

FAIR WORK COMMISSION

4 YEARLY REVIEW OF MODERN AWARDS

AM2017/51 – Overtime for casuals

Submission of the combined Local Government Associations

December 2017

Local Government Industry Award 2010

1. This submission is made on behalf of the combined Local Government Associations.
2. Local Government Associations (“Associations”) mean:
 - 2.1 Municipal Association of Victoria;
 - 2.2 Local Government Association of Tasmania;
 - 2.3 Local Government Association of South Australia;
 - 2.4 Local Government Association of Queensland;
 - 2.5 Local Government Association of the Northern Territory;
 - 2.6 Local Government and Shires Association of New South Wales; and
 - 2.7 Western Australian Local Government Association.
3. The Full Bench of the Fair Work Commission published a Statement on 4 December 2017 listing awards that contain a potential ambiguity as to when casual employee’s overtime entitlements arise, referencing the *Local Government Industry Award 2010* (“LGIA 2010”).
4. This submission is made in response to the invitation for interested parties to provide any written response concerning the accuracy of the list of awards.
5. The Associations submit that the LGIA 2010 should be removed from the list of awards under review as the issues identified by the Fair Work Commission in the *Local Government Industry Award 2015* (“Exposure Draft”) of 18 December 2015, in relation to overtime for casuals, have already been addressed by the Commission.
6. On 14 April 2016 (**Attachment 1**) and 4 May 2016, the Associations filed submissions in relation to the Exposure Draft on this matter, and conferences were convened before Commissioner Johns on 26 April 2016 and 18 May 2016.
7. The Associations correspondence to the Commission on 4 May 2016 outlined that the Exposure Draft did not accurately represent the method of calculating the casual loading and overtime for casual employees, specifically, that casual employees should not receive the casual loading on overtime (**Attachment 2**).
8. On 18 May 2016, a conference was held before Commissioner Johns. The transcript supports that the Associations, Australian Services Union and Australian Industry Group were in agreement that under the LGIA 2010:
 - 8.1 the casual loading is not applicable on overtime hours;
 - 8.2 casuals are entitled to penalties for working ordinary hours that attract a shift or weekend penalty;

- 8.3 the casual loading (which applies to ordinary hours of work) is applied to employees' hourly ordinary time rate, and not to the loaded rate, as are applicable penalties (including overtime);
 - 8.4 it is clear when overtime applies to casual employees; and
 - 8.5 the current wording contained in the LGIA 2010 should be retained (**Attachment 3**).
9. On 27 May 2016 an updated Exposure Draft was released amending the casual clause to reinsert the current wording of the LGIA 2010 (**Attachment 4**).
10. For these reasons, the Associations submit that this matter has been adequately addressed by the Commission and should be removed from the list of awards under review.

Further Submissions

11. If the Commission is of the view that the matter of overtime for casuals has not been adequately addressed and remains an active matter, then the Associations request the ability to file further submissions on the matter.



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Kate Moore

Employee Relations Service Manager
WA Local Government Association

On behalf of the Associations

Date: 11 December 2017

Attachments:

- 1. Associations submission dated 14 April 2016
- 2. Associations submission dated 4 May 2016
- 3. Transcript of conference before Commissioner Johns, 18 May 2016
- 4. Revised Exposure draft, dated 27 May 2016

FAIR WORK COMMISSION
4 YEARLY REVIEW OF MODERN AWARDS

AM2014/234

Submission of the combined Local Government Associations

April 2016

Local Government Industry Award 2010

1. This submission is made on behalf of the combined Local Government Associations.
2. Local Government Associations (“Associations”) mean:
 - 2.1 Municipal Association of Victoria;
 - 2.2 Local Government Association of Tasmania;
 - 2.3 Local Government Association of South Australia;
 - 2.4 Local Government Association of Queensland;
 - 2.5 Local Government Association of the Northern Territory;
 - 2.6 Local Government and Shires Association of New South Wales; and
 - 2.7 Western Australian Local Government Association.
3. This submission is made in response to the directions issued by the Fair Work Commission on 2 November 2015 for the parties to provide written submissions on the technical and drafting issues related to exposure drafts in Group 3.
4. These submissions are based on the exposure draft of the award uploaded to the Fair Work Commission website on 18 December 2015.
5. The parties were asked whether clause 6.5(c)(ii) appears to state that the penalties and casual loading are added together before being added to the minimum hourly rate (cumulative, rather than compounding). The Associations confirm that the example of the casual employee ‘Alexa’ accurately represents the method of calculating penalty rates for casual employees.
6. The parties were asked to comment on whether the reference to ‘accident make-up pay’ should be deleted from clause 10.5(d)(ix). It is the submission of the Associations that the reference to ‘accident make-up pay’ should be deleted from this clause.
7. The parties were asked to clarify the rate of pay applicable on a public holiday for an employee on extended higher duties. The position of the Associations is that an employee on extended higher duties would be entitled to payment at their base rate of pay rather than the minimum hourly rate applicable to the higher level position.
8. The parties were asked to clarify whether the “appropriate rate of pay” in clause 11.4(b)(ii) is their minimum rate or can it include penalties. It is the submission of the Associations that the “appropriate rate of pay” can include penalties.
9. The parties were asked to clarify ‘whether clause 18.3 applies where a State or Territory government declares an ‘observed public holiday’ for example when a public holiday falls on a weekend and the Monday is declared a public holiday’.

10. The Associations submit that clause 18.3 has the ability to apply in each State and Territory, as the applicable public holiday legislation provides for the ability to declare additional public holidays. The applicable public holiday legislation is set out Schedule 1 to this submission.
11. The Associations submit that in the following States public holiday legislation expressly provides for a second or 'observed' public holiday on a Monday or Tuesday when a public holiday falls on the weekend, although in some cases the second day is referred to as an additional day:

New South Wales - Public Holidays Act 2010 (NSW)

Section 4 Standard Public Holidays – New Year's Day (when it is a Saturday or Sunday, there is an additional day on the following Monday, Christmas Day (where it is a Saturday there is an additional day on the following Monday, and when it is a Sunday, an additional day on the following Tuesday), Boxing Day (when it is a Saturday, there is an additional day on the following Monday, and where it is a Sunday there is an additional day on the following Tuesday).

South Australia - Holidays Act 1910 (SA).

Section 3(2)(b) – Days fixed as holidays (26 December)

Section 3A - Anzac Day

Western Australia - Public and Bank Holidays Act 1972 (WA)

Second Schedule

Queensland - Holidays Act 1983 (Qld)

Section 5(2) – Bank holidays

12. The parties were asked to clarify how clause 18.5 interacts with clause 8.2 (d). It is the submission of the Associations that there is no conflict between clause 18.5 and clause 8.2 (d). It is the submission of the Associations that clause 8.2 (d) relates to employees working an accrued rostered day off system, where the public holiday falls on their accrued day off. The clause provides for the next working day off, or another day by agreement. The Associations submit that clause 18.5 relates to employees on a 7 day a week rotating roster (not on an accrued rostered day off system) where the rotating day off falls on a public holiday. The clause provides for an additional days pay or an additional day off by agreement.
13. It is the submission of the Associations that employees engaged on a 7 day a week rotating roster may be on an accrued rostered day off system. If a public holiday fell on a day off it would then need to be determined if it was accrued rostered day off or a rotating day off as to whether clause 18.5 or 8.2 (d) applied.
14. The Associations note that the exposure draft has not included any of the amendments handed down in the Commissions determination on 23 December 2015 [PR575440].

