOTE: Rest breaks count as time worked. Meal breaks do not count as time worked.

16.2 Breaks between shifts

An employee must have a minimum break of 12 hours between when the employee finishes work on one day and starts work on the next day.

Part 4—Wages and Allowances

17. Minimum rates

17.1 Adult rates

An employer must pay an adult employee (other than an apprentice), as defined in clause 2—Definitions, the minimum rate applicable to the employee’s classification for ordinary hours of work as follows:

Table 4—Minimum rates

Classification	Minimum weekly rate (full-time employees)	Minimum hourly rate
	\$	\$
Hair and beauty employee level 1	813.60	21.41
Hair and beauty employee level 2	833.00	21.92
Hair and beauty employee level 3	862.50	22.70
Hair and beauty employee level 4	878.50	23.12
Hair and beauty employee level 5	904.80	23.81
Hair and beauty employee level 6	937.00	24.66

NOTE 1: Provisions for calculating rates for casual employees are at clause 11—Casual employees.

NOTE 2: See Schedule B—Summary of Hourly Rates of Pay for a summary of hourly rates of pay for adult employees including casual, overtime, and penalty rates.

17.2 Junior rates

The parties are asked which classification levels apply to junior employees and whether juniors holding trade qualifications (see clauses A.2(a) and A.2(b), A.3, A.4 and A.5) should be paid adult rates.

An employer must pay a junior employee, as defined in clause 2—Definitions, at least the minimum percentage of the adult rate applicable to the employee’s classification in clause 17.1 for ordinary hours of work as follows:

Table 5—Junior rates

Age	% of applicable adult rate
Under 16 years of age	50
16 years of age	50
17 years of age	75

NOTE: See Schedule B—Summary of Hourly Rates of Pay for a summary of hourly rates of pay for junior employees including casual, overtime and penalty rates.

17.3 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.

17.4 National training wage

- (a) Schedule E to the [Miscellaneous Award 2020](#) sets out minimum rates and conditions for employees undertaking traineeships.

Commented [FWC17]: Item 38 – [Ai Group – 25/11/2020](#) submission; [SDA – 9/12/2020](#) reply sub; [AWU – 9/12/2020](#) reply sub; [Ai Group – 9/12/2020](#) reply sub

- (b) This award incorporates the terms of Schedule E to the [Miscellaneous Award 2020](#) as at 1 July 2019. For that purpose, any reference to “this award” in Schedule E to the [Miscellaneous Award 2020](#) is to be read as referring to the *Hair and Beauty Industry Award 20XX* and not to the [Miscellaneous Award 2020](#).

18. Apprentice, trainee and graduate rates

NOTE 1: See Schedule B—Summary of Hourly Rates of Pay for a summary of rates of pay for apprentices and trainees including overtime and penalty rates.

NOTE 2: The [standard weekly rate](#) is defined in clause 2—Definitions as the minimum weekly rate for a hair and beauty employee level 3, set out in clause 17.1.

18.1 Minimum rates for hairdressing apprentices

An employer must pay an apprentice completing a hairdressing apprenticeship as follows:

- (a) An apprentice who has not completed Year 12:

Table 6—Hairdressing apprentice minimum rates—has not completed Year 12

Has not completed Year 12 Year of apprenticeship	% of the standard weekly rate	Minimum weekly rate	Minimum hourly rate
	%	\$	\$
1st year	50	431.25	11.35
2nd year	60	517.50	13.62
3rd year	77	664.13	17.48
4th year (if applicable)	90	776.25	20.43

- (b) An apprentice who has completed Year 12:

Table 7—Hairdressing apprentice minimum rates—has completed Year 12

Has completed Year 12 Year of apprenticeship	% of the standard weekly rate	Minimum weekly rate	Minimum hourly rate
	%	\$	\$
1st year	55	474.38	12.48
2nd year	65	560.63	14.75
3rd year	77	664.13	17.48
4th year (if applicable)	90	776.25	20.43

18.2 Minimum rates for beauty therapy apprentices

An employer must pay an apprentice completing a beauty therapy apprenticeship as follows:

- (a) An apprentice who has not completed Year:

Table 8—Beauty therapy apprentice minimum rates—has not completed Year 12

Has not completed Year 12 Year of apprenticeship	% of the standard weekly rate	Minimum weekly rate	Minimum hourly rate
	%	\$	\$
1st year	50	431.25	11.35
2nd year	60	517.50	13.62
3rd year	80	690.00	18.16
4th year (if applicable)	90	776.25	20.43

- (b) An apprentice who has completed Year 12:

Table 9—Beauty therapy apprentice minimum rates—has completed Year 12

Has completed Year 12 Year of apprenticeship	% of the standard weekly rate	Minimum weekly rate	Minimum hourly rate
	%	\$	\$
1st year	55	474.38	12.48
2nd year	65	560.63	14.75
3rd year	80	690.00	18.16
4th year (if applicable)	90	776.25	20.43

18.3 Minimum rates for pre-apprentices

Parties are also asked if the term "pre-apprentice" should be defined for the purposes of clause 18.3 and if so, what that definition should be.

Commented [FWC18]: Item 40 – AWU sub – 25/11/2020; Ai Group – 9/12/2020 reply sub

An employer must pay a pre-apprentice as follows:

- (a) A pre-apprentice who has not completed Year 12 :

Table 10—Pre-apprentice minimum rates—has not completed Year 12

Has not completed Year 12 Year of apprenticeship	% of the standard weekly rate	Minimum weekly rate	Minimum hourly rate
	%	\$	\$
1st 6 months	50	431.25	11.35
Next 6 months	55	474.38	12.48
Next 6 months	60	517.50	13.62
Next 12 months	77	664.13	17.48

- (b) A pre-apprentice who has completed Year 12:

Table 11—Pre-apprentice minimum rates—has completed Year 12

Has completed Year 12 Year of apprenticeship	% of the standard weekly rate	Minimum weekly rate	Minimum hourly rate
	%	\$	\$
1st 6 months	55	474.38	12.48
Next 6 months	55	474.38	12.48
Next 6 months	65	560.63	14.75
Next 12 months	77	664.13	17.48

18.4 Minimum rates for adult apprentices

NOTE: Adult apprentice is defined in clause 2—Definitions.

- (a) An employer must pay an adult apprentice who is in the first year of their apprenticeship, and is not an existing employee, at least the greater of either:
- (i) 80% of the [standard weekly rate](#); or
 - (ii) the rate set out in clause 18.1, 18.2 or 18.3, as applicable, for the first year of the apprenticeship.
- (b) An employer must pay an adult apprentice who is in the second or a subsequent year of their apprenticeship at least the greater of either:
- (i) the lowest rate in clause 17.1;
 - (ii) the rate set out in clause 18.1, 18.2 or 18.3, as applicable, for the relevant year of the apprenticeship.
- (c) Clause 18.4(d) applies to an employee who is employed by an employer under this award immediately before entering into a training agreement as an adult apprentice with that employer:
- (i) as a full-time employee for not less than 6 months; or

Commented [FWC19]: Item 41 – [Ai Group – 25/11/2020](#) submission; [SDA – 9/12/2020](#) reply sub; [AWU – 9/12/2020](#) reply sub

- (ii) as a part-time or long term casual employee for not less than 12 months.
- (d) The adult apprentice must continue to receive the minimum rate in clause 17—Minimum rates that applies to the classification in which they were employed immediately before they entered into the training agreement.

18.5 School-based apprentices

For employees undertaking an apprenticeship in accordance with clause 12—Apprentices while also undertaking a course of secondary education, see Schedule E—School-based Apprentices.

18.6 Trainees and graduates

The definitions in 18.6(a) were proposed by the SDA in [submissions](#) dated 21 November 2016. Responses to the definitions were received from [Ai Group](#) and [Business SA](#).

- (a) The following definitions apply to clause 18.6:
 - (i) a hairdressing trainee is a person undertaking an accredited training program by delivery means other than an apprenticeship with the aim of achieving a Certificate III in Hairdressing;
 - (ii) a hairdressing graduate is a person who has undertaken an accredited training program by delivery means other than an apprenticeship and who has, as a result, achieved a Certificate III in Hairdressing;
 - (iii) a beauty therapy graduate is a person who has undertaken an accredited training program by delivery means other than as an apprenticeship and who has, as a result, achieved a Diploma in Beauty Therapy.

NOTE: The trainees and graduates defined in clause 18.6(a) are not covered by clause 17.4.

