

Fair Work Act 2009
s.156—4 yearly review of modern awards
4 yearly review of modern awards—Plain language
project (AM2016/15)
Fast Food PLED

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INTRODUCTION

1. The Shop, Distributive and Allied Employees' Association (SDA) makes these submissions in accordance with the next steps identified in paragraph 28 of the Statement of the Full Bench on 28 October 2020.
2. The SDA has prepared a comprehensive comparison between the Fast Food Industry Award (FFIA) and the Fast Food PLED (PLED) **attached** and marked "Annexure A". The below submissions are based on that comparison.

PLED Clause 3 - Definitions and interpretations

3. The SDA notes that PLED clause 2 has deleted the words 'unless the contrary intention appears' currently present in FFIA clause 3.1.
4. The SDA objects to the definition of an adult employee as an employee who is 21 years of age or over. Such a definition is prejudicial to the rights of employees aged 18 years and over, who are recognised as adults in every other legal setting. The SDA notes that the following definitions for an adult applies, as at December 2019, in the respective Australian jurisdictions:
 - The *Children and Young People Act 2008* (ACT) refers to the *Legislation Act 2001* that defines an adult as a person who is at least 18 years old.
 - Section 3 of the *Children and Young Persons (Care and Protection) Act 1998* (NSW) defines child as a person who is under the age of 16 years.
 - Section 13 of the *Care and Protection of Children Act 2007* (NT) defines a child as a person less than 18 years of age, or a person apparently less than 18 years of age if the person's age cannot be proved.
 - Section 8 of the *Child Protection Act 1999* (Qld) defines a child as an individual under 18 years.
 - Section 16 of the *Children and Young People (Safety) Act 2017* (SA) defines a child or young person as a person who is under 18 years of age.
 - Section 3(1) of the *Children, Young Persons and Their Families Act 1997* (Tas.) defines a child as a person under 18 years of age.
 - Section 3 of the *Children, Youth and Families Act 2005* (Vic.) defines a child as:
 - '(a) in the case of a person who is alleged to have committed an offence, a person who at the time of the alleged commission of the offence was under the age of 18 years but of or about the age of 10 years but does not include any person who is of or above the age of 19 years when a proceeding for the offence is commenced in the Court; and
 - (b) in any other case, a person who is under the age of 17 years or, if a protection order, a child protection order within the meaning of Schedule 1 or an interim order within the meaning of that Schedule continues in force in respect of him or her, a person who is under the age of 18 years'¹
5. The SDA objects to the deletion of 'default fund employee'.

¹ Australian Institute of Family Studies, 'Australian legal definitions: When is a child in need of protection?', *Australian Government, Australian Institute of Family Studies, Child Family Community Australia* (CFCA Resource Sheet, December 2019) <[https://aifs.gov.au/cfca/publications/australian-legal-definitions-when-child-need-protection#:~:text=The%20Children%20and%20Young%20People%20Act%202008%20\(ACT\)%20refers%20to,at%20least%2018%20years%20old](https://aifs.gov.au/cfca/publications/australian-legal-definitions-when-child-need-protection#:~:text=The%20Children%20and%20Young%20People%20Act%202008%20(ACT)%20refers%20to,at%20least%2018%20years%20old)>.

6. The SDA objects to the change in definition of standard rate from the minimum weekly wage in level 2 to the minimum hourly rate in level 2 as well as the deletion of the reference to the allowance. It is submitted that the inclusion the following definitions would be of greater clarity:
 - a. 'standard weekly rate means the minimum weekly rate for a fast food employee level 2 in Table 3—Minimum rates'
 - b. 'standard hourly rate means the minimum hourly rate for a fast food employee level 2 in Table 3—Minimum rates. Where an allowance is provided for on an hourly basis, a reference to standard rate means 1/38th of the weekly wage referred to above.'
7. The SDA does not object to the insertion of additional references to the Act in the definitions of 'employee' and 'employer' respectively.

PLED Clause 4 - Coverage

8. The SDA notes the inclusion in the PLED at draft clause 4.2 of an amended definition of fast food industry *prima facie* altered from the current definition at FFIA 2010 clause 3. The SDA objects to the alteration of the definition and submits that it be retained in its entirety in the definition clause. It is noted that reference could be made to the definitions.
9. The SDA submits that the FFIA 2010 clauses 4.5 and 4.6 respectively should be retained in its entirety under the PLED Clause 4.3.

PLED Clause 3.4 - Access to award and NES

10. The SDA objects to the deletion of 'whichever makes them more accessible' as they ensure that the means by which they are made available are fit for purpose.

PLED Clause 10 - Part-time employees

11. The SDA objects to the replacement of 'At the time of first being employed' with 'At the time of engaging'. The PLED draft clause 10.3 lacks clarity in this regard and the current wording should be retained.
12. The SDA objects to the lack of an equivalent to FFIA clause 12.7. FFIA currently provides not only for a minimum daily engagement at clause 12.2(e) but also the rostered shift as at 12.7.
13. The SDA submits that PLED clause 10.3 should read 'the actual times...' in order to fully reflect the current provision at clause 12.2(c).
14. The SDA submits that reference should be made a PLED clause 10.8 to the payment of penalty rates for part-time employees. For example, 'in accordance with clause 15 – Minimum rates and clause 21.1 Penalty rates for each ordinary hour worked.'

15. The SDA objects to the deletion of FFIA clause 12.8, the provision is a necessary protection to ensure part-time employees are treated as such.

PLED Clause 11 – Casual employees

16. The SDA submits that PLED NOTE 2 is better placed at clause 11.3 for the sake of clarity. It is to be noted that FFIA clause 13.2 provides for an additional 25% of the ordinary rate, rather than the minimum rate. Without the inclusion of a reference to penalty rate payments and overtime at PLED 11.3, the substantive meaning of the provision could change.

PLED Clause 32 - Redundancy

17. The SDA notes that there may be an internal reference error as marked. It is submitted that the reference at the end of PLED clause 32.3(c) should read 32.3(b).

PLED Clause 12 - Classifications

18. The SDA notes the introduction of changes to the substance of the provisions in PLED clauses 12.1 to 12.3 inclusive. The SDA does not object to the changes as marked in clauses 12.1, 12.2 and 12.3.
19. However, the SDA objects to the changes to classification definitions as at PLED clause 12.4 on the basis that it could create inadvertent ambiguity. The current definition is settled, clear and concise. To alter such a fundamental aspect of the Award without any discernible advantage, is both unnecessary and unsafe.

PLED Clause 15.1 - Minimum Weekly Wages

20. The SDA objects to the introduction of the term 'adult rates', together with its objection to the definition of the term 'adult employees' above. It is submitted that the term 'ordinary rates' is sufficient and does not lead to the ambiguity nor the contradiction with the wider legal understanding of the term adult.
21. The SDA does not object to the introduction of an hourly rate to the Award. However, a clarificatory note linking the hourly rate to the minimum weekly rate would be of benefit for the sake of clarity. That is 'The minimum hourly rate is 1/38th of the minimum weekly rate'.

PLED Clause 15.2 - Junior Rates

22. The SDA, consistent with its objections above, objects to the use of the term 'adult rate' in this clause.

PLED Clause 17.4 Meal Allowance

23. The SDA objects to the changes marked on the basis that it creates an ambiguity. It is submitted that the retention of the FFIA provision at clause 19.1 would provide greater clarity.

PLED Clause 17.5 - Special Clothing

24. The SDA submits that the term 'special clothing' should be included in the list so that it reads 'If an employer requires an employee to wear any article of clothing, such as a uniform, dress, protective, special or other clothing, then the employer must:...'

PLED Clause 17.8 - Transport allowance

25. The SDA objects to the use of the term 'requires' in the PLED clause 17.8 as a change in meaning from the FFIA provision 'requests' which results in a restriction of the allowance.

PLED Clause 17.3 - Cold Work Disability Allowance

26. The SDA does not object to the changes as marked, however, for the sake of a clarity, an explanatory note giving the quantum as a percentage (that is, 1.3% and 2% of the standard hourly rate respectively) would provide greater clarity.

PLED Clause 17.2 - Broken Hill

27. The SDA does not object to the changes as marked, however, for the sake of a clarity, an explanatory note giving the quantum as a percentage (that is, 4.28% of the standard hourly rate) would provide greater clarity.

PLED Clause 18 - Accident Pay

28. The SDA notes that the provision as drafted at clause 18.3(d) allows for the Commission to adjudicate for matters beyond a declaration of bankruptcy or liquidation.
29. The SDA objects to the deletion of the definition for injury (see FFIA clause 20.1(b)).

PLED Clause 16 - Payment of Wages

30. The SDA notes that clause 16.3 replicates almost exactly the provisions of the current clause 22.2 and on that basis does not object.

PLED Clause 22 - Annual Leave

31. The SDA notes the change in the definition of shiftworker.
32. The SDA submits that the retention of the term 'loading' as opposed to 'additional payment' is of greater clarity at PLED clauses 22.2(a) and (b) respectively.
33. Excessive leave accruals: general provision (PLED clause 22.6) - The SDA notes the inclusion of the common clause without alteration to its substantive provisions (as noted in the comparison document as prepared by the Commission). However, contrary to this there is a minor alteration in reference to the Act as noted.
34. Excessive leave accruals: request by employee for leave (PLED clause 22.8) - The SDA notes the inclusion of the common clause without alteration to its substantive provisions. However, the SDA notes an internal reference error at 22.8(e) as marked. It is submitted that the reference should read '22.8(a)' in line with the FFIA clause 28.8(e).

PLED Clause 26 - Leave to deal with Family and Domestic Violence

35. It is proposed to delete the substantive provision at FFIA clause 32 and refer to the NES in PLED clause 26. The SDA objects to the deletion and submits that the retention of the current provision provides an element of clarity as to the entitlement.

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FFIA Comparison and FFIA PLED comparison

Legend:

Deleted text is struck through: ~~Fair Work Act~~

Altered text is underlined: Fair Work Act

Entirely new text is bold: **Fair Work Act**

Clause	FFIA Entitlement	PLED	Comments														
Facilitative provisions	No equivalent.	<p>7. Facilitative provisions</p> <p>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.</p> <p>7.2 The following clauses in this award contain facilitative provisions:</p> <p>Table 1—Facilitative provisions</p> <table border="1"> <thead> <tr> <th data-bbox="1086 807 1144 834">Clause</th> <th data-bbox="1151 807 1294 834">Provision</th> </tr> </thead> <tbody> <tr> <td data-bbox="1086 839 1144 866">10.5</td> <td data-bbox="1151 839 1462 943">Variation to hours of part-time employment—rostered shift</td> </tr> <tr> <td data-bbox="1086 948 1144 975">10.7</td> <td data-bbox="1151 948 1529 1086">Variation to hours of part-time employment—ongoing basis or for a specified period of time</td> </tr> <tr> <td data-bbox="1086 1091 1144 1118">20.7</td> <td data-bbox="1151 1091 1473 1195">Time off instead of payment for overtime</td> </tr> <tr> <td data-bbox="1086 1200 1144 1227">22.4</td> <td data-bbox="1151 1200 1384 1227">Annual leave in advance</td> </tr> <tr> <td data-bbox="1086 1232 1144 1259">22.5</td> <td data-bbox="1151 1232 1424 1259">Cashing out of annual leave</td> </tr> <tr> <td data-bbox="1086 1264 1144 1291">23.2(c)</td> <td></td> </tr> </tbody> </table>	Clause	Provision	10.5	Variation to hours of part-time employment—rostered shift	10.7	Variation to hours of part-time employment—ongoing basis or for a specified period of time	20.7	Time off instead of payment for overtime	22.4	Annual leave in advance	22.5	Cashing out of annual leave	23.2(c)		The SDA does not object to the inclusion of the new provision as drafted.
Clause	Provision																
10.5	Variation to hours of part-time employment—rostered shift																
10.7	Variation to hours of part-time employment—ongoing basis or for a specified period of time																
20.7	Time off instead of payment for overtime																
22.4	Annual leave in advance																
22.5	Cashing out of annual leave																
23.2(c)																	

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		<p>Personal/carer’s leave and compassionate leave—casual employees</p> <p>27.2</p> <p>Substitution of public holidays by agreement</p>	
Parental leave and related entitlements	No equivalent.	<p>24. Parental leave and related entitlements</p> <p>Parental leave and related entitlements are provided for in the NES.</p>	The SDA does not object to the inclusion of the new term.
Title	<p>[cl 1] Title</p> <p>This award is the <i>Fast Food Industry Award 2010</i>.</p>	<p>1. Title and commencement</p> <p>1.1 This is the Fast Food Industry Award 20XX.</p> <p>1.2 This modern award commenced operation on 1 January 2010. The terms of the award have been varied since that date.</p> <p>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.</p>	The SDA does not object to the changes as marked.
Commencement and Transitional	<p>[cl 2] Commencement and transitional</p> <p>[cl 2.1] This award commences on 1 January 2010.</p> <p>[cl 2.2] The monetary obligations imposed on employers by this award may be absorbed into overaward payments. Nothing in this award requires</p>	Deleted	The SDA does not object to the deletion on the basis of the PLED clause 1.3 which states ‘ <u>A variation to this award does not affect any right, privilege, obligation or liability that a person acquired, accrued or incurred under the award</u> ’

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	<p>an employer to maintain or increase any overaward payment.</p> <p>[cl 2.3] This award contains transitional arrangements which specify when particular parts of the award come into effect. Some of the transitional arrangements are in clauses in the main part of the award. There are also transitional arrangements in Schedule A. The arrangements in Schedule A deal with:</p> <ul style="list-style-type: none"><input type="checkbox"/> minimum wages and piecework rates<input type="checkbox"/> casual or part-time loadings<input type="checkbox"/> Saturday, Sunday, public holiday, evening or other penalties<input type="checkbox"/> shift allowances/penalties. <p>[cl 2.4] Neither the making of this award nor the operation of any transitional arrangements is intended to result in a reduction in the take-home pay of employees covered by the award. On application by or on behalf of an employee who suffers a reduction in take-home pay as a result of the making of this award or the operation of any transitional arrangements, the Fair Work Commission may make any order it considers appropriate to remedy the situation.</p> <p>[cl 2.5] The Fair Work Commission may review the transitional arrangements in</p>		<p>as it existed prior to that variation.'</p>
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	<p>this award and make a determination varying the award.</p> <p>[cl 2.6] The Fair Work Commission may review the transitional arrangements:</p> <p>(a) on its own initiative; or</p> <p>(b) on application by an employer, employee, organisation or outworker entity covered by the modern award; or</p> <p>(c) on application by an organisation that is entitled to represent the industrial interests of one or more employers or employees that are covered by the modern award; or</p> <p>(d) in relation to outworker arrangements, on application by an organisation that is entitled to represent the industrial interests of one or more outworkers to whom the arrangements relate.</p>		
<p>Definitions and interpretation</p>	<p>[cl 3] Definitions and interpretation</p> <p>[cl 3.1] In this award, unless the contrary intention appears:</p> <p>Act means the Fair Work Act 2009 (Cth)</p> <p>agreement-based transitional instrument has the meaning in the Fair Work (Transitional Provisions and Consequential Amendments) Act 2009 (Cth)</p> <p>award-based transitional instrument has the meaning in the Fair Work</p>	<p>2. Definitions</p> <p>In this award:</p> <p>Act means the Fair Work Act 2009 (Cth).</p> <p>adult employee means an employee who is 21 years of age or over.</p> <p>defined benefit member has the meaning given by the Superannuation Guarantee (Administration) Act 1992 (Cth).</p>	<p>The SDA notes that PLED clause 2 does not include the proviso ‘unless the contrary intention appears’.</p> <p>The SDA objects to the definition of an adult employee as an employee who is 21 years of age or over. Such a definition is prejudicial to the rights of employees aged 18 years and over, who are recognised as adults in every other legal setting.</p>

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	<p>(Transitional Provisions and Consequential Amendments) Act 2009 (Cth)</p> <p>default fund employee means an employee who has no chosen fund within the meaning of the Superannuation Guarantee (Administration) Act 1992 (Cth)</p> <p>defined benefit member has the meaning given by the Superannuation Guarantee (Administration) Act 1992 (Cth)</p> <p>Division 2B State award has the meaning in Schedule 3A of the Fair Work (Transitional Provisions and Consequential Amendments) Act 2009 (Cth)</p> <p>Division 2B State employment agreement has the meaning in Schedule 3A of the Fair Work (Transitional Provisions and Consequential Amendments) Act 2009 (Cth)</p> <p>employee means national system employee within the meaning of the Act</p> <p>employer means national system employer within the meaning of the Act</p> <p>enterprise award-based instrument has the meaning in the Fair Work</p>	<p>employee means a national system employee as defined by section 13 of the Act. See also section 30C and 30M of the Act.</p> <p>employer means a national system employer as defined by section 14 of the Act. See also section 30D and 30N of the Act.</p> <p><u>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).</u></p> <p>exempt public sector superannuation scheme has the meaning given by the Superannuation Industry (Supervision) Act 1993 (Cth).</p> <p>Fair Work Regulations means the Fair Work Regulations 2009 (Cth).</p> <p><u>fast food industry is defined in clause 4.2.</u></p> <p>immediate family has the meaning given by section 12 of the Act.</p> <p>junior employee means an employee who is under 21 years of age.</p>	<p>The SDA notes that the following definitions for an adult applies, as at December 2019, in the respective Australian jurisdictions:</p> <ul style="list-style-type: none"> - The Children and Young People Act 2008 (ACT) refers to the Legislation Act 2001 that defines an adult as a person who is at least 18 years old. - Section 3 of the <u>Children and Young Persons (Care and Protection) Act 1998 (NSW)</u> defines child as a person who is under the age of 16 years. - Section 13 of the <u>Care and Protection of Children Act 2007 (NT)</u> defines a child as a person less than 18 years of age, or a person apparently less than 18 years of age if
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	<p>(Transitional Provisions and Consequential Amendments) Act 2009 (Cth)</p> <p>exempt public sector superannuation scheme has the meaning given by the Superannuation Industry (Supervision) Act 1993 (Cth)</p> <p>fast food industry means the industry of taking orders for and/or preparation and/or sale and/or delivery of:</p> <ul style="list-style-type: none"> <input type="checkbox"/> meals, snacks and/or beverages, which are sold to the public primarily to be consumed away from the point of sale; <input type="checkbox"/> take away foods and beverages packaged, sold or served in such a manner as to allow their being taken from the point of sale to be consumed elsewhere should the customer so decide; and/or <input type="checkbox"/> food and/or beverages in food courts and/or in shopping centres and/or in retail complexes, excluding coffee shops, cafes, bars and restaurants providing primarily a sit-down service inside the catering establishment <p>Jobkeeper payment means a jobkeeper payment payable to an entity under section 14 of the Coronavirus Economic Response Package (Payments and Benefits) Rules 2020</p>	<p>minimum hourly rate means the minimum hourly rate specified in clause 15— Minimum rates.</p> <p>MySuper product has the meaning given by the Superannuation Industry (Supervision) Act 1993 (Cth).</p> <p>NES means the National Employment Standards as contained in sections 59 to 131 of the Act.</p> <p>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.</p> <p>standard rate means the minimum hourly rate for a fast food employee level 2 in Table 3—Minimum rates.</p> <p>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).</p> <p>State reference public sector transitional award has the meaning given by subitem 2(1) of Schedule 6A to the Fair Work (Transitional</p>	<p>the person's age cannot be proved.</p> <ul style="list-style-type: none"> - Section 8 of the <u>Child Protection Act 1999</u> (Qld) defines a child as an individual under 18 years. - Section 16 of the <u>Children and Young People (Safety) Act 2017</u> (SA) defines a child or young person as a person who is under 18 years of age. - Section 3(1) of the <u>Children, Young Persons and Their Families Act 1997</u> (Tas.) defines a child as a person under 18 years of age. - Section 3 of the <u>Children, Youth and Families Act 2005</u> (Vic.) defines a child as: <p>'(a) in the case of a person who is alleged to have committed an</p>
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	<p>MySuper product has the meaning given by the Superannuation Industry (Supervision) Act 1993 (Cth)</p> <p>NES means the National Employment Standards as contained in sections 59 to 131 of the Fair Work Act 2009 (Cth)</p> <p>on-hire means the on-hire of an employee by their employer to a client, where such employee works under the general guidance and instruction of the client or a representative of the client</p> <p>standard rate means the minimum weekly wage for a Fast Food Employee Level 2 in clause 17—Minimum weekly wages. Where an allowance is provided for on an hourly basis, a reference to standard rate means 1/38th of the weekly wage referred to above.</p> <p>transitional minimum wage instrument has the meaning in the Fair Work (Transitional Provisions and Consequential Amendments) Act 2009 (Cth)</p> <p>[cl 3.2] Where this award refers to a condition of employment provided for in the NES, the NES definition applies.</p>	<p>Provisions and Consequential Amendments) Act 2009 (Cth).</p> <p>Table 1—Facilitative provisions means the table in clause 7.2.</p> <p>Table 2—Entitlements to rest and meal breaks means the table in clause 14.1.</p> <p>Table 3—Minimum rates means the table in clause 15.1.</p> <p>Table 4—Junior rates means the table in clause 15.2. Table 5—Overtime rates means the table in clause 20.6. Table 6—Penalty rates means the table in clause 21.1.</p> <p>Table 7—Period of notice means the table in clause 31.1.</p>	<p>offence, a person who at the time of the alleged commission of the offence was under the age of 18 years but of or about the age of 10 years but does not include any person who is of or above the age of 19 years when a proceeding for the offence is commenced in the Court; and</p> <p>(b) in any other case, a person who is under the age of 17 years or, if a protection order, a child protection order within the meaning of Schedule 1 or an interim order within the meaning of that Schedule continues in force in respect of him or her, a person who is under the age of 18 years'</p>
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			<p>The SDA objects to the deletion of default fund employee.</p> <p>The SDA objects to the change in definition of standard rate from the minimum weekly wage in level 2 to the minimum hourly rate in level 2 as well as the deletion of the reference to the allowance. It is submitted that the inclusion the following definitions would be of greater clarity:</p> <ul style="list-style-type: none">a. ‘standard weekly rate means the minimum weekly rate for a fast food employee level 2 in Table 3— Minimum rates’b. ‘standard hourly rate means the minimum hourly rate for a fast
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			<p>food employee level 2 in Table 3— Minimum rates. Where an allowance is provided for on an hourly basis, a reference to standard rate means 1/38th of the weekly wage referred to above.’</p> <p>The SDA does not object to the insertion of additional references to the Act in the definitions of ‘employee’ and ‘employer’ respectively.</p>
<p>Coverage</p>	<p>[cl 4] Coverage</p> <p>[cl 4.1] This industry award covers employers throughout Australia in the fast food industry and their employees in the classifications listed in clause 17— Minimum weekly wages to the exclusion of any other modern award.-The award</p>	<p>4. Coverage</p> <p>4.1 This industry award covers, to the exclusion of any other modern award:</p> <p>(a) <u>employers in the fast food industry throughout Australia; and</u></p> <p>(b) <u>employees (with a classification defined in clause 12.4)</u></p>	<p>The SDA notes the inclusion in the PLED at draft clause 4.2 of an amended definition of fast food industry <i>prima facie</i> altered from the current definition at FFIA 2010 clause 3. The SDA objects to the alteration of the</p>

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	<p>does not cover employers in the following industries:</p> <ul style="list-style-type: none"> <input type="checkbox"/> the hospitality industry; or <input type="checkbox"/> the general retail industry. <p>[cl 4.2] The award does not cover an employee excluded from award coverage by the Act.</p> <p>[cl 4.3] The award does not cover employees who are covered by a modern enterprise award, or an enterprise instrument (within the meaning of the Fair Work (Transitional Provisions and Consequential Amendments) Act 2009 (Cth)), or employers in relation to those employees.</p> <p>[cl 4.4] The award does not cover employees who are covered by a State reference public sector modern award, or a State reference public sector transitional award (within the meaning of the Fair Work (Transitional Provisions and Consequential Amendments) Act 2009 (Cth)), or employers in relation to those employees.</p> <p>[cl 4.5] This award covers any employer which supplies labour on an on-hire basis in the industry set out in clause 4.1 in respect of on-hire employees in classifications covered by this award, and those on-hire employees, while</p>	<p><u>of employers mentioned in clause 4.1(a).</u></p> <p>4.2 In this award fast food industry means the industry of taking orders for, preparing, selling or delivering any of the following:</p> <ul style="list-style-type: none"> (a) food or beverages sold to the public primarily for consumption away from the point of sale; or (b) food or beverages packaged, sold or served in such a way as to allow them to be consumed away from the point of sale should the customer so decide; or (c) food or beverages sold or served in food courts, shopping centres or retail complexes, excluding coffee shops, cafes, bars and restaurants that primarily provide a sit-down service. <p>4.3 <u>This industry award also covers:</u></p> <ul style="list-style-type: none"> <u>(a) on-hire employees working in the fast food industry (with a classification defined in clause 12.4) and the on-hire employers of those employees; and</u> <u>(b) trainees employed by a group training employer and hosted by an employer covered by this award to work in the fast food industry (with a</u> 	<p>definition and submits that it be retained in its entirety in the definition clause. It is noted that reference could be made to the definitions.</p> <p>The SDA submits that the FFIA 2010 clauses 4.5 and 4.6 respectively should be retained in its entirety under the PLED Clause 4.3.</p>
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	<p>engaged in the performance of work for a business in that industry. This subclause operates subject to the exclusions from coverage in this award.</p> <p>[cl 4.6] This award covers employers which provide group training services for trainees engaged in the industry and/or parts of industry set out at clause 4.4 and those trainees engaged by a group training service hosted by a company to perform work at a location where the activities described herein are being performed. This subclause operates subject to the exclusions from coverage in this award.</p> <p>[cl 4.7] Where an employer is covered by more than one award, an employee of that employer is covered by the award classification which is most appropriate to the work performed by the employee and to the environment in which the employee normally performs the work.</p> <p>NOTE: Where there is no classification for a particular employee in this award it is possible that the employer and employee are covered by an award with occupational coverage.</p>	<p><u>classification defined in clause 12.4) at a location where the employees mentioned in clause 4.1(b) also perform work and the group training employers of those trainees.</u></p> <p>4.4 However, this industry award does not cover any of the following:</p> <ul style="list-style-type: none"> (a) employees excluded from award coverage by the Act; or 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 clause 4.4(b) or 4.4(c); or (e) employers covered by any of the following awards: <ul style="list-style-type: none"> (i) the Hospitality Industry (General) Award 2020; or (ii) the General Retail Industry Award 2020. <p>4.5 <u>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 to the</u></p>	
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		<p><u>environment in which it is normally performed.</u></p> <p><u>NOTE: An employee working in the fast food industry who is not covered by this industry award may be covered by an award with occupational coverage.</u></p>	
Access to award and NES	<p>[cl 5] Access to the award and the National Employment Standards The employer must ensure that copies of this award and the NES are available to all employees to whom they apply either on a noticeboard which is conveniently located at or near the workplace or through electronic means whichever makes them more accessible.</p>	<p>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.</p>	<p>The SDA objects to the deletion of ‘whichever makes them more accessible’ as they ensure that the means by which they are made available are fit for purpose.</p>
NES	<p>[cl 6] The National Employment Standards and this award The NES and this award contain the minimum conditions of employment for employees covered by this award.</p>	<p>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);</p>	<p>The SDA does not object to the change as noted.</p>

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		<p>(e) personal/carer's leave, compassionate leave and unpaid family and domestic violence leave (Division 7);</p> <p>(f) community service leave (Division 8);</p> <p>(g) long service leave (Division 9);</p> <p>(h) public holidays (Division 10);</p> <p>(i) notice of termination and redundancy pay (Division 11);</p> <p>(j) Fair Work Information Statement (Division 12).</p> <p>3.3 Where this award refers to a condition of employment provided for in the NES, the NES definition applies.</p>	
Award Flexibility	<p>[cl 7] Individual flexibility arrangements</p> <p>[cl 7.1] 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:</p> <p>(a) arrangements for when work is performed; or</p> <p>(b) overtime rates; or</p> <p>(c) penalty rates; or</p> <p>(d) allowances; or</p> <p>(e) annual leave loading.</p>	<p>5. Individual flexibility arrangements</p> <p>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:</p> <p>(a) arrangements for when work is performed; or</p> <p>(b) overtime rates; or</p> <p>(c) penalty rates; or</p> <p>(d) allowances; or</p> <p>(e) annual leave loading.</p> <p>5.2 An agreement must be one that is genuinely made by the</p>	<p>The SDA notes the inclusion of the common clause without alteration to its substantive provisions.</p>

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	<p>[cl 7.2] An agreement must be one that is genuinely made by the employer and the individual employee without coercion or duress.</p> <p>[cl 7.3] An agreement may only be made after the individual employee has commenced employment with the employer.</p> <p>[cl 7.4] An employer who wishes to initiate the making of an agreement must:</p> <p>(a) give the employee a written proposal; and</p> <p>(b) if the employer is aware that the employee has, or reasonably should be aware that the employee may have, limited understanding of written English, take reasonable steps (including providing a translation in an appropriate language) to ensure that the employee understands the proposal.</p> <p>[cl 7.5] 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.</p> <p>[cl 7.6] An agreement must do all of the following:</p> <p>(a) state the names of the employer and the employee; and</p>	<p>employer and the individual employee without coercion or duress.</p> <p>5.3 An agreement may only be made after the individual employee has commenced employment with the employer.</p> <p>5.4 An employer who wishes to initiate the making of an agreement must:</p> <p>(a) give the employee a written proposal; and</p> <p>(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.</p> <p>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.</p> <p>5.6 An agreement must do all of the following:</p> <p>(a) state the names of the employer and the employee; and</p> <p>(b) identify the award term, or award terms, the application of which is to be varied; and</p> <p>(c) set out how the application of the award term, or each award term, is varied; and</p>	
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	<p>(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.</p> <p>[cl 7.7] 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.</p> <p>[cl 7.8] Except as provided in clause 7.7(b), an agreement must not require the approval or consent of a person other than the employer and the employee.</p> <p>[cl 7.9] The employer must keep the agreement as a time and wages record and give a copy to the employee.</p> <p>[cl 7.10] The employer and the employee must genuinely agree, without duress or coercion to any variation of an award provided for by an agreement.</p>	<p>(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.</p> <p>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.</p> <p>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.</p> <p>5.9 The employer must keep the agreement as a time and wages record and give a copy to the employee.</p> <p>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.</p> <p>5.11 An agreement may be terminated:</p>	
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	<p>[cl 7.11] 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).</p> <p>Note: If an employer and employee agree to an arrangement that purports to be an individual flexibility arrangement under this award term and the arrangement does not meet a requirement set out in s.144 then the employee or the employer may terminate the arrangement by giving written notice of not more than 28 days (see s.145 of the Act).</p> <p>[cl 7.12] An agreement terminated as mentioned in clause 7.11(b) ceases to have effect at the end of the period of notice required under that clause.</p> <p>[cl 7.13] The right to make an agreement under clause 7 is additional to, and does not affect, any other term of this award that provides for an agreement between an employer and an individual employee.</p>	<p>(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).</p> <p>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.</p> <p>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.</p>	
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<p>Consultation regarding major workplace change</p>	<p>[cl 8] Consultation about major workplace change</p> <p>[cl 8.1] 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:</p> <p>(a) give notice of the changes to all employees who may be affected by them and their representatives (if any); and</p> <p>(b) discuss with affected employees and their representatives (if any):</p> <p>(i) the introduction of the changes; and</p> <p>(ii) their likely effect on employees; and</p> <p>(iii) measures to avoid or reduce the adverse effects of the changes on employees; and</p> <p>(c) commence discussions as soon as practicable after a definite decision has been made.</p> <p>[cl 8.2] For the purposes of the discussion under clause 8.1(b), the employer must give in writing to the affected employees and their representatives (if any) all relevant information about the changes including:</p> <p>(a) their nature; and</p> <p>(b) their expected effect on employees; and</p> <p>(c) any other matters likely to affect employees.</p>	<p>Part 7—Consultation and Dispute Resolution</p> <p>28. Consultation about major workplace change</p> <p>28.1 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:</p> <p>(a) give notice of the changes to all employees who may be affected by them and their representatives (if any); and</p> <p>(b) discuss with affected employees and their representatives (if any):</p> <p>(i) the introduction of the changes; and</p> <p>(ii) their likely effect on employees; and</p> <p>(iii) measures to avoid or reduce the adverse effects of the changes on employees; and</p> <p>(c) commence discussions as soon as practicable after a definite decision has been made.</p> <p>28.2 For the purposes of the discussion under clause 28.1(b), the employer must give in writing to the affected employees and their representatives (if any) all relevant</p>	<p>The SDA notes the inclusion of the common clause without alteration to its substantive provisions.</p>
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	<p>[cl 8.3] Clause 8.2 does not require an employer to disclose any confidential information if its disclosure would be contrary to the employer’s interests.</p> <p>[cl 8.4] The employer must promptly consider any matters raised by the employees or their representatives about the changes in the course of the discussion under clause 8.1(b).</p> <p>[cl 8.5] In clause 8: 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.</p> <p>[cl 8.6] Where this award makes provision for alteration of any of the matters defined at clause 8.5, such alteration is taken not to have significant effect.</p>	<p>information about the changes including: (a) their nature; and (b) their expected effect on employees; and (c) any other matters likely to affect employees.</p> <p>28.3 Clause 28.2 does not require an employer to disclose any confidential information if its disclosure would be contrary to the employer’s interests.</p> <p>28.4 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 28.1(b).</p> <p>28.5 In clause 28: 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.</p>	
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		<p>28.6 Where this award makes provision for alteration of any of the matters defined at clause 28.5, such alteration is taken not to have significant effect.</p>	
<p>Consultation about changes to rosters or hours of work</p>	<p>[cl 8A] Consultation about changes to rosters or hours of work</p> <p>[cl 8A.1] Clause 8A applies if an employer proposes to change the regular roster or ordinary hours of work of an employee, other than an employee whose working hours are irregular, sporadic or unpredictable.</p> <p>[cl 8A.2] The employer must consult with any employees affected by the proposed change and their representatives (if any).</p> <p>[cl 8A.3] For the purpose of the consultation, the employer must: (a) provide to the employees and representatives mentioned in clause 8A.2 information about the proposed change (for example, information about the nature of the change and when it is to begin); and (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.</p>	<p>29. Consultation about changes to rosters or hours of work</p> <p>29.1 Clause 29 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.</p> <p>29.2 The employer must consult with any employees affected by the proposed change and their representatives (if any).</p> <p>29.3 For the purpose of the consultation, the employer must: (a) provide to the employees and representatives mentioned in clause 29.2 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.</p>	<p>The SDA notes the inclusion of the common clause without alteration to its substantive provisions.</p>