15. The Associations have not identified any other technical and drafting issues relating to the exposure draft.



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Adam Dansie
Manager, Industrial Relations
Local Government and Shires Association
of New South Wales

On behalf of the Associations

Date: 14 April 2016

SCHEDULE 1

Submission of the combined Local Government Associations

Local Government Industry Award 2010 ("LGI Award:)

Public Holidays

New South Wales

The Associations submit that clause 18.3 applies in New South Wales. The *Public Holidays Act 2010* (NSW) provides for additional public holidays on New Year's Day, 25 December and 26 December when a public holiday falls on a weekend.

Northern Territory

The Associations submit that clause 18.3 has the potential to apply in the Northern Territory, under the *Public Holidays Act* (NT), where an additional public holiday is declared.

Queensland

The Associations submit that clause 18.3 does apply in Queensland under the *Holidays Act 1983* (QLD).

Section 5(2) of the Act provides where another day is substituted as a holiday in respect of New Year's Day, Anzac Day or Christmas Day both that day and New Year's Day, Anzac Day or Christmas Day as the case may be shall be bank holidays.

South Australia

The Associations submit that clause 18.3 has the potential to apply in South Australia, under the *Holidays Act 1910* (SA), where an additional public holiday is declared.

Tasmania

The Associations submit that clause 18.3 does not apply in Tasmania, under the *Statutory Holidays Act 2000* (TAS).

Victoria

The Associations submit that clause 18.3 has the potential to apply in Victoria, under the *Public Holidays Act 1993* (VIC), where an additional public holiday is declared.

Western Australia

The Associations submit that clause 18.3 applies in Western Australia, under the *Public and Bank Holidays Act 1972* (WA).

The Act provides in the 'second schedule' that when a public holiday falls on the weekend the following Monday is also a public holiday.

4 May 2016

By email: chambers.johns.c@fwc.gov.au

Commissioner Johns
Fair Work Commission
Level 10, Terrace Tower
80 William Street
East Sydney NSW 2011

Dear Commissioner

AM2014/234 – Local Government Industry Award 2010 [MA000112]

I refer to matter AM2014/234 concerning the 4 yearly Review of the *Local Government Industry Award 2010*, the *Exposure Draft – Local Government Industry Award 2015* (revised version, dated 28 April 2016) and the Conference before the Commission on 27 April 2016.

I write on behalf of the combined State and Territory Local Government Associations (“LGAs”)-

Upon further reflection, the LGAs are of the opinion that clause 6.5(ii) of the *Exposure Draft – Local Government Industry Award 2015* as revised on 28 April 2016 (the “**Exposure Draft**”) does not accurately represent the method of calculating casual loading and overtime for casual employees.

In particular, we are concerned that the clause suggests that a casual employee receives both the casual loading and overtime penalties when they perform overtime work. In our opinion, this is not the case.

Clauses 10.5(b) and 10.5(c) of the existing *Local Government Industry Award 2010* (the “**2010 Award**”) provide:

“(b) Casual loading

Casual employees will be paid, in addition to the hourly ordinary time rate and rates payable for shift and weekend work on the same basis as a weekly employee, an additional loading of 25% of the hourly ordinary time rate for the classification in which they are employed as compensation instead of paid leave under this award and the NES. (emphasis added)

“(c) Penalties and overtime

Penalties, including public holiday penalties and overtime, for casual employees will be calculated on the hourly ordinary time rate for the classification in which they are employed exclusive of the casual loading.

It is our understanding that the effect of the above clauses and the most common practice within the Local Government Industry (nationally) is that when a casual employee works overtime they must be paid the applicable overtime penalty. It is our view that there is no award requirement that they also be paid casual loading on such overtime work.

Further, under the 2010 Award, permanent full-time and part-time employees only accrue leave on their ordinary hours of work. They do not accrue leave on any overtime work that they may perform (if it were the case that full-time employees accrued leave on overtime work they would end up accruing more than 4 weeks annual leave per year).

Clause 6.5(c) of the Exposure Draft (concerning penalties and overtime)

Whilst clause 6.5(b)(i) of the Exposure Draft correctly provides that the casual loading is to be paid “*for each ordinary hour worked*”, to remove ambiguity and avoid confusion we submit that sub-clause 6.5(c)(ii) of the Exposure Draft should be amended by removing the reference to overtime. The LGAs also propose a minor grammatical change to sub-clause 6.5(c) to clarify the meaning of the expression “penalties” (which could be easily misunderstood to include “overtime”) (see below).

Proposed new subclause to be included within clause 6.5 (concerning overtime)

For the purposes of clarifying the circumstances in which a casual employee is entitled to overtime, and to address the concern identified by the Australian Industry Group at paragraph 360 of its submissions dated 14 April 2016, it is proposed that the title of sub-clause 6.5(c) of the Exposure Draft be amended to say “Penalties” (instead of “Penalties and Overtime”), and a new sub-clause entitled “Ordinary hours and overtime” be inserted in clause 6.5 that identifies when a casual employee works ordinary time and when they are entitled to be paid overtime (see below).

Clause 6.5 – the logical order of provisions

If the above proposed amendments are accepted, it may be appropriate for the sub-clauses within clause 6.5 to be reordered to improve the logical flow of the provisions. We submit that the appropriate order is as follows:

“6.5 Casual employees

Casual employment provisions may be affected by AM2014/197

- (a) A casual employee is an employee who is engaged and paid as a casual employee.
- (b) **Ordinary hours and overtime**

- (i) The ordinary hours of work of a casual employee under this award are up to an average of 38 per week.
 - (ii) A casual employee shall be paid at overtime rates for all work performed at the direction of the employer:
 - in excess of the ordinary weekly hours for a full-time employee as specified in clause 8.1(b);
 - on days other than ordinary working days as specified in clause 8.1; or
 - in excess of the maximum ordinary hours on any day as provided by clause 8.1(k).
- (c) **Penalties ~~and overtime~~**
- (i) Casual employees are entitled to penalty rates for shift and weekend work in accordance with clause 13—Penalty rates.
 - (ii) **Penalty rates payable in accordance with clause 13 – ~~Penalties, including public holiday penalties and overtime~~ Penalty rates and public holiday penalties** for casual employees will be calculated on the minimum hourly rate for the classification in which they are employed exclusive of the casual loading. These penalties are in addition to **and cumulative with** the casual loading of 25% of the minimum hourly rate.”

It may be convenient for the Commission to convene a further conference of the parties to address the above and any other outstanding issues.

On behalf of the LGAs, I confirm that all other changes in the Exposure Draft (as revised on 28 April 2016) accurately reflect the matters discussed during the conference on 27 April 2016 and are agreed to by the LGAs.

Yours sincerely



Adam Dansie
Senior Manager, Industrial Relations



TRANSCRIPT OF PROCEEDINGS

Fair Work Act 2009

1053487

COMMISSIONER JOHNS

AM2014/234

s.156 - 4 yearly review of modern awards

Four yearly review of modern awards

(AM2014/234)

Local Government Industry Award 2010

Melbourne

9.44 AM, WEDNESDAY, 18 MAY 2016

PN1

THE COMMISSIONER: Good morning everyone and welcome back. Now, what we have arranged is just for the transcript to run. It won't be published on the web site, but it just helps us in the drafting and so forth. We can pass the transcript along to the (indistinct) people. So when we were here on the last occasion there was a discussion about these casual clauses, the penalties and the like and then we received some correspondence from the Local Government Associations with a proposed amendment, so maybe I can come to you, Mr Rizzo. Where are you at in your thinking about this?

PN2

MR RIZZO: We have just been discussing this, Commissioner, before you arrived.

PN3

THE COMMISSIONER: Is it fixed already?