- (b) An employer must pay full-time trainees and graduates at least as follows:

Table 12—Trainee and graduate minimum rates

Year of study	% of the standard weekly rate	Minimum weekly rate	Minimum hourly rate
	%	\$	\$
Hairdressing			
Full-time trainee—less than 1000 hours of full-time accredited training	55	474.38	12.48
Full-time trainee—at least 1000 hours but less than 2000 hours of full-time accredited training	75	646.88	17.02

Year of study	% of the standard weekly rate	Minimum weekly rate	Minimum hourly rate
	%	\$	\$
Full-time graduate—first 12 months	92.5	797.81	21.00
Beauty therapy			
Full-time graduate—first 12 months	92.5	797.81	21.00

19. Payment of wages

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.

19.1 The employer may determine the pay period of an employee as being either weekly or fortnightly.

19.2 Wages paid for a pay period may be for the actual number of hours worked by the employee in the pay period or they may be averaged over a fortnight.

19.3 Payment on termination of employment

- (a) The employer must pay an employee no later than 7 days after the day on which the employee's employment terminates:
 - (i) the employee's wages under this award for any complete or incomplete pay period up to the end of the day of termination; and
 - (ii) all other amounts that are due to the employee under this award and the [NES](#).
- (b) The requirement to pay wages and other amounts under clause 19.3(a) is subject to further order of the Commission and the employer making deductions authorised by this award or the [Act](#).

NOTE 1: Section 117(2) of the [Act](#) provides that an employer must not terminate an employee's employment unless the employer has given the employee the required minimum period of notice or "has paid" to the employee payment instead of giving notice.

NOTE 2: Clause 19.3(b) allows the Commission to make an order delaying the requirement to make a payment under clause 19.3. For example, the Commission could make an order delaying the requirement to pay redundancy pay if an employer makes an application under section 120 of the [Act](#) for the Commission to reduce the amount of redundancy pay an employee is entitled to under the [NES](#).

NOTE 3: State and Territory long service leave laws or long service leave entitlements under section 113 of the [Act](#), may require an employer to pay an employee for accrued

long service leave on the day on which the employee's employment terminates or shortly after.

20. Allowances

Clauses 20.8 and 20.10(b) updated as a result of [\[2021\] FWCFB 858](#) at [19]; [Summary of Submissions – 18/02/21](#) items 44 and 48.

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.

- 20.1** Employees are entitled to monetary allowances of the specified kinds in the specified circumstances set out in clause 20.

NOTE: Schedule C—Summary of Monetary Allowances contains a summary of monetary allowances and methods of adjustment.

20.2 Manager's allowance

An employer must pay an employee who is in charge of a hair or beauty establishment for a full week an allowance of **\$43.13** for that week.

20.3 First aid allowance

An employer must pay a first aid allowance of **\$11.21** per week to an employee who:

- (a) has an appropriate current first aid qualification; and
- (b) is appointed by the employer to perform first aid duty.

20.4 Broken Hill allowance

The employer must pay an employee at a workplace within the County of Yancowinna in New South Wales (Broken Hill) an allowance of **\$36.92** per week. This allowance is in addition to all other payments.

20.5 Meal allowance

- (a) An employer must either pay a full-time or part-time employee a meal allowance of **\$18.99** or supply the employee with a meal if all of the following apply:
 - (i) the employee is required to work overtime of more than one hour on any day after the time at which the employee ordinarily finishes work for the day; and
 - (ii) the employee was not given at least 24 hours' notice of that overtime requirement; and
 - (iii) the employee cannot reasonably return home for a meal in their meal break.
- (b) If the overtime mentioned in clause 20.5(a) is more than 4 hours, then the employer must pay the employee a further meal allowance of **\$18.99**.

20.6 Motor vehicle allowance

If an employer requests an employee to use their own motor vehicle in performing their duties, then the employer must pay the employee an allowance of **\$0.78** for each kilometre travelled in performing duties.

20.7 Special clothing allowance

If an employer requires an employee to wear any article of clothing, such as a uniform, dress, protective or other clothing (**special clothing**), then the employer must:

- (a) supply the special clothing to the employee; or
- (b) pay for the special clothing; or
- (c) reimburse the employee for the costs of purchasing the special clothing and of replacing it as necessary because of normal wear and tear.

20.8 Tool allowance

- (a) If an employer requires an employee to provide and use their own tools (including, but not limited to, scissors and other cutting instruments), then the employer must pay the employee a tool allowance of **\$8.99** per week.
- (b) The employer must reimburse an employee for the cost of purchasing any electrical equipment that is necessary for carrying out their work and that is not supplied or paid for by the employer.

20.9 Travelling time reimbursement

- (a) If an employer requires a full-time or part-time employee to work on any day at a place other than their usual place of work, then the employer must:
 - (i) pay the employee for any extra time reasonably spent travelling to and from work in excess of their normal travel times, as calculated under clause 20.9(b) at the rates set out in clause 20.9(c); and
 - (ii) reimburse the employee for any **additional costs** incurred in travelling to and from the other place of work.
- (b) The employer must pay the amounts in clause 20.9(c) for the extra time the employee spends travelling:
 - (i) both ways between the employee's residence and the other place of work; or
 - (ii) if the employer provides transport from a pick-up point, both ways between the employee's residence and that pick-up point.
- (c) The employer must pay the employee for the travelling time calculated under clause 20.9(b):
 - (i) on Monday to Saturday, at their minimum hourly rate; or

Commented [FWC20]: Item 43 – [SDA – 1/12/2020](#) submission; [Ai Group – 9/12/2020](#) reply sub

Commented [FWC21]: Item 46 – [Ai Group – 25/11/2020](#) submission; [SDA – 9/12/2020](#) reply sub; [AWU – 9/12/2020](#) reply sub

- (ii) on Sunday or a public holiday, at **150%** of their minimum hourly rate of pay.

20.10 Transport of employee reimbursement

- (a) An employer must reimburse a full-time or part-time employee's travel costs as calculated under clause 20.10(b) if all of the following apply:
 - (i) the employee starts or finishes work on any day after 10.00 pm or before 7.00 am; and
 - (ii) the employee's regular means of transport is not available; and
 - (iii) the employee is unable to arrange their own alternative transport; and
 - (iv) the employer does not provide or arrange transport for the employee, at no cost to the employee.
- (b) The employer must reimburse the employee, as applicable, for any cost they reasonably incur in taking a commercial passenger vehicle:
 - (i) from their usual place of residence to their place of work; or
 - (ii) from their place of work to their usual place of residence, ~~whichever is applicable~~.
- (c) Nothing in clause 20.10 prevents an employee from choosing to provide their own transport.

Commented [FWC22]: Item 47 – Ai Group – 25/11/2020 submission; SDA – 9/12/2020 reply sub; AWU – 9/12/2020 reply sub

20.11 Excess travelling cost

If an employer requires a full-time or part-time employee to move from one branch or shop to another for a period of up to 3 weeks, then the employer must reimburse the employee any additional costs they incur in travelling to and from those branches or shops.

20.12 Moving expenses

- (a) Clause 20.12 applies if an employer transfers an employee from one township to another.
- (b) The employer must pay the total cost (including fares and other transport charges) of moving the employee and any members of the employee's immediate family, as defined in clause 2—Definitions, who reside in the employee's household.

21. Superannuation

In accordance with section 156(2)(c) of the [Act](#) this clause has not been redrafted.

21.1 Superannuation legislation

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

21.2 Employer contributions

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

21.3 Voluntary employee contributions

- (a) Subject to the governing rules of the relevant superannuation fund, an employee may, in writing, authorise their employer to pay on behalf of the employee a specified amount from the post-taxation wages of the employee into the same superannuation fund as the employer makes the superannuation contributions provided for in clause 21.2.
- (b) An employee may adjust the amount the employee has authorised their employer to pay from the wages of the employee from the first of the month following the giving of three months' written notice to their employer.
- (c) The employer must pay the amount authorised under clauses 21.3(a) or 21.3(b) no later than 28 days after the end of the month in which the deductions authorised under clauses 21.3(a) or 21.3(b) was made.

21.4 Superannuation fund

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

- (a) Retail Employees Superannuation Trust (REST);
- (b) CareSuper;

- (c) Statewide Superannuation Trust;
- (d) Sunsuper;
- (e) 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
- (f) a superannuation fund or scheme which the employee is a defined benefit member of.

21.5 Absence from work

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

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

Part 5—Overtime and Penalty Rates

22. Overtime

Clause 22.5 updated as a result of [\[2021 FWCFB 858\]](#) at [19]; [Summary of Submissions – 18/02/21](#) items 52 and 53.