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	<p>[cl 8A.4] The employer must consider any views given under clause 8A.3(b).</p> <p>[cl 8A.5] Clause 8A is to be read in conjunction with any other provisions of this award concerning the scheduling of work or the giving of notice.</p>	<p>29.4 The employer must consider any views given under clause 29.3(b).</p> <p>29.5 Clause 29 is to be read in conjunction with any other provisions of this award concerning the scheduling of work or the giving of notice.</p>	
Dispute Resolution	<p>[cl 9] Dispute resolution</p> <p>[cl 9.1] Clause 9 sets out the procedures to be followed if a dispute arises about a matter under this award or in relation to the NES.</p> <p>[cl 9.2] 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.</p> <p>[cl 9.3] If the dispute is not resolved through discussion as mentioned in clause 9.2, the parties to the dispute must then try to resolve it in a timely manner at the workplace through discussion between the employee or employees concerned and more senior levels of management, as appropriate.</p> <p>[cl 9.4] If the dispute is unable to be resolved at the workplace and all appropriate steps have been taken under clauses 9.2 and 9.3, a party to the</p>	<p>30. Dispute resolution</p> <p>30.1 Clause 30 sets out the procedures to be followed if a dispute arises about a matter under this award or in relation to the NES.</p> <p>30.2 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.</p> <p>30.3 If the dispute is not resolved through discussion as mentioned in clause 30.2, 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.</p> <p>30.4 If the dispute is unable to be resolved at the workplace and all appropriate steps have been taken under clauses 30.2 and 30.3, a party</p>	<p>The SDA notes the inclusion of the common clause without alteration to its substantive provisions.</p>

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	<p>dispute may refer it to the Fair Work Commission.</p> <p>[cl 9.5] 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.</p> <p>[cl 9.6] 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.</p> <p>[cl 9.7] A party to the dispute may appoint a person, organisation or association to support and/or represent them in any discussion or process under clause 9.</p> <p>[cl 9.8] While procedures are being followed under clause 9 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.</p>	<p>to the dispute may refer it to the Fair Work Commission.</p> <p>30.5 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.</p> <p>30.6 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.</p> <p>30.7 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 30.</p> <p>30.8 While procedures are being followed under clause 30 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.</p>	
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	[cl 9.9] Clause 9.8 is subject to any applicable work health and safety legislation.	30.9 Clause 30.8 is subject to any applicable work health and safety legislation.	
Employment categories	<p>[cl 10.1] Employees under this award will be employed in one of the following categories:</p> <ul style="list-style-type: none"> <input type="checkbox"/> full-time employees; <input type="checkbox"/> part-time employees; or <input type="checkbox"/> casual employees. <p>[cl 10.2] At the time of engagement an employer will inform each employee of the terms of their engagement and, in particular, whether they are to be full-time, part-time or casual.</p>	<p>Part 2—Types of Employment and Classifications</p> <p>8. Types of employment</p> <p>8.1 An employee covered by this award must be one of the following:</p> <ul style="list-style-type: none"> (a) a full-time employee; or (b) a part-time employee; or (c) a casual employee. <p>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.</p>	The SDA does not object to the changes as marked.
Full-time employees	[cl 11] Full-time employees An employee who is engaged to work an average of 38 hours per week.	<p>9. Full-time employees</p> <p>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.</p> <p>NOTE: See clause 13—Ordinary hours of work and rostering for averaging terms.</p>	The SDA does not object to the changes as marked.
Part-time employees	<p>[cl 12] Part-time employees</p> <p>[cl 12.1] A part-time employee is an employee who:</p> <ul style="list-style-type: none"> (a) works less than 38 hours per week; and (b) has reasonably predictable hours of work. 	<p>10. Part-time employees</p> <p>10.1 A part-time employee is an employee who:</p> <ul style="list-style-type: none"> (a) works less than 38 ordinary hours per week; and (b) has reasonably predictable hours of work. 	The SDA objects to the replacement of ‘At the time of first being employed’ with ‘At the time of engaging’. The PLED draft clause 10.3 lacks clarity in this regard and the current

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	<p>[c] 12.2] At the time of first being employed, the employer and the part-time employee will agree, in writing, on a regular pattern of work, specifying at least:</p> <p>(a) the number of hours worked each day;</p> <p>(b) which days of the week the employee will work;</p> <p>(c) the actual starting and finishing times of each day;</p> <p>(d) that any variation will be in writing, including by any electronic means of communication (for example, by text message);</p> <p>(e) that the daily engagement is a minimum of 3 consecutive hours; and</p> <p>(f) the times of taking and the duration of meal breaks.</p> <p>[c] 12.3] The employer and employee may agree to vary an agreement made under clause 12.2 in relation to a particular rostered shift provided that:</p> <p>(a) any agreement to vary the regular pattern of work for a particular rostered shift must be recorded at or by the end of the affected shift; and</p> <p>(b) the employer must keep a copy of the agreed variation, in writing, including by any electronic means of communication and provide a copy to the employee, if requested to do so.</p>	<p>10.2 The minimum daily engagement for a part-time employee is 3 consecutive hours.</p> <p>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:</p> <p>(a) the number of ordinary hours to be worked each day; and</p> <p>(b) the days of the week on which the employee will work; and</p> <p>(c) the times at which the employee will start and finish work each day; and</p> <p>(d) when meal breaks may be taken and their duration; and</p> <p>(e) that the daily engagement is a minimum of 3 consecutive hours; and</p> <p>(f) that any variation will be in writing, including by any electronic means of communication (for example, by text message).</p> <p>10.4 The employer must keep a copy of any agreement made under clause 10.3 and give a copy to the employee.</p> <p>10.5 The employer and the employee may agree to vary the regular pattern of work agreed to</p>	<p>wording should be retained.</p> <p>The SDA objects to the lack of an equivalent to FFIA clause 12.7. FFIA currently provides not only for a minimum daily engagement at clause 12.2(e) but also the rostered shift as at 12.7.</p> <p>The SDA submits that PLED clause 10.3 should read ‘the actual times...’ in order to fully reflect the current provision at clause 12.2(c).</p> <p>The SDA submits that reference should be made a PLED clause 10.8 to the payment of penalty rates for part-time employees. ‘in accordance with clause 15 – Minimum rates and clause 21.1 Penalty rates for each ordinary hour worked.’</p> <p>The SDA objects to the deletion of FFIA clause 12.8, the provision is a necessary protection to ensure part-time</p>
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	<p>[cl 12.4] In the event that no record of an agreed variation to a particular rostered shift under clause 12.3 is kept by the employer the employee is to be paid at overtime rates for any hours worked in excess of their regular pattern of work.</p> <p>[cl 12.5] The employer and employee may agree to vary an agreement made under clause 12.2, in respect of the regular pattern of work on an ongoing basis or for a specified period of time, provided that any such agreement is recorded in writing (including by any electronic means of communication) before the variation occurs.</p> <p>[cl 12.6] The employer must keep a copy of any agreement made under clause 12.2 and any agreed variation made under clause 12.5 and provide a copy to the employee.</p> <p>[cl 12.7] An employer is required to roster a part-time employee for a minimum of 3 consecutive hours on any shift.</p> <p>[cl 12.8] An employee who does not meet the definition of a part-time employee and who is not a full-time employee will be paid as a casual employee in accordance with clause 13—Casual employment.</p>	<p><u>under clause 10.3</u> for a particular rostered shift provided that:</p> <p>(a) <u>the agreed variation is recorded in writing, including by electronic means of communication, at or by the end of the affected shift; and</u></p> <p>(b) <u>the employer keeps a copy of the agreed variation and, if requested, gives a copy to the employee.</u></p> <p>10.6 <u>If no record of an agreed variation to a particular rostered shift under clause 10.5 is kept by the employer, then the employer must pay the employee at overtime rates for any hours worked in excess of the employee’s regular pattern of work.</u></p> <p>10.7 <u>The employer and employee may agree to vary the regular pattern of work agreed to under clause 10.3 on an ongoing basis or for a specified period of time, provided that:</u></p> <p>(a) <u>the agreed variation is recorded in writing, including by any electronic means of communication, before the variation occurs; and</u></p> <p>(b) <u>the employer keeps a copy of the agreed variation and gives a copy to the employee.</u></p> <p>10.8 <u>An employer must pay a part-time employee in accordance with</u></p>	<p>employees are treated as such.</p>
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	<p>[cl 12.9] A part-time employee employed under the provisions of this clause will be paid for ordinary hours worked at the rate of 1/38th of the weekly rate prescribed for the class of work performed. All time worked in excess of the hours as agreed under clause 12.2 or varied under clause 12.3 or 12.5 will be overtime and paid for at the rates prescribed in clause 26—Overtime.</p>	<p><u>clause 15—Minimum rates for each ordinary hour worked.</u></p> <p>10.9 <u>All time worked in excess of the number of ordinary hours agreed under clause 10.3 or varied under clause 10.5 or 10.7, is overtime and must be paid at the overtime rate in accordance with clause 20—Overtime.</u></p>	
<p>Casual Employees</p>	<p>[cl 13.1] A casual employee is an employee engaged as such.</p> <p>[cl 13.2] A casual will be paid both the ordinary hourly rate paid to a full-time employee and an additional 25% of the ordinary hourly rate for a full-time employee.</p> <p>[cl 13.3] When a casual employee works overtime, they must be paid the overtime rates in clauses 26.1(b)and 26.4.</p> <p>[cl 13.4] Casual employees will be paid at the termination of each engagement, or weekly or fortnightly in accordance with pay arrangements for full-time employees.</p>	<p>11. Casual employees 11.1 A casual employee is an employee engaged as such.</p> <p>11.2 <u>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.</u></p> <p>11.3 <u>An employer must pay a casual employee for each ordinary hour worked:</u> (a) <u>the minimum hourly rate in clause 15—Minimum rates for the classification in which they are employed; plus</u> (b) <u>a loading of 25% of the minimum hourly rate.</u></p> <p><u>NOTE 1: The casual loading is paid instead of entitlements from which casuals are excluded by the terms of</u></p>	<p>The SDA submits that PLED NOTE 2 is better placed at clause 11.3 for the sake of clarity. It is to be noted that FFIA clause 13.2 provides for an additional 25% of the ordinary rate, rather than the minimum rate. Without the inclusion of a reference to penalty rate payments and overtime at PLED 11.3, the substantive meaning of the provision could change.</p>

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	<p>[cl 13.5] The minimum daily engagement of a casual is three hours.</p> <p>[cl 13.6] Right to request casual conversion</p> <p>(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.</p> <p>(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.</p>	<p><u>this award and the NES. See sections 86 to 93 of the Act.</u></p> <p><u>NOTE 2: Overtime and penalty rates applicable to casuals are set out in clauses 20— Overtime and 21— Penalty rates.</u></p> <p>11.4 The minimum daily engagement for a casual employee is 3 consecutive hours.</p> <p>11.5 An employer must pay a casual employee at the end of each engagement, or weekly or fortnightly in accordance with pay arrangements for full-time employees.</p> <p>11.6 Right to request casual conversion</p> <p>(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.</p> <p>(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-</p>	
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	<p>(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.</p> <p>(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.</p> <p>(e) Any request under this subclause must be in writing and provided to the employer.</p> <p>(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.</p> <p>(g) Reasonable grounds for refusal include that:</p> <p>(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 paragraph (b);</p>	<p>time employee or part-time employee under the provisions of this award.</p> <p>(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.</p> <p>(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.</p> <p>(e) Any request under clause 11.6 must be in writing and provided to the employer.</p> <p>(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.</p> <p>(g) Reasonable grounds for refusal include that:</p> <p>(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</p>	
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	<p>(ii) it is known or reasonably foreseeable that the regular casual employee’s position will cease to exist within the next 12 months;</p> <p>(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</p> <p>(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.</p> <p>(h) For any ground of refusal to be reasonable, it must be based on facts which are known or reasonably foreseeable.</p> <p>(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. If the employee does not accept the employer’s refusal, this will constitute a dispute that will be dealt with under the dispute resolution procedure in clause 9. Under that procedure, the employee or the employer may refer the matter to the Fair Work Commission if the dispute</p>	<p>award – that is, the casual employee is not truly a regular casual employee as defined in clause 11.6(b);</p> <p>(ii) it is known or reasonably foreseeable that the regular casual employee’s position will cease to exist within the next 12 months;</p> <p>(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</p> <p>(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.</p> <p>(h) For any ground of refusal to be reasonable, it must be based on facts which are known or reasonably foreseeable.</p> <p>(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.</p> <p>(j) If the employee does not accept the employer’s refusal, this will</p>	
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	<p>cannot be resolved at the workplace level.</p> <p>(j) Where it is agreed that a casual employee will have their employment converted to full-time or part-time employment as provided for in this clause, the employer and employee must discuss and record in writing:</p> <p>(i) the form of employment to which the employee will convert – that is, full-time or part-time employment; and</p> <p>(ii) if it is agreed that the employee will become a part-time employee, the matters referred to in clause 12.2.</p> <p>(k) The conversion will take effect from the start of the next pay cycle following such agreement being reached unless otherwise agreed.</p> <p>(l) 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.</p> <p>(m) A casual employee must not be engaged and re-engaged (which includes a refusal to re-engage), or have their hours reduced or varied, in order to avoid any right or obligation under this clause.</p> <p>(n) Nothing in this clause obliges a regular casual employee to convert to full-time or part-time employment, nor permits an employer to require a regular casual employee to so convert.</p>	<p>constitute a dispute that will be dealt with under the dispute resolution procedure in clause 30—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.</p> <p><u>(k)</u> 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 11.6, the employer and employee must discuss and record in writing:</p> <p>(i) the form of employment to which the employee will convert— that is, full- time or part-time employment; and</p> <p>(ii) if it is agreed that the employee will become a part-time employee, the matters referred to in clause 10.3.</p> <p><u>(l)</u> The conversion will take effect from the start of the next pay cycle following such agreement being reached unless otherwise agreed.</p> <p>(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.</p> <p>(n) A casual employee must not be engaged and re-engaged (which</p>	
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	<p>(o) Nothing in this clause requires an employer to increase the hours of a regular casual employee seeking conversion to full-time or part-time employment.</p> <p>(p) An employer must provide a casual employee, whether a regular casual employee or not, with a copy of the provisions of this subclause within the first 12 months of the employee’s first engagement to perform work. In respect of casual employees already employed as at 1 October 2018, an employer must provide such employees with a copy of the provisions of this subclause by 1 January 2019.</p> <p>(q) A casual employee’s right to request to convert is not affected if the employer fails to comply with the notice requirements in paragraph (p).</p>	<p>includes a refusal to re-engage), or have their hours reduced or varied, in order to avoid any right or obligation under clause 11.6.</p> <p>(o) Nothing in clause 11.6 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> <p>(p) Nothing in <u>clause 11.6</u> requires an employer to increase the hours of a regular casual employee seeking conversion to full-time or part-time employment.</p> <p>(q) <u>An employer must provide a casual employee, whether a regular casual employee or not, with a copy of the provisions of clause 11.6 within the first 12 months of the employee’s first engagement to perform work.</u></p> <p>(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 11.6(q).</p>	
Termination of employment	<p>[cl 14] Termination of employment</p> <p>Note: The NES sets out requirements for notice of termination by an employer. See ss.117 and 123 of the Act.</p> <p>[cl 14.1] Notice of termination by an employee</p>	<p>Part 8—Termination of Employment and Redundancy</p> <p>31. Termination of employment</p> <p>NOTE: The NES sets out requirements for notice of termination by an employer. See sections 117 and 123 of the Act.</p> <p>31.1 Notice of termination by an employee</p>	The SDA does not object to the changes as marked.

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	<p>(a) This clause applies to all employees except those identified in ss.123(1) and 123(3) of the Act.</p> <p>(b) An employee must give the employer notice of termination in accordance with Table 1—Period of notice of at least the period specified in column 2 according to the period of continuous service of the employee specified in column 1.</p> <p>Table 1—Period of notice</p> <p>Column 1 Employee’s period of continuous service with the employer at the end of the day the notice is given -</p> <p>Column 2 Period of notice</p> <p>Not more than 1 year- 1 week</p> <p>More than 1 year but not more than 3 years - 2 weeks</p> <p>More than 3 years but not more than 5 years - 3 weeks</p> <p>More than 5 years - 4 weeks</p> <p>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.</p> <p>(c) In paragraph (b) continuous service has the same meaning as in s.117 of the Act.</p> <p>(d) If an employee who is at least 18 years old does not give the period of notice required under paragraph (b),</p>	<p>(a) Clause 31.1 applies to all employees except those identified in sections 123(1) and 123(3) of the Act.</p> <p>(b) An employee must give the employer notice of termination in accordance with Table 7—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.</p> <p>Table 7—Period of notice</p> <p>Column 1</p> <p>Employee’s period of continuous service with the employer at the end of the day the notice is given</p> <p>Column 2 Period of notice</p> <p>Not more than 1 year 1 week</p> <p>More than 1 year but not more than 3 years 2 weeks</p> <p>More than 3 years but not more than 5 years 3 weeks</p> <p>More than 5 years 4 weeks</p> <p>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.</p> <p>(c) In clause 31.1(b) continuous service has the same meaning as in section 117 of the Act.</p>	
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	<p>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 paragraph (b), then no deduction can be made under paragraph (d). (f) Any deduction made under paragraph (d) must not be unreasonable in the circumstances.</p> <p>[cl 14.2] Job search entitlement Where an employer has given notice of termination to an employee, the employee must be allowed time off without loss of pay of up to one day for the purpose of seeking other employment.</p> <p>[cl 14.3] The time off under clause 14.2 is to be taken at times that are convenient to the employee after consultation with the employer.</p> <p>NES Entitlement: [s 117] Requirement for notice of termination or payment in lieu <i>Notice specifying day of termination</i> (1) An employer must not terminate an employee’s employment unless the employer has given the employee written notice of the day of the termination (which cannot be before the day the notice is given).</p>	<p>(d) If an employee who is at least 18 years old does not give the period of notice required under clause 31.1(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 31.1(b), then no deduction can be made under clause 31.1(d). (f) Any deduction made under clause 31.1(d) must not be unreasonable in the circumstances.</p> <p>31.2 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 31.2 is to be taken at times that are convenient to the employee after consultation with the employer.</p>	
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	<p>Note 1: Section 123 describes situations in which this section does not apply.</p> <p>Note 2: Sections 28A and 29 of the Acts Interpretation Act 1901 provide how a notice may be given. In particular, the notice may be given to an employee by:</p> <ul style="list-style-type: none"> (a) delivering it personally; or (b) leaving it at the employee's last known address; or (c) sending it by pre-paid post to the employee's last known address. <p><i>Amount of notice or payment in lieu of notice</i></p> <p>(2) The employer must not terminate the employee's employment unless:</p> <ul style="list-style-type: none"> (a) the time between giving the notice and the day of the termination is at least the period (the minimum period of notice) worked out under subsection (3); or (b) the employer has paid to the employee (or to another person on the employee's behalf) payment in lieu of notice of at least the amount the employer would have been liable to pay to the employee (or to another person on the employee's behalf) at the full rate of pay for the hours the employee would have worked had the employment continued until the end of the minimum period of notice. <p>(3) Work out the minimum period of notice as follows:</p> <ul style="list-style-type: none"> (a) first, work out the period using the following table: <p>Employee's period of continuous service with the employer at the end of the day the</p>		
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	<p>notice is given and the minimum 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</p> <p>(b) then increase the period by 1 week if the employee is over 45 years old and has completed at least 2 years of continuous service with the employer at the end of the day the notice is given.</p> <p>[s 118] Modern awards and enterprise agreements may provide for notice of termination by employees A modern award or enterprise agreement may include terms specifying the period of notice an employee must give in order to terminate his or her employment.</p>		
<p>Redundancy</p>	<p>[cl 15] Redundancy</p> <p>NOTE: Redundancy pay is provided for in the NES. See sections 119–123 of the Act.</p> <p>[cl 15.1] Transfer to lower paid duties on redundancy (a) Clause 15.1 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</p>	<p>32. Redundancy</p> <p>NOTE: Redundancy pay is provided for in the NES. See sections 119 to 123 of the Act.</p> <p>32.1 Transfer to lower paid duties on redundancy (a) Clause 32.1 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</p>	<p>The SDA notes that there may be an internal reference error as marked. It is submitted that the reference at the end of PLED clause 32.3(c) should read 32.3(b).</p>

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	<p>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</p> <p>(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 paragraph (c).</p> <p>(c) If the employer acts as mentioned in paragraph (b)(ii), the employee is entitled to a payment of an amount equal to the difference between the ordinary rate of pay of the employee (inclusive of all-purpose allowances, shift rates and penalty rates applicable to ordinary hours) for the hours of work the employee would have worked in the first role, and the ordinary rate of pay (also inclusive of all-purpose allowances, shift rates and penalty rates applicable to ordinary hours) of the employee in the second role for the period for which notice was not given.</p> <p>[cl 15.2] Employee leaving during redundancy notice period</p> <p>(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.</p> <p>(b) The employee is entitled to receive the benefits and payments they</p>	<p>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</p> <p>(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 32.1(c).</p> <p>(c) If the employer acts as mentioned in clause 32.1(b)(i), 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.</p> <p>32.2 Employee leaving during redundancy notice period</p> <p>(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.</p>	
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	<p>would have received under clause 15 or under sections 119–123 of the Act had they remained in employment until the expiry of the notice.</p> <p>(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.</p> <p>[cl 15.3] Job search entitlement</p> <p>(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.</p> <p>(b) If an employee is allowed time off without loss of pay of more than one day under paragraph (a), the employee must, at the request of the employer, produce proof of attendance at an interview.</p> <p>(c) A statutory declaration is sufficient for the purpose of paragraph (b).</p> <p>(d) An employee who fails to produce proof when required under paragraph (b) is not entitled to be paid for the time off.</p> <p>(e) This entitlement applies instead of clauses 14.2 and 14.3.</p>	<p>(b) The employee is entitled to receive the benefits and payments they would have received under clause 32 or under sections 119 to 123 of the Act had they remained in employment until the expiry of the notice.</p> <p>(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.</p> <p>32.3 Job search entitlement</p> <p>(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.</p> <p>(b) If an employee is allowed time off without loss of pay of more than one day under clause 32.3(a), the employee must, at the request of the employer, produce proof of attendance at an interview.</p> <p>(c) A statutory declaration is sufficient for the purpose of clause 32.3(a).</p> <p>(d) An employee who fails to produce proof when required under clause 32.3(b) is not entitled to be paid for the time off.</p>	
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		(e) This entitlement applies instead of clause 31.2.	
Classifications	<p>[cl 16] Classifications</p> <p>[cl 16.1] All employees covered by this award must be classified according to the structure set out in Schedule B— Classifications. Employers must advise their employees in writing of their classification and of any changes to their classification.</p> <p>[cl 16.2] The classification by the employer must be according to the skill level or levels required to be exercised by the employee in order to carry out the principal functions of the employment as determined by the employer.</p> <p>B.1 Fast Food Employee Level 1</p> <p>B.1.1 An employee engaged in the preparation, the receipt of orders, cooking, sale, serving or delivery of meals, snacks and/or beverages which are sold to the public primarily to take away or in food courts in shopping centres.</p> <p>B.1.2 A Fast Food Employee Level 1 will undertake duties as directed within the</p>	<p>12. Classifications</p> <p>12.1 <u>An employer must classify an employee covered by this award in accordance with clause 12.4.</u></p> <p>NOTE: The minimum rates applicable to the classifications in this award are in clause 15— Minimum rates.</p> <p>12.2 The classification by the employer must be based on the skill <u>level that the employee is required to exercise in order to carry out the principal functions of the employment.</u></p> <p>12.3 Employers must notify employees in writing of their classification and of any change to it.</p> <p>12.4 Classification definitions</p> <p>(a) Fast food employee level 1 means an employee who is:</p> <p>(i) engaged in taking orders for, preparing, serving, selling or delivering, food or beverages that are sold to the public for consumption away from the point of sale or in a food court, shopping centre or retail complex; and</p> <p>(ii) required to undertake duties as directed within the limits of their</p>	<p>The SDA notes the introduction of changes to the substance of the provisions in PLED clauses 12.1 to 12.3 inclusive. The SDA does not object to the changes as marked in clauses 12.1, 12.2 and 12.3.</p> <p>However, the SDA objects to the changes to classification definitions as at PLED clause 12.4 on the basis that it could create inadvertent ambiguity. The current definition is settled, clear and concise. To alter such a fundamental aspect of the Award without any discernible advantage, is both unnecessary and unsafe.</p>

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	<p>limits of their competence, skills and training including incidental cleaning and cleaning of toilets.</p> <p>B.2 Fast Food Employee Level 2 An employee who has the major responsibility on a day to day basis for supervising Fast Food employees Level 1 and/or training new employees or an employee required to exercise trade skills.</p> <p>B.3 Fast Food Employee Level 3 An employee appointed by the employer to be in charge of a shop, food outlet, or delivery outlet.</p>	<p>competence, skills and training, including incidental cleaning and the cleaning of toilets.</p> <p>(b) Fast food employee level 2 means an employee who:</p> <p>(i) has the major responsibility on a day to day basis for supervising Fast food employees level 1 or training new employees; or</p> <p>(ii) is required to exercise trade skills.</p> <p>(c) Fast food employee level 3 means an employee who is appointed by the employer to be in charge of a shop, food outlet or delivery outlet.</p>																				
<p>Minimum weekly wages</p>	<p>[cl 17] Minimum weekly wages</p> <table border="0"> <thead> <tr> <th>Classifications</th> <th>Per week \$</th> </tr> </thead> <tbody> <tr> <td>Level 1</td> <td>813.60</td> </tr> <tr> <td>Level 2</td> <td>862.50</td> </tr> <tr> <td>Level 3—In charge of one or no persons</td> <td>875.80</td> </tr> <tr> <td>Level 3—In charge of two or more persons</td> <td>886.50</td> </tr> </tbody> </table>	Classifications	Per week \$	Level 1	813.60	Level 2	862.50	Level 3—In charge of one or no persons	875.80	Level 3—In charge of two or more persons	886.50	<p>Part 4—Wages and Allowances</p> <p>15. Minimum rates</p> <p>15.1 Adult rates</p> <p>An employer must pay an adult employee, as defined in clause 2—Definitions, the minimum hourly rate applicable to the employee’s classification for ordinary hours of work as follows:</p> <p>Table 3—Minimum rates</p> <table border="0"> <thead> <tr> <th>Employee classification</th> <th>Minimum weekly rate (full-time employee)</th> <th>Minimum hourly rate</th> </tr> <tr> <th></th> <th>\$</th> <th>\$</th> </tr> </thead> <tbody> <tr> <td>Fast food employee level 1</td> <td>813.60</td> <td>21.41</td> </tr> </tbody> </table>	Employee classification	Minimum weekly rate (full-time employee)	Minimum hourly rate		\$	\$	Fast food employee level 1	813.60	21.41	<p>The SDA objects to the introduction of the term ‘adult rates’, together with its objection to the definition of the term ‘adult employees’ above. It is submitted that the term ‘ordinary rates’ is sufficient and does not lead to the ambiguity nor the contradiction with the wider legal understanding of the term adult.</p> <p>The SDA does not object to the introduction of an hourly rate to the Award. However, a clarificatory</p>
Classifications	Per week \$																					
Level 1	813.60																					
Level 2	862.50																					
Level 3—In charge of one or no persons	875.80																					
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	\$	\$																				
Fast food employee level 1	813.60	21.41																				

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		<p>Fast food employee level 2 862.50 22.70</p> <p>Fast food employee level 3— in charge of one or no person 875.80 23.05</p> <p>Fast food employee level 3— in charge of 2 or more people 886.50 23.33</p> <p>NOTE 1: Provisions for calculating rates for casual employees are at clause 11— Casual employees.</p> <p>NOTE 2: See Schedule A— Summary of Hourly Rates of Pay for a summary of hourly rates of pay including casual, overtime and penalty rates.</p>	<p>note linking the hourly rate to the minimum weekly rate would be of benefit for the sake of clarity. That is ‘The minimum hourly rate is 1/38th of the minimum weekly rate’.</p>														
<p>Junior rates</p>	<p>[cl 18] Under 16 years of age – 40% 16 years of age – 50% 17 years of age – 60% 18 years of age – 70% 19 years of age – 80% 20 years of age – 90%</p>	<p>15.2 Junior rates An employer must pay a junior employee, as defined in clause 2— Definitions, the minimum percentage of the adult rate applicable to the employee’s classification in clause 15.1 for ordinary hours of work as follows:</p> <p>Table 4—Junior rates</p> <table border="0"> <tr> <td>Age</td> <td>% of applicable adult rate</td> </tr> <tr> <td>15 years of age and under</td> <td>40</td> </tr> <tr> <td>16 years of age</td> <td>50</td> </tr> <tr> <td>17 years of age</td> <td>60</td> </tr> <tr> <td>18 years of age</td> <td>70</td> </tr> <tr> <td>19 years or</td> <td>80</td> </tr> <tr> <td>20 years of age</td> <td>90</td> </tr> </table>	Age	% of applicable adult rate	15 years of age and under	40	16 years of age	50	17 years of age	60	18 years of age	70	19 years or	80	20 years of age	90	<p>The SDA, consistent with its objections above, objects to the use of the term ‘adult rate’ in this clause.</p>
Age	% of applicable adult rate																
15 years of age and under	40																
16 years of age	50																
17 years of age	60																
18 years of age	70																
19 years or	80																
20 years of age	90																

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		NOTE: See Schedule A—Summary of Hourly Rates of Pay for a summary of hourly rates of pay for junior employees including casual, overtime and penalty rates	
Allowances	No equivalent.	<p>17. Allowances 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.</p> <p>17.1 Employees are entitled to monetary allowances of the specified kinds in the specified circumstances set out in clause 17. NOTE: Schedule B—Summary of Monetary Allowances contains a summary of monetary allowances and methods of adjustment.</p>	The SDA does not object to the changes as marked.
Meal Allowance	<p>[cl 19.1] Meal allowance (a) An employee required to work more than one hour of overtime after the employee’s ordinary time of ending work, without being given 24 hours’ notice, will be either provided with a meal or paid a meal allowance of \$13.32. Where such overtime work exceeds four hours a further meal allowance of \$12.03 will be paid. (b) No meal allowance will be payable where an employee could reasonably return home for a meal within the period allowed.</p>	<p>17.4 Meal allowance (a) <u>An employer must either pay an employee a meal allowance of \$13.32 or supply the employee with a meal if all of the following apply:</u> (i) <u>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</u> (ii) <u>the employee was not given at least 24 hours’ notice of that overtime requirement; and</u></p>	The SDA objects to the changes marked on the basis that it creates an ambiguity. It is submitted that the retention of the FFIA provision at clause 19.1 would provide greater clarity.