PN4

MR RIZZO: No, not really. I think it's fair to say that there is some confusion amongst the parties about this actually applies. Now, I think it boils down to that the LGA, the employers, think that the exposure draft proposes a loading upon a loading, if I can use that term, when it comes to overtime.

PN5

MR DANSIE: No, that's not quite right.

PN6

MR RIZZO: No, that's not quite right. Anyway, there's the confusion. The current draft of the award does not do that. Now, the union - the ASU - is in favour of the exposure draft per se and certainly opposed to the proposed drafting by the LGAs, but that's our position.

PN7

THE COMMISSIONER: So is it first agreed between the parties that the current award does not provide for a loading on a loading?

PN8

MR DANSIE: Correct. You don't apply a loading on a loaded grade under the current award. It's a cumulative model as opposed to a compounding model.

PN9

THE COMMISSIONER: I've got the current one. So this is the existing one.

PN10

MR DANSIE: I can show you copy of you like.

PN11

THE COMMISSIONER: So this is the clause 10.5(b) and 10.5(c).

PN12

MR DANSIE: Yes.

PN13

THE COMMISSIONER: So:

PN14

The casual employees will be paid in addition to the hourly ordinary time rate and rates payable for shift and weekend work on the same basis as a weekly employee an additional loading of 25 per cent.

PN15

So if I'm a casual, I get what a normal employee would get, plus 25 per cent.

PN16

MR RIZZO: Yes.

PN17

MR DANSIE: Yes, and if you work ordinary hours, for example, on the weekend - so ordinary hours on the weekend - you would also be entitled to the weekend penalty for working ordinary on a weekend. That gets applied to the base rate as does the casual loading; it also gets applied to the base rate. So an employee who works ordinary hours on a weekend, where there is a penalty for working ordinary hours on the weekend would get both the casual loading and the applicable weekend shift penalty, but both are applied to the base rate, not - you don't apply a loading on a loaded rate.

PN18

THE COMMISSIONER: Yes. So we are agreed that that's how it's meant to operate. So then we come to the current drafting of 6.5 and then we come to (c):

PN19

Casual employees are entitled to penalty rates for shift and weekend work in accordance with -

PN20

Well, we all agree with that. And then (ii):

PN21

Penalty rates applicable in accordance with clause 13.

PN22

So,

PN23

Penalty rates and public holiday penalty for casual employees who are calculated on the minimum hourly rate for classification in which they are employed, exclusively casual earning.

PN24

So that's - they're on the base rate, yes?

PN25

MR DANSIE: Yes.

PN26

THE COMMISSIONER: So:

PN27

These penalties are in addition to and cumulative with -

PN28

which is the suggestion I made last time,

PN29

with the casual loading of 25 per cent on the minimum hourly rate.

PN30

MR DANSIE: Yes

PN31

THE COMMISSIONER: Okay, so what is wrong with what the - what's wrong with the drafting amendment then that's been proposed by the Local Government Associations, Mr Rizzo?

PN32

MR RIZZO: Well, it contradicts with what's in the exposure draft.

PN33

THE COMMISSIONER: Yes.

PN34

MR DANSIE: So the exposure draft clause which I will just - Commissioner - you will see that in an exposure draft clause 6.5(c)(ii), it adds in the words "and overtime", so it says:

PN35

Penalties including public holiday penalties and overtime for casual employees will be calculated on the minimum hourly rate -

PN36

and then suggests that these penalties are then in addition to. So it suggests that the casual loading gets applied when the casual works overtime. What we are saying is that under the original Local Government Industry Award, when a casual works overtime, the casual loading is not applicable on overtime hours. Casual loading is only applicable on ordinary hours. So for example, a casual who works their first 38 hours in a week will obviously - that's their ordinary hours. They will get casual loading on those first 38 hours. If they then work an additional two hours of overtime for that week, the casual loading is not, under the current award, applicable on overtime hours, whereas the exposure draft appears to be suggesting that it is.

PN37

We say that 6.5(b) of the exposure draft is correct in that it clearly identifies for the casual loading for each ordinary hour worked, a casual employee must be paid casual loading of a loading of 25 per cent. So that aspect is correct. It's where they, in 6.5(c), the clause then tries to explain how you don't apply a loading on a

loaded rate and uses the word overtime in that provision that it introduces this idea that you now have to start paying a casual loading on overtime hours.

PN38

MR RIZZO: Our view, Commissioner, is that you can't isolate (b) from (c). That (b) explains that there is a 25 per cent on the ordinary rate and (c) then explains that there's a 25 per cent on overtime. They can't be read in isolation; (c) builds on (b). So our view is - - -

PN39

THE COMMISSIONER: All right. Just let me read it.

PN40

MR RIZZO: Yes.

PN41

MR DANSIE: Ironically, the parties, Commissioner, we were talking about the original award and it was almost - I think we almost got to the point where we were all agreed that the original wording of the award is okay. So whether - you know, we will just go back to what the award originally said.

PN42

THE COMMISSIONER: but in the original award, there is no reference to overtime at all.

PN43

MR DANSIE: Correct.

PN44

THE COMMISSIONER: So why do we need to have it referenced in here at all? I still don't understand what's wrong with just removing the reference to overtime in the exposure draft.

PN45

MR DANSIE: We would be okay with that, because we say - - -

PN46

THE COMMISSIONER: Yes. Well, that's what you are suggesting.

PN47

MR DANSIE: Yes, exactly right. We are saying that the use of the word "overtime" creates a confusion and, in effect, has a different - creates a different entitlement or a new entitlement which doesn't currently exist in the 2010 iteration of the award.

PN48

THE COMMISSIONER: Yes.

PN49

MR RIZZO: Commissioner, I'm inclined to just stick with the current clause, to be honest. We almost got the position with the LGAs while you were out of the room.

PN50

MR DANSIE: Yes, and the current clause makes no reference to overtime.

PN51

THE COMMISSIONER: Well, it does - it seems to in (c).

PN52

MR RIZZO: It does.

PN53

MR DANSIE: Yes - no, but that's in terms of - the purpose of (c) is to say that you don't apply a loading on a loaded rate. In terms of the casual loading provision that's in (b), and it says that the casual loading applies to shift and weekend work, where we are talking about ordinary hours on the weekend.

PN54

THE COMMISSIONER: So is this resolved if - other party is an agreement that rather than clause 6.5, the parties would prefer to revert to 10.5(b) and 10.5(c) from the current Local Government Award.

PN55

MR RIZZO: Yes.

PN56

MR DANSIE: I think that is the easiest way to resolve it.

PN57

MR RIZZO: Yes, I think we'd rather - - -

PN58

THE COMMISSIONER: Yes. So clause 6.5(b) will be 10.5(b) from the current Local Government Industry Award 2010, and clause 6.5(c) will be the current 10.5(c) from the current existing Local Government Industry 2010.

PN59

MR DANSIE: Yes.

PN60

MR RIZZO: Yes.

PN61

THE COMMISSIONER: All right. Were there any other outstanding issues that we had or have we then resolved them?

PN62

MR RIZZO: Yes. There is, Commissioner. As I put in my very brief submission to you, if we go to clause 14.2 of the draft, clause 14.2(b), Commissioner - - -

PN63

THE COMMISSIONER: Yes.

PN64

MR RIZZO: Sorry - yes, clause 14.2. And then if you go to clause 24.2(c) of the current award - yes, 24.2(c) - yes, the current 14.2, Commissioner, excludes 24.2(c) which says:

PN65

The payment for overtime rates is calculated on the employer's hourly ordinary time rate.

PN66

It doesn't replicate that.

PN67

MR DANSIE: What's that?