22.1 Reasonable overtime

- (a) Subject to section 62 of the [Act](#) and clause 22.1, an employer may require an employee to work reasonable overtime hours at overtime rates.
- (b) An employee may refuse to work overtime hours if they are unreasonable.
- (c) In determining whether overtime hours are reasonable or unreasonable for the purpose of clause 22.1 the following must be taken into account:
 - (i) any risk to employee’s health and safety from working the additional hours;
 - (ii) the employee’s personal circumstances, including family responsibilities;

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- (iii) the needs of the workplace or enterprise in which the employee is employed;
- (iv) whether the employee is entitled to receive overtime payments, penalty rates or other compensation for, or a level of remuneration that reflects an expectation of, working additional hours;
- (v) any notice given by the employer of any request or requirement to work the additional hours;
- (vi) any notice given by the employee of his or her intention to refuse to work the additional hours;
- (vii) the usual patterns of work in the industry, or the part of an industry, in which the employee works;
- (viii) the nature of the employee's role, and the employee's level of responsibility;
- (ix) whether the additional hours are in accordance with averaging terms of clause 14—Ordinary hours of work inserted pursuant to section 63 of the [Act](#), that applies to the employee; and
- (x) any other relevant matter.

22.2 Payment of overtime for full-time employees

An employer must pay a full-time employee at the overtime rate in clause 22.5 for any hours worked at the direction of the employer in excess of 38 ordinary hours per week.

22.3 Payment of overtime for part-time employees

An employer must pay a part-time employee at the overtime rate in clause 22.5 for any hours worked at the direction of the employer in excess of the number of ordinary hours agreed under clause 10.3, as varied under clause 10.4.

22.4 Payment of overtime for casual employees

An employer must pay a casual employee at the overtime rate in clause 22.5 for any hours worked at the direction of the employer:

- (a) in excess of 38 ordinary hours per week or, if the casual employee works in accordance with a roster, in excess of 38 ordinary hours per week averaged over the course of the roster cycle;
- (b) in excess of 10.5 ordinary hours per day.

22.5 Overtime rates

An employer must pay an employee for overtime worked as set out in clauses 22.2, 22.3 and 22.4 at the following rates:

Commented [FWC23]: Item 49 – [AWU – 25/11/2020](#) submission; [Ai Group – 25/11/2020](#) submission; [SDA – 9/12/2020](#) reply sub; [AWU – 9/12/2020](#) reply sub; [Ai Group – 9/12/2020](#) reply sub

Item 50 – [AWU – 25/11/2020](#) submission; [Ai Group – 25/11/2020](#) submission;

Table 13—Overtime rates

For overtime worked:	Full-time and part-time employees % of minimum hourly rate	Casual employees % of minimum hourly rate
Monday to Saturday—first 3 hours	150	175
Monday to Saturday—after 3 hours	200	225
Sunday—all overtime hours	200	200
Public holiday—all overtime hours	250	250
Rostered day off—all overtime hours	200	—

NOTE 1: The overtime rates for casual employees [for Monday to Saturday](#) have been calculated by adding the casual loading specified in clause 11.4(b) to the overtime rates for full-time and part-time employees specified in clause 22.5.

[NOTE 2: Clause 23.2 sets out provisions relating to working on a rostered day off.](#)

NOTE 32: Schedule B—Summary of Hourly Rates of Pay sets out the hourly overtime rate for all employee classifications.

22.6 Time off instead of payment for overtime

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

EXAMPLE: By making an agreement under clause 22.6 an employee who worked 2 overtime hours at **150%** of the minimum hourly rate is entitled to 3 hours' time off.

- (c) Time off must be taken:
 - (i) within the period of 6 months after the overtime is worked; and
 - (ii) at a time or times within that period of 6 months agreed by the employee and employer.
- (d) If the employee requests at any time to be paid for overtime covered by an agreement under clause 22.6 but not taken as time off, the employer must pay the employee for the overtime, in the next pay period following the request, at the overtime rate applicable to the overtime when worked.
- (e) If time off for overtime that has been worked is not taken within the period of 6 months mentioned in clause 22.6(c), the employer must pay the employee for

the overtime, in the next pay period following those 6 months, at the overtime rate applicable to the overtime when worked.

- (f) An employer must not exert undue influence or undue pressure on an employee in relation to a decision by the employee to make, or not make, an agreement to take time off instead of payment for overtime.
- (g) An employee may, under section 65 of the [Act](#), request to take time off, at a time or times specified in the request or to be subsequently agreed by the employer and the employee, instead of being paid for overtime worked by the employee. If the employer agrees to the request, then clause 22.6 will apply for overtime that has been worked.

NOTE: Clause 6—Requests for flexible working arrangements contains additional provisions to section 65 of the [Act](#) relating to requests for flexible working arrangements. If an employee makes a request under section 65 of the [Act](#) for a change in working arrangements, the employer may only refuse that request on reasonable business grounds (see section 65(5) of the [Act](#)).

- (h) If, on the termination of the employee's employment, time off for overtime worked by the employee to which clause 22.6 applies has not been taken, the employer must pay the employee for the overtime at the overtime rate applicable to the overtime when worked.

NOTE: Under section 345(1) of the [Act](#), a person must not knowingly or recklessly make a false or misleading representation about the workplace rights of another person under clause 22.6.

23. Penalty rates

Saturday and Sunday penalty rates for casual employees are being considered by the Full Bench in [AM2017/40](#) (Hair and Beauty award-specific penalty rates issue). See [\[2020\] FWCFB 39](#) at [216] and related [directions](#).

Parties are asked to comment on the penalty rates in clause 23.1 for full-time and part-time employees working outside the span of ordinary hours on Monday to Saturday in clause 14.4.

Submissions were received in response to the FWC question at clauses 22.2 and 23.1 of the [exposure draft](#) published on 16 November 2016. See item 48 of the [submission summary](#) published on 8 March 2017.

Submissions were also received in response to the FWC question at clauses 22.2 and 23.1 of the [exposure draft](#) published on 29 March 2019. See [SDA](#) (26/4/19), [BSA](#) (15/4/19) and [Ai Group](#) (23/9/19).

See also [Summary of Submissions](#) published on 21 January 2021 for submissions relating to the PLED drafting.

- 23.1** An employer must pay penalty rates to an employee who works ordinary hours as follows:

Table 14—Penalty rates

For ordinary hours worked:	Full-time and part-time employees % of minimum hourly rate	Casual employees % of minimum hourly rate
Monday to Friday—before 7.00 am and after 9.00 pm	See clause 22	150
Saturday—before 7.00 am and after 6.00 pm	See clause 22	150
Saturday—between 7.00 am and 6.00 pm	133	133
Sunday—before 10.00 am and after 5.00 pm	200	200
Sunday—between 10.00 am and 5.00 pm	200	200
Public holiday—all ordinary hours	250	250
Rostered day off—all ordinary hours	200	—

NOTE: Schedule B—Summary of Hourly Rates of Pay sets out the hourly penalty rates for all employee classifications.

23.2 Rostered day off

- (a) Clause 23.2 applies if the employer and employee agree in writing that the employee will work on a day that is their rostered day off.
- (b) The employer must pay the employee in accordance with clauses 22.5 and 23.1 for all hours worked on their rostered day off.
- (c) The employer must pay the employee for a minimum of 4 hours' work even if the employee is only required to work for a shorter time.

Part 6—Leave and Public Holidays

24. Annual leave

Clause 24.3(a) updated as a result of [\[2021\] FWCFB 858](#) at [19]; [Summary of Submissions – 18/02/21](#) item 2.

NOTE: Where an employee is receiving over-award payments resulting in the employee's base rate of pay being 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 sections 16 and 90 of the [Act](#)).

Commented [FWC24]: Item 54 – Ai Group – 25/11/2020 submission; [SDA – 9/12/2020](#) reply sub

Commented [FWC25]: Item 55 – Ai Group – 25/11/2020 submission; [SDA – 9/12/2020](#) reply sub

Commented [FWC26]: Item 56 – Ai Group – 25/11/2020 submission; [SDA – 9/12/2020](#) reply sub; [AWU – 9/12/2020](#) reply sub

24.1 Annual leave is provided for in the [NES](#). See sections 86 to 93 of the [Act](#). It does not apply to casual employees.

24.2 **Additional paid annual leave for certain shiftworkers**

A 7-day shiftworker who is regularly rostered to work on Sundays and public holidays in a business in which shifts are continuously rostered 24 hours a day for 7 days a week is entitled to an additional week of paid leave under the [NES](#). See section 87 of the [Act](#).