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		<p>(iii) the employee cannot reasonably return home for a meal in their meal break.</p> <p>(b) If the overtime mentioned in clause 17.4(a) is more than 4 hours, then the employer must pay the employee a further meal allowance of \$12.03.</p>	
Special clothing	<p>[cl 19.2] Special clothing</p> <p>[cl 19.2(a)] Where the employer requires an employee to wear any protective or special clothing such as a uniform, dress or other clothing, the employer will reimburse the employee for any cost of purchasing such clothing and the cost of replacement items when replacement is due to normal wear and tear. This provision will not apply where the special clothing is supplied and/or paid for by the employer.</p>	<p>17.5 Special clothing allowance</p> <p>(a) 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:</p> <p>(i) supply the special clothing to the employee; or</p> <p>(ii) pay for the special clothing; or</p> <p>(iii) reimburse the employee the costs of purchasing the special clothing and of replacing it as necessary because of normal wear and tear.</p>	<p>The SDA submits that the term ‘special clothing’ should be included in the list so that it reads</p> <p>‘If an employer requires an employee to wear any article of clothing, such as a uniform, dress, protective, special or other clothing, then the employer must:...’</p>
Laundry Allowance	<p>[cl 19.2(b)] Where an employee is required to launder any special uniform, dress or other clothing, the employee will be paid the following applicable allowance:</p> <p>(i) For a full-time employee—\$6.25 per week;</p> <p>(ii) For a part-time or casual employee—\$1.25 per shift.</p>	<p>17.5 (b) If the employee is responsible for laundering their special clothing, then the employer must pay the employee an allowance of:</p> <p>(i) \$6.25 per week for a full-time employee; or</p> <p>(ii) \$1.25 per shift for a part-time or casual employee</p>	<p>The SDA does not object to the changes as marked.</p>
Excess travelling costs	<p>[cl 19.3] 19.3 Excess travelling costs</p> <p>Where an employee is required by their employer to move temporarily from one branch or shop to another for a period</p>	<p>17.9 Excess travelling costs</p> <p>If an employer requires an employee to move from one branch or shop to another for a period of up to 3 weeks,</p>	<p>The SDA does not object to the changes as marked.</p>

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	<p>not exceeding three weeks, all additional transport costs so incurred will be reimbursed by the employer.</p>	<p><u>then the employer must reimburse the employee any additional travel costs they incur in travelling to and from those branches and shops.</u></p>	
<p>Travelling time reimbursement</p>	<p>[cl 19.4] Travelling time reimbursement (a) An employee who on any day is required to work at a place away from their usual place of employment, for all time reasonably spent in reaching and returning from such place (in excess of the time normally spent in travelling from their home to their usual place of employment and returning), will be paid travelling time and also any fares reasonably incurred in excess of those normally incurred in travelling between their home and their usual place of employment. (b) Where the employer provides transport from a pick up point, an employee will be paid travelling time for all time spent travelling from such pick up point and return thereto. (c) The rate of pay for travelling time will be the ordinary time rate except on Sundays and public holidays when it will be time and a half.</p>	<p>17.6 Travelling time reimbursement (a) <u>If an employer requires an employee to work on any day at a place other than their usual place of work, then the employer must:</u> (i) <u>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 17.6(b) at the rates set out in clause 17.6(c); and</u> (ii) <u>reimburse the employee for any additional costs incurred in travelling to and from the other place of work.</u> (b) <u>The employer must pay the amounts in clause 17.6(c) for the extra time the employee spends travelling:</u> (i) <u>both ways between the employee’s residence and the other place of work; or</u> (ii) <u>if the employer provides transport from a pick-up point, both ways between the employee’s residence and that pick-up point.</u></p>	<p>The SDA does not object to the changes as marked.</p>

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		(c) The employer must pay the employee for the travelling time calculated under clause 17.6(b): (i) on Monday to Saturday, at their minimum hourly rate of pay; or (ii) on Sunday or a public holiday, at 150% of their minimum hourly rate of pay.	
Transfer of employee reimbursement	[cl 19.5] Transfer of employee reimbursement Where transferred from one township to another, the employer will pay for the whole of the moving expenses including fares and transport charges for employee and family.	17.10 Moving expenses (a) Clause 17.10 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.	The SDA does not object to the changes as marked.
Transport allowance	[cl 19.6] Transport allowance [cl 19.6(a)] Other than as provided in clause 19.6(b), where an employer requests an employee to use their own motor vehicle in the performance of their duties such employee will be paid an allowance of \$0.78 per kilometre. [cl 19.6(b)] Where an employee is engaged primarily to perform delivery duties of the employer's products to customers using their own motor vehicle, such employee will be paid an allowance of \$0.41 per kilometre.	17.8 Motor vehicle allowance If an employer requires an employee to use their own motor vehicle in performing their duties, then the employer must pay the employee an allowance for each kilometre travelled in performing their duties as follows: (a) \$0.41 per kilometre if the employee is engaged primarily to deliver the employer's products to customers using their own motor vehicle; or (b) \$0.78 per kilometre in any other case.	The SDA objects to the use of the term 'requires' in the PLED clause 17.8 as a change in meaning from the FFIA provision 'requests' which results in a restriction of the allowance.
Transport reimbursement –	[cl 19.7] Transport of employee reimbursement	17.7 Transport of employee reimbursement	The SDA does not object to the changes as marked.

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<p>starting or finishing after 10pm or before 7pm</p>	<p>[cl 19.7(a)] Where an employee commences and/or ceases work after 10.00 pm on any day or prior to 7.00 am on any day and the employee's regular means of transport is not available and the employee is unable to arrange their own alternative transport, the employer will reimburse the employee for the cost of a taxi fare from the place of employment to the employee's usual place of residence. This will not apply if the employer provides or arranges proper transportation to and/or from the employee's usual place of residence, at no cost to the employee.</p> <p>[cl 19.7(b)] Provided always that an employee may elect to provide their own transport</p>	<p>(a) An employer must reimburse an employee's travel costs as calculated under clause 17.7(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 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 17.7 prevents an employee from choosing to provide their own transport.</p>	
<p>Cold work disability allowance</p>	<p>[cl 19.8] Cold work disability allowance</p> <p>[cl 19.8(a)] Employees principally employed on any day to enter cold chambers and/or to stock and refill refrigerated storages such as dairy</p>	<p>17.3 Cold work allowance If an employee is principally employed on any day to enter cold chambers or to stock or refill refrigerated storages such as dairy cases or freezer cabinets, then:</p>	<p>The SDA does not object to the changes as marked, however, for the sake of a clarity, an explanatory note giving the quantum as a percentage (that is, 1.3% and 2% of the standard</p>

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	<p>cases or freezer cabinets will be paid an allowance per hour, while so employed, of 1.3% of the standard rate.</p> <p>[cl 19.8(b)] An employee required to work in a cold chamber where the temperature is below 0°C will in addition to the allowance in clause 19.8(a) also be paid an additional allowance per hour, while so employed, of 2% of the standard rate.</p>	<p>(a) the employer must pay the employee an allowance of \$0.30 per hour while so employed; and</p> <p>(b) if the temperature in a cold chamber in which the employee is required to work is below 0°C, then the employer must pay the employee an additional allowance of \$0.45 per hour while so employed—that is, the employer must pay the employee a total allowance of \$0.75 per hour.</p>	<p>hourly rate respectively) would provide greater clarity.</p>
<p>Broken Hill</p>	<p>[cl 19.9] Broken Hill An employee in the County of Yancowinna in New South Wales (Broken Hill) will in addition to all other payments be paid an allowance for the exigencies of working in Broken Hill of 4.28% of the standard rate.</p>	<p>17.2 Broken Hill allowance An 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.</p>	<p>The SDA does not object to the changes as marked, however, for the sake of a clarity, an explanatory note giving the quantum as a percentage (that is, 4.28% of the standard hourly rate) would provide greater clarity.</p>
<p>Adjustment of expense related allowances</p>	<p>[cl 19.10] Adjustment of expense related allowances At the time of any adjustment to the standard rate, each expense related allowance will be increased by the relevant adjustment factor. The relevant adjustment factor for this purpose is the</p>	<p>B.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 rate as specified.</p> <p><u>B.2.2 Adjustment of expense-related allowances</u> (a) At the time of any adjustment to the standard rate, each expense-related allowance will be increased by the relevant adjustment factor. The relevant adjustment factor for this</p>	<p>The SDA does not object to the changes as marked.</p>

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	<p>percentage movement in the applicable index figure most recently published by the Australian Bureau of Statistics since the allowance was last adjusted.</p> <p>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:</p> <p>Allowance</p> <p>Meal allowance Take away and fast foods sub-group</p> <p>Special clothing Clothing and footwear group</p> <p>Transport allowance Private motoring sub-group</p> <p>Applicable Consumer Price Index figure</p>	<p><u>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.</u></p> <p><u>(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:</u></p> <p><u>Allowance Applicable Consumer Price Index figure</u></p> <p><u>Meal allowance Take away and fast foods sub-group</u></p> <p><u>Special clothing Clothing and footwear group</u></p> <p><u>Motor vehicle allowance Private motoring sub-group</u></p>	
<p>Accident pay</p>	<p>[cl 20] Accident pay</p> <p>An employee in receipt of weekly payments under the provisions of applicable workers’ compensation legislation will be entitled to receive accident pay from the employer subject to the following conditions and limitations:</p> <p>[cl 20.1] Definitions</p> <p>(a) Accident pay means a weekly payment made to an employee by the</p>	<p><u>18. Accident pay</u></p> <p><u>18.1 Clause 18 applies to an employee who is receiving weekly workers’ compensation payments for an injury suffered by the employee.</u></p> <p><u>18.2 In clause 18:</u></p> <p><u>(a) accident pay means a weekly payment made by an employer to an employee of an amount that is equal to the difference between:</u></p>	<p>The SDA notes that the provision as drafted at clause 18.3(d) allows for the Commission to adjudicate for matters beyond a declaration of bankruptcy or liquidation.</p> <p>The SDA objects to the deletion of the definition for injury (see FFIA clause 20.1(b)).</p>

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	<p>employer that is the difference between the weekly amount of compensation the employee is entitled to receive pursuant to the applicable workers’ compensation legislation and the employee’s weekly wage payable under this Award for the classification of work if the employee had been performing their normal duties (not including over award payments, shift loadings, overtime, attendance bonus payments, special rates, fares and travelling allowance or other similar payments).</p> <p>(b) Injury will be given the same meaning and application as applying under the applicable workers’ compensation legislation covering the employer.</p> <p>[cl 20.2] Entitlement to accident pay (a) The employer must pay accident pay where an employee suffers an injury and weekly payments of compensation are paid to the employee under the applicable workers’ compensation legislation. The maximum period of accident pay is 26 weeks. (b) Accident pay shall not apply: (i) In respect of an injury during the first seven consecutive days (including non-working days) of incapacity. (ii) To any incapacity occurring during the first two weeks of employment unless such incapacity continues beyond the first two weeks.</p>	<p>(i) the weekly amount the employee is entitled to receive under the applicable workers’ compensation legislation; and (ii) the weekly rate of pay the employee would have received had they been performing their normal duties within their classification level including, for a casual employee, the casual loading specified in clause 11.3(b) but, in any case, not including any excluded payments. (b) excluded payments means any of the following: (i) over-award payments; or (ii) shift loadings; or (iii) overtime; or (iv) attendance bonus payments; or (v) special rates; or (vi) fares and travelling allowances; or (vii) other similar payments. (c) injury has the same meaning as in the applicable workers’ compensation legislation.</p> <p>18.3 Entitlement to the payment (a) The employer must pay accident pay to the employee for up to 26 weeks if an employee suffers an injury and weekly payments of compensation are paid to the employee under the applicable workers’ compensation legislation</p>	
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	<p>[cl 20.3] Calculation of the period (a) The 26 week period commences from the first day of incapacity for work, which may be subsequent to the date of injury. In the event of more than one absence arising from one injury, such absences are to be cumulative in the assessment of the 26 week period. (b) The entitlement to accident pay continues on termination of an employee’s employment where such termination: (i) is by the employer other than for reasons of the employee’s serious and/or wilful misconduct; or (ii) arises from a declaration of bankruptcy or liquidation of the employer, in which case the employee’s entitlement will be referred to the Fair Work Commission to determine. (c) For a period of less than one week, accident pay (as defined) will be calculated on a pro rata basis.</p> <p>[cl 20.4] When not entitled to payment An employee will not be entitled to any payment under this clause in respect of any period of paid annual leave or long service leave, or for any paid public holiday.</p> <p>[cl 20.5] Return to work If an employee entitled to accident pay under this clause returns to work on</p>	<p>(b) An employee is not entitled to accident pay in respect of: (i) an injury during the first 7 consecutive days (including non-working days) of incapacity; or (ii) any incapacity occurring during the first 2 weeks of employment unless the incapacity continues beyond the first 2 weeks. (c) An employee is not entitled to accident pay in respect of any period of paid annual leave or long service leave, or for any paid public holiday. (d) The entitlement of an employee to accident pay continues on termination of the employee’s employment where the termination is: (i) by the employer other than for reasons of the employee’s serious or wilful misconduct; or (ii) because of the employer’s bankruptcy or the liquidation of the employer’s business.</p> <p>NOTE: The Fair Work Commission may determine the entitlement of an employee to accident pay in the circumstances mentioned in clause 18.3(d).</p> <p>18.4 Calculation of the period (a) The 26 week period begins from the first day of incapacity for</p>	
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	<p>reduced hours or modified duties, the amount of accident pay due will be reduced by any amounts paid for the performance of such work.</p> <p>[cl 20.6] Redemptions In the event that an employee receives a lump sum payment in lieu of weekly payments under the applicable workers' compensation legislation, the liability of the employer to pay accident pay will cease from the date the employee receives that payment.</p> <p>[cl 20.7] Damages independent of the Acts Where the employee recovers damages from the employer or from a third party in respect of the said injury independently of the applicable workers' compensation legislation, such employee will be liable to repay to the employer the amount of accident pay which the employer has paid under this clause and the employee will not be entitled to any further accident pay thereafter.</p> <p>[cl 20.8] Casual employees For a casual employee, the weekly payment referred to in clause 20.1(a) will be calculated using the employee's average weekly ordinary hours with the employer over the previous 12 months or, if the employee has been employed for less than 12 months by the employer,</p>	<p>work, <u>whether that day is the date of injury or a subsequent day.</u></p> <p>(b) If the employee is absent from work on more than one occasion because of the injury, the absences are to be treated as cumulative in working out the 26 week period.</p> <p>18.5 Calculation of the amount</p> <p>(a) If accident pay is paid for a period of less than one week, then the amount is calculated on a pro-rata basis.</p> <p><u>(b) For a casual employee, the amount of accident pay is calculated using either:</u></p> <p><u>(i) the employee's average weekly ordinary hours with the employer over the previous 12 months; or</u></p> <p><u>(ii) if the employee has been employed for less than 12 months by the employer, the employee's average weekly ordinary hours over the period of employment with the employer.</u></p> <p>18.6 Return to work If an employee, who is entitled to accident pay, returns to work on reduced hours or modified duties, then the amount of accident pay to which the employee is entitled must be reduced by any amounts paid for performing that work.</p>	
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	<p>the employee’s average weekly ordinary hours over the period of employment with the employer. The weekly payment will include casual loading but will not include over award payments, shift loadings, overtime, attendance bonus payments, special rates, fares and travelling allowance or other similar payments.</p>	<p>18.7 Lump sum payments If an employee receives a lump sum payment instead of weekly payments under the applicable workers’ compensation legislation in respect of the injury, then the employee’s entitlement to accident pay ends from the date of receipt of that payment.</p> <p>18.8 Independent recovery of damages If an employee recovers damages from the employer or a third party in respect of the injury independently of the applicable workers’ compensation legislation, then the employee: (a) is liable to repay to the employer the amount of accident pay that the employer has paid to the employee under clause 18; and (b) is not entitled to any further accident pay in respect of the injury.</p>	
<p>Superannuation</p>	<p>[cl 21] Superannuation</p> <p>[cl 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</p>	<p>19. Superannuation</p> <p>19.1 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</p>	<p>The SDA notes that this provision has not been re-drafted.</p>

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	<p>obligations of employers and employees. Under superannuation legislation individual employees generally have the opportunity to choose their own superannuation fund. If an employee does not choose a superannuation fund, any superannuation fund nominated in the award covering the employee applies.</p> <p>(b) The rights and obligations in these clauses supplement those in superannuation legislation.</p> <p>[cl 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.</p> <p>[cl 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.</p>	<p>with the superannuation rights and obligations of employers and employees. Under superannuation legislation individual employees generally have the opportunity to choose their own superannuation fund. If an employee does not choose a superannuation fund, any superannuation fund nominated in the award covering the employee applies.</p> <p>(b) The rights and obligations in these clauses supplement those in superannuation legislation.</p> <p>19.2 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.</p> <p>19.3 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</p>	
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	<p>(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.</p> <p>(c) The employer must pay the amount authorised under clauses 21.3(a) or (b) no later than 28 days after the end of the month in which the deduction authorised under clauses 21.3(a) or (b) was made.</p> <p>[cl 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 (b) to one of the following superannuation funds or its successor:</p> <p>(a) Retail Employees Superannuation Trust (REST); (b) Sunsuper; (c) Intrust Super; (d) 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</p>	<p>contributions provided for in clause 19.2.</p> <p>(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.</p> <p>(c) The employer must pay the amount authorised under clauses 19.3(a) or 19.3(b) no later than 28 days after the end of the month in which the deduction authorised under clauses 19.3(a) or 19.3(b) was made.</p> <p>19.4 Superannuation fund Unless, to comply with superannuation legislation, the employer is required to make the superannuation contributions provided for in clause 19.2 to another superannuation fund that is chosen by the employee, the employer must make the superannuation contributions provided for in clause 19.2 and pay the amount authorised under clauses 19.3(a) or 19.3(b) to one of the following superannuation funds or its successor:</p> <p>(a) Retail Employees Superannuation Trust (REST); (b) Sunsuper; (c) Intrust Super;</p>	
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	<p>offers a MySuper product or is an exempt public sector scheme; or (e) a superannuation fund or scheme which the employee is a defined benefit member of.</p> <p>[cl 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 (b): (a) Paid leave—while the employee is on any paid leave. (b) Work-related injury or illness—For the period of absence from work (subject to a maximum of 52 weeks) of the employee due to work-related injury or work-related illness provided that: (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.</p>	<p>(d) 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 (e) a superannuation fund or scheme which the employee is a defined benefit member of.</p> <p>19.5 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 19.2 and pay the amount authorised under clauses 19.3(a) or 19.3(b): (a) Paid leave—while the employee is on any paid leave. (b) Work-related injury or illness—For the period of absence from work (subject to a maximum of 52 weeks) of the employee due to work-related injury or work-related illness provided that: (i) the employee is receiving workers compensation payments or is receiving regular payments directly from the employer in accordance with statutory requirements; and</p>	
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		(ii) the employee remains employed by the employer.	
Payment of wages	<p>[cl 22] Payment of wages</p> <p>[cl 22.1] Wages will be paid weekly or fortnightly according to the actual hours worked for each week or fortnight or may be averaged over a period of a fortnight.</p> <p>[cl 22.2] Payment on termination of employment</p> <p>(a) The employer must pay an employee no later than 7 days after the day on which the employee’s employment terminates:</p> <p>(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</p> <p>(ii) all other amounts that are due to the employee under this award and the NES.</p>	<p>16. Payment of wages</p> <p>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.</p> <p>16.1 The employer may determine the pay period of an employee as being either weekly or fortnightly.</p> <p>16.2 Wages must be paid for a pay period according to the actual hours worked by the employee in the period or they may be averaged over a fortnight.</p> <p>16.3 Payment on termination of employment</p> <p>(a) The employer must pay an employee no later than 7 days after the day on which the employee’s employment terminates:</p> <p>(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</p> <p>(ii) all other amounts that are due to the employee under this award and the NES.</p>	<p>The SDA notes that clause 16.3 replicates almost exactly the provisions of the current clause 22.2 and on that basis does not object.</p>

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	<p>(b) The requirement to pay wages and other amounts under paragraph (a) is subject to further order of the Commission and the employer making deductions authorised by this award or the Act.</p> <p>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.</p> <p>Note 2: Paragraph (b) allows the Commission to make an order delaying the requirement to make a payment under this clause. For example, the Commission could make an order delaying the requirement to pay redundancy pay if an employer makes an application under s.120 of the Act for the Commission to reduce the amount of redundancy pay an employee is entitled to under the NES.</p> <p>Note 3: State and Territory long service leave laws or long service leave entitlements under s.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.</p>	<p>(b) The requirement to pay wages and other amounts under clause 16.3(a) is subject to further order of the Commission and the employer making deductions authorised by this award or the Act.</p> <p>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.</p> <p>NOTE 2: Clause 16.3(b) allows the Commission to make an order delaying the requirement to make a payment under clause 16.3. 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.</p> <p>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.</p>	
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Supported wage	[cl 23] Supported wage See Schedule C	15.3 Supported wage system For employees who, because of the effects of a disability, are eligible for a supported wage, see Schedule C—Supported Wage System.	The SDA does not object to the changes as marked.
National Training Wage	[cl 24] National training wage [cl 24.1] Schedule E to the Miscellaneous Award 2020 sets out minimum wage rates and conditions for employees undertaking traineeships. [cl 24.2] This award incorporates the terms of Schedule E to the Miscellaneous Award 2020 as at 1 July 2019. Provided that any reference to “this award” in Schedule E to the Miscellaneous Award 2020 is to be read as referring to the Fast Food Industry Award 2010 and not the Miscellaneous Award 2020. NOTE: The minimum rates from 1 July 2019 for employees covered by this award undertaking traineeships are published on the Commission’s website. These rates will increase on 1 February 2021.	15.4 National training wage (a) Schedule E to the Miscellaneous Award 2020 sets out minimum rates and conditions for employees undertaking traineeships. (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 Fast Food Industry Award 20XX and not to the Miscellaneous Award 2020	The SDA does not object to the changes as marked.
Ordinary hours	[cl 25] Hours of work [cl 25.1] This clause does not operate to limit or increase or in any way alter the trading hours of any employer as determined by the relevant State or Territory legislation.	Part 3—Hours of Work 13. Ordinary hours of work and rostering 13.1 The ordinary hours of work for a full-time employee are an average	The SDA does not object to the changes as marked.

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	<p>[cl 25.2] Ordinary hours</p> <p>(a) The ordinary hours of work are an average of 38 per week over a period of no more than four weeks.</p> <p>(b) Hours of work on any day will be continuous, except for rest pauses and meal breaks.</p>	<p>of 38 ordinary hours per week over a period of no more than 4 weeks. See clause 9—Full-time employees.</p> <p>13.3 The ordinary hours of work for a part-time employee are as agreed under clause 10— Part-time employees.</p> <p><u>13.5 Ordinary hours of work on any day are continuous, except for rest breaks and meal breaks, as specified in clause 14—Breaks.</u></p> <p><u>13.6 Clause 13 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.</u></p>	
<p>Maximum ordinary hours on a day</p>	<p>[cl 25.3] Maximum hours on a day An employee may be rostered to work up to a maximum of 11 ordinary hours on any day.</p>	<p><u>13.4 The maximum number of ordinary hours that can be worked on any day is 11 hours.</u></p>	<p>The SDA does not object to the changes as marked.</p>
<p>38 hour week rosters</p>	<p>[cl 25.4] 38 hour week rosters A full-time employee will be rostered for an average of 38 hours per week, worked in any of the following forms: (a) 38 hours in one week; (b) 76 hours in two consecutive weeks; (c) 114 hours in three consecutive weeks; or (d) 152 hours in four consecutive weeks.</p>	<p><u>13.2 An employer must roster a full-time employee in accordance with one of the following options:</u> (a) working 38 hours per week; or (b) working 76 hours over 2 consecutive weeks; or (c) working 114 hours over 3 consecutive weeks; or (d) working 152 hours over 4 consecutive weeks.</p>	<p>The SDA does not object to the changes as marked.</p>

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	<p>employees, inclusive of the casual loading.</p>	<p>loading specified in clause 11.3(b) to the penalty rates for full-time and part-time employees specified in clause 21.1.</p> <p>NOTE 2: Schedule A—Summary of Hourly Rates of Pay sets out the hourly penalty rate for all employee classifications.</p>	
<p>Penalty payments - Sunday</p>	<p>[cl 25.5(c)] Sunday work</p> <p>[cl 25.5(c)(iii)] A 25% loading will apply for all hours of work on a Sunday for full-time and part-time Level 1 employees. A 50% loading will apply for all hours of work on a Sunday for casual Level 1 employees (inclusive of the casual loading). [cl 25.5(d)] A 50% loading will apply for all hours of work on a Sunday for full-time and part-time Level 2 or 3 employees. A 75% loading will apply for all hours of work on a Sunday for casual Level 2 or 3 employees (inclusive of the casual loading).</p>	<p>21.1 An employer must pay penalty rates to an employee who works ordinary hours as follows:</p> <p>Table 6 – Penalty Rates</p> <p>Sunday (Level 1 employees)—all ordinary hours 125 150</p> <p>Sunday (Level 2 and 3 employees)—all ordinary hours 150 175</p> <p>NOTE 1: The penalty rates for casual employees have been calculated by adding the casual loading specified in clause 11.3(b) to the penalty rates for full-time and part-time employees specified in clause 21.1.</p> <p>NOTE 2: Schedule A—Summary of Hourly Rates of Pay sets out the hourly penalty rate for all employee classifications.</p>	<p>The SDA does not object to the changes as marked.</p>

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<p>Penalty – Public Holiday</p>	<p>[cl 30.4] Work on a public holiday must be compensated by payment at the rate of 225% (250% for casual employees, inclusive of the casual loading).</p>	<p>21.1 An employer must pay penalty rates to an employee who works ordinary hours as follows:</p> <p>Table 6 – Penalty Rates Public holiday—all ordinary hours 225 250</p> <p>NOTE 1: The penalty rates for casual employees have been calculated by adding the casual loading specified in clause 11.3(b) to the penalty rates for full-time and part-time employees specified in clause 21.1.</p> <p>NOTE 2: Schedule A—Summary of Hourly Rates of Pay sets out the hourly penalty rate for all employee classifications.</p>	<p>The SDA does not object to the changes as marked.</p>
<p>Overtime</p>	<p>[cl 26] Overtime</p> <p>[cl 26.1] Rate of overtime (a) The rate of overtime for full time and part-time employees shall be 150% of the ordinary hourly rate for the first two hours on any one day and at the rate of 200% of the ordinary hourly rate after two hours, except on a Sunday which shall be paid for at the rate of 200% of the ordinary hourly rate and on a Public Holiday which shall be paid for at the rate of 250% of the ordinary hourly rate. (b) The rate of overtime for casual employees shall be 175% of the ordinary</p>	<p>Part 5—Overtime and Penalty Rates 20. Overtime 20.1 Reasonable overtime (a) Subject to section 62 of the Act and clause 20.1, 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 20.1 the following must be taken into account:</p>	<p>The SDA does not object to the changes as marked.</p>