PN68

MR RIZZO: That's what the current one says. I don't know why that's - - -

PN69

MR DANSIE: That's probably because that was the - when we agreed last year to have overtime on a Saturday apply from 12 noon, we probably over looked - - -

PN70

MR RIZZO: No - - -

PN71

MR DANSIE: I don't think there's an issue. I mean, they are our words that we put forward last year.

PN72

MR RIZZO: Yes, but that - I don't think that relates - - -

PN73

MR BHATT: If I may, it's Ms Bhatt for Ai Group.

PN74

THE COMMISSIONER: Yes.

PN75

MR BHATT: Mr Rizzo, if we have a look at clause 14.2(a) and (b) of the exposure draft which prescribe the overtime rates, those clauses themselves now make clear the rate to which the penalty, if I can call it that, will be applied. It says "150 per cent of the minimum hourly rate." Those words are absent in the current award. Presently the overtime rate is described as time and a half and so the question arises, "Well, time and a half of what?" Subclause (c) provides us with the answer to that.

PN76

I think the way that the - - -

PN77

THE COMMISSIONER: Currently (b) says:

PN78

Overtime worked from 12 noon on Saturday and all day on a Sunday will be paid -

PN79

and then it says,

PN80

at the rate of double time.

PN81

Of course, at the rate of double time of what? It now says:

PN82

will be paid 200 per cent of the minimum hourly rate.

PN83

So it is a better drafting, I would have thought.

PN84

MR RIZZO: Does that make clause 24.3(c) of the current award obsolete? Is that what you are saying?

PN85

MR BHATT: I think it does away with the need for it.

PN86

THE COMMISSIONER: Yes, it does, because it's now clarified in (a) and (b).

PN87

MR RIZZO: Yes, but (c) says something different.

PN88

THE COMMISSIONER: No,

PN89

Payment of overtime rates will be calculated on the employee's hourly ordinary rate,

PN90

and the notion that it is paid on the minimum hourly rate is now picked up in (a) and picked up in (b) so the current 24.2(c) becomes redundant.

PN91

MR RIZZO: Okay, yes.

PN92

THE COMMISSIONER: So that's now agreed that clause 14.2 as amended should stand.

PN93

MR RIZZO: Yes.

PN94

THE COMMISSIONER: Thank you.

PN95

MR RIZZO: Thank you.

PN96

THE COMMISSIONER: All right. Were there other issues?

PN97

MR RIZZO: As far as we were concerned, Commissioner, and we wrote to you as such, we thought that all the other things that we had discussed and agreed upon were contained in the revised exposure draft. That was our view. I don't know what the employers think.

PN98

MR DANSIE: I had no problem with the other changes in the exposure draft.

PN99

THE COMMISSIONER: All right. What we will do is we will further amend it dealing with this issue in clause 6.5(c) and again then just ask that the parties confirm that the further amended version of the exposure draft is now consistent with what is agreed between the parties.

PN100

MR DANSIE: Thank you.

PN101

MR RIZZO: Yes, thank you. Were those the only outstanding matters?

PN102

MR DANSIE: I think there was - we've overcome it, because we - in my letter I had mentioned a clause - suggested a clause where we actually spell out when the casual - when overtime kicks in for a casual, but personally I don't think it's absolutely necessary. I put in pink and it might have helped clarify it, but it doesn't need to be there and I think we have dealt with it already.

PN103

THE COMMISSIONER: Ms Bhatt, anything further from you?

PN104

MR BHATT: No, Commissioner. Thank you.

PN105

MR RIZZO: Commissioner, I also did note that this award, unlike some of the other exposure drafts, in the schedule and we may or may not need this now, but it doesn't list the casual - it doesn't list the overtime rate for casuals. So if you go to page 42, which is the schedule (b), so the top says, "Schedule B, full-time and part-time employees." Then over the page, it says, "Casual adult employees", but then it doesn't have a next table which talks about overtime for casual employees.

PN106

THE COMMISSIONER: Wouldn't that be work outside the spread of ordinary hours?

PN107

MR DANSIE: It's still within clause 14, isn't it? Because payment of overtime, clause 14.2, you know, you've got 14.2(a) deals with - or clause 14.1 deals with, you know, generally when overtime would kick in, so in the case of a casual where they worked in the excessive ordinary weekly hours or on days other than ordinary working days or in excess of the maximum ordinary hours on any day; that's obviously when they would be working overtime. And then in terms of what the rate would be, it's dealt with in clause 14.2.

PN108

MR RIZZO: So you think we don't need it in the schedule?

PN109

MR DANSIE: 150 per cent for the first two hours, double-time thereafter -well, 200 per cent thereafter. On a Saturday it's 200 per cent of the minimum hourly rate after 12 noon on a Saturday and all day Sunday. I think it's spelt out.

PN110

MR RIZZO: Okay. I just note that some of the exposure drafts do have another table then for casuals on overtime, but anyway, we might not need it.

PN111

THE COMMISSIONER: Yes. I mean, it's just a summary table. So long as the substantive right is there. Is there anything further this morning?

PN112

MR DANSIE: Nothing further.

PN113

THE COMMISSIONER: Thank you very much. I appreciate it. Thank you.

ADJOURNED INDEFINITELY

[10.04 AM]

The Exposure Draft was first published on 18 December 2015. Subsequent amendments to the draft are as follows:

Publication date	Reason for amendments	Clauses affected
28 April 2016	Incorporating changes as a result of PR575440	3.3(d), 14.2(b), 23.7, Schedule H
28 April 2016	Incorporating agreed changes in conference on 26 April 2016	3.3(e) (deleted), 6.5(c)(ii), 8.1(g), 10.1, 10.3(e), 10.5(a)(i), 10.5(c), 10.5(d)(ix) (deleted), 10.6, 11.2(c)(v), 11.2(d), 11.3(b), 14.4(a), 14.4(b)(i), B.1.1, B.1.2, B.2.1, Schedule H
27 May 2016	Incorporating agreed changes in conference on 18 May 2016	6.5(c)(i) (deleted), 6.5(c)(ii) (deleted), 6.5(b), 6.5(c)

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

EXPOSURE DRAFT

Local Government Industry Award 2015

This exposure draft has been prepared by staff of the Fair Work Commission based on the **Local Government Industry Award 2010** (the Local Government award) as at 18 December 2015. This exposure draft does not seek to amend any entitlements under the Local Government award but has been prepared to address some of the structural issues identified in modern awards.

The review of this award in accordance with s.156 of the *Fair Work Act 2009* is being dealt with in matter [AM2014/234](#). Additionally a number of common issues are being dealt with by the Commission which may affect this award. Transitional provisions have not been included in this exposure draft pending the outcome of the review.

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

No examples have been included in this exposure draft. Parties are asked to submit [examples](#) that clarify the operation of particular provisions.

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Part 1—Application and Operation

1. Title and commencement

- 1.1 This award is the *Local Government Industry Award 2015*.
- 1.2 This modern award, as varied, commenced operation on 1 January 2010.
- 1.3 A variation to this award does not affect any right, privilege, obligation or liability that a person acquired, accrued or incurred under the award as it existed prior to that variation.
- 1.4 Schedule H—Definitions sets out definitions that apply in this award.
- 1.5 Neither the making of this award nor the operation of any transitional arrangements is intended to result in a reduction in the take-home pay of employees covered by the award. On application by or on behalf of an employee who suffers a reduction in take-home pay as a result of the making of this award or the operation of any transitional arrangements, the Fair Work Commission may make any order it considers appropriate to remedy the situation.

2. The National Employment Standards and this award

- 2.1 The [National Employment Standards](#) (NES) and this award contain the minimum conditions of employment for employees covered by this award.
- 2.2 Where this award refers to a condition of employment provided for in the NES, the NES definition applies.
- 2.3 The employer must ensure that copies of the award and the NES are available to all employees to whom they apply, either on a notice board which is conveniently located at or near the workplace or through accessible electronic means.