Commented [FWC27]: Item 58 – [Ai Group – 25/11/2020](#) submission; [SDA – 9/12/2020](#) reply sub; [AWU – 9/12/2020](#) reply sub

24.3 **Annual leave loading**

(a) An employee is entitled to an additional payment for accrued annual leave calculated on the minimum hourly rate specified in clause 17—Minimum rates [or clause 18](#)—Apprentice, trainee and graduate rates, [as applicable](#), for the classification in which they are employed.

(b) The additional payment for the employee's ordinary hours of work when taking paid annual leave is as follows:

Commented [FWC28]: Item 59 – [Ai Group – 25/11/2020](#) submission; [SDA – 9/12/2020](#) reply sub; [AWU – 9/12/2020](#) reply sub

(i) Dayworkers

An employee who would have worked on day work only had they not been on leave must be paid the greater of either:

- the minimum hourly rate plus a loading of **17.5%** of the minimum hourly rate; or
- the relevant weekend penalty rate specified in clause 23.1.

(ii) Shiftworkers

An employee who would have worked on shift work had they not been on leave must be paid the greater of either:

- the minimum hourly rate plus a loading of **17.5%** of the minimum hourly rate; or
- the relevant penalty rate specified in clause 23.1, including relevant weekend penalty rates.

NOTE: Section 90(2) of the [Act](#) contains provisions relating to an employee's entitlement to payment for any untaken paid annual leave when employment ends.

24.4 **Temporary close-down**

(a) If an employer intends to close down its operations at all or part of a workplace for a particular period (**temporary close-down period**), then the employer must give the affected employees at least 4 weeks' notice of a temporary close-down period.

(b) The employer may require any affected employee to take a period of paid annual leave during a temporary close-down period.

24.5 Annual leave in advance

- (a) An employer and employee may agree in writing to the employee taking a period of paid annual leave before the employee has accrued an entitlement to the leave.
- (b) An agreement must:
 - (i) state the amount of leave to be taken in advance and the date on which leave is to commence; and
 - (ii) be signed by the employer and employee and, if the employee is under 18 years of age, by the employee's parent or guardian.

NOTE: An example of the type of agreement required by clause 24.5 is set out at Schedule F—Agreement to Take Annual Leave in Advance. There is no requirement to use the form of agreement set out at Schedule F—Agreement to Take Annual Leave in Advance.

- (c) The employer must keep a copy of any agreement under clause 24.5 as an employee record.
- (d) If, on the termination of the employee's employment, the employee has not accrued an entitlement to all of a period of paid annual leave already taken in accordance with an agreement under clause 24.5, the employer may deduct from any money due to the employee on termination an amount equal to the amount that was paid to the employee in respect of any part of the period of annual leave taken in advance to which an entitlement has not been accrued.

24.6 Cashing out of annual leave

- (a) Paid annual leave must not be cashed out except in accordance with an agreement under clause 24.6(c).
- (b) Each cashing out of a particular amount of paid annual leave must be the subject of a separate agreement under clause 24.6(c).
- (c) An employer and an employee may agree in writing to the cashing out of a particular amount of accrued paid annual leave by the employee.
- (d) An agreement under clause 24.6(c) must state:
 - (i) the amount of leave to be cashed out and the payment to be made to the employee for it; and
 - (ii) the date on which the payment is to be made.
- (e) An agreement under clause 24.6(c) must be signed by the employer and employee and, if the employee is under 18 years of age, by the employee's parent or guardian.
- (f) The payment must not be less than the amount that would have been payable had the employee taken the leave at the time the payment is made. See [clause 24.3](#).

Commented [FWC29]: Item 61 – Ai Group – 25/11/2020 submission; SDA – 9/12/2020 reply sub

- (g) An agreement must not result in the employee's remaining accrued entitlement to paid annual leave being less than 4 weeks.
- (h) The maximum amount of accrued paid annual leave that may be cashed out in any period of 12 months is 2 weeks.
- (i) The employer must keep a copy of any agreement under clause 24.6(c) as an employee record.

NOTE 1: Under section 344 of the [Act](#), an employer must not exert undue influence or undue pressure on an employee to make, or not make, an agreement under clause 24.6(c).

NOTE 2: Under section 345(1) of the [Act](#), a person must not knowingly or recklessly make a false or misleading representation about the workplace rights of another person under clause 24.6.

NOTE 3: An example of the type of agreement required by clause 24.6(c) is set out at Schedule G—Agreement to Cash Out Annual Leave. There is no requirement to use the form of agreement set out at Schedule G—Agreement to Cash Out Annual Leave.

24.7 Excessive leave accruals: general provision

NOTE: Clauses 24.7 to 24.9 contain provisions, additional to the [NES](#), about the taking of paid annual leave as a way of dealing with the accrual of excessive paid annual leave. See sections 86 to 93 of the [Act](#).

- (a) An employee has an **excessive leave accrual** if the employee has accrued more than 8 weeks' paid annual leave (or 10 weeks' paid annual leave for a shiftworker, as defined by clause 24.2).
- (b) If an employee has an excessive leave accrual, the employer or the employee may seek to confer with the other and genuinely try to reach agreement on how to reduce or eliminate the excessive leave accrual.
- (c) Clause 24.8 sets out how an employer may direct an employee who has an excessive leave accrual to take paid annual leave.
- (d) Clause 24.9 sets out how an employee who has an excessive leave accrual may require an employer to grant paid annual leave requested by the employee.

Commented [FWC30]: Item 63 – [Ai Group](#) – 25/11/2020 submission; [SDA](#) – 9/12/2020 reply sub

24.8 Excessive leave accruals: direction by employer that leave be taken

- (a) If an employer has genuinely tried to reach agreement with an employee under clause 24.7(b) but agreement is not reached (including because the employee refuses to confer), the employer may direct the employee in writing to take one or more periods of paid annual leave.
- (b) However, a direction by the employer under clause 24.8(a):
 - (i) is of no effect if it would result at any time in the employee's remaining accrued entitlement to paid annual leave being less than 6 weeks when any other paid annual leave arrangements (whether made under clause 24.7,

24.8 or 24.9 or otherwise agreed by the employer and employee) are taken into account; and

- (ii) must not require the employee to take any period of paid annual leave of less than one week; and
 - (iii) must not require the employee to take a period of paid annual leave beginning less than 8 weeks, or more than 12 months, after the direction is given; and
 - (iv) must not be inconsistent with any leave arrangement agreed by the employer and employee.
- (c) The employee must take paid annual leave in accordance with a direction under clause 24.8(a) that is in effect.
- (d) An employee to whom a direction has been given under clause 24.8(a) may request to take a period of paid annual leave as if the direction had not been given.

NOTE 1: Paid annual leave arising from a request mentioned in clause 24.8(d) may result in the direction ceasing to have effect. See clause 24.8(b)(i).

NOTE 2: Under section 88(2) of the [Act](#), the employer must not unreasonably refuse to agree to a request by the employee to take paid annual leave.

24.9 Excessive leave accruals: request by employee for leave

- (a) If an employee has genuinely tried to reach agreement with an employer under clause 24.7(b) but agreement is not reached (including because the employer refuses to confer), the employee may give a written notice to the employer requesting to take one or more periods of paid annual leave.
- (b) However, an employee may only give a notice to the employer under clause 24.9(a) if:
- (i) the employee has had an excessive leave accrual for more than 6 months at the time of giving the notice; and
 - (ii) the employee has not been given a direction under clause 24.8(a) that, when any other paid annual leave arrangements (whether made under clauses 24.7, 24.8 or 24.9 or otherwise agreed by the employer and employee) are taken into account, would eliminate the employee's excessive leave accrual.
- (c) A notice given by an employee under clause 24.9(a) must not:
- (i) if granted, result in the employee's remaining accrued entitlement to paid annual leave being at any time less than 6 weeks when any other paid annual leave arrangements (whether made under clause 24.7, 24.8 or 24.9 or otherwise agreed by the employer and employee) are taken into account; or

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- (ii) provide for the employee to take any period of paid annual leave of less than one week; or
 - (iii) provide for the employee to take a period of paid annual leave beginning less than 8 weeks, or more than 12 months, after the notice is given; or
 - (iv) be inconsistent with any leave arrangement agreed by the employer and employee.
- (d) An employee is not entitled to request by a notice under clause 24.9(a) more than 4 weeks' paid annual leave (or 5 weeks' paid annual leave for a shiftworker, as defined by clause 24.2) in any period of 12 months.
- (e) The employer must grant paid annual leave requested by a notice under clause 24.9(a).