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	<p>hourly rate for the first two hours on any one day and 225% of the ordinary hourly rate after two hours, except on a Sunday which shall be 225% of the ordinary hourly rate and 275% on a Public Holiday.</p> <p>NOTE: The overtime rates for casual employees have been calculated by adding the casual loading prescribed by clause 13.2 to the overtime rates for full-time and part-time employees prescribed by clause 26.1(a).</p> <p>[cl 26.2] A full-time or part-time employee shall be paid overtime for all work as follows:</p> <p>(a) in excess of:</p> <p>(i) 38 hours per week or an average of 38 hours per week averaged over a four week period; or</p> <p>(ii) five days per week (or six days in one week if in the following week ordinary hours are worked on not more than four days); or</p> <p>(iii) eleven hours on any one day; or</p> <p>(b) before an employee’s rostered commencing time on any one day; or</p> <p>(c) after an employee’s rostered ceasing time on any one day; or</p> <p>(d) outside the ordinary hours of work; or</p> <p>(e) hours worked by part-time employees in excess of:</p>	<p>(i) any risk to employee health and safety from working the additional hours;</p> <p>(ii) the employee's personal circumstances, including family responsibilities;</p> <p>(iii) the needs of the workplace or enterprise in which the employee is employed;</p> <p>(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;</p> <p>(v) any notice given by the employer of any request or requirement to work the additional hours;</p> <p>(vi) any notice given by the employee of his or her intention to refuse to work the additional hours;</p> <p>(vii) the usual patterns of work in the industry, or the part of an industry, in which the employee works;</p> <p>(viii) the nature of the employee's role, and the employee's level of responsibility;</p> <p>(ix) whether the additional hours are in accordance with averaging terms of clause 13—Ordinary hours of work and rostering, inserted pursuant to section 63 of the Act, that applies to the employee; and</p> <p>(x) any other relevant matter.</p>	
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	<p>(i) the agreed hours in clause 12.2; or</p> <p>(ii) the agreed hours as varied under clause 12.3 or 12.5; or</p> <p>(f) any hours worked by a part-time employee in excess of their regular pattern of work in circumstances where there is no written record of an agreed variation to a particular rostered shift.</p> <p>[cl 26.3] A casual employee shall be paid overtime for all work in excess of:</p> <p>(a) 38 hours per week or, where the casual employee works in accordance with a roster, in excess of 38 hours per week averaged over the course of the roster cycle; or</p> <p>(b) eleven hours on any one day.</p> <p>[cl 26.4] Where an employee works overtime on a Sunday and that work is not immediately preceding or immediately following ordinary hours, then that employee must be paid 200% of the ordinary hourly rate with a minimum payment of four hours at such rate. The rate for a casual employee shall be 225% of the ordinary hourly rate of pay.</p> <p>NOTE: The overtime rates for casual employees have been calculated by adding the casual loading prescribed by clause 13.2 to the overtime rates for full-</p>	<p>20.2 Payment of overtime for full-time employees An employer must pay a full-time employee at the overtime rate in clause 20.6 for any hours worked:</p> <p>(a) in excess of:</p> <p>(i) 38 ordinary hours per week or an average of 38 ordinary hours per week averaged over a 4 week period; or</p> <p>(ii) 5 days in one week (or 6 days in one week if, in the following week, ordinary hours are worked on not more than 4 days); or</p> <p>(iii) 11 ordinary hours on any one day; or</p> <p>(b) before the employee’s rostered start time on any one day, or</p> <p>(c) after the employee’s rostered finish time on any one day; or</p> <p>(d) outside the ordinary hours of work.</p> <p>20.3 Payment of overtime for part-time employees An employer must pay a part-time employee at the overtime rate in clause 20.6 for any hours worked as follows:</p> <p>(a) in excess of:</p> <p>(i) 38 ordinary hours per week or an average of 38 ordinary hours per week averaged over a 4 week period; or</p>	
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<p>time and part-time employees prescribed by clause 26.1(a).</p> <p>[cl 26.5] Time off instead of payment for overtime</p> <p>(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.</p> <p>(b) The period of time off that an employee is entitled to take is equivalent to the overtime payment that would have been made.</p> <p>EXAMPLE: By making an agreement under clause 26.5 an employee who worked 2 overtime hours at the rate of time and a half is entitled to 3 hours' time off.</p> <p>(c) Time off must be taken:</p> <p>(i) within the period of 6 months after the overtime is worked; and</p> <p>(ii) at a time or times within that period of 6 months agreed by the employee and employer.</p> <p>(d) If the employee requests at any time, to be paid for overtime covered by an agreement under clause 26.5 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.</p> <p>(e) If time off for overtime that has been worked is not taken within</p>	<p>(ii) 5 days in one week (or 6 days in one week if, in the following week, ordinary hours are worked on not more than 4 days); or</p> <p>(iii) 11 ordinary hours on any one day; or</p> <p>(iv) the agreed hours in clause 10.3; or</p> <p>(v) the agreed hours as varied under clauses 10.5 or 10.7; or</p> <p>(vi) their regular pattern of work in circumstances where there is no written record of an agreed variation to a particular rostered shift; or</p> <p>(b) before the employee's rostered start time on any one day, or</p> <p>(c) after the employee's rostered finish time, on any one day; or</p> <p>(d) outside the ordinary hours of work.</p> <p><u>20.4 Payment of overtime for casual employees</u></p> <p><u>An employer must pay a casual employee at the overtime rate in clause 20.6 for any hours worked in excess of:</u></p> <p><u>(a) 38 ordinary hours per week or, where the employee works in accordance with a roster, in excess of 38 ordinary hours per week averaged over the course of the roster cycle; or</u></p>	
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	<p>the period of 6 months mentioned in paragraph (c), the employer must pay the employee for the overtime, in the next pay period following those 6 months, at the overtime rate applicable to the overtime when worked.</p> <p>(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.</p> <p>(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 26.5 will apply for overtime that has been worked.</p> <p>Note: If an employee makes a request under section 65 of the Act for a change in working arrangements, the employer may only refuse that request on reasonable business grounds (see section 65(5) of the Act).</p> <p>(h) If, on the termination of the employee’s employment, time off for overtime worked by the employee to which clause 26.5 applies has not been taken, the employer must pay the</p>	<p>(b) 11 ordinary hours on any one day.</p> <p>20.5 Minimum payment on a Sunday <u>If an employee works overtime on a Sunday and the overtime is not immediately before or after ordinary hours, then the employer must pay the employee at the overtime rate in clause 20.6 for a minimum of 4 hours, even if the employee is required to work for a shorter time.</u> <u>NOTE: This entitlement does not apply if the overtime is worked immediately before, or immediately after, a roster of ordinary hours.</u></p> <p>20.6 Overtime rates <u>An employer must pay an employee for overtime worked as set out in clauses 20.2, 20.3 and 20.4 at the following rates:</u> <u>Table 5—Overtime rates</u></p> <p><u>For overtime worked: Full-time and part-time employees</u></p> <table border="0"> <tr> <td><u>% of minimum hourly rate</u></td> <td><u>Casual employees</u></td> </tr> <tr> <td><u>% of minimum hourly rate</u></td> <td></td> </tr> <tr> <td><u>Monday to Saturday—first 2 hours</u></td> <td></td> </tr> <tr> <td><u>150</u></td> <td><u>175</u></td> </tr> <tr> <td><u>Monday to Saturday—after 2 hours</u></td> <td></td> </tr> <tr> <td><u>200</u></td> <td><u>225</u></td> </tr> </table>	<u>% of minimum hourly rate</u>	<u>Casual employees</u>	<u>% of minimum hourly rate</u>		<u>Monday to Saturday—first 2 hours</u>		<u>150</u>	<u>175</u>	<u>Monday to Saturday—after 2 hours</u>		<u>200</u>	<u>225</u>	
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	<p>employee for the overtime at the overtime rate applicable to the overtime when worked.</p> <p>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 26.5.</p> <p>[cl 26.6] Reasonable overtime</p> <p>(a) Subject to s.62 of the Act and this clause, an employer may require an employee to work reasonable overtime hours at overtime rates.</p> <p>(b) An employee may refuse to work overtime hours if they are unreasonable.</p> <p>(c) In determining whether overtime hours are reasonable or unreasonable for the purpose of this clause the following must be taken into account:</p> <p>(i) any risk to employee health and safety from working the additional hours;</p> <p>(ii) the employee’s personal circumstances, including family responsibilities;</p> <p>(iii) the needs of the workplace or enterprise in which the employee is employed;</p> <p>(iv) whether the employee is entitled to receive overtime payments, penalty rates or other compensation for, or a</p>	<p><u>Sunday—all overtime hours 200 225</u></p> <p><u>Public holiday—all overtime hours 250 275</u></p> <p><u>NOTE 1: The overtime rates for casual employees have been calculated by adding the casual loading specified in clause 11.3(b) to the overtime rates for full-time and part-time employees specified in clause 20.6.</u></p> <p><u>NOTE 2: Schedule A—Summary of Hourly Rates of Pay sets out the hourly overtime rate for all employee classifications.</u></p> <p>20.7 Time off instead of payment for overtime</p> <p>(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.</p> <p>(b) The period of time off that an employee is entitled to take is equivalent to the overtime payment that would have been made.</p> <p><u>EXAMPLE: By making an agreement under clause 20.7 an employee who worked 2 overtime hours at 150% of the minimum hourly rate is entitled to 3 hours’ time off.</u></p> <p>(c) Time off must be taken:</p>	
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	<p>level of remuneration that reflects an expectation of, working additional hours;</p> <p>(v) any notice given by the employer of any request or requirement to work the additional hours;</p> <p>(vi) any notice given by the employee of his or her intention to refuse to work the additional hours;</p> <p>(vii) the usual patterns of work in the industry, or the part of an industry, in which the employee works;</p> <p>(viii) the nature of the employee’s role, and the employee’s level of responsibility;</p> <p>(ix) whether the additional hours are in accordance with averaging terms of clause 25 in this award inserted pursuant to s.63 of the Act, that applies to the employee; and</p> <p>(x) any other relevant matter.</p>	<p>(i) within the period of 6 months after the overtime is worked; and</p> <p>(ii) at a time or times within that period of 6 months agreed by the employee and employer.</p> <p>(d) If the employee requests at any time, to be paid for overtime covered by an agreement under clause 20.7 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.</p> <p>(e) If time off for overtime that has been worked is not taken within the period of 6 months mentioned in clause 20.7(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.</p> <p>(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.</p> <p>(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</p>	
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		<p>overtime worked by the employee. If the employer agrees to the request, then clause 20.7 will apply to the overtime.</p> <p><u>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).</u></p> <p>(h) If, on the termination of the employee’s employment, time off for overtime worked by the employee to which clause 20.7 applies has not been taken, the employer must pay the employee for the overtime at the overtime rate applicable to the overtime when worked.</p> <p>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 20.7.</p>	
Breaks	[cl 27] Breaks	14. Breaks	The SDA does not object to the changes as marked.

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	<p>[cl 27.1] Breaks during work periods (a) Breaks will be given as follows:</p> <table border="0"> <thead> <tr> <th>Hours worked</th> <th>Rest break</th> <th>Meal break</th> </tr> </thead> <tbody> <tr> <td>Less than 4 hours</td> <td>No rest break</td> <td>No meal break</td> </tr> <tr> <td>4 hours but less than 5 hours</td> <td>One 10 minute rest break</td> <td>No meal break</td> </tr> <tr> <td>5 hours but less than 9 hours</td> <td>One 10 minute rest break</td> <td>One meal break of at least 30 minutes but not more than 60 minutes.</td> </tr> <tr> <td>9 hours or more</td> <td>One or two 10 minute rest breaks, with one taken in the first half of the work hours and the second taken in the second half of the work hours, two rest breaks will be given unless a second meal</td> <td>One or two meal breaks of at least 30 minutes but not more than 60 minutes.</td> </tr> </tbody> </table>	Hours worked	Rest break	Meal break	Less than 4 hours	No rest break	No meal break	4 hours but less than 5 hours	One 10 minute rest break	No meal break	5 hours but less than 9 hours	One 10 minute rest break	One meal break of at least 30 minutes but not more than 60 minutes.	9 hours or more	One or two 10 minute rest breaks, with one taken in the first half of the work hours and the second taken in the second half of the work hours, two rest breaks will be given unless a second meal	One or two meal breaks of at least 30 minutes but not more than 60 minutes.	<p>14.1 Employees are entitled to rest and meal breaks in the following circumstances: Table 2—Entitlements to rest and meal breaks</p> <table border="0"> <thead> <tr> <th><u>Hours worked per shift</u></th> <th><u>Rest breaks</u></th> <th><u>Meal breaks</u></th> </tr> </thead> <tbody> <tr> <td>Less than 4 hours</td> <td>No rest break</td> <td>No meal break</td> </tr> <tr> <td>4 hours or more but less than 5 hours</td> <td>One 10 minute paid rest break</td> <td>No meal break</td> </tr> <tr> <td>5 hours or more but less than 9 hours</td> <td>One 10 minute paid rest break</td> <td>One unpaid meal break of at least 30 minutes but not more than 60 minutes</td> </tr> <tr> <td>9 hours or more</td> <td>If 2 unpaid meal breaks are provided: One 10 minute paid rest break Two unpaid meal breaks of at least 30 minutes but not more than 60 minutes</td> <td>Or, if 2 unpaid meal breaks are not provided: Two 10 minute paid rest breaks — one to be taken in the first half of the shift and one in the second half of the shift One unpaid meal break of at least 30 minutes but not more than 60 minutes</td> </tr> </tbody> </table> <p>NOTE: Rest breaks count as time worked. Meal breaks do not count as time worked.</p>	<u>Hours worked per shift</u>	<u>Rest breaks</u>	<u>Meal breaks</u>	Less than 4 hours	No rest break	No meal break	4 hours or more but less than 5 hours	One 10 minute paid rest break	No meal break	5 hours or more but less than 9 hours	One 10 minute paid rest break	One unpaid meal break of at least 30 minutes but not more than 60 minutes	9 hours or more	If 2 unpaid meal breaks are provided: One 10 minute paid rest break Two unpaid meal breaks of at least 30 minutes but not more than 60 minutes	Or, if 2 unpaid meal breaks are not provided: Two 10 minute paid rest breaks — one to be taken in the first half of the shift and one in the second half of the shift One unpaid meal break of at least 30 minutes but not more than 60 minutes	
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	<p align="center">break is provided</p> <p>(b) The timing of the taking of a rest break or meal break is intended to provide a meaningful break for the employee during work hours.</p> <p>(c) An employee cannot be required to take a rest break or meal break within one hour of commencing or ceasing work. An employee cannot be required to take a rest break(s) combined with a meal break.</p> <p>(d) The time of taking rest and meal breaks and the duration of meal breaks form part of the roster and are subject to any agreement reached under clause 12.2 regarding a part-time employee’s regular pattern of work. An agreed variation pursuant to clause 12.3 or 12.5 may include a variation to the time of taking rest and meal breaks.</p> <p>(e) Rest breaks are paid breaks and meal breaks are unpaid breaks.</p> <p>(f) An employee cannot work more than five hours without a meal break.</p>	<p>14.2 The timing and duration of rest and meal breaks for part-time employees must be included in the roster and are subject to any agreement made under clause 10.3 regarding a part-time employee’s regular pattern of work.</p> <p>14.3 A variation agreed under clauses 10.5 and 10.7 for a part-time employee may include a variation to the time of taking rest and meal breaks.</p> <p><u>14.4 When rostering rest and meal breaks, the employer must seek to ensure that the employee has meaningful breaks during work hours</u></p> <p><u>14.5 An employer cannot require an employee:</u> <u>(a) to take a rest break or meal break within the first or the last hour of work; or</u> <u>(b) to take a rest break combined with a meal break; or</u> <u>(c) to work more than 5 hours without taking a meal break.</u></p>	
<p>Requests for flexible working arrangements</p>	<p>[cl 27A] Requests for flexible working arrangements</p> <p>[cl 27A.1] Employee may request change in working arrangements</p>	<p>6. Requests for flexible working arrangements</p> <p>6.1 Employee may request change in working arrangements</p>	<p>The SDA notes the inclusion of the common clause without alteration to its substantive provisions.</p>

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	<p>Clause 27A applies where an employee has made a request for a change in working arrangements under s.65 of the Act.</p> <p>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 s.65(1A).</p> <p>Note 2: An employer may only refuse a s.65 request for a change in working arrangements on ‘reasonable business grounds’ (see s.65(5) and (5A)).</p> <p>Note 3: Clause 27A is an addition to s.65.</p> <p>[cl 27A.2] Responding to the request Before responding to a request made under s.65, the employer must discuss the request with the employee and genuinely try to reach agreement on a change in working arrangements that will reasonably accommodate the employee’s circumstances having regard to: (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.</p>	<p>Clause 6 applies where an employee has made a request for a change in working arrangements under section 65 of the Act.</p> <p>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).</p> <p>NOTE 2: An employer may only refuse a section 65 request for a change in working arrangements on ‘reasonable business grounds’ (see section 65(5) and (5A)).</p> <p>NOTE 3: Clause 6 is an addition to section 65.</p> <p>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</p>	
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	<p>Note 1: The employer must give the employee a written response to an employee’s s.65 request within 21 days, stating whether the employer grants or refuses the request (s.65(4)).</p> <p>Note 2: If the employer refuses the request, the written response must include details of the reasons for the refusal (s.65(6)).</p> <p>[cl 27A.3] What the written response must include if the employer refuses the request</p> <p>Clause 27A.3 applies if the employer refuses the request and has not reached an agreement with the employee under clause 27A.2.</p> <p>(a) The written response under s.65(4) must include details of the reasons for the refusal, including the business ground or grounds for the refusal and how the ground or grounds apply.</p> <p>(b) If the employer and employee could not agree on a change in working arrangements under clause 27A.2, the written response under s.65(4) must:</p> <p>(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</p> <p>(ii) if the employer can offer the employee such changes in working</p>	<p>(c) any reasonable business grounds for refusing the request.</p> <p>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)).</p> <p>NOTE 2: If the employer refuses the request, the written response must include details of the reasons for the refusal (see section 65(6)).</p> <p>6.3 What the written response must include if the employer refuses the request</p> <p>(a) Clause 6.3 applies if the employer refuses the request and has not reached an agreement with the employee under clause 6.2.</p> <p>(b) 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.</p> <p>(c) 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:</p> <p>(i) state whether or not there are any changes in working arrangements</p>	
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	<p>arrangements, set out those changes in working arrangements.</p> <p>[cl 27A.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 27A.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.</p> <p>[cl 27A.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 27A, can be dealt with under clause 9—Dispute resolution.</p>	<p>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.</p> <p>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.</p> <p>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 30—Dispute resolution.</p>	
Annual leave	<p>Part 6—Leave and Public Holidays [cl 28] Annual leave</p> <p>[cl 28.1] Annual leave is provided for in the NES.</p>	<p>Part 6—Leave and Public Holidays</p> <p>22. Annual leave NOTE: Where an employee is receiving over-award payments resulting in the employee’s base rate</p>	<p>The SDA notes the change in the definition of shiftworker.</p> <p>The SDA submits that the retention of the term</p>

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	<p>[cl 28.2] Definition of shiftworker For the purpose of the additional week of annual leave provided for in the NES, a shiftworker is a seven 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 seven days a week.</p> <p>[cl 28.3] Annual leave loading (a) During a period of annual leave an employee will receive a loading calculated on the wage rate prescribed in clause 17—Minimum weekly wages. Annual leave loading is payable on leave accrued. (b) The loading will be as follows: (i) Day work Employees who would have worked on day work only had they not been on leave—17.5% or the relevant weekend penalty rates, whichever is the greater but not both. (ii) Shiftwork Employees who would have worked on shiftwork had they not been on leave—a loading of 17.5% or the shift loading (including relevant weekend penalty rates), whichever is the greater but not both.</p> <p>NB: The Award provides that per cl 28.3(b)(i) for dayworkers they are entitled to the relevant weekend</p>	<p><u>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).</u></p> <p><u>22.1 Annual leave is provided for in the NES. See sections 86 to 93 of the Act. It does not apply to casual employees.</u></p> <p>22.2 Additional paid annual leave for certain shiftworkers <u>A 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.</u></p> <p>22.3 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 15—Minimum rates 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: (i) Dayworkers</p>	<p>‘loading’ as opposed to ‘additional payment’ is of greater clarity at PLED clauses 22.2(a) and (b) respectively.</p>
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	<p>penalty rates or the 17.5% loading whichever is greater but not both.</p> <p>NES Entitlement:</p> <p>[s 86] Annual leave applies to employees other than casual employees</p> <p>[s 87] Entitlement to annual leave <i>Amount of leave</i> (1) For each year of service with his or her employer, an employee is entitled to: (a) 4 weeks of paid annual leave; or (b) 5 weeks of paid annual leave, if: (i) a modern award applies to the employee and defines or describes the employee as a shiftworker for the purposes of the National Employment Standards; or (ii) an enterprise agreement applies to the employee and defines or describes the employee as a shiftworker for the purposes of the National Employment Standards; or (iii) the employee qualifies for the shiftworker annual leave entitlement under subsection (3) (this relates to award/agreement free employees).</p> <p><i>Accrual of leave</i> (2) An employee’s entitlement to paid annual leave accrues progressively during a year of service according to the employee’s ordinary hours of work, and accumulates from year to year.</p> <p><i>Award/agreement free employees who qualify for the shiftworker entitlement</i></p>	<p>An employee who would have worked on day work only had they not been on leave must be paid the greater of either:</p> <ul style="list-style-type: none"> • the minimum hourly rate plus a loading of 17.5% of the minimum hourly rate; or • the relevant weekend penalty rate specified in clause 21.1. <p>(ii) Shiftworkers An employee who would have worked on shift work had they not been on leave must be paid the greater of either:</p> <ul style="list-style-type: none"> • the minimum hourly rate plus a loading of 17.5% of the minimum hourly rate; or • the relevant penalty rate specified in clause 21.1, including relevant weekend penalty rates. <p>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.</p>	
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	<p>(3) An award/agreement free employee qualifies for the shiftworker annual leave entitlement if:</p> <p>(a) the employee:</p> <ul style="list-style-type: none">(i) is employed in an enterprise in which shifts are continuously rostered 24 hours a day for 7 days a week; and(ii) is regularly rostered to work those shifts; and(iii) regularly works on Sundays and public holidays; or <p>(b) the employee is in a class of employees prescribed by the regulations as shiftworkers for the purposes of the National Employment Standards.</p> <p>(4) However, an employee referred to in subsection (3) does not qualify for the shiftworker annual leave entitlement if the employee is in a class of employees prescribed by the regulations as not being qualified for that entitlement.</p> <p>(5) Without limiting the way in which a class may be described for the purposes of paragraph (3)(b) or subsection (4), the class may be described by reference to one or more of the following:</p> <ul style="list-style-type: none">(a) a particular industry or part of an industry;(b) a particular kind of work;(c) a particular type of employment. <p>[88] Taking paid annual leave</p> <p>(1) Paid annual leave may be taken for a period agreed between an employee and his or her employer.</p>		
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	<p>(2) The employer must not unreasonably refuse to agree to a request by the employee to take paid annual leave.</p> <p>[s 89] Employee not taken to be on paid annual leave at certain times <i>Public holidays</i></p> <p>(1) If the period during which an employee takes paid annual leave includes a day or part-day that is a public holiday in the place where the employee is based for work purposes, the employee is taken not to be on paid annual leave on that public holiday.</p> <p>(2) If the period during which an employee takes paid annual leave includes a period of any other leave (other than unpaid parental leave) under this Part, or a period of absence from employment under Division 8 (which deals with community service leave), the employee is taken not to be on paid annual leave for the period of that other leave or absence.</p> <p>[s 90] Payment for annual leave</p> <p>(1) If, in accordance with this Division, an employee takes a period of paid annual leave, the employer must pay the employee at the employee's base rate of pay for the employee's ordinary hours of work in the period.</p> <p>(2) If, when the employment of an employee ends, the employee has a period of untaken paid annual leave, the employer must pay the employee the amount that would have been payable to the employee had the employee taken that period of leave.</p>		
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	<p>[s 91] Transfer of employment situations that affect entitlement to payment for period of untaken paid annual leave <i>Transfer of employment situation in which employer may decide not to recognise employee's service with first employer</i></p> <p>(1) Subsection 22(5) does not apply (for the purpose of this Division) to a transfer of employment between non-associated entities in relation to an employee, if the second employer decides not to recognise the employee's service with the first employer (for the purpose of this Division).</p> <p>(2) If subsection 22(5) applies (for the purpose of this Division) to a transfer of employment in relation to an employee, the employee is not entitled to be paid an amount under subsection 90(2) for a period of untaken paid annual leave.</p> <p>[s 92] Paid annual leave must not be cashed out except in accordance with permitted cashing out terms</p> <p>Paid annual leave must not be cashed out, except in accordance with:</p> <p>(a) cashing out terms included in a modern award or enterprise agreement under section 93, or</p> <p>(b) an agreement between an employer and an award/agreement free employee under subsection 94(1).</p> <p>[s 93] Modern awards and enterprise agreements may include terms relating to cashing out and taking paid annual leave <i>Terms about cashing out paid annual leave</i></p>		
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	<p>(1) A modern award or enterprise agreement may include terms providing for the cashing out of paid annual leave by an employee.</p> <p>(2) The terms must require that:</p> <p>(a) paid annual leave must not be cashed out if the cashing out would result in the employee’s remaining accrued entitlement to paid annual leave being less than 4 weeks; and</p> <p>(b) each cashing out of a particular amount of paid annual leave must be by a separate agreement in writing between the employer and the employee; and</p> <p>(c) the employee must be paid at least the full amount that would have been payable to the employee had the employee taken the leave that the employee has forgone.</p> <p><i>Terms about requirements to take paid annual leave</i></p> <p>(3) A modern award or enterprise agreement may include terms requiring an employee, or allowing for an employee to be required, to take paid annual leave in particular circumstances, but only if the requirement is reasonable.</p> <p><i>Terms about taking paid annual leave</i></p> <p>(4) A modern award or enterprise agreement may include terms otherwise dealing with the taking of paid annual leave.</p> <p>[s 94] Cashing out and taking paid annual leave for award/agreement free employees</p> <p><i>Agreements to cash out paid annual leave</i></p>		
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	<p>(1) An employer and an award/agreement free employee may agree to the employee cashing out a particular amount of the employee’s accrued paid annual leave.</p> <p>(2) The employer and the employee must not agree to the employee cashing out an amount of paid annual leave if the agreement would result in the employee’s remaining accrued entitlement to paid annual leave being less than 4 weeks.</p> <p>(3) Each agreement to cash out a particular amount of paid annual leave must be a separate agreement in writing.</p> <p>(4) The employer must pay the employee at least the full amount that would have been payable to the employee had the employee taken the leave that the employee has forgone.</p> <p><i>Requirements to take paid annual leave</i></p> <p>(5) An employer may require an award/agreement free employee to take a period of paid annual leave, but only if the requirement is reasonable.</p> <p>Note: A requirement to take paid annual leave may be reasonable if, for example:</p> <p>a) the employee has accrued an excessive amount of paid annual leave; or</p> <p>b) the employer's enterprise is being shut down for a period (for example, between Christmas and New Year).</p> <p><i>Agreements about taking paid annual leave</i></p> <p>(6) An employer and an award/agreement free employee may agree on when and how</p>		
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	<p>paid annual leave may be taken by the employee. Note: Matters that could be agreed include, for example, the following:</p> <p>a) that paid annual leave may be taken in advance of accrual;</p> <p>b) that paid annual leave must be taken within a fixed period of time after it is accrued;</p> <p>c) the form of application for paid annual leave;</p> <p>(d) d) that a specified period of notice must be given before taking paid annual leave.</p>		
<p>Annual leave in advance</p>	<p>[cl 28.4] 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.</p> <p>Note: An example of the type of agreement required by clause 28.4 is set out at Schedule F. There is no requirement to use the form of agreement set out at Schedule F.</p>	<p>22.4 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.</p> <p>NOTE: An example of the type of agreement required by clause 22.4 is set out at Schedule D—Agreement to Take Annual Leave in Advance. There is no requirement to use the</p>	<p>The SDA notes the inclusion of the common clause without alteration to its substantive provisions.</p>

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	<p>(c) The employer must keep a copy of any agreement under clause 28.4 as an employee record.</p> <p>(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 28.4, the employer may deduct from any money due to the employee on termination an amount equal to the amount that was paid to the employee in respect of any part of the period of annual leave taken in advance to which an entitlement has not been accrued.</p>	<p>form of agreement set out at Schedule D—Agreement to Take Annual Leave in Advance.</p> <p>(c) The employer must keep a copy of any agreement under clause 22.4 as an employee record.</p> <p>(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 22.4, the employer may deduct from any money due to the employee on termination an amount equal to the amount that was paid to the employee in respect of any part of the period of annual leave taken in advance to which an entitlement has not been accrued.</p>	
<p>Cashing out of annual leave</p>	<p>[cl 28.5] Cashing out of annual leave</p> <p>(a) Paid annual leave must not be cashed out except in accordance with an agreement under clause 28.5.</p> <p>(b) Each cashing out of a particular amount of paid annual leave must be the subject of a separate agreement under clause 28.5.</p> <p>(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.</p> <p>(d) An agreement under clause 28.5 must state:</p>	<p>22.5 Cashing out of annual leave</p> <p>(a) Paid annual leave must not be cashed out except in accordance with an agreement under clause 22.5(c).</p> <p>(b) Each cashing out of a particular amount of paid annual leave must be the subject of a separate agreement under clause 22.5(c).</p> <p>(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.</p>	<p>The SDA notes that the draft provision is substantially identical to the current provision.</p>

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	<p>(i) the amount of leave to be cashed out and the payment to be made to the employee for it; and</p> <p>(ii) the date on which the payment is to be made.</p> <p>(e) An agreement under clause 28.5 must be signed by the employer and employee and, if the employee is under 18 years of age, by the employee’s parent or guardian.</p> <p>(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.</p> <p>(g) An agreement must not result in the employee’s remaining accrued entitlement to paid annual leave being less than 4 weeks.</p> <p>(h) The maximum amount of accrued paid annual leave that may be cashed out in any period of 12 months is 2 weeks.</p> <p>(i) The employer must keep a copy of any agreement under clause 28.5 as an employee record.</p> <p>Note 1: Under section 344 of the Fair Work Act, an employer must not exert undue influence or undue pressure on an employee to make, or not make, an agreement under clause 28.5.</p> <p>Note 2: Under section 345(1) of the Fair Work Act, a person must not knowingly or recklessly make a false or misleading</p>	<p>(d) An agreement under clause 22.5(c) must state:</p> <p>(i) the amount of leave to be cashed out and the payment to be made to the employee for it; and</p> <p>(ii) the date on which the payment is to be made.</p> <p>(e) An agreement under clause 22.5(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.</p> <p>(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 22.3.</p> <p>(g) An agreement must not result in the employee’s remaining accrued entitlement to paid annual leave being less than 4 weeks.</p> <p>(h) The maximum amount of accrued paid annual leave that may be cashed out in any period of 12 months is 2 weeks.</p> <p>(i) The employer must keep a copy of any agreement under clause 22.5(c) as an employee record.</p> <p>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 22.5(c).</p>	
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	<p>representation about the workplace rights of another person under clause 28.5.</p> <p>Note 3: An example of the type of agreement required by clause 28.5 is set out at Schedule G. There is no requirement to use the form of agreement set out at Schedule G.</p>	<p>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 22.5.</p> <p>NOTE 3: An example of the type of agreement required by clause 22.5(c) is set out at Schedule E—Agreement to Cash Out Annual Leave. There is no requirement to use the form of agreement set out at Schedule E—Agreement to Cash Out Annual Leave.</p>	
<p>Excessive leave accruals: general provision</p>	<p>[cl 28.6] Excessive leave accruals: general provision Note: Clauses 28.6 to 28.8 contain provisions, additional to the National Employment Standards, about the taking of paid annual leave as a way of dealing with the accrual of excessive paid annual leave. See Part 2.2, Division 6 of the Fair Work Act. (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 28.2). (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.</p>	<p>22.6 Excessive leave accruals: general provision NOTE: Clauses 22.6 to 22.8 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. <u>See sections 86 to 93 of the Act.</u> (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 22.2). (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</p>	<p>The SDA notes the inclusion of the common clause without alteration to its substantive provisions (as noted in the comparison document as prepared by the Commission). However, contrary to this there is a minor alteration in reference to the Act as noted.</p>

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	<p>(c) Clause 28.7 sets out how an employer may direct an employee who has an excessive leave accrual to take paid annual leave.</p> <p>(d) Clause 28.8 sets out how an employee who has an excessive leave accrual may require an employer to grant paid annual leave requested by the employee.</p>	<p>reach agreement on how to reduce or eliminate the excessive leave accrual.</p> <p>(c) Clause 22.7 sets out how an employer may direct an employee who has an excessive leave accrual to take paid annual leave.</p> <p>(d) Clause 22.8 sets out how an employee who has an excessive leave accrual may require an employer to grant paid annual leave requested by the employee.</p>	
<p>Excessive leave accruals: direction by employer that leave be taken</p>	<p>[cl 28.7] Excessive leave accruals: direction by employer that leave be taken</p> <p>(a) If an employer has genuinely tried to reach agreement with an employee under clause 28.6(b) but agreement is not reached (including because the employee refuses to confer), the employer may direct the employee in writing to take one or more periods of paid annual leave.</p> <p>(b) However, a direction by the employer under paragraph (a):</p> <p>(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 28.6, 28.7 or 28.8 or otherwise agreed by the employer and employee) are taken into account; and</p>	<p>22.7 Excessive leave accruals: direction by employer that leave be taken</p> <p>(a) If an employer has genuinely tried to reach agreement with an employee under clause 22.6(b) but agreement is not reached (including because the employee refuses to confer), the employer may direct the employee in writing to take one or more periods of paid annual leave.</p> <p>(b) However, a direction by the employer under clause 22.7(a):</p> <p>(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 22.6, 22.7 or 22.8 or otherwise agreed by the employer and employee) are taken into account; and</p>	<p>The SDA notes the inclusion of the common clause without alteration to its substantive provisions.</p>

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	<p>(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 paragraph (a) that is in effect. (d) An employee to whom a direction has been given under paragraph (a) may request to take a period of paid annual leave as if the direction had not been given. Note 1: Paid annual leave arising from a request mentioned in paragraph (d) may result in the direction ceasing to have effect. See clause 28.7(b)(i). Note 2: Under section 88(2) of the Fair Work Act, the employer must not unreasonably refuse to agree to a request by the employee to take paid annual leave.</p>	<p>(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 22.7(a) that is in effect. (d) An employee to whom a direction has been given under clause 22.7(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 22.7(d) may result in the direction ceasing to have effect. See clause 22.7(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.</p>	
<p>Excessive leave accruals: request by employee for leave</p>	<p>[cl 28.8] Excessive leave accruals: request by employee for leave (a) If an employee has genuinely tried to reach agreement with an employer under clause 28.6(b) but agreement is</p>	<p>22.8 Excessive leave accruals: request by employee for leave (a) If an employee has genuinely tried to reach agreement with an employer under clause 22.6(b) but</p>	<p>The SDA notes the inclusion of the common clause without alteration to its substantive provisions.</p>