3. Coverage

- 3.1 This industry award covers employers throughout Australia in the local government industry and their employees in the classifications listed in Schedule A—Classification Definitions to the exclusion of any other modern award.
- 3.2 **Local government industry** means all activities undertaken by local government entities, including activities undertaken by corporations controlled by one or more local government entities. In this subclause a corporation is controlled by one or more local government entities if one or more local government entities have the capacity to determine the outcome of decisions about the corporation's financial and operating policies.
- 3.3 This award does not cover:
- (a) the chief executive officer of a local government entity, however described;
 - (b) nurses engaged in accordance with the *Nurses Award 2015*;

(c) doctors engaged in accordance with the *Medical Practitioners Award 2015*;

3.3(d) amended in accordance with [PR575440](#)

(d) early childhood teachers (university qualified) engaged in accordance with the *Educational Services (Teachers) Award 2015*; or

~~(e) early childhood assistants engaged in accordance with the *Educational Services (Schools) General Staff Award 2015*; or~~

(e) local government associations and their employees.

3.4 This award does not cover:

(a) employees excluded from award coverage by the *Fair Work Act 2009* (Cth) (the Act);

(b) employees who are covered by a modern enterprise award or an enterprise instrument (within the meaning of the *Fair Work (Transitional Provisions and Consequential Amendments) Act 2009* (Cth)), or employers in relation to those employees; or

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

3.5 This award covers any employer which supplies labour on an on-hire basis in the local government industry as defined in clauses 3.1 and 3.2 in respect of on-hire employees in classifications covered by this award, and those on-hire employees, while engaged in the performance of work for a business in that industry. This subclause operates subject to the exclusions from coverage in this award.

3.6 This award covers employers which provide group training services for apprentices and trainees engaged in the local government industry as defined in clauses 3.1 and 3.2 and those apprentices and 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.

3.7 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.

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

4. Award flexibility

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

employer and the individual employee may agree to vary the application of, are those concerning:

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

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

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

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

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

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

4.5 The employer must give the individual employee a copy of the agreement and keep the agreement as a time and wages record.

4.6 Except as provided in clause 4.4(a) the agreement must not require the approval or consent of a person other than the employer and the individual employee.

4.7 An employer seeking to enter into an agreement must provide a written proposal to the employee. Where the employee's understanding of written English is limited the employer must take measures, including translation into an appropriate language, to ensure the employee understands the proposal.

4.8 The agreement may be terminated:

- (a) by the employer or the individual employee giving 13 weeks’ notice of termination, in writing, to the other party and the agreement ceasing to operate at the end of the notice period; or
- (b) at any time, by written agreement between the employer and the individual employee.

NOTE: If any of the requirements of [s.144\(4\)](#), which are reflected in the requirements of this clause, are not met then the agreement may be terminated by either the employee or the employer, giving written notice of not more than 28 days (see [s.145](#) of the Act).

4.9 The notice provisions in clause 4.8(a) only apply to an agreement entered into from the first full pay period commencing on or after 4 December 2013. An agreement entered into before that date may be terminated in accordance with clause 4.8(a), subject to four weeks’ notice of termination.

4.10 The right to make an agreement pursuant to this clause is in addition to, and is not intended to otherwise affect, any provision for an agreement between an employer and an individual employee contained in any other term of this award.

5. Facilitative provisions

5.1 A facilitative provision provides that the standard approach in an award provision may be departed from by agreement between an employer and an individual employee, or an employer and the majority of employees in the enterprise or part of the enterprise concerned.

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

Clause	Provision	Agreement between an employer and:
6.4(g)	Part-time employees—agreed additional hours	An individual
8.1(k)	Maximum ordinary hours in a day	An individual
14.3	Time off instead of payment for overtime	An individual
18.4	Substitution of public holiday by agreement	An individual

Part 2—Types of Employment and Classifications

6. Types of employment

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

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

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

6.3 Full-time employees

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

6.4 Part-time employees

Part-time employment provisions may be affected by [AM2014/196](#)

- (a) An employer may employ part-time employees in any classification in this award.
- (b) A part-time employee:
 - (i) works less than 38 ordinary hours per week;
 - (ii) has reasonably predictable hours of work; and
 - (iii) receives, on a pro rata basis, pay and conditions equivalent to those of full-time employees who do the same kind of work.
- (c) At the time of engagement the employer and the part-time employee will agree in writing on a regular pattern of work, specifying at least the hours worked each day, which days of the week the employee will work and where practicable the actual starting and finishing times each day.
- (d) Any agreed variation to the hours of work will be recorded in writing.
- (e) An employer is required to roster a part-time employee for a minimum of one hour on any shift.
- (f) A part-time employee must be paid the minimum hourly rate for the relevant classification in clause 10—Minimum wages for each ordinary hour worked.
- (g) **Agreed additional hours**

A part-time employee may agree to work up to an average of 38 ordinary hours per week at the minimum hourly rate provided the agreement is entered into without duress, in writing and stipulates that hours are to be paid at the minimum hourly rate.

(h) Additional hours by direction

Where a part-time employee is directed to work hours in excess of the hours agreed under clause 6.4(c) or as varied under clause 6.4(d), such hours will be overtime and paid for at the overtime rates prescribed in clause 14—Overtime.

6.5 Casual employees

Casual employment provisions may be affected by [AM2014/197](#)

(a) A casual employee is an employee who is engaged and paid as a casual employee.

~~**(b) Casual loading**~~

~~**(i)** For each ordinary hour worked, a casual employee must be paid:~~

- ~~• the minimum hourly rate; and~~
 - ~~• a loading of 25% of the minimum hourly rate,~~
- ~~for the classification in which they are employed.~~

~~**(ii)** The casual loading is paid instead of annual leave, paid personal/carer's leave, notice of termination, redundancy benefits and other entitlements of full-time or part-time employment.~~

~~**(e) Penalties and overtime**~~

~~**(i)** Casual employees are entitled to penalty rates for shift and weekend work in accordance with clause 13—Penalty rates.~~

~~**(ii)** Penalties, including public holiday penalties and overtime, for casual employees will be calculated on the minimum hourly rate for the classification in which they are employed exclusive of the casual loading. These penalties are in addition to and cumulative with the casual loading of 25% of the minimum hourly rate.~~

(b) Casual loading

Casual employees will be paid, in addition to the hourly ordinary time rate and rates payable for shift and weekend work on the same basis as a weekly employee, an additional loading of 25% of the hourly ordinary time rate for the classification in which they are employed as compensation instead of paid leave under this award and the NES.

(c) Penalties and overtime

Penalties, including public holiday penalties and overtime, for casual employees will be calculated on the hourly ordinary time rate for the classification in which they are employed exclusive of the casual loading.

7. Classifications

7.1 All employees covered by this award will be classified according to the structure set out in Schedule A—Classification Definitions.

- 7.2 Employers must advise employees in writing of their level on commencement of employment and of any subsequent changes to their level.
- 7.3 The employer will determine the classification level according to the skill level or levels required to be exercised by the employee in order to carry out the principal functions of their employment.