Commented [FWC31]: Item 64 – [Ai Group – 25/11/2020](#) submission; [SDA – 9/12/2020](#) reply sub

25. Personal/carer's leave and compassionate leave

Personal/carer's leave and compassionate leave are provided for in the [NES](#).

26. Parental leave and related entitlements

Parental leave and related entitlements are provided for in the [NES](#).

27. Community service leave

Community service leave is provided for in the [NES](#).

28. Unpaid family and domestic violence leave

Unpaid family and domestic violence leave is provided for in the [NES](#).

NOTE 1: Information concerning an employee's experience of family and domestic violence is sensitive and if mishandled can have adverse consequences for the employee. Employers should consult with such employees regarding the handling of this information.

NOTE 2: Depending upon the circumstances, evidence that would satisfy a reasonable person of the employee's need to take family and domestic violence leave may include a document issued by the police service, a court or family violence support service, or a statutory declaration.

29. Public holidays

29.1 Public holiday entitlements are provided for in the [NES](#).

29.2 Substitution of public holidays by agreement

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](#).

Commented [FWC32]: Item 65 – [Ai Group – 25/11/2020](#) submission; [SDA – 9/12/2020](#) reply sub; [AWU – 9/12/2020](#) reply sub

29.3 Payment for work on public holiday or substitute day

- (a) An employer must pay an employee who works on a public holiday, or on a day that is substituted for a public holiday, at the public holiday penalty rate set out in clauses 22—Overtime and 23—Penalty rates.
- (b) Where an agreement to substitute a part-day under clause 29.2 has been made the following applies:
 - (i) if both part-day public holidays are worked, then the employee must be paid for the public holiday on the part-day elected by employee;
 - (ii) if only the actual part-day public holiday is worked, then the public holiday penalty rate applies; or
 - (iii) if only the substituted part-day public holiday is worked, then the public holiday penalty rate applies.

Commented [FWC33]: Item 65 – [Ai Group – 25/11/2020](#) submission; [SDA – 9/12/2020](#) reply sub; [AWU – 9/12/2020](#) reply sub

Commented [FWC34]: Item 66 – [Ai Group – 25/11/2020](#) submission; [AWU – 9/12/2020](#) reply sub

Commented [FWC35]: Item 65 – [Ai Group – 25/11/2020](#) submission; [SDA – 9/12/2020](#) reply sub; [AWU – 9/12/2020](#) reply sub

NOTE: For further provisions relating to part-day public holidays see Schedule H—Part-day public holidays.

Part 7—Consultation and Dispute Resolution

30. Consultation about major workplace change

30.1 If an employer makes a definite decision to make major changes in production, program, organisation, structure or technology that are likely to have significant effects on employees, the employer must:

- (a) give notice of the changes to all employees who may be affected by them and their representatives (if any); and
- (b) discuss with affected employees and their representatives (if any):
 - (i) the introduction of the changes; and
 - (ii) their likely effect on employees; and
 - (iii) measures to avoid or reduce the adverse effects of the changes on employees; and
- (c) commence discussions as soon as practicable after a definite decision has been made.

30.2 For the purposes of the discussion under clause 30.1(b), the employer must give in writing to the affected employees and their representatives (if any) all relevant information about the changes including:

- (a) their nature; and
- (b) their expected effect on employees; and

(c) any other matters likely to affect employees.

30.3 Clause 30.2 does not require an employer to disclose any confidential information if its disclosure would be contrary to the employer's interests.

30.4 The employer must promptly consider any matters raised by the employees or their representatives about the changes in the course of the discussion under clause 30.1(b).

30.5 In clause 30:

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

- (a) termination of employment; or
- (b) major changes in the composition, operation or size of the employer's workforce or in the skills required; or
- (c) loss of, or reduction in, job or promotion opportunities; or
- (d) loss of, or reduction in, job tenure; or
- (e) alteration of hours of work; or
- (f) the need for employees to be retrained or transferred to other work or locations; or
- (g) job restructuring.

30.6 Where this award makes provision for alteration of any of the matters defined at clause 30.5, such alteration is taken not to have significant effect.

31. Consultation about changes to rosters or hours of work

31.1 Clause 31 applies if an employer proposes to change the regular roster or ordinary hours of work of an employee, other than an employee whose working hours are irregular, sporadic or unpredictable.

31.2 The employer must consult with any employees affected by the proposed change and their representatives (if any).

31.3 For the purpose of the consultation, the employer must:

- (a) provide to the employees and representatives mentioned in clause 31.2 information about the proposed change (for example, information about the nature of the change and when it is to begin); and
- (b) invite the employees to give their views about the impact of the proposed change on them (including any impact on their family or caring responsibilities) and also invite their representative (if any) to give their views about that impact.

31.4 The employer must consider any views given under clause 31.3(b).

31.5 Clause 31 is to be read in conjunction with any other provisions of this award concerning the scheduling of work or the giving of notice.

32. Dispute resolution

- 32.1** Clause 32 sets out the procedures to be followed if a dispute arises about a matter under this award or in relation to the [NES](#).
- 32.2** The parties to the dispute must first try to resolve the dispute at the workplace through discussion between the employee or employees concerned and the relevant supervisor.
- 32.3** If the dispute is not resolved through discussion as mentioned in clause 32.2, the parties to the dispute must then try to resolve it in a timely manner at the workplace through discussion between the employee or employees concerned and more senior levels of management, as appropriate.
- 32.4** If the dispute is unable to be resolved at the workplace and all appropriate steps have been taken under clauses 32.2 and 32.3, a party to the dispute may refer it to the Fair Work Commission.
- 32.5** The parties may agree on the process to be followed by the Fair Work Commission in dealing with the dispute, including mediation, conciliation and consent arbitration.
- 32.6** If the dispute remains unresolved, the Fair Work Commission may use any method of dispute resolution that it is permitted by the [Act](#) to use and that it considers appropriate for resolving the dispute.
- 32.7** A party to the dispute may appoint a person, organisation or association to support and/or represent them in any discussion or process under clause 32.
- 32.8** While procedures are being followed under clause 32 in relation to a dispute:
- (a) work must continue in accordance with this award and the [Act](#); and
 - (b) an employee must not unreasonably fail to comply with any direction given by the employer about performing work, whether at the same or another workplace, that is safe and appropriate for the employee to perform.
- 32.9** Clause 32.8 is subject to any applicable work health and safety legislation.

Part 8—Termination of Employment and Redundancy

33. Termination of employment

NOTE: The [NES](#) sets out requirements for notice of termination by an employer. See sections 117 and 123 of the [Act](#).

33.1 Notice of termination by an employee

- (a) Clause 33.1 applies to all employees except those identified in sections 123(1) and 123(3) of the [Act](#).
- (b) An employee must give the employer notice of termination in accordance with **Table 15—Period of notice** of at least the period specified in column 2

according to the period of continuous service of the employee specified in column 1.

Table 15—Period of notice

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

NOTE: The notice of termination required to be given by an employee is the same as that required of an employer, except that the employee does not have to give additional notice based on the age of the employee, if the employee is over 45 years and has completed at least 2 years' continuous service.

- (c) In clause 33.1(b) **continuous service** has the same meaning as in section 117 of the [Act](#).
- (d) If an employee who is at least 18 years old does not give the period of notice required under clause 33.1(b), then the employer may deduct from wages due to the employee under this award an amount that is no more than one week's wages for the employee.
- (e) If the employer has agreed to a shorter period of notice than that required under clause 33.1(b), then no deduction can be made under clause 33.1(d).
- (f) Any deduction made under clause 33.1(d) must not be unreasonable in the circumstances.

33.2 Job search entitlement

- (a) Where an employer has given notice of termination to an employee, the employee must be allowed time off without loss of pay of up to one day for the purpose of seeking other employment.
- (b) The time off under clause 33.2 is to be taken at times that are convenient to the employee after consultation with the employer.

34. Redundancy

NOTE: Redundancy pay is provided for in the [NES](#). See sections 119–123 of the [Act](#).

34.1 Transfer to lower paid duties on redundancy

- (a) Clause 34.1 applies if, because of redundancy, an employee is transferred to new duties to which a lower ordinary rate of pay applies.
- (b) The employer may:

- (i) give the employee notice of the transfer of at least the same length as the employee would be entitled to under section 117 of the [Act](#) as if it were a notice of termination given by the employer; or
 - (ii) transfer the employee to the new duties without giving notice of transfer or before the expiry of a notice of transfer, provided that the employer pays the employee as set out in clause 34.1(c).
- (c) If the employer acts as mentioned in clause 34.1(b)(ii), the employee is entitled to a payment of an amount equal to the difference between the ordinary rate of pay of the employee (inclusive of all-purpose allowances, shift rates and penalty rates applicable to ordinary hours) for the hours of work the employee would have worked in the first role, and the ordinary rate of pay (also inclusive of all-purpose allowances, shift rates and penalty rates applicable to ordinary hours) of the employee in the second role for the period for which notice was not given.