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	<p>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.</p> <p>(b) However, an employee may only give a notice to the employer under paragraph (a) if:</p> <p>(i) the employee has had an excessive leave accrual for more than 6 months at the time of giving the notice; and</p> <p>(ii) the employee has not been given a direction under clause 28.7(a) that, when any other paid annual leave arrangements (whether made under clause 28.6, 28.7 or 28.8 or otherwise agreed by the employer and employee) are taken into account, would eliminate the employee’s excessive leave accrual.</p> <p>(c) A notice given by an employee under paragraph (a) must not:</p> <p>(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 28.6, 28.7 or 28.8 or otherwise agreed by the employer and employee) are taken into account; or</p> <p>(ii) provide for the employee to take any period of paid annual leave of less than one week; or</p> <p>(iii) provide for the employee to take a period of paid annual leave beginning</p>	<p>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.</p> <p>(b) However, an employee may only give a notice to the employer under clause 22.8(a) if:</p> <p>(i) the employee has had an excessive leave accrual for more than 6 months at the time of giving the notice; and</p> <p>(ii) the employee has not been given a direction under clause 22.7(a) that, when any other paid annual leave arrangements (whether made under clause 22.6, 22.7 or 22.8 or otherwise agreed by the employer and employee) are taken into account, would eliminate the employee’s excessive leave accrual.</p> <p>(c) A notice given by an employee under clause 22.8(b) must not:</p> <p>(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 22.6, 22.7 or 22.8 or otherwise agreed by the employer and employee) are taken into account; or</p>	<p>However, the SDA notes an internal reference error at 22.8(e) as marked. It is submitted that the reference should read ‘22.8(a)’ in line with the FFIA clause 28.8(e).</p>
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	<p>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 paragraph (a) more than 4 weeks’ paid annual leave (or 5 weeks’ paid annual leave for a shiftworker, as defined by clause 28.2) in any period of 12 months. (e) The employer must grant paid annual leave requested by a notice under paragraph (a).</p>	<p>(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 22.8(b) more than 4 weeks’ paid annual leave (or 5 weeks’ paid annual leave for a shiftworker, as defined by clause 22.2) in any period of 12 months. (e) The employer must grant paid annual leave requested by a notice under clause 22.8(b).</p>	
<p>Personal/carer’s leave/compassionate leave</p>	<p>[cl 29] Personal/carer’s leave and compassionate leave [cl 29.1] Personal/carer’s leave and compassionate leave are provided for in the NES. [cl 29.2] Casual employees (a) Casual employees are entitled to be not available for work or to leave work to care for a person who is sick and requires care and support or who requires care due to an emergency.</p>	<p>23. Personal/carer’s leave and compassionate leave 23.1 Personal/carer’s leave and compassionate leave are provided for in the NES. <u>23.2 Casual employees</u> <u>(a) Subject to clause 23.2(b), casual employees are entitled to be absent from work, whether by making themselves unavailable for work or by leaving work, to care for a person who requires care because of:</u> (i) <u>illness or an injury; or</u></p>	<p>The SDA does not object to the changes as marked.</p>

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	<p>(b) Such leave is unpaid. A maximum of 48 hours’ absence is allowed by right with additional absence by agreement.</p> <p>[cl 29.3] An employer must not fail to re-engage a casual employee because the employee has accessed the entitlement under this clause.</p> <p>NES Entitlements: [s 95] This applies to employees other than casual employees.</p> <p>[s 96] Entitlement to paid personal/carer’s leave <i>Amount of leave</i> (1) For each year of service with his or her employer, an employee is entitled to 10 days of paid personal/carer’s leave.</p> <p><i>Accrual of leave</i> (2) An employee’s entitlement to paid personal/carer’s leave accrues progressively during a year of service according to the employee’s ordinary hours of work, and accumulates from year to year.</p> <p>[s 97] Taking paid personal/carer’s leave An employee may take paid personal/carer’s leave if the leave is taken: (a) because the employee is not fit for work because of a personal illness, or personal injury, affecting the employee; or (b) to provide care or support to a member of the employee’s immediate family, or a member of the employee’s household, who requires care or support because of:</p>	<p>(ii) an emergency.</p> <p>(b) A casual employee may only be absent from work under clause 23.2 for a period of up to 48 hours.</p> <p>(c) With the agreement of the employer, a casual employee may be absent from work for a purpose mentioned in clause 23.2 for longer than 48 hours.</p> <p>(d) A casual employee is not entitled to be paid for time away from work for a purpose mentioned in clause 23.2.</p> <p>(e) An employer must not fail to re-engage a casual employee because the employee has accessed the entitlement under clause 23.2.</p>	
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	<p>(i) a personal illness, or personal injury, affecting the member; or (ii) an unexpected emergency affecting the member.</p> <p>Note 1: The notice and evidence requirements of section 107 must be complied with.</p> <p>Note 2: If a female employee has an entitlement to paid personal/carer's leave, she may take that leave instead of taking unpaid special maternity leave under section 80.</p> <p>[s 98] Employee taken not to be on paid personal/carer's leave on public holiday If the period during which an employee takes paid personal/carer's leave includes a day or part-day that is a public holiday in the place where the employee is based for work purposes, the employee is taken not to be on paid personal/carer's leave on that public holiday.</p> <p>[s 99] Payment for paid personal/carer's leave If, in accordance with this Subdivision, an employee takes a period of paid personal/carer's leave, the employer must pay the employee at the employee's base rate of pay for the employee's ordinary hours of work in the period.</p>		
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	<p>[s 100] Paid personal/carer’s leave must not be cashed out except in accordance with permitted cashing out terms Paid personal/carer’s leave must not be cashed out, except in accordance with cashing out terms included in a modern award or enterprise agreement under section 101.</p> <p>[s 101] Modern awards and enterprise agreements may include terms relating to cashing out paid personal/carer’s leave (1) A modern award or enterprise agreement may include terms providing for the cashing out of paid personal/carer’s leave by an employee.</p> <p>(2) The terms must require that: (a) paid personal/carer’s leave must not be cashed out if the cashing out would result in the employee’s remaining accrued entitlement to paid personal/carer’s leave being less than 15 days; and (b) each cashing out of a particular amount of paid personal/carer’s leave must be by a separate agreement in writing between the employer and the employee; and (c) the employee must be paid at least the full amount that would have been payable to the employee had the employee taken the leave that the employee has forgone.</p> <p>Unpaid carers leave [s 102] Entitlement to unpaid carer’s leave An employee is entitled to 2 days of unpaid carer’s leave for each occasion (a</p>		
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	<p>permissible occasion) when a member of the employee’s immediate family, or a member of the employee’s household, requires care or support because of:</p> <ul style="list-style-type: none">(a) a personal illness, or personal injury, affecting the member; or(b) an unexpected emergency affecting the member. <p>[s 103] Taking unpaid carer’s leave</p> <p>(1) An employee may take unpaid carer’s leave for a particular permissible occasion if the leave is taken to provide care or support as referred to in section 102.</p> <p>(2) An employee may take unpaid carer’s leave for a particular permissible occasion as:</p> <ul style="list-style-type: none">(a) a single continuous period of up to 2 days; or(b) any separate periods to which the employee and his or her employer agree. <p>(3) An employee cannot take unpaid carer’s leave during a particular period if the employee could instead take paid personal/carer’s leave.</p> <p>Compassionate leave</p> <p>[s 104] Entitlement to compassionate leave</p> <p>An employee is entitled to 2 days of compassionate leave for each occasion (a permissible occasion) when a member of the employee’s immediate family, or a member of the employee’s household:</p> <ul style="list-style-type: none">(a) contracts or develops a personal illness that poses a serious threat to his or her life; or		
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	<p>(b) sustains a personal injury that poses a serious threat to his or her life; or (c) dies.</p> <p>[s 105] Taking compassionate leave (1) An employee may take compassionate leave for a particular permissible occasion if the leave is taken: (a) to spend time with the member of the employee’s immediate family or household who has contracted or developed the personal illness, or sustained the personal injury, referred to in section 104; or (b) after the death of the member of the employee’s immediate family or household referred to in section 104.</p> <p>(2) An employee may take compassionate leave for a particular permissible occasion as: (a) a single continuous 2 day period; or (b) 2 separate periods of 1 day each; or (c) any separate periods to which the employee and his or her employer agree.</p> <p>(3) If the permissible occasion is the contraction or development of a personal illness, or the sustaining of a personal injury, the employee may take the compassionate leave for that occasion at any time while the illness or injury persists. Note: The notice and evidence requirements of section 107 must be complied with.</p> <p>[s 106] Payment for compassionate leave (other than for casual employees) If, in accordance with this Subdivision, an employee, other than a casual employee, takes a period of compassionate leave, the</p>		
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	<p>employer must pay the employee at the employee’s base rate of pay for the employee’s ordinary hours of work in the period. Note: For casual employees, compassionate leave is unpaid leave.</p> <p>[s 107] Notice and evidence requirements <i>Notice</i></p> <p>(1) An employee must give his or her employer notice of the taking of leave under this Division by the employee.</p> <p>(2) The notice:</p> <p>(a) must be given to the employer as soon as practicable (which may be a time after the leave has started); and</p> <p>(b) must advise the employer of the period, or expected period, of the leave.</p> <p><i>Evidence</i></p> <p>(3) An employee who has given his or her employer notice of the taking of leave under this Division must, if required by the employer, give the employer evidence that would satisfy a reasonable person that:</p> <p>(a) if it is paid personal/carer's leave--the leave is taken for a reason specified in section 97; or</p> <p>(b) if it is unpaid carer's leave--the leave is taken for a permissible occasion in circumstances specified in <u>subsection</u> 103(1); or</p>		
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	<p>(c) if it is compassionate leave--the leave is taken for a permissible occasion in circumstances specified in <u>subsection 105(1)</u>.</p> <p><i>Compliance</i></p> <p>(4) An employee is not entitled to take leave under this Division unless the employee complies with this section.</p> <p><i>Modern awards and enterprise agreements may include evidence requirements</i></p> <p>(5) A modern award or enterprise agreement may include terms relating to the kind of evidence that an employee must provide in order to be entitled to paid personal/carer's leave, unpaid carer's leave or compassionate leave.</p> <p>Note: Personal information given to an employer under this section may be regulated under the <i>Privacy Act 1988</i></p>		
Public Holidays	<p>[cl 30] Public holidays</p> <p>[cl 30.1] Public holidays are provided for in the NES.</p> <p>[cl 30.2] An employer and employee may agree to substitute another day for a day that would otherwise be a public holiday under the NES. If an employee works on either the public holiday or the substitute day public holiday penalties apply. If both days are worked, the public holiday penalties must be paid on one day chosen by the employee.</p>	<p>27. Public holidays</p> <p>27.1 Public holiday entitlements are provided for in the NES.</p> <p><u>27.2 Substitution of public holidays by agreement</u></p> <p><u>(a) An employer and employee may agree to substitute another day for a day that would otherwise be a public holiday under the NES.</u></p> <p><u>(b) 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.</u></p>	The SDA does not object to the changes as marked.

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	<p>[cl 30.3] 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. If an employee works on either the part-day public holiday or the substitute part-day public holiday penalties apply. If both part-days are worked, the public holiday penalties must be paid on one part-day chosen by the employee.</p> <p>[cl 30.4] Work on a public holiday must be compensated by payment at the rate of 225% (250% for casual employees, inclusive of the casual loading).</p> <p>NOTE: For provisions relating to part-day public holidays see Schedule E—Part-day Public Holidays.</p> <p>NES Entitlement: [s 114] Entitlement to be absent from employment on public holiday <i>Employee entitled to be absent on public holiday</i></p> <p>(1) An employee is entitled to be absent from his or her employment on a day or part-day that is a public holiday in the place where the employee is based for work purposes.</p> <p><i>Reasonable requests to work on public holidays</i></p> <p>(2) However, an employer may request an employee to work on a public holiday if the request is reasonable.</p>	<p>27.3 Payment for work on public holiday or substitute day</p> <p>(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 20—Overtime and 21—Penalty rates.</p> <p>(b) An employer must pay an employee who works on a part-day public holiday, or on a day that is substituted for a part-day public holiday, at the public holiday penalty rate set out in clauses 20—Overtime and 21—Penalty rates.</p> <p>(c) If an employee works on both a public holiday and on a day that is substituted for the public holiday, the public holiday penalty rate is applicable to only one of those days. The employee may choose which day is to be paid at the public holiday penalty rate.</p> <p>(d) If an employee works on both a part-day public holiday and on a part-day that is substituted for the part-day public holiday, the public holiday penalty rate is applicable to only one of those days. The employee may choose which part-day is to be paid at the public holiday penalty rate.</p> <p>NOTE: For further provisions relating to part-day public holidays see</p>	
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	<p>(3) If an employer requests an employee to work on a public holiday, the employee may refuse the request if:</p> <p>(a) the request is not reasonable; or</p> <p>(b) the refusal is reasonable.</p> <p>(4) In determining whether a request, or a refusal of a request, to work on a public holiday is reasonable, the following must be taken into account:</p> <p>(a) the nature of the employer’s workplace or enterprise (including its operational requirements), and the nature of the work performed by the employee;</p> <p>(b) the employee’s personal circumstances, including family responsibilities;</p> <p>(c) whether the employee could reasonably expect that the employer might request work on the public holiday;</p> <p>(d) 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, work on the public holiday;</p> <p>(e) the type of employment of the employee (for example, whether full-time, part-time, casual or shiftwork);</p> <p>(f) the amount of notice in advance of the public holiday given by the employer when making the request;</p> <p>(g) in relation to the refusal of a request—the amount of notice in advance of the public holiday given by the employee when refusing the request;</p> <p>(h) any other relevant matter.</p> <p>[s 115] Meaning of <i>public holiday</i> <i>The public holidays</i> (1) The following are public holidays:</p>	<p>Schedule F—Part-day Public Holidays.</p>	
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	<p>(a) each of these days: (i) 1 January (New Year’s Day); (ii) 26 January (Australia Day); (iii) Good Friday; (iv) Easter Monday; (v) 25 April (Anzac Day); (vi) the Queen’s birthday holiday (on the day on which it is celebrated in a State or Territory or a region of a State or Territory); (vii) 25 December (Christmas Day); (viii) 26 December (Boxing Day);</p> <p>(b) any other day, or part-day, declared or prescribed by or under a law of a State or Territory to be observed generally within the State or Territory, or a region of the State or Territory, as a public holiday, other than a day or part-day, or a kind of day or part-day, that is excluded by the regulations from counting as a public holiday.</p> <p><i>Substituted public holidays under State or Territory laws</i></p> <p>(2) If, under (or in accordance with a procedure under) a law of a State or Territory, a day or part-day is substituted for a day or part-day that would otherwise be a public holiday because of subsection (1), then the substituted day or part-day is the public holiday.</p> <p>(3) A modern award or enterprise agreement may include terms providing for an employer and employee to agree on the substitution of a day or part-day for a day or part-day that would otherwise be a public holiday because of subsection (1) or (2).</p>		
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	<p><i>Substituted public holidays under modern awards and enterprise agreements</i></p> <p>(4) An employer and an award/agreement free employee may agree on the substitution of a day or part-day for a day or part-day that would otherwise be a public holiday because of subsection (1) or (2).</p> <p>Note: This Act does not exclude State and Territory laws that deal with the declaration, prescription or substitution of public holidays, but it does exclude State and Territory laws that relate to the rights and obligations of an employee or employer in relation to public holidays (see paragraph 27(2)(j)).</p> <p>[s 116] Payment for absence on public holiday</p> <p>If, in accordance with this Division, an employee is absent from his or her employment on a day or part-day that is a public holiday, the employer must pay the employee at the employee’s base rate of pay for the employee’s ordinary hours of work on the day or part-day.</p> <p>Note: If the employee does not have ordinary hours of work on the public holiday, the employee is not entitled to payment under this section. For example, the employee is not entitled to payment if the employee is a casual employee who is not rostered on for the public holiday, .or is a part-time employee whose part-time hours do not include the day of the week on which the public holiday occurs.</p>		
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<p>Community service leave</p>	<p>[cl 31] Community service leave Community service leave is provided for in the NES.</p> <p>NES Entitlements:</p> <p>[s 108] Entitlement to be absent from employment for engaging in eligible community service activity An employee who engages in an eligible community service activity is entitled to be absent from his or her employment for a period if: (a) the period consists of one or more of the following: (i) time when the employee engages in the activity; (ii) reasonable travelling time associated with the activity; (iii) reasonable rest time immediately following the activity; and (b) unless the activity is jury service—the employee’s absence is reasonable in all the circumstances.</p> <p>[s 109] Meaning of <i>eligible community service activity</i> <i>General</i> (1) Each of the following is an eligible community service activity: (a) jury service (including attendance for jury selection) that is required by or under a law of the Commonwealth, a State or a Territory; or (b) a voluntary emergency management activity (see subsection (2)); or (c) an activity prescribed in regulations made for the purpose of subsection (4).</p>	<p>25. Community service leave Community service leave is provided for in the NES.</p>	<p>The SDA notes no changes to the provision.</p>
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	<p><i>Voluntary emergency management activities</i></p> <p>(2) An employee engages in a voluntary emergency management activity if, and only if:</p> <p>(a) the employee engages in an activity that involves dealing with an emergency or natural disaster; and</p> <p>(b) the employee engages in the activity on a voluntary basis (whether or not the employee directly or indirectly takes or agrees to take an honorarium, gratuity or similar payment wholly or partly for engaging in the activity); and</p> <p>(c) the employee is a member of, or has a member-like association with, a recognised emergency management body; and</p> <p>(d) either:</p> <p style="padding-left: 20px;">(i) the employee was requested by or on behalf of the body to engage in the activity; or</p> <p style="padding-left: 20px;">(ii) no such request was made, but it would be reasonable to expect that, if the circumstances had permitted the making of such a request, it is likely that such a request would have been made.</p> <p>(3) A recognised emergency management body is:</p> <p>(a) a body, or part of a body, that has a role or function under a plan that:</p> <p style="padding-left: 20px;">(i) is for coping with emergencies and/or disasters; and</p> <p style="padding-left: 20px;">(ii) is prepared by the Commonwealth, a State or a Territory; or</p> <p>(b) a fire-fighting, civil defence or rescue body, or part of such a body; or</p> <p>(c) any other body, or part of a body, a substantial purpose of which involves:</p>		
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	<p>(i) securing the safety of persons or animals in an emergency or natural disaster; or (ii) protecting property in an emergency or natural disaster; or (iii) otherwise responding to an emergency or natural disaster; or (d) a body, or part of a body, prescribed by the regulations; but does not include a body that was established, or is continued in existence, for the purpose, or for purposes that include the purpose, of entitling one or more employees to be absent from their employment under this Division.</p> <p><i>Regulations may prescribe other activities</i> (4) The regulations may prescribe an activity that is of a community service nature as an eligible community service activity.</p> <p>[s 110] Notice and evidence requirements <i>Notice</i></p>		
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	<p>(1) An employee who wants an absence from his or her employment to be covered by this Division must give his or her employer notice of the absence.</p> <p>(2) The notice:</p> <p>(a) must be given to the employer as soon as practicable (which may be a time after the absence has started); and</p> <p>(b) must advise the employer of the period, or expected period, of the absence.</p> <p><i>Evidence</i></p> <p>(3) An employee who has given his or her employer notice of an absence under subsection (1) must, if required by the employer, give the employer evidence that would satisfy a reasonable person that the absence is because the employee has been or will be engaging in an eligible community service activity.</p> <p><i>Compliance</i></p> <p>(4) An employee's absence from his or her employment is not covered by this Division unless the employee complies with this section.</p> <p>Note: Personal information given to an employer under this section may be regulated under the Privacy Act 1988 .</p>		
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	<p>[s 111] Payment to employees (other than casuals) on jury service</p> <p><i>Application of this section</i></p> <p>(1) This section applies if:</p> <p>(a) in accordance with this Division, an employee is absent from his or her employment for a period because of jury service; and</p> <p>(b) the employee is not a casual employee.</p> <p><i>Employees to be paid base rate of pay</i></p> <p>(2) Subject to subsections (3), (4) and (5), the employer must pay the employee at the employee’s base rate of pay for the employee’s ordinary hours of work in the period.</p> <p><i>Evidence</i></p> <p>(3) The employer may require the employee to give the employer evidence that would satisfy a reasonable person:</p> <p>(a) that the employee has taken all necessary steps to obtain any amount of jury service pay to which the employee is entitled; and</p> <p>(b) of the total amount (even if it is a nil amount) of jury service pay that has been paid, or is payable, to the employee for the period.</p> <p>(4) If, in accordance with subsection (3), the employer requires the employee to give the employer the evidence referred to in that subsection:</p> <p>(a) the employee is not entitled to payment under subsection (2) unless the employee provides the evidence; and</p> <p>(b) if the employee provides the evidence—the amount payable to the employee under</p>		
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	<p>subsection (2) is reduced by the total amount of jury service pay that has been paid, or is payable, to the employee, as disclosed in the evidence.</p> <p><i>Payment only required for first 10 days of absence</i></p> <p>(5) If an employee is absent because of jury service in relation to a particular jury service summons for a period, or a number of periods, of more than 10 days in total:</p> <p>(a) the employer is only required to pay the employee for the first 10 days of absence; and</p> <p>(b) the evidence provided in response to a requirement under subsection (3) need only relate to the first 10 days of absence; and</p> <p>(c) the reference in subsection (4) to the total amount of jury service pay as disclosed in evidence is a reference to the total amount so disclosed for the first 10 days of absence.</p> <p><i>Meaning of jury service pay</i></p> <p>(6) Jury service pay means an amount paid in relation to jury service under a law of the Commonwealth, a State or a Territory, other than an amount that is, or that is in the nature of, an expense-related allowance.</p> <p><i>Meaning of jury service summons</i></p> <p>(7) Jury service summons means a summons or other instruction (however described) that requires a person to attend for, or perform, jury service.</p> <p>[s 112] State and Territory laws that are not excluded</p> <p>(1) This Act is not intended to apply to the exclusion of laws of a State or Territory</p>		
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	<p>that provide employee entitlements in relation to engaging in eligible community service activities, to the extent that those entitlements are more beneficial to employees than the entitlements under this Division.</p>		
<p>Leave to deal with Family and Domestic Violence</p>	<p>[cl 32] Leave to deal with Family and Domestic Violence</p> <p>[cl 32.1] This clause applies to all employees, including casuals.</p> <p>[cl 32.2] Definitions</p> <p>(a) In this clause:</p> <p>family and domestic violence means violent, threatening or other abusive behaviour by a family member of an employee that seeks to coerce or control the employee and that causes them harm or to be fearful.</p> <p>family member means:</p> <p>(i) a spouse, de facto partner, child, parent, grandparent, grandchild or sibling of the employee; or</p> <p>(ii) a child, parent, grandparent, grandchild or sibling of a spouse or de facto partner of the employee; or</p> <p>(iii) a person related to the employee according to Aboriginal or Torres Strait Islander kinship rules.</p> <p>(b) A reference to a spouse or de facto partner in the definition of family member in clause 32.2(a) includes a former spouse or de facto partner.</p> <p>[cl 32.3] Entitlement to unpaid leave</p>	<p>26. Unpaid family and domestic violence leave</p> <p>Unpaid family and domestic violence leave is provided for in the NES.</p> <p>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.</p> <p>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.</p>	<p>The SDA submits that the retention of the current provision provides an element of clarity as to the entitlement.</p>

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	<p>An employee is entitled to 5 days unpaid leave to deal with family and domestic violence, as follows:</p> <ul style="list-style-type: none">(a) the leave is available in full at the start of each 12-month period of the employee’s employment; and(b) the leave does not accumulate from year to year; and(c) is available in full to part-time and casual employees. <p>Note: 1. A period of leave to deal with family and domestic violence may be less than a day by agreement between the employee and the employer. 2. The employer and employee may agree that the employee may take more than 5 days’ unpaid leave to deal with family and domestic violence.</p> <p>[cl 32.4] Taking unpaid leave</p> <p>An employee may take unpaid leave to deal with family and domestic violence if the employee:</p> <ul style="list-style-type: none">(a) is experiencing family and domestic violence; and(b) needs to do something to deal with the impact of the family and domestic violence and it is impractical for the employee to do that thing outside their ordinary hours of work. <p>Note: The reasons for which an employee may take leave include making arrangements for their safety or the safety of a family member (including</p>		
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	<p>relocation), attending urgent court hearings, or accessing police services.</p> <p>[cl 32.5] Service and continuity The time an employee is on unpaid leave to deal with family and domestic violence does not count as service but does not break the employee's continuity of service.</p> <p>[cl 32.6] Notice and evidence requirements</p> <p>(a) Notice An employee must give their employer notice of the taking of leave by the employee under clause 32. The notice: (i) must be given to the employer as soon as practicable (which may be a time after the leave has started); and (ii) must advise the employer of the period, or expected period, of the leave.</p> <p>(b) Evidence An employee who has given their employer notice of the taking of leave under clause 32 must, if required by the employer, give the employer evidence that would satisfy a reasonable person that the leave is taken for the purpose specified in clause 32.4.</p> <p>Note: Depending on the circumstances such evidence may include a document issued by the police service, a court or a family violence support service, or a statutory declaration.</p>		
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	<p>[cl 32.7] Confidentiality</p> <p>(a) Employers must take steps to ensure information concerning any notice an employee has given, or evidence an employee has provided under clause 32.6 is treated confidentially, as far as it is reasonably practicable to do so.</p> <p>(b) Nothing in clause 32 prevents an employer from disclosing information provided by an employee if the disclosure is required by an Australian law or is necessary to protect the life, health or safety of the employee or another person.</p> <p>Note: Information concerning an employee's experience of family and domestic violence is sensitive and if mishandled can have adverse consequences for the employee. Employers should consult with such employees regarding the handling of this information.</p> <p>[cl 32.8] Compliance</p> <p>An employee is not entitled to take leave under clause 32 unless the employee complies with clause 32.</p>		
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<p>Schedule A – Summary of Hourly Rates of Pay</p>	<p>Schedule A—Transitional Provisions</p> <p>A.1 General</p> <p>A.1.1 The provisions of this schedule deal with minimum obligations only.</p> <p>A.1.2 The provisions of this schedule are to be applied:</p> <p>(a) when there is a difference, in money or percentage terms, between a provision in a relevant transitional minimum wage instrument (including the transitional default casual loading) or award-based transitional instrument on the one hand and an equivalent provision in this award on the other;</p> <p>(b) when a loading or penalty in a relevant transitional minimum wage instrument or award-based transitional instrument</p>	<p>Schedule A—Summary of Hourly Rates of Pay</p> <p>See also Part 4—Wages and Allowances and Part 5—Overtime and Penalty Rates.</p> <p>A.1 Full-time and part-time adult employees</p> <p>A.1.1 Full-time and part-time adult employees—ordinary and penalty rates</p> <table border="1"> <thead> <tr> <th></th> <th>Ordinary hours</th> <th>Evening work</th> </tr> </thead> <tbody> <tr> <td>– Monday to Friday –</td> <td>10.00 pm and midnight</td> <td>Evening work – Monday to Friday– after midnight and before 6.00 am</td> </tr> <tr> <td>Saturday</td> <td>Sunday – level 1</td> <td>Sunday – levels 2 and 3</td> </tr> <tr> <td>Public holiday</td> <td>% of minimum hourly rate</td> <td></td> </tr> <tr> <td></td> <td>100% 110% 115% 125%</td> <td></td> </tr> <tr> <td></td> <td>125% 150% 225%</td> <td></td> </tr> <tr> <td></td> <td>\$ \$ \$ \$</td> <td></td> </tr> <tr> <td></td> <td>\$ \$ \$</td> <td></td> </tr> <tr> <td>Fast food employee level 1</td> <td>21.41</td> <td></td> </tr> <tr> <td></td> <td>23.55 24.62 26.76 26.76</td> <td></td> </tr> <tr> <td></td> <td>48.17</td> <td></td> </tr> <tr> <td>Fast food employee level 2</td> <td>22.70</td> <td></td> </tr> <tr> <td></td> <td>24.97 26.11 28.38</td> <td></td> </tr> <tr> <td></td> <td>34.05 51.08</td> <td></td> </tr> <tr> <td>Fast food employee level 3—in charge of one or no person</td> <td>23.05 25.36 26.51 28.81</td> <td></td> </tr> <tr> <td></td> <td>34.58 51.86</td> <td></td> </tr> </tbody> </table>		Ordinary hours	Evening work	– Monday to Friday –	10.00 pm and midnight	Evening work – Monday to Friday– after midnight and before 6.00 am	Saturday	Sunday – level 1	Sunday – levels 2 and 3	Public holiday	% of minimum hourly rate			100% 110% 115% 125%			125% 150% 225%			\$ \$ \$ \$			\$ \$ \$		Fast food employee level 1	21.41			23.55 24.62 26.76 26.76			48.17		Fast food employee level 2	22.70			24.97 26.11 28.38			34.05 51.08		Fast food employee level 3—in charge of one or no person	23.05 25.36 26.51 28.81			34.58 51.86		<p>The SDA does not object to the insertion of a summary of hourly rates of pay.</p>
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	<p>has no equivalent provision in this award;</p> <p>(c) when a loading or penalty in this award has no equivalent provision in a relevant transitional minimum wage instrument or award-based transitional instrument;</p> <p>(d) when there is a loading or penalty in this award but there is no relevant transitional minimum wage instrument or award-based transitional instrument.</p> <p>A.2 Minimum wages – existing minimum wage lower</p> <p>A.2.1 The following transitional arrangements apply to an employer which, immediately prior to 1 January 2010:</p> <p>(a) was obliged,</p>	<p>Fast food employee level 3—in charge of 2 or more people 23.33 25.66 26.83 29.16 35.00 52.49</p> <p>A.1.2 Full-time and part-time adult employees—overtime rates</p> <p>Monday to Saturday – first 2 hours Monday to Saturday – after 2 hours Sunday – all hours Public holiday – all hours % of minimum hourly rate 150% 200% 200% 250% \$ \$ \$ \$</p> <p>Fast food employee level 1 32.12 42.82 42.82 53.53</p> <p>Fast food employee level 2 34.05 45.40 45.40 56.75</p> <p>Fast food employee level 3—in charge of one or no person 34.58 46.10 46.10 57.63</p> <p>Fast food employee level 3—in charge of 2 or more people 35.00 46.66 46.66 58.33</p> <p>A.2 Casual adult employees</p> <p>A.2.1 Casual adult employees—ordinary and penalty rates</p> <p>Ordinary hours Evening work – Monday to Friday – 10.00 pm and midnight Evening work – Monday to Friday – after midnight and before</p>	
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	<p>(b) but for the operation of an agreement-based transitional instrument or an enterprise agreement would have been obliged, or</p> <p>(c) if it had been an employer in the industry or of the occupations covered by this award would have been obliged</p> <p>by a transitional minimum wage instrument and/or an award-based transitional instrument to pay a minimum wage lower than that in this award for any classification of employee.</p> <p>A.2.2 In this clause minimum wage includes:</p> <p>(a) a minimum wage for a junior employee, an employee to whom training arrangements apply and an employee with a disability;</p> <p>(b) a piecework rate; and</p>	<table border="1"> <tr> <td>6.00 am</td> <td>Saturday</td> <td>Sunday</td> <td></td> </tr> <tr> <td>– level 1</td> <td>Sunday – levels 2</td> <td></td> <td></td> </tr> <tr> <td>and 3</td> <td>Public holiday</td> <td></td> <td></td> </tr> <tr> <td></td> <td>% of minimum hourly rate</td> <td></td> <td></td> </tr> <tr> <td></td> <td>125%</td> <td>135%</td> <td>140%</td> </tr> <tr> <td></td> <td>150%</td> <td>175%</td> <td>250%</td> </tr> <tr> <td></td> <td>\$</td> <td>\$</td> <td>\$</td> </tr> <tr> <td></td> <td>\$</td> <td>\$</td> <td>\$</td> </tr> <tr> <td>Fast food employee level 1</td> <td>26.76</td> <td></td> <td></td> </tr> <tr> <td></td> <td>28.90</td> <td>29.97</td> <td>32.12</td> </tr> <tr> <td></td> <td>53.53</td> <td></td> <td></td> </tr> <tr> <td>Fast food employee level 2</td> <td>28.38</td> <td></td> <td></td> </tr> <tr> <td></td> <td>30.65</td> <td>31.78</td> <td>34.05</td> </tr> <tr> <td></td> <td>39.73</td> <td>56.75</td> <td></td> </tr> <tr> <td>Fast food employee level 3—in charge of one or no person</td> <td>28.81</td> <td>31.12</td> <td>32.27</td> </tr> <tr> <td></td> <td>40.34</td> <td>57.63</td> <td></td> </tr> <tr> <td>Fast food employee level 3—in charge of 2 or more people</td> <td>29.16</td> <td></td> <td></td> </tr> <tr> <td></td> <td>31.50</td> <td>32.66</td> <td>35.00</td> </tr> <tr> <td></td> <td>40.83</td> <td>58.33</td> <td></td> </tr> <tr> <td></td> <td>Monday to Saturday –</td> <td></td> <td></td> </tr> <tr> <td></td> <td>first 2 hours</td> <td>Monday to Saturday –</td> <td></td> </tr> <tr> <td></td> <td>after 2 hours</td> <td>Sunday – all hours</td> <td></td> </tr> <tr> <td></td> <td>Public holiday – all hours</td> <td></td> <td></td> </tr> <tr> <td></td> <td>% of minimum hourly rate</td> <td></td> <td></td> </tr> <tr> <td></td> <td>175%</td> <td>225%</td> <td>225%</td> </tr> <tr> <td></td> <td>\$</td> <td>\$</td> <td>\$</td> </tr> <tr> <td>Fast food employee level 1</td> <td>37.47</td> <td></td> <td></td> </tr> <tr> <td></td> <td>48.17</td> <td>48.17</td> <td>58.88</td> </tr> <tr> <td>Fast food employee level 2</td> <td>39.73</td> <td></td> <td></td> </tr> <tr> <td></td> <td>51.08</td> <td>51.08</td> <td>62.43</td> </tr> </table>	6.00 am	Saturday	Sunday		– level 1	Sunday – levels 2			and 3	Public holiday				% of minimum hourly rate				125%	135%	140%		150%	175%	250%		\$	\$	\$		\$	\$	\$	Fast food employee level 1	26.76				28.90	29.97	32.12		53.53			Fast food employee level 2	28.38				30.65	31.78	34.05		39.73	56.75		Fast food employee level 3—in charge of one or no person	28.81	31.12	32.27		40.34	57.63		Fast food employee level 3—in charge of 2 or more people	29.16				31.50	32.66	35.00		40.83	58.33			Monday to Saturday –				first 2 hours	Monday to Saturday –			after 2 hours	Sunday – all hours			Public holiday – all hours				% of minimum hourly rate				175%	225%	225%		\$	\$	\$	Fast food employee level 1	37.47				48.17	48.17	58.88	Fast food employee level 2	39.73				51.08	51.08	62.43	
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<p>1 July 2011 60%</p> <p>1 July 2012 40%</p> <p>1 July 2013 20%</p>	<p>Under 16 years 8.56 9.42</p> <p>9.84 10.70 10.70</p> <p>19.26</p> <p>16 years 10.71 11.78 12.32</p> <p>13.39 13.39 24.10</p> <p>17 years 12.85 14.14 14.78</p> <p>16.06 16.06 28.91</p> <p>18 years 14.99 16.49 17.24</p> <p>18.74 18.74 33.73</p> <p>19 years 17.13 18.84 19.70</p> <p>21.41 21.41 38.54</p> <p>20 years 19.27 21.20 22.16</p> <p>24.09 24.09 43.36</p> <p>Fast food level 2</p>	
<p>A.2.6 The employer must apply any increase in minimum wages in this award resulting from an annual wage review;</p>	<p>Under 16 years 9.08 9.99</p> <p>10.44 11.35 13.62</p> <p>20.43</p> <p>16 years 11.35 12.49 13.05</p> <p>14.19 17.03 25.54</p> <p>17 years 13.62 14.98 15.66</p> <p>17.03 20.43 30.65</p> <p>18 years 15.89 17.48 18.27</p> <p>19.86 23.84 35.75</p> <p>19 years 18.16 19.98 20.88</p> <p>22.70 27.24 40.86</p> <p>20 years 20.43 22.47 23.49</p> <p>25.54 30.65 45.97</p> <p>Fast food level 3— in charge of one or no person</p>	
<p>A.2.7 These provisions cease to operate from the beginning of the first full pay period on or after 1 July 2014;</p>	<p>Under 16 years 9.22 10.14</p> <p>10.60 11.53 13.83</p> <p>20.75</p>	
<p>A.3 Minimum wages – existing minimum wage higher</p>		
<p>A.3.1 The following transitional arrangements apply to an employer which, immediately prior to 1 January 2010:</p>		
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<p>(b) but for the operation of an agreement-based transitional instrument or an enterprise agreement would have been obliged, or</p>		