Part 3—Hours of Work

8. Ordinary hours of work and rostering

AIG to confirm position on clauses 8.1(a) and 8.1(c)

8.1 Ordinary hours

- (a) For the purpose of the NES, ordinary hours of work under this award are 38 per week.
- (b) The ordinary hours of work for a full-time employee are an average of 38 hours per week (not including unpaid meal breaks) over a period of 28 days worked.
- (c) The ordinary hours of work for a part-time or casual employee will be in accordance with clause 6—Types of employment.
- (d) Except as otherwise provided, ordinary hours can be worked between 6.00 am and 6.00 pm, Monday to Friday.
- (e) Ordinary hours can be worked between 5.00 am and 10.00 pm, Monday to Sunday for employees in the following roles or work areas:
- (i) aerodromes/airports;
 - (ii) caretakers/hall keepers/caravan park employees;
 - (iii) catering/hospitality;
 - (iv) cleaners;
 - (v) community services;
 - (vi) garbage, sanitary and sullage services;
 - (vii) livestock and saleyards;
 - (viii) local law enforcement and community safety services;
 - (ix) parking station attendants;
 - (x) recreation centres/golf courses; and
 - (xi) tourism services.
- (f) Ordinary hours for employees working in libraries can be worked between 8.00 am and 9.00 pm, Monday to Sunday.

- (g) Ordinary hours for employees working in customer services centres can be worked between 6.00 am and 6.00 pm, Monday to Sunday.
- (h) Ordinary hours for childcare service employees can be worked between 6.00 am and 7.00 pm, Monday to Friday.
- (i) Except as otherwise provided, an employee who works ordinary hours on a Saturday or Sunday in a role/work area as prescribed in clause 8.1(e), (f) and (g) will be entitled to weekend penalty rates in accordance with clause 13.2.
- (j) An employee may work ordinary hours outside of the spans provided in clause 8.1, provided the employee is paid a weekday penalty in accordance with clause 13.1 for hours worked outside the span.
- (k) **Maximum ordinary hours in a day**

An employee may work up to a maximum of 10 ordinary hours on any day/shift (excluding unpaid meal breaks) or, by agreement between the employer and employee, up to a maximum of 12 ordinary hours on any day/shift.

8.2 Rostering

- (a) A roster for full-time and part-time employees showing normal starting and finishing times and the surname and initials of each employee will be prepared by the employer and will be made available to employee/s at their request.
- (b) A roster can be altered by mutual consent at any time and may be altered by the employer on seven days' notice.
- (c) Where practicable, two weeks' notice of rostered day or days off should be given provided that the days off may be changed by mutual consent or through illness or other cause over which the employer has no control.
- (d) If an accrued rostered day off falls on a public holiday as prescribed in the NES, the next working day will be substituted. Another day may be substituted by written agreement.

8.3 Flexible working arrangements

An employer and employee may agree to flexible working arrangements which include flexitime, banked hours, make-up time, accrued and rostered days off, and/or seasonal working arrangements.

9. Meal breaks

- 9.1 An employee will not be required to work more than five hours without receiving an unpaid meal break of at least 30 minutes.
- 9.2 In the case of unforeseen circumstances, the meal break may be delayed and will be taken as soon as practicable, subject to the observance of appropriate health and safety standards.

9.3 Employees required to perform working during meal breaks

- (a) An employer may require an employee in the following roles or work areas to remain at their place of work during the meal break if a replacement employee is not reasonably available:
 - (i) Childcare services;
 - (ii) Recreation centres;
 - (iii) Tourism services;
 - (iv) Community services.
- (b) Where the employee in clause 9.3(a) is required to perform work during their meal break the employee will have their meal break extended so that they receive an unpaid meal break of at least 30 minutes in total.

Part 4—Wages and Allowances

10. Minimum wages

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

Employee classification	Minimum weekly rate <u>(full-time employees)</u>	Minimum hourly rate
	\$	\$
Level 1	702.30	18.48
Level 2	725.90	19.10
Level 3	753.70	19.83
Level 4	764.90	20.13
Level 5	812.80	21.39
Level 6	879.60	23.15
Level 7	894.80	23.55
Level 8	966.90	25.44
Level 9	1,034.30	27.22
Level 10	1,130.60	29.75
Level 11	1,274.80	33.55

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

10.2 Junior rates

Junior employees will be paid a percentage of the applicable minimum rate in clause 10.1 for their classification as follows:

Age	% of minimum rate
Under 17 years	55
17 years	65
18 years	75
19 years	85
20 years	95

10.3 Apprentices

- (a) The terms of this award apply to apprentices, except where otherwise provided.
- (b) The weekly minimum wage rates for apprentices who started their apprenticeship before 1 January 2014 are as follows:

(i) **Four year apprenticeship**

Year	% of Level 4 rate
1st year	45
2nd year	60
3rd year	75
4th year	90

(ii) **Three year apprenticeship**

Year	% of Level 4 rate
1st year	45
2nd year	70
3rd year	90

- (c) The weekly minimum wage rates for apprentices who started their apprenticeship on or after 1 January 2014 are as follows:

(i) **Four year apprenticeship**

Year	Have not completed year 12	Have completed year 12
	% of Level 4 rate	
1st year	50	55
2nd year	60	65
3rd year	75	75
4th year	90	90

(ii) Three year apprenticeship

Year	Have not completed year 12	Have completed year 12
	% of Level 4 rate	
1st year	50	55
2nd year	70	70
3rd year	90	90

- (d) An adult apprentice will be paid no less than the minimum weekly rate for Level 2 in clause 10.1.
- (e) A person employed by an employer under this award immediately prior to entering into a training agreement as an adult apprentice with that employer must not suffer a reduction in their minimum wage by virtue of entering into the training agreement, provided that the person has been an employee in that enterprise for at least six months as a full-time employee or 12 months as a part-time or regular and systematic casual employee immediately prior to starting the apprenticeship. For the purpose only of fixing a minimum wage, the adult apprentice must continue to receive the minimum wage that applies to the classification specified in clause 10.1 in which the adult apprentice was engaged immediately prior to entering into the training agreement.
- ~~(f) For the purpose only of fixing a minimum wage, the adult apprentice must continue to receive the minimum wage that applies to the classification specified in clause 10.1 in which the adult apprentice was engaged immediately prior to entering into the training agreement.~~
- (f) Block release training**
- (i) Where an apprentice is required to attend block release training for training identified in or associated with their training contract, and such training requires an overnight stay, the employer must pay for the excess reasonable travel costs incurred by the apprentice in the course of travelling to and from such training.
- (ii) Clause 10.3(f)(i) will not apply where the apprentice could attend an alternative Registered Training Organisation (RTO) and the use of the more distant RTO is not agreed between the employer and the apprentice.
- (iii) For the purposes of clause 10.3(f)(i), excess reasonable travel costs include the total costs of reasonable transportation (including transportation of tools where required), accommodation costs incurred while travelling (where necessary) and reasonable expenses incurred while travelling, including meals, which exceed those incurred in travelling to and from work. Excess travel costs do not include payment for travelling time or expenses incurred while not travelling to and from block release training.
- (iv) The amount payable by an employer under clause 10.3(f)(i) may be reduced by an amount the apprentice is eligible to receive for travel costs to attend block release training under a Government apprentice assistance scheme. This will only apply if an apprentice has either received such

assistance or their employer has advised them in writing of the availability of such assistance.

(g) Training fees

(i) All training fees charged by an RTO for prescribed courses and the cost of all prescribed textbooks (excluding those textbooks which are available in the employer's technical library) for the apprenticeship, which are paid by an apprentice, shall be reimbursed by the employer:

- within six months of the commencement of the apprenticeship or the relevant stage of the apprenticeship; or
- within three months of the commencement of the training provided by the RTO,

whichever is the later, unless there is unsatisfactory progress.

(ii) An employer may meet its obligations under clause 10.3(g)(i) by paying any fees and/or cost of textbooks directly to the RTO.

(h) An apprentice is entitled to be released from work without loss of continuity of employment and to payment of the appropriate wages to attend any training and assessment specified in, or associated with, the training contract.