34.2 Employee leaving during redundancy notice period

- (a) An employee given notice of termination in circumstances of redundancy may terminate their employment during the minimum period of notice prescribed by section 117(3) of the [Act](#).
- (b) The employee is entitled to receive the benefits and payments they would have received under clause 34 or under sections 119–123 of the [Act](#) had they remained in employment until the expiry of the notice.
- (c) However, the employee is not entitled to be paid for any part of the period of notice remaining after the employee ceased to be employed.

34.3 Job search entitlement

- (a) Where an employer has given notice of termination to an employee in circumstances of redundancy, the employee must be allowed time off without loss of pay of up to one day each week of the minimum period of notice prescribed by section 117(3) of the [Act](#) for the purpose of seeking other employment.
- (b) If an employee is allowed time off without loss of pay of more than one day under clause 34.3(a), the employee must, at the request of the employer, produce proof of attendance at an interview.
- (c) A statutory declaration is sufficient for the purpose of clause 34.3(b).
- (d) An employee who fails to produce proof when required under clause 34.3(b) is not entitled to be paid for the time off.
- (e) This entitlement applies instead of clause 33.2.

Schedule A—Classification Structure and Definitions

- A.1 Hair and beauty employee level 1** means a receptionist or salon assistant.
- A.2 Hair and beauty employee level 2** means:
- (a) a make-up artist who holds a Certificate II in make-up services (or equivalent);
 - (b) a nail technician who holds a Certificate II in Nail Technology (or equivalent);
or
 - (c) an unqualified beautician or cosmetologist.
- A.3 Hair and beauty employee level 3** means:
- (a) a beautician who holds a Certificate III in Beauty Services (or equivalent); or
 - (b) a hairdresser who holds a Certificate III in Hairdressing (or equivalent).
- A.4 Hair and beauty employee level 4** means a beauty therapist who holds a Certificate IV in Beauty Therapy (or equivalent).
- A.5 Hair and beauty employee level 5** means:
- (a) a hairdresser who holds a Certificate IV (or equivalent); or
 - (b) a trichologist who is a hairdresser and holds a Certificate IV in Trichology (or equivalent).
- A.6 Hair and beauty employee level 6** means a beauty therapist who holds a Diploma in Beauty Therapy (or equivalent).

Schedule B—Summary of Hourly Rates of Pay

This Schedule may be affected by [AM2017/51](#) (Overtime for casuals common issue). See [\[2020\] FWCFCB 4350](#).

This Schedule may also be affected by [AM2017/40](#) (Hair and Beauty award-specific penalty rates issue). See [\[2020\] FWCFCB 39](#) at [216].

See also Part 4—Wages and Allowances and Part 5—Overtime and Penalty Rates.

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

B.1.1 Full-time and part-time adult employees—ordinary and penalty rates

	Ordinary hours	Saturday – between 7.00 am and 6.00 pm	Sunday – all hours	Public holiday – all hours	RDO – all hours
	% of minimum hourly rate				
	100%	133%	200%	250%	200%
	\$	\$	\$	\$	\$
Level 1	21.41	28.48	42.82	53.53	42.82
Level 2	21.92	29.15	43.84	54.80	43.84
Level 3	22.70	30.19	45.40	56.75	45.40
Level 4	23.12	30.75	46.24	57.80	46.24
Level 5	23.81	31.67	47.62	59.53	47.62
Level 6	24.66	32.80	49.32	61.65	49.32

B.1.2 Full-time and part-time adult employees—overtime rates

	Monday to Saturday – first 3 hours	Monday to Saturday – after 3 hours	Sunday – all hours	Public holiday – all hours	RDO – all hours
	% of minimum hourly rate				
	150%	200%	200%	250%	200%
	\$	\$	\$	\$	\$
Level 1	32.12	42.82	42.82	53.53	42.82
Level 2	32.88	43.84	43.84	54.80	43.84
Level 3	34.05	45.40	45.40	56.75	45.40
Level 4	34.68	46.24	46.24	57.80	46.24
Level 5	35.72	47.62	47.62	59.53	47.62
Level 6	36.99	49.32	49.32	61.65	49.32

B.2 Casual adult employees

B.2.1 Casual adult employees—ordinary and penalty rates

	Ordinary hours	Monday to Saturday – outside the span of ordinary hours	Saturday – between 7.00 am and 6.00 pm	Sunday – all hours	Public holiday – all hours
	% of minimum hourly rate				
	125%	150%	133%	200%	250%
	\$	\$	\$	\$	\$
Level 1	26.76	32.12	28.48	42.82	53.53
Level 2	27.40	32.88	29.15	43.84	54.80
Level 3	28.38	34.05	30.19	45.40	56.75
Level 4	28.90	34.68	30.75	46.24	57.80
Level 5	29.76	35.72	31.67	47.62	59.53
Level 6	30.83	36.99	32.80	49.32	61.65

B.3 Junior rates

The parties are asked which classification levels apply to junior employees and whether juniors holding trade qualifications (see clauses A.2(a) and A.2(b), A.3, A.4 and A.5) should be paid adult rates.

B.3.1 The **junior hourly rate** is based on a percentage of the appropriate adult rate, as set out in clauses 17.1—Adult rates and 17.2—Junior rates. Adult rates apply from 18 years of age. See clause 2—Definitions..

B.3.2 Full-time and part-time junior employees—ordinary and penalty rates

	Junior hourly rate – ordinary hours	Saturday – between 7.00 am and 6.00 pm	Sunday – all hours	Public holiday – all hours	RDO – all hours
	% of junior hourly rate				
	100%	133%	200%	250%	200%
	\$	\$	\$	\$	\$
Level 1					
16 years or under	10.71	14.24	21.42	26.78	21.42
17 years	16.06	21.36	32.12	40.15	32.12

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	Junior hourly rate – ordinary hours	Saturday – between 7.00 am and 6.00 pm	Sunday – all hours	Public holiday – all hours	RDO – all hours
	% of junior hourly rate				
	100%	133%	200%	250%	200%
	\$	\$	\$	\$	\$

Level 2

16 years or under	10.96	14.58	21.92	27.40	21.92
17 years	16.44	21.87	32.88	41.10	32.88

Level 3

16 years or under	11.35	15.10	22.70	28.38	22.70
17 years	17.03	22.65	34.06	42.58	34.06

B.3.3 Full-time and part-time junior employees—overtime rates

	Monday to Saturday – first 3 hours	Monday to Saturday – after 3 hours	Sunday – all hours	Public holiday – all hours	RDO – all hours
	% of junior hourly rate				
	150%	200%	200%	250%	200%
	\$	\$	\$	\$	\$

Level 1

16 years or under	16.07	21.42	21.42	26.78	21.42
17 years	24.09	32.12	32.12	40.15	32.12

Level 2

16 years or under	16.44	21.92	21.92	27.40	21.92
17 years	24.66	32.88	32.88	41.10	32.88

Level 3

16 years or under	17.03	22.70	22.70	28.38	22.70
17 years	25.55	34.06	34.06	42.58	34.06

B.4 Casual junior employees

B.4.1 Casual junior employees—ordinary and penalty rates

	Junior hourly rate – ordinary hours	Monday to Saturday – outside the span of ordinary hours	Saturday – between 7.00 am and 6.00 pm	Sunday – all hours	Public holiday – all hours
	% of junior hourly rate				
	125%	150%	133%	200%	250%
	\$	\$	\$	\$	\$
Level 1					
16 years or under	13.39	16.07	14.24	21.42	26.78
17 years	20.08	24.09	21.36	32.12	40.15
Level 2					
16 years or under	13.70	16.44	14.58	21.92	27.40
17 years	20.55	24.66	21.87	32.88	41.10
Level 3					
16 years or under	14.19	17.03	15.10	22.70	28.38
17 years	21.29	25.55	22.65	34.06	42.58

B.5 Apprentice and trainee rates

B.5.1 The apprentice hourly rate is based on a percentage of the [standard weekly rate](#) (Level 3 adult rate), as set out in clause 17—Minimum rates.