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	<p>(c) if it had been an employer in the industry or of the occupations covered by this award would have been obliged</p> <p>by a transitional minimum wage instrument and/or an award-based transitional instrument to pay a minimum wage higher than that in this award for any classification of employee.</p> <p>A.3.2 In this clause minimum wage includes:</p> <p>(a) a minimum wage for a junior employee, an employee to whom training arrangements apply and an employee with a disability;</p> <p>(b) a piecework rate; and</p> <p>(c) any applicable industry allowance.</p> <p>A.3.3 Prior to the first full pay period on or after 1 July 2010 the employer must pay no less</p>	<table border="1"> <tr> <td>16 years</td> <td>11.52</td> <td>12.67</td> <td>13.25</td> </tr> <tr> <td></td> <td>14.40</td> <td>17.28</td> <td>25.92</td> </tr> <tr> <td>17 years</td> <td>13.83</td> <td>15.21</td> <td>15.90</td> </tr> <tr> <td></td> <td>17.29</td> <td>20.75</td> <td>31.12</td> </tr> <tr> <td>18 years</td> <td>16.13</td> <td>17.74</td> <td>18.55</td> </tr> <tr> <td></td> <td>20.16</td> <td>24.20</td> <td>36.29</td> </tr> <tr> <td>19 years</td> <td>18.44</td> <td>20.28</td> <td>21.21</td> </tr> <tr> <td></td> <td>23.05</td> <td>27.66</td> <td>41.49</td> </tr> <tr> <td>20 years</td> <td>20.74</td> <td>22.81</td> <td>23.85</td> </tr> <tr> <td></td> <td>25.93</td> <td>31.11</td> <td>46.67</td> </tr> <tr> <td colspan="4">Fast food level 3— in charge of 2 or more people</td> </tr> <tr> <td colspan="4">Under 16 years</td> </tr> <tr> <td></td> <td>9.33</td> <td>10.26</td> <td></td> </tr> <tr> <td></td> <td>10.73</td> <td>11.66</td> <td>14.00</td> </tr> <tr> <td></td> <td>20.99</td> <td></td> <td></td> </tr> <tr> <td>16 years</td> <td>11.66</td> <td>12.83</td> <td>13.41</td> </tr> <tr> <td></td> <td>14.58</td> <td>17.49</td> <td>26.24</td> </tr> <tr> <td>17 years</td> <td>14.00</td> <td>15.40</td> <td>16.10</td> </tr> <tr> <td></td> <td>17.50</td> <td>21.00</td> <td>31.50</td> </tr> <tr> <td>18 years</td> <td>16.33</td> <td>17.96</td> <td>18.78</td> </tr> <tr> <td></td> <td>20.41</td> <td>24.50</td> <td>36.74</td> </tr> <tr> <td>19 years</td> <td>18.66</td> <td>20.53</td> <td>21.46</td> </tr> <tr> <td></td> <td>23.33</td> <td>27.99</td> <td>41.99</td> </tr> <tr> <td>20 years</td> <td>21.00</td> <td>23.10</td> <td>24.15</td> </tr> <tr> <td></td> <td>26.25</td> <td>31.50</td> <td>47.25</td> </tr> <tr> <td colspan="4">A.3.3 Full-time and part-time junior employees—overtime rates</td> </tr> <tr> <td>Age</td> <td>Monday to Saturday – first 2 hours</td> <td>Monday to Saturday – after 2 hours</td> <td>Sunday – all hours</td> </tr> <tr> <td></td> <td>Public holiday – all hours</td> <td colspan="2">% of junior hourly rate</td> </tr> <tr> <td></td> <td></td> <td>150%</td> <td>200%</td> </tr> <tr> <td></td> <td></td> <td>200%</td> <td>250%</td> </tr> </table>	16 years	11.52	12.67	13.25		14.40	17.28	25.92	17 years	13.83	15.21	15.90		17.29	20.75	31.12	18 years	16.13	17.74	18.55		20.16	24.20	36.29	19 years	18.44	20.28	21.21		23.05	27.66	41.49	20 years	20.74	22.81	23.85		25.93	31.11	46.67	Fast food level 3— in charge of 2 or more people				Under 16 years					9.33	10.26			10.73	11.66	14.00		20.99			16 years	11.66	12.83	13.41		14.58	17.49	26.24	17 years	14.00	15.40	16.10		17.50	21.00	31.50	18 years	16.33	17.96	18.78		20.41	24.50	36.74	19 years	18.66	20.53	21.46		23.33	27.99	41.99	20 years	21.00	23.10	24.15		26.25	31.50	47.25	A.3.3 Full-time and part-time junior employees—overtime rates				Age	Monday to Saturday – first 2 hours	Monday to Saturday – after 2 hours	Sunday – all hours		Public holiday – all hours	% of junior hourly rate				150%	200%			200%	250%	
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		17.12	21.40																																																																																				
16 years	16.07	21.42	21.42																																																																																				
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17 years	19.28	25.70	25.70																																																																																				
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19 years	25.70	34.26	34.26																																																																																				
		42.83																																																																																					
20 years	28.91	38.54	38.54																																																																																				
		48.18																																																																																					
<p>A.3.4 The difference between the minimum wage for the classification in this award and the minimum wage in clause A.3.3 is referred to as the transitional amount.</p>																																																																																							
<p>A.3.5 From the following dates the employer must pay no less than the minimum wage for the classification in this award plus the specified proportion of the transitional amount:</p>																																																																																							
<p>First full pay period on or after</p>																																																																																							
<p>1 July 2010</p>	<p>80%</p>																																																																																						
<p>1 July 2011</p>	<p>60%</p>																																																																																						
<p>1 July 2012</p>	<p>40%</p>																																																																																						
<p>1 July 2013</p>	<p>20%</p>																																																																																						
<p>A.3.6 The employer must apply any increase in minimum wages in this award resulting from an</p>	<table border="1"> <tr> <td></td> <td>\$</td> <td>\$</td> <td>\$</td> <td>\$</td> </tr> <tr> <td colspan="5">Fast food level 2</td> </tr> <tr> <td>Under 16 years</td> <td></td> <td>13.62</td> <td>18.16</td> <td></td> </tr> <tr> <td></td> <td></td> <td>18.16</td> <td>22.70</td> <td></td> </tr> <tr> <td>16 years</td> <td>17.03</td> <td>22.70</td> <td>22.70</td> <td></td> </tr> <tr> <td></td> <td></td> <td>28.38</td> <td></td> <td></td> </tr> <tr> <td>17 years</td> <td>20.43</td> <td>27.24</td> <td>27.24</td> <td></td> </tr> <tr> <td></td> <td></td> <td>34.05</td> <td></td> <td></td> </tr> <tr> <td>18 years</td> <td>23.84</td> <td>31.78</td> <td>31.78</td> <td></td> </tr> <tr> <td></td> <td></td> <td>39.73</td> <td></td> <td></td> </tr> <tr> <td>19 years</td> <td>27.24</td> <td>36.32</td> <td>36.32</td> <td></td> </tr> <tr> <td></td> <td></td> <td>45.40</td> <td></td> <td></td> </tr> <tr> <td>20 years</td> <td>30.65</td> <td>40.86</td> <td>40.86</td> <td></td> </tr> <tr> <td></td> <td></td> <td>51.08</td> <td></td> <td></td> </tr> <tr> <td colspan="5">Fast food level 3—in charge of one or no person</td> </tr> <tr> <td>Under 16 years</td> <td></td> <td>13.83</td> <td>18.44</td> <td></td> </tr> <tr> <td></td> <td></td> <td>18.44</td> <td>23.05</td> <td></td> </tr> </table>		\$	\$	\$	\$	Fast food level 2					Under 16 years		13.62	18.16				18.16	22.70		16 years	17.03	22.70	22.70				28.38			17 years	20.43	27.24	27.24				34.05			18 years	23.84	31.78	31.78				39.73			19 years	27.24	36.32	36.32				45.40			20 years	30.65	40.86	40.86				51.08			Fast food level 3—in charge of one or no person					Under 16 years		13.83	18.44				18.44	23.05		
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	<p>annual wage review. If the transitional amount is equal to or less than any increase in minimum wages resulting from the 2010 annual wage review the transitional amount is to be set off against the increase and the other provisions of this clause will not apply.</p> <p>A.3.7 These provisions cease to operate from the beginning of the first full pay period on or after 1 July 2014.</p> <p>A.4 Loadings and penalty rates</p> <p>For the purposes of this schedule loading or penalty means a:</p> <ul style="list-style-type: none"> • casual or part-time loading; • Saturday, Sunday, public holiday, evening or other penalty; • shift allowance/penalty. 	<table border="1"> <tr> <td>16 years</td> <td>17.28</td> <td>23.04</td> <td>23.04</td> </tr> <tr> <td></td> <td>28.80</td> <td></td> <td></td> </tr> <tr> <td>17 years</td> <td>20.75</td> <td>27.66</td> <td>27.66</td> </tr> <tr> <td></td> <td>34.58</td> <td></td> <td></td> </tr> <tr> <td>18 years</td> <td>24.20</td> <td>32.26</td> <td>32.26</td> </tr> <tr> <td></td> <td>40.33</td> <td></td> <td></td> </tr> <tr> <td>19 years</td> <td>27.66</td> <td>36.88</td> <td>36.88</td> </tr> <tr> <td></td> <td>46.10</td> <td></td> <td></td> </tr> <tr> <td>20 years</td> <td>31.11</td> <td>41.48</td> <td>41.48</td> </tr> <tr> <td></td> <td>51.85</td> <td></td> <td></td> </tr> <tr> <td colspan="4">Fast food level 3—in charge of 2 or more people</td> </tr> <tr> <td>Under 16 years</td> <td>14.00</td> <td>18.66</td> <td></td> </tr> <tr> <td></td> <td>18.66</td> <td>23.33</td> <td></td> </tr> <tr> <td>16 years</td> <td>17.49</td> <td>23.32</td> <td>23.32</td> </tr> <tr> <td></td> <td>29.15</td> <td></td> <td></td> </tr> <tr> <td>17 years</td> <td>21.00</td> <td>28.00</td> <td>28.00</td> </tr> <tr> <td></td> <td>35.00</td> <td></td> <td></td> </tr> <tr> <td>18 years</td> <td>24.50</td> <td>32.66</td> <td>32.66</td> </tr> <tr> <td></td> <td>40.83</td> <td></td> <td></td> </tr> <tr> <td>19 years</td> <td>27.99</td> <td>37.32</td> <td>37.32</td> </tr> <tr> <td></td> <td>46.65</td> <td></td> <td></td> </tr> <tr> <td>20 years</td> <td>31.50</td> <td>42.00</td> <td>42.00</td> </tr> <tr> <td></td> <td>52.50</td> <td></td> <td></td> </tr> <tr> <td colspan="4">A.3.4 Casual junior employees—ordinary and penalty rates</td> </tr> <tr> <td>Age</td> <td>Ordinary hours</td> <td>Evening work</td> <td></td> </tr> <tr> <td></td> <td>– Monday to Friday –</td> <td></td> <td></td> </tr> <tr> <td></td> <td>10.00 pm and midnight</td> <td>Evening work – Monday to Friday – after</td> <td></td> </tr> <tr> <td></td> <td></td> <td>midnight and before 6.00 am</td> <td></td> </tr> <tr> <td></td> <td>Saturday</td> <td>Sunday – level</td> <td></td> </tr> <tr> <td>1</td> <td>Sunday</td> <td></td> <td></td> </tr> </table>	16 years	17.28	23.04	23.04		28.80			17 years	20.75	27.66	27.66		34.58			18 years	24.20	32.26	32.26		40.33			19 years	27.66	36.88	36.88		46.10			20 years	31.11	41.48	41.48		51.85			Fast food level 3—in charge of 2 or more people				Under 16 years	14.00	18.66			18.66	23.33		16 years	17.49	23.32	23.32		29.15			17 years	21.00	28.00	28.00		35.00			18 years	24.50	32.66	32.66		40.83			19 years	27.99	37.32	37.32		46.65			20 years	31.50	42.00	42.00		52.50			A.3.4 Casual junior employees—ordinary and penalty rates				Age	Ordinary hours	Evening work			– Monday to Friday –				10.00 pm and midnight	Evening work – Monday to Friday – after				midnight and before 6.00 am			Saturday	Sunday – level		1	Sunday		
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<p>A.5 Loadings and penalty rates – existing loading or penalty rate lower</p>	<table border="1"> <tr> <td>– levels 2 and 3</td> <td>Public holiday</td> <td></td> <td></td> </tr> <tr> <td>% of junior hourly rate</td> <td></td> <td></td> <td></td> </tr> <tr> <td>125%</td> <td>135%</td> <td>140%</td> <td>150%</td> </tr> <tr> <td>150%</td> <td>175%</td> <td>250%</td> <td></td> </tr> <tr> <td>\$</td> <td>\$</td> <td>\$</td> <td>\$</td> </tr> <tr> <td>\$</td> <td>\$</td> <td>\$</td> <td></td> </tr> </table>	– levels 2 and 3	Public holiday			% of junior hourly rate				125%	135%	140%	150%	150%	175%	250%		\$	\$	\$	\$	\$	\$	\$																						
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<p>A.5.1 The following transitional arrangements apply to an employer which, immediately prior to 1 January 2010:</p>	<p>Fast food level 1</p>																																													
<p>(a) was obliged,</p>	<table border="1"> <tr> <td>Under 16 years</td> <td>10.70</td> <td>11.56</td> <td></td> </tr> <tr> <td>11.98</td> <td>12.84</td> <td>12.84</td> <td></td> </tr> <tr> <td>21.40</td> <td></td> <td></td> <td></td> </tr> </table>	Under 16 years	10.70	11.56		11.98	12.84	12.84		21.40																																				
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<p>(b) but for the operation of an agreement-based transitional instrument or an enterprise agreement would have been obliged, or</p>	<table border="1"> <tr> <td>16 years</td> <td>13.39</td> <td>14.46</td> <td>14.99</td> </tr> <tr> <td>16.07</td> <td>16.07</td> <td>26.78</td> <td></td> </tr> <tr> <td>17 years</td> <td>16.06</td> <td>17.35</td> <td>17.99</td> </tr> <tr> <td>19.28</td> <td>19.28</td> <td>32.13</td> <td></td> </tr> <tr> <td>18 years</td> <td>18.74</td> <td>20.24</td> <td>20.99</td> </tr> <tr> <td>22.49</td> <td>22.49</td> <td>37.48</td> <td></td> </tr> <tr> <td>19 years</td> <td>21.41</td> <td>23.13</td> <td>23.98</td> </tr> <tr> <td>25.70</td> <td>25.70</td> <td>42.83</td> <td></td> </tr> <tr> <td>20 years</td> <td>24.09</td> <td>26.01</td> <td>26.98</td> </tr> <tr> <td>28.91</td> <td>28.91</td> <td>48.18</td> <td></td> </tr> </table>	16 years	13.39	14.46	14.99	16.07	16.07	26.78		17 years	16.06	17.35	17.99	19.28	19.28	32.13		18 years	18.74	20.24	20.99	22.49	22.49	37.48		19 years	21.41	23.13	23.98	25.70	25.70	42.83		20 years	24.09	26.01	26.98	28.91	28.91	48.18						
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<p>(c) if it had been an employer in the industry or of the occupations covered by this award would have been obliged</p>	<p>Fast food level 2</p> <table border="1"> <tr> <td>Under 16 years</td> <td>11.35</td> <td>12.26</td> <td></td> </tr> <tr> <td>12.71</td> <td>13.62</td> <td>15.89</td> <td></td> </tr> <tr> <td>22.70</td> <td></td> <td></td> <td></td> </tr> <tr> <td>16 years</td> <td>14.19</td> <td>15.32</td> <td>15.89</td> </tr> <tr> <td>17.03</td> <td>19.86</td> <td>28.38</td> <td></td> </tr> <tr> <td>17 years</td> <td>17.03</td> <td>18.39</td> <td>19.07</td> </tr> <tr> <td>20.43</td> <td>23.84</td> <td>34.05</td> <td></td> </tr> <tr> <td>18 years</td> <td>19.86</td> <td>21.45</td> <td>22.25</td> </tr> <tr> <td>23.84</td> <td>27.81</td> <td>39.73</td> <td></td> </tr> <tr> <td>19 years</td> <td>22.70</td> <td>24.52</td> <td>25.42</td> </tr> <tr> <td>27.24</td> <td>31.78</td> <td>45.40</td> <td></td> </tr> </table>	Under 16 years	11.35	12.26		12.71	13.62	15.89		22.70				16 years	14.19	15.32	15.89	17.03	19.86	28.38		17 years	17.03	18.39	19.07	20.43	23.84	34.05		18 years	19.86	21.45	22.25	23.84	27.81	39.73		19 years	22.70	24.52	25.42	27.24	31.78	45.40		
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<p>by the terms of a transitional minimum wage instrument or an award-based transitional instrument to pay a particular loading or penalty at a lower rate than the equivalent loading or penalty in this</p>																																														

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<p>award for any classification of employee.</p>	<table border="1"> <tr> <td>20 years</td> <td>25.54</td> <td>27.58</td> <td>28.60</td> </tr> <tr> <td></td> <td>30.65</td> <td>35.75</td> <td>51.08</td> </tr> </table>	20 years	25.54	27.58	28.60		30.65	35.75	51.08																																													
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<p>A.5.2 Prior to the first full pay period on or after 1 July 2010 the employer must pay no less than the loading or penalty in the relevant transitional minimum wage instrument or award-based transitional instrument for the classification concerned.</p>	<p>Fast food level 3—in charge of one or no person</p> <table border="1"> <tr> <td>Under 16 years</td> <td>11.53</td> <td>12.45</td> <td></td> </tr> <tr> <td></td> <td>12.91</td> <td>13.83</td> <td>16.14</td> </tr> <tr> <td></td> <td>23.05</td> <td></td> <td></td> </tr> <tr> <td>16 years</td> <td>14.40</td> <td>15.55</td> <td>16.13</td> </tr> <tr> <td></td> <td>17.28</td> <td>20.16</td> <td>28.80</td> </tr> <tr> <td>17 years</td> <td>17.29</td> <td>18.67</td> <td>19.36</td> </tr> <tr> <td></td> <td>20.75</td> <td>24.20</td> <td>34.58</td> </tr> <tr> <td>18 years</td> <td>20.16</td> <td>21.78</td> <td>22.58</td> </tr> <tr> <td></td> <td>24.20</td> <td>28.23</td> <td>40.33</td> </tr> <tr> <td>19 years</td> <td>23.05</td> <td>24.89</td> <td>25.82</td> </tr> <tr> <td></td> <td>27.66</td> <td>32.27</td> <td>46.10</td> </tr> <tr> <td>20 years</td> <td>25.93</td> <td>28.00</td> <td>29.04</td> </tr> <tr> <td></td> <td>31.11</td> <td>36.30</td> <td>51.85</td> </tr> </table>	Under 16 years	11.53	12.45			12.91	13.83	16.14		23.05			16 years	14.40	15.55	16.13		17.28	20.16	28.80	17 years	17.29	18.67	19.36		20.75	24.20	34.58	18 years	20.16	21.78	22.58		24.20	28.23	40.33	19 years	23.05	24.89	25.82		27.66	32.27	46.10	20 years	25.93	28.00	29.04		31.11	36.30	51.85	
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<p>A.5.3 The difference between the loading or penalty in this award and the rate in clause A.5.2 is referred to as the transitional percentage.</p>	<p>Fast food level 3—in charge of 2 or more people</p> <table border="1"> <tr> <td>Under 16 years</td> <td>11.66</td> <td>12.60</td> <td></td> </tr> <tr> <td></td> <td>13.06</td> <td>14.00</td> <td>16.33</td> </tr> <tr> <td></td> <td>23.33</td> <td></td> <td></td> </tr> <tr> <td>16 years</td> <td>14.58</td> <td>15.74</td> <td>16.32</td> </tr> <tr> <td></td> <td>17.49</td> <td>20.41</td> <td>29.15</td> </tr> <tr> <td>17 years</td> <td>17.50</td> <td>18.90</td> <td>19.60</td> </tr> <tr> <td></td> <td>21.00</td> <td>24.50</td> <td>35.00</td> </tr> <tr> <td>18 years</td> <td>20.41</td> <td>22.05</td> <td>22.86</td> </tr> <tr> <td></td> <td>24.50</td> <td>28.58</td> <td>40.83</td> </tr> </table>	Under 16 years	11.66	12.60			13.06	14.00	16.33		23.33			16 years	14.58	15.74	16.32		17.49	20.41	29.15	17 years	17.50	18.90	19.60		21.00	24.50	35.00	18 years	20.41	22.05	22.86		24.50	28.58	40.83																	
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	<p>by the terms of a transitional minimum wage instrument or an award-based transitional instrument to pay a particular loading or penalty at a higher rate than the equivalent loading or penalty in this award, or to pay a particular loading or penalty and there is no equivalent loading or penalty in this award, for any classification of employee.</p> <p>A.6.2 Prior to the first full pay period on or after 1 July 2010 the employer must pay no less than the loading or penalty in the relevant transitional minimum wage instrument or award-based transitional instrument.</p> <p>A.6.3 The difference between the loading or penalty in this award and the rate in clause A.6.2 is referred to as the transitional percentage. Where there is no equivalent loading or penalty in this award, the transitional percentage is the rate in A.6.2.</p>	<table border="1"> <tr> <td>19 years</td> <td>29.98</td> <td>38.54</td> <td>38.54</td> </tr> <tr> <td></td> <td>47.11</td> <td></td> <td></td> </tr> <tr> <td>20 years</td> <td>33.72</td> <td>43.36</td> <td>43.36</td> </tr> <tr> <td></td> <td>52.99</td> <td></td> <td></td> </tr> <tr> <td colspan="4">Fast food level 2</td> </tr> <tr> <td>Under 16 years</td> <td>15.89</td> <td>20.43</td> <td>20.43</td> </tr> <tr> <td></td> <td>24.97</td> <td></td> <td></td> </tr> <tr> <td>16 years</td> <td>19.86</td> <td>25.54</td> <td>25.54</td> </tr> <tr> <td></td> <td>31.21</td> <td></td> <td></td> </tr> <tr> <td>17 years</td> <td>23.84</td> <td>30.65</td> <td>30.65</td> </tr> <tr> <td></td> <td>37.46</td> <td></td> <td></td> </tr> <tr> <td>18 years</td> <td>27.81</td> <td>35.75</td> <td>35.75</td> </tr> <tr> <td></td> <td>43.70</td> <td></td> <td></td> </tr> <tr> <td>19 years</td> <td>31.78</td> <td>40.86</td> <td>40.86</td> </tr> <tr> <td></td> <td>49.94</td> <td></td> <td></td> </tr> <tr> <td>20 years</td> <td>35.75</td> <td>45.97</td> <td>45.97</td> </tr> <tr> <td></td> <td>56.18</td> <td></td> <td></td> </tr> <tr> <td colspan="4">Fast food level 3—in charge of one or no person</td> </tr> <tr> <td>Under 16 years</td> <td>16.14</td> <td>20.75</td> <td>20.75</td> </tr> <tr> <td></td> <td>25.36</td> <td></td> <td></td> </tr> <tr> <td>16 years</td> <td>20.16</td> <td>25.92</td> <td>25.92</td> </tr> <tr> <td></td> <td>31.68</td> <td></td> <td></td> </tr> <tr> <td>17 years</td> <td>24.20</td> <td>31.12</td> <td>31.12</td> </tr> <tr> <td></td> <td>38.03</td> <td></td> <td></td> </tr> <tr> <td>18 years</td> <td>28.23</td> <td>36.29</td> <td>36.29</td> </tr> <tr> <td></td> <td>44.36</td> <td></td> <td></td> </tr> <tr> <td>19 years</td> <td>32.27</td> <td>41.49</td> <td>41.49</td> </tr> <tr> <td></td> <td>50.71</td> <td></td> <td></td> </tr> <tr> <td>20 years</td> <td>36.30</td> <td>46.67</td> <td>46.67</td> </tr> <tr> <td></td> <td>57.04</td> <td></td> <td></td> </tr> <tr> <td>Age</td> <td colspan="3">Monday to Saturday – first</td> </tr> </table>	19 years	29.98	38.54	38.54		47.11			20 years	33.72	43.36	43.36		52.99			Fast food level 2				Under 16 years	15.89	20.43	20.43		24.97			16 years	19.86	25.54	25.54		31.21			17 years	23.84	30.65	30.65		37.46			18 years	27.81	35.75	35.75		43.70			19 years	31.78	40.86	40.86		49.94			20 years	35.75	45.97	45.97		56.18			Fast food level 3—in charge of one or no person				Under 16 years	16.14	20.75	20.75		25.36			16 years	20.16	25.92	25.92		31.68			17 years	24.20	31.12	31.12		38.03			18 years	28.23	36.29	36.29		44.36			19 years	32.27	41.49	41.49		50.71			20 years	36.30	46.67	46.67		57.04			Age	Monday to Saturday – first			
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	<p>A.6.4 From the following dates the employer must pay no less than the loading or penalty in this award plus the specified proportion of the transitional percentage:</p> <p>First full pay period on or after</p> <table border="0"> <tr> <td>1 July 2010</td> <td>80%</td> </tr> <tr> <td>1 July 2011</td> <td>60%</td> </tr> <tr> <td>1 July 2012</td> <td>40%</td> </tr> <tr> <td>1 July 2013</td> <td>20%</td> </tr> </table> <p>A.6.5 These provisions cease to operate from the beginning of the first full pay period on or after 1 July 2014.</p> <p>A.7 Loadings and penalty rates – no existing loading or penalty rate</p> <p>A.7.1 The following transitional arrangements apply to an employer not covered by clause A.5 or A.6 in relation to a particular loading or penalty in this award.</p>	1 July 2010	80%	1 July 2011	60%	1 July 2012	40%	1 July 2013	20%	<table border="0"> <tr> <td>2 hours</td> <td>Monday to Saturday – after</td> <td></td> <td></td> <td></td> </tr> <tr> <td>2 hours</td> <td>Sunday – all hours</td> <td></td> <td></td> <td></td> </tr> <tr> <td></td> <td>Public holiday – all hours</td> <td></td> <td></td> <td></td> </tr> <tr> <td></td> <td>% of junior hourly rate</td> <td></td> <td></td> <td></td> </tr> <tr> <td></td> <td></td> <td>175%</td> <td>225%</td> <td>225%</td> </tr> <tr> <td></td> <td></td> <td>275%</td> <td></td> <td></td> </tr> <tr> <td></td> <td></td> <td>\$</td> <td>\$</td> <td>\$</td> </tr> <tr> <td></td> <td></td> <td>\$</td> <td>\$</td> <td>\$</td> </tr> <tr> <td></td> <td>Fast food level 3—in charge of 2 or more people</td> <td></td> <td></td> <td></td> </tr> <tr> <td></td> <td>Under 16 years</td> <td>16.33</td> <td>20.99</td> <td></td> </tr> <tr> <td></td> <td></td> <td>20.99</td> <td>25.66</td> <td></td> </tr> <tr> <td></td> <td>16 years</td> <td>20.41</td> <td>26.24</td> <td>26.24</td> </tr> <tr> <td></td> <td></td> <td>32.07</td> <td></td> <td></td> </tr> <tr> <td></td> <td>17 years</td> <td>24.50</td> <td>31.50</td> <td>31.50</td> </tr> <tr> <td></td> <td></td> <td>38.50</td> <td></td> <td></td> </tr> <tr> <td></td> <td>18 years</td> <td>28.58</td> <td>36.74</td> <td>36.74</td> </tr> <tr> <td></td> <td></td> <td>44.91</td> <td></td> <td></td> </tr> <tr> <td></td> <td>19 years</td> <td>32.66</td> <td>41.99</td> <td>41.99</td> </tr> <tr> <td></td> <td></td> <td>51.32</td> <td></td> <td></td> </tr> <tr> <td></td> <td>20 years</td> <td>36.75</td> <td>47.25</td> <td>47.25</td> </tr> <tr> <td></td> <td></td> <td>57.75</td> <td></td> <td></td> </tr> </table>	2 hours	Monday to Saturday – after				2 hours	Sunday – all hours					Public holiday – all hours					% of junior hourly rate						175%	225%	225%			275%					\$	\$	\$			\$	\$	\$		Fast food level 3—in charge of 2 or more people					Under 16 years	16.33	20.99				20.99	25.66			16 years	20.41	26.24	26.24			32.07				17 years	24.50	31.50	31.50			38.50				18 years	28.58	36.74	36.74			44.91				19 years	32.66	41.99	41.99			51.32				20 years	36.75	47.25	47.25			57.75			
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	<p>A.7.2 Prior to the first full pay period on or after 1 July 2010 the employer need not pay the loading or penalty in this award.</p> <p>A.7.3 From the following dates the employer must pay no less than the following percentage of the loading or penalty in this award:</p> <table data-bbox="638 635 1012 959"><tr><td>First full pay period on or after</td><td></td></tr><tr><td>1 July 2010</td><td>20%</td></tr><tr><td>1 July 2011</td><td>40%</td></tr><tr><td>1 July 2012</td><td>60%</td></tr><tr><td>1 July 2013</td><td>80%</td></tr></table> <p>A.7.4 These provisions cease to operate from the beginning of the first full pay period on or after 1 July 2014.</p> <p>A.8 Former Division 2B employers</p> <p>A.8.1 This clause applies to an employer which, immediately prior to 1 January 2011, was</p>	First full pay period on or after		1 July 2010	20%	1 July 2011	40%	1 July 2012	60%	1 July 2013	80%		
First full pay period on or after													
1 July 2010	20%												
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1 July 2012	60%												
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	<p>covered by a Division 2B State award.</p> <p>A.8.2 All of the terms of a Division 2B State award applying to a Division 2B employer are continued in effect until the end of the full pay period commencing before 1 February 2011.</p> <p>A.8.3 Subject to this clause, from the first full pay period commencing on or after 1 February 2011 a Division 2B employer must pay no less than the minimum wages, loadings and penalty rates which it would be required to pay under this Schedule if it had been a national system employer immediately prior to 1 January 2010.</p> <p>A.8.4 Despite clause A.8.3, where a minimum wage, loading or penalty rate in a Division 2B State award immediately prior to 1 February 2011 was lower than the corresponding minimum wage, loading or penalty rate in this award, nothing in this Schedule</p>		
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	<p>requires a Division 2B employer to pay more than the minimum wage, loading or penalty rate in this award.</p> <p>A.8.5 Despite clause A.8.3, where a minimum wage, loading or penalty rate in a Division 2B State award immediately prior to 1 February 2011 was higher than the corresponding minimum wage, loading or penalty rate in this award, nothing in this Schedule requires a Division 2B employer to pay less than the minimum wage, loading or penalty rate in this award.</p> <p>A.8.6 In relation to a Division 2B employer this Schedule commences to operate from the beginning of the first full pay period on or after 1 January 2011 and ceases to operate from the beginning of the first full pay period on or after 1 July 2014.</p>		
Schedule B— Classifications	<p>B.1 Fast Food Employee Level 1</p> <p>B.1.1 An employee engaged in the preparation, the receipt of orders,</p>	<p>B.1 Wage-related allowances B.1.1 The following wage-related allowances are based on the standard rate, defined in clause 2— Definitions as the minimum hourly</p>	The SDA does not object to the substance of the new Schedule B.