(i) Subject to the provisions of Schedule E—School-based Apprentices, time spent by an apprentice in attending any training and/or assessment specified in, or associated with, the training contract is to be regarded as time worked for the employer for the purposes of calculating the apprentice's wages and determining the apprentice's employment conditions.

(j) No apprentice will, except in an emergency, work or be required to work overtime or shiftwork at times which would prevent their attendance at training consistent with their training contract.

10.4 Payment of wages

At the employer's discretion, employees will be paid weekly, fortnightly or as otherwise agreed by the employer and employee. Payment will be made by electronic funds transfer into the employee's nominated account or other agreed method.

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

10.5 Annualised salaries

(a) Annual salary instead of award provisions

Notwithstanding any other provision of this award, an employer and an employee may agree that the employer may pay the employee an annual salary to compensate for any or all of the following provisions of the award:

- (i)** clause ~~10.1~~ 10—Minimum wages;
- (ii)** clause 10.6—Higher duties;
- (iii)** clause 11—Allowances;

- (iv) clause 13—Penalty rates;
- (v) clause 14—Overtime; and
- (vi) clause 15.4—Annual leave loading

(b) Annual salary not to disadvantage employees

- (i) The annual salary must be no less than the amount the employee would have received under this award for the work performed over the year for which the salary is paid (or if the employment ceases earlier over such lesser period as has been worked).
- (ii) The annual salary of the employee must be reviewed by the employer at least annually to ensure that the compensation is appropriate having regard to the award provisions which are satisfied by the payment of the annual salary.

- (c) For the purposes of the NES, the base rate of pay of an employee receiving an annual salary under this clause comprises the portion of annual salary equivalent to the relevant rate of pay in clause ~~10.1~~ 10—Minimum wages and excludes any incentive-based payments, bonuses, loadings, monetary allowances, overtime and penalties.

(d) An annual salary agreement must:

- (i) be in writing and signed by both parties;
- (ii) state the date on which the arrangement starts;
- (iii) be provided to the employee;
- (iv) contain a provision that the employee will receive no less under the arrangement than the employee would have been entitled to if all award obligations had been met, taking account of the value of the provision of matters not comprehended by the award such as private use of an employer provided motor vehicle;
- (v) be subject to an annual review;
- (vi) contain details of any salary package arrangements, including the annual salary that is payable;
- (vii) contain details of any other non-salary benefits provided to the employee such as an employer provided motor vehicle;
- (viii) contain details of any performance pay arrangements and performance measurement indicators;
- ~~(ix) contain the salary for the purposes of accident make-up pay; and~~

Parties are asked to comment on whether the reference to 'accident make up pay' should be deleted.

- (ix) contain the award level classification for the role.

(e) Termination of annual salary agreement

- (i) An annual salary agreement may be terminated:
- by the employer or the employee giving four weeks' notice of termination, in writing, to the other party and the agreement ceasing to operate at the end of the notice period; or
 - at any time, by written agreement between the employer and the employee.
- (ii) On termination of an annual salary agreement, the employee will revert to the award entitlements unless a new annual salary agreement is reached.

10.6 Higher duties

- (a) An employee required by the employer to relieve in a higher level position where the employee is required to perform the substantive functions ~~of a position at a higher level~~ for more than one day will be paid the minimum hourly rate applicable to that higher level pursuant to clause 10.1.
- (b) Subject to clauses 10.6(b)(i) and (ii), higher duties will not be paid when the relieving employee is absent on leave or on a public holiday.
- (i) Where an employee performs higher duties and is in receipt of a higher minimum hourly rate for three continuous months or more immediately prior to starting a period of paid annual leave or paid personal/carer's leave, the leave will be paid at the higher minimum hourly rate.
- (ii) The amount of annual leave or personal/carer's leave that is paid at the higher minimum hourly rate will be proportional to the amount of annual leave or personal/carer's leave accrued whilst performing the higher duties work.

Parties are asked to clarify the rate of pay applicable on a public holiday for an employee on extended higher duties.

10.7 Supported wage system

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

10.8 School-based apprentices

For school-based apprentices, see Schedule E—School-based Apprentices.

10.9 National training wage

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

11. Allowances

11.1 Employers must pay to an employee the allowances the employee is entitled to under this clause.

11.2 Wage related allowances

(a) Leading hand allowance

An employee at Level 3, 4 or 5 who is required by the employer to supervise other employees will be paid an allowance in addition to their classification rate of pay as follows:

Supervisor's classification level	Number of employees supervised	\$ per week
3 or 4	1 to 5	22.14
3 or 4	6 to 15	30.20
3, 4 or 5	More than 15	38.25

NOTE: The Level 1 and Level 2 classifications do not involve the supervision of other employees.

(b) First aid allowance

- (i)** An allowance of **\$14.09** per week will be paid to an employee who holds an appropriate first aid qualification and who is appointed by the employer to perform first aid duty.
- (ii)** Clause 11.2(b)(i) will not apply where the requirement to hold a first aid certificate is a requirement of the position.
- (iii)** The first aid allowance is payable during periods of paid leave.

(c) Adverse working conditions

- (i)** Operational and trade employees engaged in Levels 1 to 5 of this award will be paid an additional hourly allowance at the rate specified in clause 11.2(c)(iii) for all time worked by direction under adverse working conditions as defined in clause 11.2(c)(iv).
- (ii)** In addition to the payment of this allowance, the employer will supply all appropriate protective clothing and equipment for working in the particular adverse conditions.
- (iii)** An employee will be paid an additional hourly allowance for each hour in which work under adverse working conditions is performed as follows:
 - Level 1 working conditions—**\$0.70** per hour; or
 - Level 2 working conditions—**\$1.01** per hour; or
 - Level 3 working conditions—**\$10.07** per hour.

(iv) Definition of adverse working conditions

(A) Level 1 working conditions

The Level 1 working conditions allowance compensates for all adverse conditions associated with working outdoors and/or for moderately obnoxious, offensive or dirty working conditions, including:

- working in confined or cramped spaces;
- working in wet places;
- working in hot places where temperatures are artificially raised above 45 degrees Celsius;
- working at heights above 5 metres from the ground or other stable surface, including on temporary structures;
- working in dusty, muddy or dirty conditions;
- cleaning of public toilets and animal shelters;
- operating mechanical and pneumatic equipment;
- removing or destroying dead animals;
- handling or use of herbicides, insecticides and/or other poisonous or toxic substances;
- working with dirty materials such as asphalt, concrete, epoxy compounds, green or second-hand timber, insulation materials, grease, oil and other dirty building and construction materials;
- collection, removal and/or disposal of non-putrescible waste;
- collection, removal and/or disposal of non-putrescible waste by mechanical means; and
- fighting fires.

(B) Level 2 working conditions

The Level 2 working conditions allowance compensates for the nature of highly obnoxious, offensive or dirty working conditions, which typically includes:

- clearing of sewer chokes;
- maintenance, connections to and/or repair of sewerage equipment;
- cleaning septic tanks, septic closets and/or chemical closets by mechanical means;
- reopening or exhumation of graves; digging graves in wet ground or where there is seepage from adjacent graves;

- handling infected materials;
- collection, removal and/or disposal of putrescible waste other than by mechanical means;
- working at waste depots, waste collection and/or waste transfer stations (other than employees engaged in gardening and/or lawn maintenance and employees engaged to work in enclosed weighbridges); and
- engaged in the collection, removal and/or disposal of, sludge from cess pits and/or grease traps.