B.5.2 The apprentice hourly rate for hairdressing and beauty therapy apprentices, trainees and graduates is calculated in accordance with clause 18—Apprentice, trainee and graduate rates.

B.5.3 Hairdressing apprentices—ordinary and penalty rates

	Apprentice hourly rate – ordinary hours	Saturday – between 7.00 am and 6.00 pm	Sunday – all hours	Public holiday – all hours	RDO – all hours
	% of apprentice hourly rate				
	100%	133%	200%	250%	200%
	\$	\$	\$	\$	\$
Have not completed year 12					
1st year	11.35	15.10	22.70	28.38	22.70
2nd year	13.62	18.11	27.24	34.05	27.24

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	Apprentice hourly rate – ordinary hours	Saturday – between 7.00 am and 6.00 pm	Sunday – all hours	Public holiday – all hours	RDO – all hours
	% of apprentice hourly rate				
	100%	133%	200%	250%	200%
	\$	\$	\$	\$	\$
3rd year	17.48	23.25	34.96	43.70	34.96
4th year (if applicable)	20.43	27.17	40.86	51.08	40.86
Have completed year 12					
1st year	12.48	16.60	24.96	31.20	24.96
2nd year	14.75	19.62	29.50	36.88	29.50
3rd year	17.48	23.25	34.96	43.70	34.96
4th year (if applicable)	20.43	27.17	40.86	51.08	40.86

B.5.4 Hairdressing apprentices—overtime rates

	Monday to Saturday – first 3 hours	Monday to Saturday – after 3 hours	Sunday – all hours	Public holiday – all hours	RDO – all hours
	% of apprentice hourly rate				
	150%	200%	200%	250%	200%
	\$	\$	\$	\$	\$
Have not completed year 12					
1st year	17.03	22.70	22.70	28.38	22.70
2nd year	20.43	27.24	27.24	34.05	27.24
3rd year	26.22	34.96	34.96	43.70	34.96
4th year (if applicable)	30.65	40.86	40.86	51.08	40.86
Have completed year 12					
1st year	18.72	24.96	24.96	31.20	24.96
2nd year	22.13	29.50	29.50	36.88	29.50
3rd year	26.22	34.96	34.96	43.70	34.96
4th year (if applicable)	30.65	40.86	40.86	51.08	40.86

B.5.5 Beauty therapy apprentices—ordinary and penalty rates

	Apprentice hourly rate – ordinary hours	Saturday – between 7.00 am and 6.00 pm	Sunday – all hours	Public holiday – all hours	RDO – all hours
	% of apprentice hourly rate				
	100%	133%	200%	250%	200%
	\$	\$	\$	\$	\$
Have not completed year 12					
1st year	11.35	15.10	22.70	28.38	22.70
2nd year	13.62	18.11	27.24	34.05	27.24
3rd year	18.16	24.15	36.32	45.40	36.32
4th year (if applicable)	20.43	27.17	40.86	51.08	40.86
Have completed year 12					
1st year	12.48	16.60	24.96	31.20	24.96
2nd year	14.75	19.62	29.50	36.88	29.50
3rd year	18.16	24.15	36.32	45.40	36.32
4th year (if applicable)	20.43	27.17	40.86	51.08	40.86

B.5.6 Beauty therapy apprentices—overtime rates

	Monday to Saturday – first 3 hours	Monday to Saturday – after 3 hours	Sunday – all hours	Public holiday – all hours	RDO – all hours
	% of apprentice hourly rate				
	150%	200%	200%	250%	200%
	\$	\$	\$	\$	\$
Have not completed year 12					
1st year	17.03	22.70	22.70	28.38	22.70
2nd year	20.43	27.24	27.24	34.05	27.24
3rd year	27.24	36.32	34.96	45.40	34.96
4th year (if applicable)	30.65	40.86	40.86	51.08	40.86
Have completed year 12					
1st year	18.72	24.96	24.96	31.20	24.96
2nd year	22.13	29.50	29.50	36.88	29.50
3rd year	27.24	28.38	28.38	28.38	28.38

	Monday to Saturday – first 3 hours	Monday to Saturday – after 3 hours	Sunday – all hours	Public holiday – all hours	RDO – all hours
	% of apprentice hourly rate				
	150%	200%	200%	250%	200%
	\$	\$	\$	\$	\$
4th year (if applicable)	30.65	40.86	40.86	51.08	40.86

B.5.7 Pre-apprentices—ordinary and penalty rates

	Apprentice hourly rate – ordinary hours	Saturday – between 7.00 am and 6.00 pm	Sunday - all hours	Public holiday – all hours	RDO – all hours
	% of apprentice hourly rate				
	100%	133%	200%	250%	200%
	\$	\$	\$	\$	\$
Have not completed year 12					
First 6 months	11.35	15.10	22.70	28.38	22.70
Next 6 months	12.48	16.60	24.96	31.20	24.96
Next 6 months	13.62	18.11	27.24	34.05	27.24
Next 12 months	17.48	23.25	34.96	43.70	34.96
Have completed year 12					
First 6 months	12.48	16.60	24.96	31.20	24.96
Next 6 months	12.48	16.60	24.96	31.20	24.96
Next 6 months	14.75	19.62	29.50	36.88	29.50
Next 12 months	17.48	23.25	34.96	43.70	34.96

B.5.8 Pre-apprentices—overtime rates

	Monday to Saturday – first 3 hours	Monday to Saturday – after 3 hours	Sunday – all hours	Public holiday – all hours	RDO – all hours
	% of apprentice hourly rate				
	150%	200%	200%	250%	200%
	\$	\$	\$	\$	\$
Have not completed year 12					
First 6 months	17.03	22.70	22.70	28.38	22.70
Next 6 months	18.72	24.96	24.96	31.20	24.96
Next 6 months	20.43	27.24	27.24	34.05	27.24
Next 12 months	26.22	34.96	34.96	43.70	34.96
Have completed year 12					
First 6 months	18.72	24.96	24.96	31.20	24.96
Next 6 months	18.72	24.96	24.96	31.20	24.96
Next 6 months	22.13	29.50	29.50	36.88	29.50
Next 12 months	26.22	34.96	34.96	43.70	34.96

B.5.9 Full-time trainees and graduates—ordinary and penalty rates

	Apprentice hourly rate – ordinary hours	Saturday – between 7.00 am and 6.00 pm	Sunday – all hours	Public holiday – all hours	RDO – all hours
	% of apprentice hourly rate				
	100%	133%	200%	250%	200%
	\$	\$	\$	\$	\$
Hairdressing					
Less than 1000 hours of full-time accredited training	12.48	16.60	24.96	31.20	24.96
At least 1000 hours but less than 2000 hours of full-time accredited training	17.02	22.64	34.04	42.55	34.04
Hairdressing Graduate (first 12 months)	21.00	27.93	42.00	52.50	42.00

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	Apprentice hourly rate – ordinary hours	Saturday – between 7.00 am and 6.00 pm	Sunday – all hours	Public holiday – all hours	RDO – all hours
	% of apprentice hourly rate				
	100%	133%	200%	250%	200%
	\$	\$	\$	\$	\$
Beauty Therapy					
Beauty Therapy Graduate (first 12 months)	21.00	27.93	42.00	52.50	42.00

B.5.10 Full-time trainees and graduates—overtime rates

	Monday to Saturday – first 3 hours	Monday to Saturday – after 3 hours	Sunday – all hours	Public holiday – all hours	RDO – all hours
	% of apprentice hourly rate				
	150%	200%	200%	250%	200%
	\$	\$	\$	\$	\$
Hairdressing					
Less than 1000 hours of full-time accredited training	18.72	24.96	24.96	31.20	24.96
At least 1000 hours but less than 2000 hours of full-time accredited training	25.53	34.04	34.04	42.55	34.04
Hairdressing Graduate (first 12 months)	31.50	42.00	42.00	52.50	42.00
Beauty Therapy					
Beauty Therapy Graduate (first 12 months)	31.50	42.00	42.00	52.50	42.00

Schedule C—Summary of Monetary Allowances

See clause 20—Allowances for full details of allowances payable under this award.

C.1 Wage-related allowances

- C.1.1** The following wage-related allowances are based on the [standard weekly rate](#), defined in clause 2—Definitions as the minimum weekly rate for a hair and beauty employee level 3 in clause 17—Minimum rates (\$862.50).

Allowance	Clause	% of standard weekly rate	\$	Payable
Manager's allowance	20.2	5.0	43.13	per week
First aid allowance	20.3	1.3	11.21	per week
Broken Hill allowance	20.4	4.28	36.92	per week

C.1.2 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 weekly rate](#) as specified.