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	<p>cooking, sale, serving or delivery of meals, snacks and/or beverages which are sold to the public primarily to take away or in food courts in shopping centres.</p> <p>B.1.2 A Fast Food Employee Level 1 will undertake duties as directed within the limits of their competence, skills and training including incidental cleaning and cleaning of toilets.</p> <p>B.2 Fast Food Employee Level 2 An employee who has the major responsibility on a day to day basis for supervising Fast Food employees Level 1 and/or training new employees or an employee required to exercise trade skills.</p> <p>B.3 Fast Food Employee Level 3 An employee appointed by the employer to be in charge of a shop, food outlet, or delivery outlet.</p>	<p>rate for a fast food employee level 2 in clause 15—Minimum rates (\$22.70).</p> <table border="1"> <thead> <tr> <th>Allowance</th> <th>Clause</th> <th>% of standard rate \$</th> <th>Payable</th> </tr> </thead> <tbody> <tr> <td>Broken Hill allowance</td> <td></td> <td>17.2</td> <td></td> </tr> <tr> <td></td> <td></td> <td>162.7%</td> <td>\$36.92 per week</td> </tr> <tr> <td>Cold work allowance— cold chambers; stocking and refilling refrigerated storages</td> <td>17.3(a)</td> <td></td> <td></td> </tr> <tr> <td></td> <td>1.3</td> <td>0.30</td> <td>per hour</td> </tr> <tr> <td>Cold work allowance— cold chambers; below 0°C—additional to clause 17.3(a)</td> <td>17.3(b)</td> <td></td> <td></td> </tr> <tr> <td></td> <td>2.0</td> <td>0.45</td> <td>per hour</td> </tr> <tr> <td>Cold work allowance— cold chambers; below 0°C—total amount</td> <td>17.3(b)</td> <td></td> <td></td> </tr> <tr> <td></td> <td>3.3</td> <td>0.75</td> <td>per hour</td> </tr> </tbody> </table> <p>B.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 rate as specified.</p> <p>B.2 Expense-related allowances B.2.1 The following expense-related allowances will be payable to employees in accordance with clause 17—Allowances:</p> <table border="1"> <thead> <tr> <th>Allowance</th> <th>Clause</th> <th>\$</th> <th>Payable</th> </tr> </thead> <tbody> <tr> <td></td> <td></td> <td></td> <td></td> </tr> </tbody> </table>	Allowance	Clause	% of standard rate \$	Payable	Broken Hill allowance		17.2				162.7%	\$36.92 per week	Cold work allowance— cold chambers; stocking and refilling refrigerated storages	17.3(a)				1.3	0.30	per hour	Cold work allowance— cold chambers; below 0°C—additional to clause 17.3(a)	17.3(b)				2.0	0.45	per hour	Cold work allowance— cold chambers; below 0°C—total amount	17.3(b)				3.3	0.75	per hour	Allowance	Clause	\$	Payable					<p>Note: classifications compared above.</p>
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		<p>Meal allowance—more than one hour’s overtime without 24 hours’ notice 17.4(a) 13.32 per meal</p> <p>Meal allowance—if more than 4 hours’ overtime without 24 hours’ notice—further allowance 17.4(b) 12.03 per meal</p> <p>Special clothing allowance—laundering—full-time employee 17.5(b)(i) 6.25 per week</p> <p>Special clothing allowance—laundering—part-time or casual employee 17.5(b)(ii) 1.25 per shift</p> <p>Allowance Clause \$ Payable</p> <p>Motor vehicle allowance—own motor vehicle—engaged primarily for delivery duties 17.8(a) 0.41 per km</p> <p>Motor vehicle allowance—own motor vehicle—engaged other than primarily for delivery duties 17.8(b) 0.78 per km</p> <p>B.2.2 Adjustment of expense-related allowances (a) At the time of any adjustment to the standard rate, each expense-related allowance</p>	
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		<p>will be increased by the relevant adjustment factor. The relevant adjustment factor for this purpose is the percentage movement in the applicable index figure most recently published by the Australian Bureau of Statistics since the allowance was last adjusted.</p> <p>(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:</p> <p>Allowance Applicable Consumer Price Index figure</p> <p>Meal allowance Take away and fast foods sub-group</p> <p>Special clothing Clothing and footwear group</p> <p>Motor vehicle allowance Private motoring sub-group</p>	
<p>Schedule C—Supported Wage System</p>	<p>Schedule C—Supported Wage System</p> <p>C.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.</p> <p>C.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</p>	<p>Schedule C—Supported Wage System</p> <p>C.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.</p> <p>C.2 In this schedule: approved assessor means a person accredited by the management unit established by the Commonwealth under the supported wage system to</p>	<p>The SDA notes the inclusion of the common clause without alteration to its substantive provisions.</p>

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	<p>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</p>	<p>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, 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</p>	
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	<p>C.3 Eligibility criteria C.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. C.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. C.4 Supported wage rates C.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 C.5)</p> <table border="0"> <tr> <td>%</td> <td>Relevant minimum wage</td> </tr> <tr> <td>%</td> <td></td> </tr> <tr> <td>10</td> <td>10</td> </tr> <tr> <td>20</td> <td>20</td> </tr> <tr> <td>30</td> <td>30</td> </tr> <tr> <td>40</td> <td>40</td> </tr> <tr> <td>50</td> <td>50</td> </tr> <tr> <td>60</td> <td>60</td> </tr> <tr> <td>70</td> <td>70</td> </tr> </table>	%	Relevant minimum wage	%		10	10	20	20	30	30	40	40	50	50	60	60	70	70	<p>productive capacity and agreed wage rate. C.3 Eligibility criteria C.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. C.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. C.4 Supported wage rates C.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 C.5)</p> <table border="0"> <tr> <td>Relevant minimum wage</td> <td>%</td> </tr> <tr> <td></td> <td>%</td> </tr> <tr> <td>10</td> <td>10</td> </tr> </table> <p>Assessed capacity (clause C.5)</p>	Relevant minimum wage	%		%	10	10	
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	<p>80 80 90 90</p> <p>C.4.2 Provided that the minimum amount payable must be not less than \$89 per week.</p> <p>C.4.3 Where an employee’s assessed capacity is 10%, they must receive a high degree of assistance and support.</p> <p>C.5 Assessment of capacity</p> <p>C.5.1 For the purpose of establishing the percentage of the relevant minimum wage, the productive capacity of the employee will be assessed in accordance with the Supported Wage System by an approved assessor, having consulted the employer and employee and, if the employee so desires, a union which the employee is eligible to join.</p> <p>C.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.</p> <p>C.6 Lodgement of SWS wage assessment agreement</p> <p>C.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</p>	<p>Relevant minimum wage</p> <p>% %</p> <p>20 20 30 30 40 40 50 50 60 60 70 70 80 80 90 90</p> <p>C.4.2 Provided that the minimum amount payable must be not less than \$89 per week.</p> <p>C.4.3 Where an employee’s assessed capacity is 10%, they must receive a high degree of assistance and support.</p> <p>C.5 Assessment of capacity</p> <p>C.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.</p> <p>C.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.</p>	
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	<p>be lodged by the employer with the Fair Work Commission.</p> <p>C.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.</p> <p>C.7 Review of assessment The assessment of the applicable percentage should be subject to annual or more frequent review on the basis of a reasonable request for such a review. The process of review must be in accordance with the procedures for assessing capacity under the supported wage system.</p> <p>C.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.</p> <p>C.9 Workplace adjustment</p>	<p>C.6 Lodgement of SWS wage assessment agreement C.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. C.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.</p> <p>C.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.</p> <p>C.8 Other terms and conditions of employment</p>	
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	<p>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.</p> <p>C.10 Trial period C.10.1 In order for an adequate assessment of the employee’s capacity to be made, an employer may employ a person under the provisions of this schedule for a trial period not exceeding 12 weeks, except that in some cases additional work adjustment time (not exceeding four weeks) may be needed. C.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.</p> <p>C.10.3 The minimum amount payable to the employee during the trial period must be no less than \$89 per week. C.10.4 Work trials should include induction or training as appropriate to the job being trialled. C.10.5 Where the employer and employee wish to establish a continuing employment relationship following the completion of the trial period, a further</p>	<p>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.</p> <p>C.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.</p> <p>C.10 Trial period C.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. C.10.2 During that trial period the assessment of capacity will be undertaken and the percentage of the relevant minimum wage for a</p>	
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	<p>contract of employment will be entered into based on the outcome of assessment under clause C.5.</p>	<p>continuing employment relationship will be determined. C.10.3 The minimum amount payable to the employee during the trial period must be no less than \$89 per week. C.10.4 Work trials should include induction or training as appropriate to the job being trialled. C.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 C.5.</p>	
<p>Schedule D—National Training Wage</p>	<p>[Sched D substituted by PR994446 from 01Jan10; varied by PR988389, PR994446, PR997880, PR509034, PR522865, PR536668, PR545787, PR551591, PR566668, PR579748; deleted by PR593801 ppc 01Jul17]</p>	<p><i>Provisions have been referred to the Miscellaneous Award 2020.</i></p>	
<p>Schedule E – Part-day Public Holidays</p>	<p>Schedule E—Part-day Public Holidays</p> <p>This schedule operates where this award otherwise contains provisions dealing with public holidays that supplement the NES.</p> <p>E.1 Where a part-day public holiday is declared or prescribed between 6.00 pm and midnight, or 7.00 pm and midnight on Christmas Eve (24 December in each year) or New Year’s Eve (31 December in each year) the following will apply on</p>	<p>Schedule F—Part-day Public Holidays</p> <p>F.1 This schedule operates where this award otherwise contains provisions dealing with public holidays that supplement the NES. F.2 Where a part-day public holiday is declared or prescribed between 6.00 pm and midnight, or 7.00 pm and midnight on Christmas Eve (24 December in each year) or New Year’s Eve (31 December in</p>	<p>The SDA notes the inclusion of the common clause without alteration to its substantive provisions.</p>

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	<p>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:</p> <p>(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.</p> <p>(b) Where a part-time or full-time employee is usually rostered to work ordinary hours between 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.</p> <p>(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.</p> <p>(d) Where a part-time or full-time employee is usually rostered to work ordinary hours between on the declared</p>	<p>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:</p> <p>(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.</p> <p>(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.</p> <p>(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 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.</p> <p>(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</p>	
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	<p>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.</p> <p>(e) Excluding annualised salaried employees to whom clause E.1(f) applies, where an employee works any hours on the declared or prescribed part-day public holiday they will be entitled to the appropriate public holiday penalty rate (if any) in this award for those hours worked.</p> <p>(f) Where an employee is paid an annualised salary under the provisions of this award and is entitled under this award to time off in lieu or additional annual leave for work on a public holiday, they will be entitled to time off in lieu or pro-rata annual leave equivalent to the time worked between on the declared or prescribed part-day public holiday.</p> <p>E.2 An employer and employee may agree to substitute another part-day for a part-day that would otherwise be a part-day public holiday under the NES.</p>	<p>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.</p> <p>(e) Excluding annualised salaried employees to whom clause F.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.</p> <p>(f) Where an employee is paid an annualised salary under the provisions of this award and is entitled under this award to time off in lieu or additional annual leave for work on a public holiday, they will be entitled to time off in lieu or pro-rata annual leave equivalent to the time worked between on the declared or prescribed part-day public holiday.</p> <p>F.3 An employer and employee may agree to substitute another part-day for a part-day that part-day public holiday under the NES.</p> <p>F.4 This schedule is an interim provision and subject to further review.</p>	
Schedule F— Agreement to Take	<i>Schedule not reproduced – standard provisions</i>	<i>Schedule D—Agreement to Take Annual Leave in Advance</i>	

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Annual Leave in Advance		<i>Schedule not reproduced – standard provisions</i>	
Schedule G— Agreement to Cash Out Annual Leave	Schedule G—Agreement to Cash Out Annual Leave <i>Schedule not reproduced – standard provisions</i>	Schedule E—Agreement to Cash Out Annual Leave <i>Schedule not reproduced – standard provisions</i>	
Schedule H—Award flexibility during the COVID-19 Pandemic	<p>Schedule H—Award flexibility during the COVID-19 Pandemic</p> <p>H.1 The provisions of Schedule H are aimed at preserving the ongoing viability of businesses and preserving jobs during the COVID-19 pandemic and not to set any precedent in relation to award entitlements after its expiry date.</p> <p>H.2 Schedule H operates from 19 May 2020 until 31 July 2020.</p> <p>H.3 Schedule H applies to:</p> <p>H.3.1 employers who do not qualify for Jobkeeper payments and their employees; and</p> <p>H.3.2 employees who do not qualify for Jobkeeper payments and their employers in relation to those employees.</p> <p>H.4 If an employer or employee becomes entitled to Jobkeeper payments for an employee, the terms of Schedule H will not apply in relation to that employer and that employee.</p> <p>H.5 Schedule H is intended to assist in the continuing employment of employees.</p> <p>H.6 During the operation of Schedule H, the following provisions apply.</p>	<i>Schedule expired</i>	The SDA notes the expiry of the schedule.

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	<p>H.7 Flexible part-time employment While Schedule H is in operation and subject to written agreement between an employee and their employer in accordance with clause H.7.2, the following provisions will, in relation to that employee, operate instead of clause 12 of the award until 31 July 2020:</p> <p>H.7.1 A part time employee is an employee who:</p> <ul style="list-style-type: none">(a) Works at least 8 but less than 38 hours per week;(b) Has reasonably predictable hours of work; and(c) Receives on a pro-rata basis, equivalent pay and conditions to those of full-time employees. <p>H.7.2 The employer and the part-time employee will agree in writing upon:</p> <ul style="list-style-type: none">(a) The number of hours of work which are guaranteed to be provided and paid to the employee each week or, where the employer operates a roster, the number of hours of work which are guaranteed to be provided and paid to the employee over the roster cycle (the guaranteed minimum hours); and(b) The days of the week, and the periods in each of those days, when the employee will be available to work the guaranteed minimum hours (the employee’s agreed availability). <p>H.7.3 The employer and the employee must have genuinely made the</p>		
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	<p>agreement mentioned in clause H.7.2 without coercion or duress.</p> <p>H.7.4 An agreement made under clause H.7.2 is not valid unless:</p> <p>(a) the employee is also advised in writing that the employer consents to a dispute about the operation of this clause H.7 being settled by the Fair Work Commission through arbitration in accordance with clause 9.5—Dispute Resolution and section 739(4) of the Act; and</p> <p>(b) the agreement is made for reasons attributable to the COVID-19 pandemic or Government initiatives to slow the transmission of COVID-19 and is necessary to assist the employer to avoid or minimise the loss of employment.</p> <p>H.7.5 The employee must not be rostered to work less than 3 consecutive hours in any shift.</p> <p>H.7.6 The guaranteed minimum hours shall not be less than 8 hours per week.</p> <p>H.7.7 Any change to the guaranteed minimum hours may only occur with written consent of the part-time employee.</p> <p>H.7.8 An employee may be offered ordinary hours in addition to the guaranteed minimum hours (additional hours) within the employee’s agreed availability. The employee may agree to work those additional hours provided that:</p>		
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	<p>(a) The additional hours are offered in accordance with clause 25—Hours of work and clause 26—Overtime;</p> <p>(b) The employee may not be rostered for work outside of the employee’s agreed availability;</p> <p>(c) agreed additional hours are paid at ordinary rates (including any applicable penalties payable for working ordinary hours at the relevant times);</p> <p>(d) An employee will accrue entitlements such as annual leave and personal/carer’s leave on agreed additional hours worked;</p> <p>(e) The agreement to work additional hours may be withdrawn by a part-time employee with 14 days written notice;</p> <p>(f) The employee can refuse to work additional hours when offered on any occasion;</p> <p>(g) Additional hours worked in accordance with this clause are not overtime; and</p> <p>(h) Where there is a requirement to work overtime in accordance with clause 26, overtime rates will apply.</p> <p>H.7.9 A part-time employee who immediately prior to the 19 May 2020 has a written agreement with their employer for a regular pattern of hours is entitled to continue to be rostered in accordance with that agreement, unless that agreement is replaced by a new written agreement made in accordance with clause H.7.2. If a part-time</p>		
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	<p>employee agrees to such a change, they shall, when Schedule H ceases operation, revert to the previously agreed regular pattern of hours.</p> <p>H.7.10 If an employee is first employed as a part-time employee during the operation of Schedule H, their employment will be on a casual basis when Schedule H ceases operation unless:</p> <ul style="list-style-type: none">(a) the employer and employee agree that the employee will be engaged on a part-time basis beyond this period, and(b) the employer and employee reach agreement in writing on the matters identified in with clause 12. <p>H.8 Annual leave</p> <p>H.8.1 Subject to clause H.8.3 and H.8.7 and despite clauses 28.6, 28.7 and 28.8 (Annual leave), an employer may, subject to considering an employee’s personal circumstances, request the employee in writing to take paid annual leave. Such a request must be made a minimum of 72 hours before the date on which the annual leave is to commence.</p> <p>H.8.2 If the employer gives the employee a request to take paid annual leave, and complying with the request will not result in the employee having a balance of paid annual leave of fewer than 2 weeks, the employee must</p>		
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	<p>consider the request and must not unreasonably refuse the request.</p> <p>H.8.3 An employer may only make a request under clause H.8.1 where it is reasonable in all the circumstances.</p> <p>H.8.4 An employee is not required to take leave under clause H.8 unless the employee is advised in writing that the employer consents to a dispute about whether the employer’s request is reasonable in all the circumstances being settled by the Fair Work Commission through arbitration in accordance with clause 9.5—Dispute resolution and section 739(4) of the Act.</p> <p>H.8.5 A period of leave under clause H.8 must start before 16 June 2020 but may end after that date.</p> <p>H.8.6 Clause H.8.1 does not prevent an employer and an employee from agreeing to the employee taking annual leave at any time.</p> <p>H.8.7 An employer can only request that an employee take annual leave pursuant to this clause if the request is made for reasons attributable to the COVID-19 pandemic or Government initiatives to slow the transmission of COVID-19 and is necessary to assist the employer to avoid or minimise the loss of employment.</p> <p>H.9 Dispute resolution Any dispute regarding the operation of Schedule H may be referred to the Fair</p>		
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	<p>Work Commission in accordance with clause 9—Dispute resolution.</p> <p>NOTE 1: An employee covered by this award who is entitled to the benefit of the safeguards in clauses H.7 and H.8 has a workplace right under section 341(1)(a) of the Act.</p> <p>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.</p> <p>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.</p>		
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<p>Schedule X— Additional Measures During the COVID-19 Pandemic</p>	<p>Schedule X—Additional Measures During the COVID-19 Pandemic</p> <p>X.1 Subject to clauses X.2.1(d) and X.2.2(c), Schedule X operates from 8 April 2020 until 30 June 2020. The period of operation can be extended on application.</p> <p>X.2 During the operation of Schedule X, the following provisions apply: X.2.1 Unpaid pandemic leave</p> <p>(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.</p> <p>(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).</p> <p>(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).</p>	<p>Schedule X—Additional Measures During the COVID-19 Pandemic</p> <p>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.</p> <p>X.2 During the operation of Schedule X, the following provisions apply:</p> <p>X.2.1 Unpaid pandemic leave</p> <p>(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.</p> <p>(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).</p> <p>(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</p>	<p>The SDA notes the inclusion of the common clause without alteration to its substantive provisions.</p>
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	<p>(d) A period of leave under clause X.2.1(a) must start before 29 March 2021, but may end after that date.</p> <p>(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.</p> <p>NOTE: The employer and employee may agree that the employee may take more than 2 weeks’ unpaid pandemic leave.</p> <p>X.2.2 Annual leave at half pay</p> <p>(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.</p> <p>(b) Any agreement to take twice as much annual leave at half pay must be recorded in writing and retained as an employee record.</p> <p>(c) A period of leave under clause X.2.2(a) must start before 29 March 2021, but may end after that date.</p> <p>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:</p> <ul style="list-style-type: none"> • the employee’s pay for the 2 weeks’ leave is the same as the pay the employee would have been entitled to 	<p>a reasonable person that the leave is taken for a reason given in clause X.2.1(a).</p> <p>(d) A period of leave under clause X.2.1(a) must start before 29 March 2021, but may end after that date.</p> <p>(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.</p> <p>NOTE: The employer and employee may agree that the employee may take more than 2 weeks’ unpaid pandemic leave.</p> <p>X.2.2 Annual leave at half pay</p> <p>(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.</p> <p>(b) Any agreement to take twice as much annual leave at half pay must be recorded in writing and retained as an employee record.</p> <p>(c) A period of leave under clause X.2.2(a) must start before 29 March 2021, but may end after that date.</p> <p>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:</p>	
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	<p>for one week’s leave on full pay (where one week’s full pay includes leave loading under the Annual Leave clause of this award); and</p> <ul style="list-style-type: none"> • one week of leave is deducted from the employee’s annual leave accrual. <p>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.</p> <p>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.</p> <p>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</p>	<ul style="list-style-type: none"> • the employee’s pay for the 2 weeks’ leave is the same as the pay the employee would have been entitled to for one week’s leave on full pay (where one week’s full pay includes leave loading under the Annual Leave clause of this award); and • one week of leave is deducted from the employee’s annual leave accrual. <p>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.</p> <p>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</p>	
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	<p>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.</p>	<p>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.</p>	
<p>Maximum weekly hours</p>	<p>[s 62] Maximum weekly hours <i>Maximum weekly hours of work</i></p> <p>(1) An employer must not request or require an employee to work more than the following number of hours in a week unless the additional hours are reasonable:</p> <p>(a) for a full-time employee—38 hours; or (b) for an employee who is not a full-time employee—the lesser of:</p> <p style="padding-left: 40px;">(i) 38 hours; and (ii) the employee’s ordinary hours of work in a week.</p> <p><i>Employees may refuse to work unreasonable additional hours</i></p> <p>(2) The employee may refuse to work additional hours (beyond those referred to in paragraph (1)(a) or (b)) if they are unreasonable.</p> <p><i>Determining whether additional hours are reasonable</i></p>		

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	<p>(3) In determining whether additional hours are reasonable or unreasonable for the purposes of subsections (1) and (2), the following must be taken into account:</p> <ul style="list-style-type: none">(a) any risk to employee health and safety from working the additional hours;(b) the employee’s personal circumstances, including family responsibilities;(c) the needs of the workplace or enterprise in which the employee is employed;(d) 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;(e) any notice given by the employer of any request or requirement to work the additional hours;(f) any notice given by the employee of his or her intention to refuse to work the additional hours;(g) the usual patterns of work in the industry, or the part of an industry, in which the employee works;(h) the nature of the employee’s role, and the employee’s level of responsibility;(i) whether the additional hours are in accordance with averaging terms included under section 63 in a modern award or enterprise agreement that applies to the employee, or with an averaging arrangement agreed to by the employer and employee under section 64;(j) any other relevant matter.		
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	<p><i>Authorised leave or absence treated as hours worked</i></p> <p>(4) For the purposes of subsection (1), the hours an employee works in a week are taken to include any hours of leave, or absence, whether paid or unpaid, that the employee takes in the week and that are authorised:</p> <p>(a) by the employee’s employer; or (b) by or under a term or condition of the employee’s employment; or (c) by or under a law of the Commonwealth, a State or a Territory, or an instrument in force under such a law.</p> <p>[s 63] Modern awards and enterprise agreements may provide for averaging of hours of work</p> <p>(1) A modern award or enterprise agreement may include terms providing for the averaging of hours of work over a specified period. The average weekly hours over the period must not exceed:</p> <p>(a) for a full-time employee—38 hours; or (b) for an employee who is not a full-time employee—the lesser of:</p> <p style="padding-left: 40px;">(i) 38 hours; and (ii) the employee’s ordinary hours of work in a week.</p> <p>(2)The terms of a modern award or enterprise agreement may provide for average weekly hours that exceed the hours referred to in paragraph (1)(a) or (b) if the</p>		
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	<p>excess hours are reasonable for the purposes of subsection 62(1).</p> <p>[s 64] Averaging of hours of work for award/agreement free employees</p> <p>(1) An employer and an award/agreement free employee may agree in writing to an averaging arrangement under which hours of work over a specified period of not more than 26 weeks are averaged. The average weekly hours over the specified period must not exceed:</p> <p>(a) for a full-time employee—38 hours; or</p> <p>(b) for an employee who is not a full-time employee—the lesser of:</p> <p style="padding-left: 40px;">(i) 38 hours; and</p> <p style="padding-left: 40px;">(ii) the employee's ordinary hours of work in a week.</p> <p>(2) The agreed averaging arrangement may provide for average weekly hours that exceed the hours referred to in paragraph (1)(a) or (b) if the excess hours are reasonable for the purposes of subsection 62(1).</p>		
<p>Requests for flexible working arrangements</p>	<p>[s 65] Requests for flexible working arrangements</p> <p><i>Employee may request change in working arrangements</i></p> <p>(1) If:</p> <p>(a) any of the circumstances referred to in subsection (1A) apply to an employee; and</p> <p>(b) the employee would like to change his or her working arrangements because of those circumstances;</p> <p>then the employee may request the employer for a change in working</p>		

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	<p>arrangements relating to those circumstances.</p> <p>(1A)The following are the circumstances: (a) the employee is the parent, or has responsibility for the care, of a child who is of school age or younger; (b) the employee is a carer (within the meaning of the <i>Carer Recognition Act 2010</i>); (c) the employee has a disability; (d) the employee is 55 or older; (e) the employee is experiencing violence from a member of the employee’s family; (f) the employee provides care or support to a member of the employee’s immediate family, or a member of the employee’s household, who requires care or support because the member is experiencing violence from the member’s family.</p> <p>(1B) To avoid doubt, and without limiting subsection (1), an employee who: (a) is a parent, or has responsibility for the care, of a child; and (b) is returning to work after taking leave in relation to the birth or adoption of the child; may request to work part-time to assist the employee to care for the child.</p> <p>(2) The employee is not entitled to make the request unless: (a) for an employee other than a casual employee—the employee has completed at least 12 months of continuous service with the employer immediately before making the request; or (b) for a casual employee—the employee:</p>		
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	<p>(i) is a long term casual employee of the employer immediately before making the request; and (ii) has a reasonable expectation of continuing employment by the employer on a regular and systematic basis.</p> <p><i>Formal requirements</i> (3) The request must: (a) be in writing; and (b) set out details of the change sought and of the reasons for the change.</p> <p><i>Agreeing to the request</i> (4) The employer must give the employee a written response to the request within 21 days, stating whether the employer grants or refuses the request.</p> <p>(5) The employer may refuse the request only on reasonable business grounds.</p> <p>(5A) Without limiting what are reasonable business grounds for the purposes of subsection (5), reasonable business grounds include the following: (a) that the new working arrangements requested by the employee would be too costly for the employer; (b) that there is no capacity to change the working arrangements of other employees to accommodate the new working arrangements requested by the employee; (c) that it would be impractical to change the working arrangements of other employees, or recruit new employees, to accommodate the new working arrangements requested by the employee;</p>		
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	<p>(d) that the new working arrangements requested by the employee would be likely to result in a significant loss in efficiency or productivity;</p> <p>(e) that the new working arrangements requested by the employee would be likely to have a significant negative impact on customer service.</p> <p>(6) If the employer refuses the request, the written response under subsection (4) must include details of the reasons for the refusal.</p> <p>[s 66] State and Territory laws that are not excluded</p> <p>This Act is not intended to apply to the exclusion of laws of a State or Territory that provide employee entitlements in relation to flexible working arrangements, to the extent that those entitlements are more beneficial to employees than the entitlements under this Division.</p>		
<p>Parental leave</p>	<p>[s 70] Entitlement to unpaid parental leave</p> <p>An employee is entitled to 12 months of unpaid parental leave if: (a) the leave is associated with: (i) the birth of a child of the employee or the employee’s spouse or de facto partner; or (ii) the placement of a child with the employee for adoption; and (b) the employee has or will have a responsibility for the care of the child.</p> <p>Note: Entitlement is also affected by:</p> <p>(a) section 67 (which deals with length of the employee’s service); and</p>		

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	<p>(b) for pregnancy and birth--subsection 77A(3) (which applies if the pregnancy ends other than by the child being born alive, or if the child dies after birth); and</p> <p>(c) for adoption--section 68 (which deals with the age etc. of the adopted child).</p>		
	<p>[s 71] The period of leave—other than for members of an employee couple who each intend to take leave</p> <p><i>Application of this section</i></p> <p>(1) This section applies to an employee who intends to take unpaid parental leave if:</p> <p>(a) the employee is not a member of an employee couple; or (b) the employee is a member of an employee couple, but the other member of the couple does not intend to take unpaid parental leave</p> <p><i>Leave must be taken in a single continuous period</i></p> <p>(2) The employee must take the leave in a single continuous period. Note: An employee may take a form of paid leave at the same time as he or she is on unpaid parental leave (see section 79).</p> <p>(3) If the leave is birth-related leave for a female employee who is pregnant with, or gives birth to, the child, the period of leave may start up to 6 weeks before the expected date of birth of the child but must not start later than the date of birth of the child.</p> <p>(4) If the leave is birth-related leave but subsection (3) does not apply, the period of leave must start on the date of birth of the child. When adoption-related leave must start</p>		

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	<p><i>When adopted-related leave must start</i></p> <p>(5) If the leave is adoption-related leave, the period of leave must start on the day of placement of the child. Leave may start later for employees whose spouse or de facto partner is not an employee</p> <p><i>Leave may start later for employees whose spouse or de facto partner is not an employee</i></p> <p>(6) Despite subsections (3) to (5), the period of leave may start at any time within 12 months after the date of birth or day of placement of the child if:</p> <p>(a) the employee has a spouse or de facto partner who is not an employee; and</p> <p>(b) the spouse or de facto partner has a responsibility for the care of the child for the period between the date of birth or day of placement of the child and the start date of the leave.</p> <p>Note: An employee whose leave starts under <u>subsection (6)</u> is still entitled under section 76 to request an extension of the period of leave beyond his or her available parental leave period. However, the period of leave may not be extended beyond 24 months after the date of birth or day of placement of the child (see <u>subsection 76(7)</u>).</p> <p>[s 72] The period of leave—members of an employee couple who each intend to take leave</p> <p><i>Application of this section</i></p> <p>(1) This section applies to an employee couple if each of the employees intends to take unpaid parental leave.</p>		
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	<p>(2) Each employee must take the leave in a single continuous period. Note: An employee may take a form of paid leave at the same time as he or she is on unpaid parental leave (see section 79).</p> <p><i>When birth-related leave must start</i></p> <p>(3) If the leave is birth-related leave: (a) one employee’s period of leave must start first, in accordance with the following rules: (i) if the member of the employee couple whose period of leave starts first is a female employee who is pregnant with, or gives birth to, the child—the period of leave may start up to 6 weeks before the expected date of birth of the child, but must not start later than the date of birth of the child; (ii) if subparagraph (i) does not apply—the period of leave must start on the date of birth of the child; and (b) the other employee’s period of leave must start immediately after the end of the first employee’s period of leave (or that period as extended under section 75 or 76).</p> <p><i>When adoption-related leave must start</i></p> <p>(4) If the leave is adoption-related leave: (a) one employee’s period of leave must start on the day of placement of the child; and (b) the other employee’s period of leave must start immediately after the end of the first employee’s period of leave (or that period as extended under section 75 or 76).</p> <p><i>Leave entitlement to take concurrent leave</i></p>		
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	<p>(5) If one of the employees takes a period (the first employee’s period of leave) of unpaid parental leave in accordance with paragraph (3)(a) or (4)(a), the other employee may take a period of unpaid parental leave (the concurrent leave) during the first employee’s period of leave, if the concurrent leave complies with the following requirements:</p> <p>(a) the concurrent leave must be for a period of 3 weeks or less;</p> <p>(b) unless the employer agrees as referred to in paragraph (c), the concurrent leave must not start before, and must not end more than 3 weeks after:</p> <ul style="list-style-type: none"> (i) if the leave is birth-related leave—the date of birth of the child; or (ii) if the leave is adoption-related leave—the day of placement of the child; <p>(c) if the employer agrees, the concurrent leave may (subject to paragraph (a)):</p> <ul style="list-style-type: none"> (i) start earlier than is permitted by paragraph (b); or (ii) end up to 3 weeks later than is permitted by paragraph (b). <p>(6) Concurrent leave taken by an employee:</p> <p>(a) is an exception to the rule that the employee must take his or her leave in a single continuous period (see subsection (2)); and</p> <p>(b) is an exception to the rules about when the employee’s period of unpaid parental leave must start (see subsection (3) or (4)).</p> <p>Note: The concurrent leave is unpaid parental leave and so comes out of the employee's entitlement to 12 months of unpaid parental leave under section 70.</p>		
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	<p>[s 73] Pregnant employee may be required to take unpaid parental leave within 6 weeks before the birth <i>Employer may ask employee to provide a medical certificate</i></p> <p>(1) If a pregnant employee who is entitled to unpaid parental leave (whether or not she has complied with section 74) continues to work during the 6 week period before the expected date of birth of the child, the employer may ask the employee to give the employer a medical certificate containing the following statements (as applicable):</p> <ul style="list-style-type: none">(a) a statement of whether the employee is fit for work;(b) if the employee is fit for work—a statement of whether it is inadvisable for the employee to continue in her present position during a stated period because of:<ul style="list-style-type: none">(i) illness, or risks, arising out of the employee’s pregnancy; or(ii) hazards connected with the position. <p>Note: Personal information given to an employer under this <u>subsection</u> may be regulated under the <i>Privacy Act 1988</i> .</p> <p><i>Employer may require employee to take unpaid parental leave</i></p> <p>(2) The employer may require the employee to take a period of unpaid parental leave (the period of leave) as soon as practicable if:</p> <ul style="list-style-type: none">(a) the employee does not give the employer the requested certificate within 7 days after the request; or(b) within 7 days after the request, the employee gives the employer a medical certificate stating that the employee is not fit for work; or (c) the following subparagraphs are satisfied:		
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	<p>(i) within 7 days after the request, the employee gives the employer a medical certificate stating that the employee is fit for work, but that it is inadvisable for the employee to continue in her present position for a stated period for a reason referred to in subparagraph (1)(b)(i) or (ii);</p> <p>(ii) section 81 does not apply to the employee.</p> <p>Note: If the medical certificate contains a statement as referred to in subparagraph (c)(i) and the employee has complied with the notice and evidence requirements of section 74, then the employee is entitled to be transferred to a safe job (see section 81) or to paid no safe job leave (see section 81A).</p> <p><i>When the period of leave must end</i></p> <p>(3) The period of leave must not end later than the earlier of the following:</p> <p>(a) the end of the pregnancy;</p> <p>(b) if the employee has given the employer notice of the taking of a period of leave connected with the birth of the child (whether it is unpaid parental leave or some other kind of leave)—the start date of that leave.</p> <p><i>Special rules about the period of leave</i></p> <p>(4) The period of leave:</p> <p>(a) is an exception to the rule that the employee must take her unpaid parental leave in a single continuous period (see subsection 71(2) or 72(2)); and</p> <p>(b) is an exception to the rules about when the employee’s period of unpaid parental leave must start (see subsections 71(3) and (6), or subsection 72(3)).</p>		
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	<p>Note: The period of leave is unpaid parental leave and so comes out of the employee's entitlement to 12 months of unpaid parental leave under section 70.</p> <p>(5) The employee is not required to comply with section 74 in relation to the period of leave.</p> <p>[s 74] Employee must comply with notice and evidence requirements</p> <p><i>Notice</i></p> <p>(1) An employee must give his or her employer written notice of the taking of unpaid parental leave under section 71 or 72 by the employee.</p> <p>(2) The employee must give the notice to the employer:</p> <p>(a) at least:</p> <ul style="list-style-type: none">(i) 10 weeks before starting the leave, unless subparagraph (ii) applies; or(ii) if the leave is to be taken in separate periods of concurrent leave (see <u>paragraph 72(5)(b)</u>) and the leave is not the first of those periods of concurrent leave--4 weeks before starting the period of concurrent leave; or <p>(b) if that is not practicable--as soon as practicable (which may be a time after the leave has started).</p> <p>(3) The notice must specify the intended start and end dates of the leave.</p> <p><i>Confirmation or change of intended start and end dates</i></p>		
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	<p>(4) At least 4 weeks before the intended start date specified in the notice given under <u>subsection</u> (1), the employee must:</p> <ul style="list-style-type: none">(a) confirm the intended start and end dates of the leave; or(b) advise the employer of any changes to the intended start and end dates of the leave; <p>unless it is not practicable to do so.</p> <p>(4A) <u>Subsection</u> (4) does not apply to a notice for a period of concurrent leave referred to in subparagraph (2)(a)(ii).</p> <p><i>Evidence</i></p> <p>(5) An employee who has given his or her employer notice of the taking of unpaid parental leave must, if required by the employer, give the employer evidence that would satisfy a reasonable person:</p> <ul style="list-style-type: none">(a) if the leave is birth-related leave--of the date of birth, or the expected date of birth, of the child; or(b) if the leave is adoption-related leave:<ul style="list-style-type: none">(i) of the day of placement, or the expected day of placement, of the child; and(ii) that the child is, or will be, under 16 as at the day of placement, or the expected day of placement, of the child. <p>(6) Without limiting <u>subsection</u> (5), an employer may require the evidence referred to in <u>paragraph</u> (5)(a) to be a medical certificate.</p> <p><i>Compliance</i></p> <p>(7) An employee is not entitled to take unpaid parental leave under section 71 or 72 unless the employee complies with this section.</p>		
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	<p>Note: Personal information given to an employer under this section may be regulated under the <u>Privacy Act 1988</u> .</p>		
	<p>[s 75] Extending period of unpaid parental leave—extending to use more of available parental leave period <i>Application of this section</i> (1) This section applies if: (a) an employee has, in accordance with section 74, given notice of the taking of a period of unpaid parental leave (the original leave period); and (b) the original leave period is less than the employee’s available parental leave period; and (c) the original leave period has started.</p> <p>(2) The employee’s available parental leave period is 12 months, less any periods of the following kinds: (a) a period of concurrent leave that the employee has taken in accordance with subsection 72(5); (b) a period of unpaid parental leave that the employee has been required to take under subsection 73(2) or 82(2); (c) a period by which the employee’s entitlement to unpaid parental leave is reduced under paragraph 76(6)(c).</p> <p><i>First extension by giving notice to employer</i> (3) The employee may extend the period of unpaid parental leave by giving his or her employer written notice of the extension at least 4 weeks before the end date of the original leave period. The notice must specify the new end date for the leave.</p>		

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	<p>(4) Only one extension is permitted under subsection (3).</p> <p><i>Further extensions by agreement with employer</i></p> <p>(5) If the employer agrees, the employee may further extend the period of unpaid parental leave one or more times.</p> <p><i>No entitlement to extension beyond available parental leave period</i></p> <p>(6) The employee is not entitled under this section to extend the period of unpaid parental leave beyond the employee's available parental leave period.</p> <p>[s 76] Extending period of unpaid parental leave—extending for up to 12 months beyond available parental leave period</p> <p><i>Employee may request further period of leave</i></p> <p>(1) An employee who takes unpaid parental leave for his or her available parental leave period may request his or her employer to agree to an extension of unpaid parental leave for the employee for a further period of up to 12 months immediately following the end of the available parental leave period. Note: Extended periods of unpaid parental leave can include keeping in touch days on which an employee performs work (see section 79A).</p> <p><i>Making the request</i></p> <p>(2) The request must be in writing, and must be given to the employer at least 4 weeks</p>		
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	<p>before the end of the available parental leave period.</p> <p><i>Agreeing to the requested extension</i> (3) The employer must give the employee a written response to the request stating whether the employer grants or refuses the request. The response must be given as soon as practicable, and not later than 21 days, after the request is made.</p> <p>(4) The employer may refuse the request only on reasonable business grounds.</p> <p>(5) If the employer refuses the request, the written response under subsection (3) must include details of the reasons for the refusal.</p> <p><i>Discussion</i> (5A) The employer must not refuse the request unless the employer has given the employee a reasonable opportunity to discuss the request.</p> <p><i>Special rules for employee couples</i> (6) The following paragraphs apply in relation to a member of an employee couple extending a period of unpaid parental leave in relation to a child under this section: (a) the request must specify any amount of unpaid parental leave that the other member of the employee couple has taken, or will have taken, in relation to the child before the extension starts; (b) the period of the extension cannot exceed 12 months, less any period of unpaid parental leave that the other member of the employee couple has taken, or will have</p>		
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	<p>taken, in relation to the child before the extension starts;</p> <p>(c) the amount of unpaid parental leave to which the other member of the employee couple is entitled under section 70 in relation to the child is reduced by the period of the extension.</p> <p><i>No extension beyond 24 months after birth or placement</i></p> <p>(7) Despite any other provision of this Division, the employee is not entitled to extend the period of unpaid parental leave beyond 24 months after the date of birth or day of placement of the child.</p> <p>[s 77] Reducing period of unpaid parental leave</p> <p>If the employer agrees, an employee whose period of unpaid parental leave has started may reduce the period of unpaid parental leave he or she takes.</p>		
	<p>[s 77A] Pregnancy ends (other than by birth of a living child) or child born alive dies</p> <p><i>Application of this section</i></p> <p>(1) This section applies to unpaid parental leave, if:</p> <p>(a) the leave is birth-related leave; and</p> <p>(b) either:</p> <p style="padding-left: 20px;">(i) the pregnancy ends other than by the child being born alive; or</p> <p style="padding-left: 20px;">(ii) the child dies after being born.</p> <p><i>Cancellation of leave</i></p> <p>(2) Before the leave starts:</p> <p>(a) the employee may give the employer written notice cancelling the leave; or</p>		

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	<p>(b) the employer may give the employee written notice cancelling the leave.</p> <p>(3) If the employee or employer does so, the employee is not entitled to unpaid parental leave in relation to the child.</p> <p><i>Return to work</i></p> <p>(4) The employee may give the employer written notice that the employee wishes to return to work:</p> <p>(a) after the start of the period of leave, but before its end; and</p> <p>(b) within 4 weeks after the employer receives the notice.</p> <p>(5)The employer:</p> <p>(a) may give the employee written notice requiring the employee to return to work on a specified day; and</p> <p>(b) must do so if the employee gives the employer written notice under subsection (4);</p> <p>unless the leave has not started and the employer cancels it under subsection (2).</p> <p>(6) The specified day must be after the start of the period of leave, and:</p> <p>(a) if subsection (4) applies—within 4 weeks after the employer receives the notice under that subsection; or</p> <p>(b) otherwise—at least 6 weeks after the notice is given to the employee under subsection (5).</p> <p>(7) The employee’s entitlement to unpaid parental leave in relation to the child ends immediately before the specified day.</p>		
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	<p><i>Interaction with section 77</i> (8) This section does not limit section 77 (which deals with the employee ending the period of unpaid parental leave with the agreement of the employer).</p>		
	<p>[s 78] Employee who ceases to have responsibility for care of child (1) This section applies to an employee who has taken unpaid parental leave in relation to a child if the employee ceases to have any responsibility for the care of the child.</p> <p>(1A) However, this section does not apply if section 77A applies to the unpaid parental leave (because the unpaid parental leave is birth-related leave and either the pregnancy ends other than by the child being born alive or the child dies after being born).</p> <p>(2) The employer may give the employee written notice requiring the employee to return to work on a specified day.</p> <p>(3) The specified day: (a) must be at least 4 weeks after the notice is given to the employee; and (b) if the leave is birth-related leave taken by a female employee who has given birth— must not be earlier than 6 weeks after the date of birth of the child.</p> <p>(4) The employee’s entitlement to unpaid parental leave in relation to the child ends immediately before the specified day.</p>		
	<p>[s 79] Interaction with paid leave (1) This Subdivision (except for subsections (2) and (3)) does not prevent an employee from taking any other kind of paid leave while he or she is taking unpaid</p>		

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	<p>parental leave. If the employee does so, the taking of that other paid leave does not break the continuity of the period of unpaid parental leave.</p> <p>Note: For example, if the employee has paid annual leave available, he or she may (with the employer's agreement) take some or all of that paid annual leave at the same time as the unpaid parental leave.</p> <p>(2) An employee is not entitled to take paid personal/carer's leave or compassionate leave while he or she is taking unpaid parental leave.</p> <p>(3) An employee is not entitled to any payment under Division 8 (which deals with community service leave) in relation to activities the employee engages in while taking unpaid parental leave.</p>		
	<p>[s 79A] Keeping in touch days</p> <p>(1) This Subdivision does not prevent an employee from performing work for his or her employer on a keeping in touch day while he or she is taking unpaid parental leave. If the employee does so, the performance of that work does not break the continuity of the period of unpaid parental leave.</p> <p>(2) A day on which the employee performs work for the employer during the period of leave is a keeping in touch day if:</p> <p>(a) the purpose of performing the work is to enable the employee to keep in touch with his or her employment in order to facilitate a return to that employment after the end of the period of leave; and</p>		

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	<p>(b) both the employee and the employer consent to the employee performing work for the employer on that day; and</p> <p>(c) the day is not within:</p> <ul style="list-style-type: none"> (i) if the employee suggested or requested that he or she perform work for the employer on that day—14 days after the date of birth, or day of placement, of the child to which the period of leave relates; or (ii) otherwise—42 days after the date of birth, or day of placement, of the child; and <p>(d) the employee has not already performed work for the employer or another entity on 10 days during the period of leave that were keeping in touch days.</p> <p><i>The duration of the work the employee performs on that day is not relevant for the purposes of this subsection.</i></p> <p>Note: The employer will be obliged, under the relevant contract of employment or industrial instrument, to pay the employee for performing work on a keeping in touch day.</p> <p>(3) The employee’s decision whether to give the consent mentioned in paragraph (2)(b) is taken, for the purposes of section 344 (which deals with undue influence or pressure), to be a decision to make, or not make, an arrangement under the National Employment Standards.</p> <p>(4) For the purposes of paragraph (2)(d), treat as 2 separate periods of unpaid parental leave:</p>		
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	<p>(a) a period of unpaid parental leave taken during the employee’s available parental leave period; and (b) a period of unpaid parental leave taken as an extension of the leave referred to in paragraph (a) for a further period immediately following the end of the available parental leave period.</p> <p>[s 79B] Unpaid parental leave not extended by paid leave or keeping in touch days If, during a period of unpaid parental leave, an employee: (a) takes paid leave; or (b) performs work for his or her employer on a keeping in touch day; taking that leave or performing that work does not have the effect of extending the period of unpaid parental leave.</p>		
	<p>[s 80] Unpaid special maternity leave <i>Entitlement to unpaid special maternity leave</i> (1) A female employee is entitled to a period of unpaid special maternity leave if she is not fit for work during that period because: (a) she has a pregnancy-related illness; or (b) she has been pregnant, and the pregnancy ends within 28 weeks of the expected date of birth of the child otherwise than by the birth of a living child.</p> <p><i>Notice and evidence</i> (2) An employee must give her employer notice of the taking of unpaid special maternity leave by the employee.</p> <p>(3) The notice:</p>		

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	<p>(a) must be given to the employer as soon as practicable (which may be a time after the leave has started); and (b) must advise the employer of the period, or expected period, of the leave.</p> <p>(4) An employee who has given her employer notice of the taking of unpaid special maternity leave must, if required by the employer, give the employer evidence that would satisfy a reasonable person that the leave is taken for a reason specified in subsection (1).</p> <p>(5) Without limiting subsection (4), an employer may require the evidence referred to in that subsection to be a medical certificate.</p> <p>(6) An employee is not entitled to take unpaid special maternity leave unless the employee complies with subsections (2) to (4).</p>		
<p>Transfer to a safe job</p>	<p>[s 81] Transfer to a safe job (1) This section applies to a pregnant employee if she gives her employer evidence that would satisfy a reasonable person that she is fit for work, but that it is inadvisable for her to continue in her present position during a stated period (the risk period) because of: (a) illness, or risks, arising out of her pregnancy; or (b) hazards connected with that position.</p> <p>(2) If there is an appropriate safe job available, then the employer must transfer the employee to that job for the risk period,</p>		

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	<p>with no other change to the employee's terms and conditions of employment.</p> <p>(3) An appropriate safe job is a safe job that has:</p> <p>(a) the same ordinary hours of work as the employee's present position; or</p> <p>(b) a different number of ordinary hours agreed to by the employee.</p> <p>(4) If the employee is transferred to an appropriate safe job for the risk period, the employer must pay the employee for the safe job at the employee's full rate of pay (for the position she was in before the transfer) for the hours that she works in the risk period.</p> <p>(5) If the employee's pregnancy ends before the end of the risk period, the risk period ends when the pregnancy ends.</p> <p>(6) Without limiting subsection (1), an employer may require the evidence to be a medical certificate.</p> <p>[s 81A] Paid no safe job leave</p> <p>(1) If:</p> <p>(a) section 81 applies to a pregnant employee but there is no appropriate safe job available; and</p> <p>(b) the employee is entitled to unpaid parental leave; and</p> <p>(c) the employee has complied with the notice and evidence requirements of section 74 for taking unpaid parental leave; then the employee is entitled to paid no safe job leave for the risk period.</p>		
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	<p>(2) If the employee takes paid no safe job leave for the risk period, the employer must pay the employee at the employee’s base rate of pay for the employee’s ordinary hours of work in the risk period.</p> <p>[s 82] Employee on paid no safe job leave may be asked to provide a further medical certificate <i>Employer may ask employee to provide a medical certificate</i></p> <p>(1) If an employee is on paid no safe job leave during the 6 week period before the expected date of birth of the child, the employer may ask the employee to give the employer a medical certificate stating whether the employee is fit for work.</p> <p><i>Employer may require employee to take unpaid parental leave</i></p> <p>(2) The employer may require the employee to take a period of unpaid parental leave (the period of leave) as soon as practicable if:</p> <ul style="list-style-type: none">(a) the employee does not give the employer the requested certificate within 7 days after the request; or(b) within 7 days after the request, the employee gives the employer a certificate stating that the employee is not fit for work. <p><i>Entitlement to paid no safe job leave ends</i></p> <p>(3) When the period of leave starts, the employee’s entitlement to paid no safe job leave ends.</p> <p>(4) Subsections 73(3), (4) and (5) apply to the period of leave.</p>		
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	<p>[s 82A] Unpaid no safe job leave (1) If: (a) section 81 applies to a pregnant employee but there is no appropriate safe job available; and (b) the employee is not entitled to unpaid parental leave; and (c) if required by the employer—the employee has given the employer evidence that would satisfy a reasonable person of the pregnancy; then the employee is entitled to unpaid no safe job leave for the risk period.</p> <p>(2) Without limiting subsection (1), an employer may require the evidence referred to in paragraph (1)(c) to be a medical certificate.</p>		
<p>Consultation with employee on unpaid parental leave</p>	<p>[s 83] Consultation with employee on unpaid parental leave (1) If: (a) an employee is on unpaid parental leave; and (b) the employee’s employer makes a decision that will have a significant effect on the status, pay or location of the employee’s pre-parental leave position; the employer must take all reasonable steps to give the employee information about, and an opportunity to discuss, the effect of the decision on that position.</p> <p>(2) The employee’s <i>pre-parental leave position</i> is: (a) unless paragraph (b) applies, the position the employee held before starting the unpaid parental leave; or</p>		

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	<p>(b) if, before starting the unpaid parental leave, the employee:</p> <ul style="list-style-type: none"> (i) was transferred to a safe job because of her pregnancy; or (ii) reduced her working hours due to her pregnancy; <p>the position the employee held immediately before that transfer or reduction.</p>		
<p>Return to work guarantee & Replacement employees</p>	<p>[s 84] Return to work guarantee On ending unpaid parental leave, an employee is entitled to return to:</p> <ul style="list-style-type: none"> (a) the employee’s pre-parental leave position; or (b) if that position no longer exists—an available position for which the employee is qualified and suited nearest in status and pay to the pre-parental leave position. <p>[s 84A] Replacement employees Before an employer engages an employee to perform the work of another employee who is going to take, or is taking, unpaid parental leave, the employer must notify the replacement employee:</p> <ul style="list-style-type: none"> (a) that the engagement to perform that work is temporary; and (b) of the rights: <ul style="list-style-type: none"> (i) the employer; and (ii) the employee taking unpaid parental leave; <p>have under subsections 77A(2) and (3) (which provide a right to cancel the leave if the pregnancy ends other than by the birth of a living child or if the child dies after birth); and</p> <ul style="list-style-type: none"> (c) of the rights the employee taking unpaid parental leave has under: 		

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	<p>(i) subsections 77A(4) to (6) (which provide a right to end the leave early if the pregnancy ends other than by the birth of a living child or if the child dies after birth); and</p> <p>(ii) section 84 (which deals with the return to work guarantee); and</p> <p>(d) of the effect of section 78 (which provides the employer with a right to require the employee taking unpaid parental leave to return to work if the employee ceases to have any responsibility for the care of the child).</p>		
<p>Unpaid pre-adoption leave</p>	<p>[s 85] Unpaid pre-adoption leave <i>Entitlement to unpaid pre-adoption leave</i> (1) An employee is entitled to up to 2 days of unpaid pre-adoption leave to attend any interviews or examinations required in order to obtain approval for the employee’s adoption of a child.</p> <p>(2) However, an employee is not entitled to take a period of unpaid pre-adoption leave if: (a) the employee could instead take some other form of leave; and (b) the employer directs the employee to take that other form of leave.</p> <p>(3) An employee who is entitled to a period of unpaid pre-adoption leave is entitled to take the leave as: (a) a single continuous period of up to 2 days; or (b) any separate periods to which the employee and the employer agree.</p> <p><i>Notice and evidence</i></p>		

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	<p>(4) An employee must give his or her employer notice of the taking of unpaid pre-adoption leave by the employee.</p> <p>(5) The notice: (a) must be given to the employer as soon as practicable (which may be a time after the leave has started); and (b) must advise the employer of the period, or expected period, of the leave.</p> <p>(6) An employee who has given his or her employer notice of the taking of unpaid pre-adoption leave must, if required by the employer, give the employer evidence that would satisfy a reasonable person that the leave is taken to attend an interview or examination as referred to in subsection (1).</p> <p>(7) An employee is not entitled to take unpaid pre-adoption leave unless the employee complies with subsections (4) to (6).</p>		
<p>Long service leave</p>	<p>[s 113] Entitlement to long service leave <i>Entitlement in accordance with applicable award-derived long service leave terms</i></p> <p>(1) If there are applicable award-derived long service leave terms (see subsection (3)) in relation to an employee, the employee is entitled to long service leave in accordance with those terms.</p> <p>(2) However, subsection (1) does not apply if: (a) a workplace agreement, or an AWA, that came into operation before the</p>		

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	<p>commencement of this Part applies to the employee; or</p> <p>(b) one of the following kinds of instrument that came into operation before the commencement of this Part applies to the employee and expressly deals with long service leave:</p> <ul style="list-style-type: none">(i) an enterprise agreement;(ii) a preserved State agreement;(iii) a workplace determination;(iv) a pre-reform certified agreement;(v) a pre-reform AWA;(vi) a section 170MX award;(vii) an old IR agreement. <p>(3) <i>Applicable award-derived long service leave terms</i>, in relation to an employee, are:</p> <p>(a) terms of an award, or a State reference transitional award, that (disregarding the effect of any instrument of a kind referred to in subsection (2)):</p> <ul style="list-style-type: none">(i) would have applied to the employee at the test time (see subsection (3A)) if the employee had, at that time, been in his or her current circumstances of employment; and(ii) would have entitled the employee to long service leave; and <p>(b) any terms of the award, or the State reference transitional award, that are ancillary or incidental to the terms referred to in paragraph (a).</p> <p>(3A) For the purpose of subparagraph (3)(a)(i), the test time is:</p> <ul style="list-style-type: none">(a) immediately before the commencement of this Part; or(b) if the employee is a Division 2B State reference employee (as defined in		
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	<p>Schedule 2 to the Transitional Act)— immediately before the Division 2B referral commencement (as defined in that Schedule).</p> <p><i>Entitlement in accordance with applicable agreement-derived long service leave terms</i></p> <p>(4) If there are applicable agreement-derived long service leave terms (see subsection (5)) in relation to an employee, the employee is entitled to long service leave in accordance with those terms.</p> <p>(5) There are <i>applicable agreement-derived long service leave terms</i>, in relation to an employee if:</p> <p>(a) an order under subsection (6) is in operation in relation to terms of an instrument; and</p> <p>(b) those terms of the instrument would have applied to the employee immediately before the commencement of this Part if the employee had, at that time, been in his or her current circumstances of employment; and</p> <p>(c) there are no applicable award-derived long service leave terms in relation to the employee.</p> <p>(6) If the FWC is satisfied that:</p> <p>(a) any of the following instruments that was in operation immediately before the commencement of this Part contained terms entitling employees to long service leave:</p> <ul style="list-style-type: none"> (i) an enterprise agreement; (ii) a collective agreement; (iii) a pre-reform certified agreement; (iv) an old IR agreement; and 		
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	<p>(b) those terms constituted a long service leave scheme that was applying in more than one State or Territory; and</p> <p>(c) the scheme, considered on an overall basis, is no less beneficial to the employees than the long service leave entitlements that would otherwise apply in relation to the employees under State and Territory laws;</p> <p>the FWC may, on application by, or on behalf of, a person to whom the instrument applies, make an order that those terms of the instrument (and any terms that are ancillary or incidental to those terms) are applicable agreement-derived long service leave terms.</p> <p><i>References to instruments</i></p> <p>(7) References in this section to a kind of instrument (other than an enterprise agreement) are references to a transitional instrument of that kind, as continued in existence by Schedule 3 to the Transitional Act.</p> <p>[s 113A] Enterprise agreements may contain terms discounting service under prior agreements etc. in certain circumstances</p> <p>(1) This section applies if:</p> <p>(a) an instrument (the <i>first instrument</i>) of one of the following kinds that came into operation before the commencement of this Part applies to an employee on or after the commencement of this Part:</p> <ul style="list-style-type: none">(i) an enterprise agreement;(ii) a workplace agreement;(iii) a workplace determination;(iv) a preserved State agreement;(v) an AWA;		
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	<p>(vi) a pre-reform certified agreement; (vii) a pre-reform AWA; (viii) an old IR agreement; (ix) a section 170MX award; and (b) the instrument states that the employee is not entitled to long service leave; and (c) the instrument ceases, for whatever reason, to apply to the employee; and (d) immediately after the first instrument ceases to apply, an enterprise agreement (the replacement agreement) starts to apply to the employee.</p> <p>(2) The replacement agreement may include terms to the effect that an employee’s service with the employer during a specified period (the excluded period) (being some or all of the period when the first instrument applied to the employee) does not count as service for the purpose of determining whether the employee is qualified for long service leave, or the amount of long service leave to which the employee is entitled, under this Division or under a law of a State or Territory.</p> <p>(3) If the replacement agreement includes terms as permitted by subsection (2), the excluded period does not count, and never again counts, as service for the purpose of determining whether the employee is qualified for long service leave, or the amount of long service leave to which the employee is entitled, under this Division or under a law of a State or Territory, unless a later agreement provides otherwise. This subsection has effect despite sections 27 and 29.</p>		
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	<p>(4) References in this section to a kind of instrument (other than an enterprise agreement) are references to a transitional instrument of that kind, as continued in existence by Schedule 3 to the Transitional Act.</p>		
<p>Fair Work Information Statement</p>	<p>[s 124] Fair Work Ombudsman to prepare and publish Fair Work Information Statement</p> <p>(1) The Fair Work Ombudsman must prepare a <i>Fair Work Information Statement</i>. The Fair Work Ombudsman must publish the Statement in the <i>Gazette</i>.</p> <p>Note: If the Fair Work Ombudsman changes the Statement, the Fair Work Ombudsman must publish the new version of the Statement in the <i>Gazette</i> .</p> <p>(2) The Statement must contain information about the following:</p> <ul style="list-style-type: none"> (a) the National Employment Standards; (b) modern awards; (c) agreement-making under this Act; (d) the right to freedom of association; (e) the role of the FWC and the Fair Work Ombudsman; (f) termination of employment; (g) individual flexibility arrangements; (h) right of entry (including the protection of personal information by privacy laws). <p>(3) The Fair Work Information Statement is not a legislative instrument.</p> <p>(4) The regulations may prescribe other matters relating to the content or form of the Statement, or the manner in which</p>		

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	<p>employers may give the Statement to employees.</p> <p>[s 125] Giving new employees the Fair Work Information Statement</p> <p>(1) An employer must give each employee the Fair Work Information Statement before, or as soon as practicable after, the employee starts employment.</p> <p>(2) Subsection (1) does not require the employer to give the employee the Statement more than once in any 12 months.</p> <p>Note: This is relevant if the employer employs the employee more than once in the 12 months.</p>		
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