C.2 Expense-related allowances

- C.2.1** The following expense-related allowances will be payable to employees in accordance with clause 20—Allowances:

Allowance	Clause	\$	Payable
Meal allowance—more than one hour's overtime without 24 hours' notice	20.5(a)	18.99	per occasion
Meal allowance—if more than 4 hours' overtime without 24 hours' notice—further allowance	20.5(b)	18.99	per occasion
Motor vehicle allowance	20.6	0.78	per km
Tool allowance	20.8(a)	8.99	per week

C.2.2 Adjustment of expense-related allowances

- (a) At the time of any adjustment to the [standard weekly rate](#), each expense-related allowance must be increased by the relevant adjustment factor. The relevant adjustment factor for this purpose is the percentage movement in the applicable index figure most recently published by the Australian Bureau of Statistics since the allowance was last adjusted.
- (b) The applicable index figure is the index figure published by the Australian Bureau of Statistics for the Eight Capitals Consumer Price Index (Cat No. 6401.0), as follows:

Allowance	Applicable Consumer Price Index figure
Meal allowance	Take away and fast foods sub-group

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Allowance	Applicable Consumer Price Index figure
Motor vehicle allowance	Private motoring sub-group
Tool allowance	Tools and equipment for house and garden component of household appliances, utensils and tools sub-group

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Schedule D—Supported Wage System

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

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:

Assessed capacity (clause D.5)	Relevant minimum wage
%	%
10	10

Assessed capacity (clause D.5)	Relevant minimum wage
%	%
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 **\$89** 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 SWS 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 SWS.

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 4 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 \$89 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—School-based Apprentices

E.1 In this Schedule:

E.1.1 **off-the-job training** is structured training delivered by a Registered Training Organisation separate from normal work duties or general supervised practice undertaken on the job; and

E.1.2 **school-based apprentice** is a person who is undertaking an apprenticeship in accordance with this schedule while also undertaking a course of secondary education.

E.2 A school-based apprenticeship may be undertaken in the trades covered by this award under a training agreement for an apprentice declared or recognised by the relevant State or Territory authority.

E.3 The relevant minimum hourly rates for full-time junior and adult apprentices provided for in this award apply to school-based apprentices for total hours worked, including time taken to be spent in off-the-job training.

E.4 Where an apprentice is a full-time school student, the time spent in off-the-job training, for which the apprentice must be paid, is **25%** of the actual hours worked each week on-the-job. The wages paid for time spent in training may be averaged over the semester or year.

E.5 A school-based apprentice must be allowed, over the duration of the apprenticeship, the same amount of time to attend off-the-job training as an equivalent full-time apprentice.

E.6 The duration of the apprenticeship must be as specified in the training agreement for each apprentice but must not exceed 6 years.

E.7 School-based apprentices progress through the relevant wage scale at the rate of 12 months' progression for each 2 years of employment as an apprentice or at the rate of competency-based progression if provided for in this award.

E.8 The apprentice wage scales are based on a standard full-time apprenticeship of 4 years (unless the apprenticeship is of 3 years' duration) or stages of competency-based progression (if provided for in this award).

NOTE: The rate of progression reflects the average rate of skill acquisition expected from the typical combination of work and training for a school-based apprentice undertaking the applicable apprenticeship.

E.9 If an apprentice converts from school-based to full-time, the successful completion of competencies (if provided for in this award) and all time spent as a full-time apprentice will count for the purposes of progression through the relevant wage scale in addition to the progression achieved as a school-based apprentice.

E.10 School-based apprentices are entitled to all of the other conditions in this award on a pro-rata basis.

Schedule F—Agreement to Take Annual Leave in Advance

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

Name of employee: _____

Name of employer: _____

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

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

The leave in advance will commence on: ____/____/20____

Signature of employee: _____

Date signed: ____/____/20____

Name of employer representative: _____

Signature of employer representative: _____

Date signed: ____/____/20____

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

I agree that:

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

Name of parent/guardian: _____

Signature of parent/guardian: _____

Date signed: ____/____/20____

Schedule G—Agreement to Cash Out Annual Leave

Link to PDF copy of [Agreement to Cash Out Annual Leave](#).

Name of employee: _____

Name of employer: _____

The employer and employee agree to the employee cashing out a particular amount of the employee's accrued paid annual leave:

The amount of leave to be cashed out is: ____ hours/days

The payment to be made to the employee for the leave is: \$_____ subject to deduction of income tax/after deduction of income tax (strike out where not applicable)

The payment will be made to the employee on: ____/____/20____

Signature of employee: _____

Date signed: ____/____/20____

Name of employer representative: _____

Signature of employer representative: _____

Date signed: ____/____/20____

Include if the employee is under 18 years of age:

Name of parent/guardian: _____

Signature of parent/guardian: _____

Date signed: ____/____/20____

Schedule H—Part-day public holidays

This Schedule is being considered in [AM2014/301](#) and [AM2019/17](#). It has not been drafted in plain language.

- H.1** This schedule operates where this award otherwise contains provisions dealing with public holidays that supplement the [NES](#).
- H.2** Where a part-day public holiday is declared or prescribed between 6.00pm 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, 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 but as a result of being on annual leave does not work, they will be taken not to be on annual leave during the hours of the declared or prescribed part-day public holiday that they would have usually been rostered to work and will be paid their ordinary rate of pay for such hours.
 - (d) Where a part-time or full-time employee is usually rostered to work ordinary hours on the declared or prescribed part-day public holiday, but as a result of having a rostered day off (RDO) provided under this award, does not work, the employee will be taken to be on a public holiday for such hours and paid their ordinary rate of pay for those hours.
 - (e) Excluding annualised salaried employees to whom clause H.2(f) applies, where an employee works any hours on the declared or prescribed part-day public holiday, they will be entitled to the appropriate public holiday penalty rate (if any) in this award for those hours worked.
 - (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.
 - (g) An employee not rostered to work on the declared or prescribed part-day public holiday, other than an employee who has exercised their right in accordance with clause H.2(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.

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- H.3** An employer and employee may agree to substitute another part-day for a part-day that would otherwise be a part-day public holiday under the [NES](#).
- H.4** This schedule is not intended to detract from or supplement the [NES](#).

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Schedule X—Additional Measures During the COVID-19 Pandemic

X.1 Subject to clauses X.2.1(d) and X.2.2(c), Schedule X operates from 8 April 2020 until 29 March 2021. The period of operation can be extended on application.

X.2 During the operation of Schedule X, the following provisions apply:

X.2.1 Unpaid pandemic leave

- (a) Subject to clauses X.2.1(b), (c) and (d), any employee is entitled to take up to 2 weeks' unpaid leave if the employee is required by government or medical authorities or on the advice of a medical practitioner to self-isolate and is consequently prevented from working, or is otherwise prevented from working by measures taken by government or medical authorities in response to the COVID-19 pandemic.
- (b) The employee must give their employer notice of the taking of leave under clause X.2.1(a) and of the reason the employee requires the leave, as soon as practicable (which may be a time after the leave has started).
- (c) An employee who has given their employer notice of taking leave under clause X.2.1(a) must, if required by the employer, give the employer evidence that would satisfy a reasonable person that the leave is taken for a reason given in clause X.2.1(a)
- (d) A period of leave under clause X.2.1(a) must start before 29 March 2021 but may end after that date.
- (e) Leave taken under clause X.2.1(a) does not affect any other paid or unpaid leave entitlement of the employee and counts as service for the purposes of entitlements under this award and the [NES](#).

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

X.2.2 Annual leave at half pay

- (a) Instead of an employee taking paid annual leave on full pay, the employee and their employer may agree to the employee taking twice as much leave on half pay.
- (b) Any agreement to take twice as much annual leave at half pay must be recorded in writing and retained as an employee record.
- (c) A period of leave under clause X.2.2(a) must start before 29 March 2021 but may end after that date.

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

- the employee's pay for the 2 weeks' leave is the same as the pay the employee would have been entitled to for one week's leave on full pay (where one week's

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full pay includes leave loading under the Annual Leave clause of this award);
and

- one week of leave is deducted from the employee's annual leave accrual.

NOTE 1: A employee covered by this award who is entitled to the benefit of clause X.2.1 or X.2.2 has a workplace right under section 341(1)(a) of the Act.

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

NOTE 3: Under section 343(1) of the Act, a person must not organise or take, or threaten to organise or take, action against another person with intent to coerce the person to exercise or not exercise, or propose to exercise or not exercise, a workplace right, or to exercise or propose to exercise a workplace right in a particular way.