(C) Level 3 working conditions

The Level 3 working conditions allowance compensates for the nature of extremely obnoxious, offensive or dirty work in septic and sewerage treatment services, which typically includes:

- working in digestion tanks at sewerage treatment works;
 - entering and cleaning aeration ponds or wet wells at sewer pump stations;
 - working in live sewers; and
 - cleaning septic tanks, septic closets and/or chemical closets by other than mechanical means.
- (v) An employer may make an average payment equivalent to an agreed number of hours per week where the employee is regularly required to work under adverse working conditions as defined in clause ~~(e)(iv)~~ 11.2(c)(iv).
- (vi) Adverse working conditions allowances are not payable during periods of leave.

(d) Camping allowance

- ~~(i) An employee will be paid a camping allowance of \$23.15 per night where:~~
- ~~• required to camp at the site of any work by direction of the employer; or~~
 - ~~• because no reasonable transport facilities are available to enable the employee to proceed to and from home each day.~~
- (i) An employee will be paid a camping allowance of \$23.15 per night where required to camp at the site of any work:
- by direction of the employer; or
 - because no reasonable transport facilities are available to enable the employee to proceed to and from home each day.

- (ii) At the end of each working week the employee will be allowed to return to the employee's home and in such cases all time reasonably required for travelling to and from the employee's home will be treated as time worked in addition to the actual time spent working.

(e) On call allowance

An employee who is on call in accordance with clause 14.6 will be paid an on call allowance as follows:

- (i) Monday to Friday, inclusive—\$20.13 per day;
- (ii) Saturday—\$30.20 per day; or
- (iii) Sunday or a public holiday—\$40.26 per day.

(f) Sleepover allowance

A sleepover allowance may be payable to a community service employee in accordance with clause 14.7.

11.3 Expense related allowances

(a) Meal allowance in relation to overtime

- (i) A meal allowance of \$14.65 will be paid to an employee who is required to work more than two hours' overtime in a minimum of 10 hours on duty.
- (ii) An additional meal allowance of \$14.65 will be paid where the employer requires the employee to continue working for a further four hours of continuous overtime work.
- (iii) A meal allowance is not payable:
 - where the employee has been notified at least 24 hours in advance of the requirement to work overtime; or
 - where the employee is only required to work less than the time prescribed in clauses 11.3(a)(i) or (ii); or
 - where a meal is provided by the employer.

(b) Tool allowance—tradespersons and apprentices

- (i) A weekly tool allowance of \$18.25 will be paid to a tradesperson or an apprentice tradesperson who is required by the employer to supply and maintain tools ordinarily required by the employee in the performance of their duties as a tradesperson.
- (ii) The tool allowance is not payable where the employer provides the tradesperson or apprentice with the required tools or while employees are absent from work.

(c) **Vehicle allowance**

- (i) An employee required by their employer to use their own vehicle in or in connection with the performance of their duties will be paid an allowance for each kilometre of authorised travel as follows:
- motor vehicle—**\$0.78** per kilometre; and
 - motorcycle—**\$0.26** per kilometre.
- (ii) An employer may require an employee to record full details of all such official travel requirements in a log book.

11.4 Transfers, travelling and working away from normal starting point

(a) **Normal starting point**

- (i) All employees upon engagement will be given a starting point which will be, subject to clause 11.4(a)(v), the starting point of their daily work activities.
- (ii) For the purposes of this clause, **normal starting point** means a workshop, depot, office or facility to which the employee is usually assigned or any other designated starting and/or finishing point.
- (iii) Unless otherwise provided, each employee will be attached to one normal starting point only.
- (iv) An employee may be attached to more than one normal starting point where multiple starting points form part of the nature of the work being performed.
- (v) An employee may be transferred to a different normal starting point within the employer's local government area at any time by the giving of reasonable notice provided that the relocation is reasonable in the circumstances and does not unreasonably disadvantage the employee.

(b) **Excess travelling time and fares**

- (i) Where an employer requires an employee, other than a casual, to start work at a place away from the employee's normal starting point, the employer will pay the employee:
- **excess travelling time**—at the employee's minimum rate for all time reasonably spent reaching and/or returning from the job which is in excess of the time normally spent in travelling between the employee's usual residence and their normal starting point; and
 - **excess fares**—any fares reasonably incurred by the employee that are in excess of the fares normally incurred in travelling between the employee's usual residence and the employee's normal starting point. The excess fares allowance will not be paid where the employee is provided with a vehicle by the employer or is paid the vehicle allowance as provided in clause 11.3(c) or has an arrangement with the employer for a regular vehicle allowance in excess of the allowance provided in clause 11.3(c).

- (ii) Where a community services employee providing home care is required by the employer to travel between two or more work locations in any one day the employee will be reimbursed for travel expenses incurred for travel between the first and successive service points and will be paid at the appropriate rate of pay during travel time between the first and successive service points.

Parties are asked whether the “appropriate rate of pay” in clause 11.4(b)(ii) is their minimum rate or can it include penalties?

11.5 Reimbursement of expenses

- (a) All reasonable expenses incurred by the employee at the direction of the employer, including out-of-pocket expenses, course fees and materials, telephones, accommodation, travelling expenses and the cost of special protective clothing, incurred in connection with the employee’s duties will be paid by the employer and, where practicable will be included in the next pay period.
- (b) The method and mode of travelling or the vehicle to be supplied or to be used will be arranged mutually between the employer and the employee. Travelling arrangements will be agreed between the employer and the employee in advance.
- (c) The employer will reimburse an employee, other than a tradesperson or apprentice, for the cost of any tools, instruments or special equipment purchased and supplied by the employee at the direction of the employer. However, reimbursement need not be made if the employer supplies the tools, instruments or equipment.
- (d) The employer may require the employee to present proof of payment prior to the reimbursement.

See Schedule C for a summary of monetary allowances and method of adjustment.

12. Superannuation

12.1 Superannuation legislation

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

12.2 Employer contributions

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

12.3 Voluntary employee contributions

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

12.4 Superannuation fund

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

- (a) LGsuper;
- (b) Local Government Superannuation Scheme (LGSS);
- (c) Quadrant Superannuation Scheme;
- (d) Tasplan;
- (e) Vision Super;
- (f) WA Local Government Superannuation Plan;
- (g) City of Perth Superannuation Fund;
- (h) Local Super;
- (i) 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
- (j) a superannuation fund or scheme which the employee is a defined benefit member of.

12.5 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 12.2 and pay the amount authorised under clauses 12.3(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 the statutory requirements; and
 - (ii) the employee remains employed by the employer.

Part 5—Penalties and Overtime

13. Penalty rates

13.1 Weekday penalty rates

An employee required to work ordinary hours on a Monday to Friday outside the span of hours provided in clauses 8.1(d), (e), (f), (g) or (h) will be paid **120%** of the minimum hourly rate for hours worked outside the span.

13.2 Weekend penalty rates

- (a) An employee (other than an employee engaged in recreation centres or community service) who works on a Saturday or Sunday in a role/work area specified in clauses 8.1(e), (f) and (g) will be entitled to the following penalties for all ordinary hours worked:
 - (i) **150%** of the minimum hourly rate for all ordinary hours worked on a Saturday.
 - (ii) **175%** of the minimum hourly rate for all ordinary hours worked on a Sunday.
- (b) Employees will be paid weekend penalty rates for the actual time worked on a Saturday and/or Sunday.
- (c) Saturday is taken to commence at midnight on Friday and finish at midnight on Saturday. Sunday is taken to commence at midnight on Saturday and finish at midnight on Sunday.

13.3 Weekend penalty rates for recreation centres and community services

- (a) Employees engaged in recreation centres or community services will not be entitled to weekend penalty rates for ordinary hours worked on Saturday or Sunday between the hours of 5.00 am and 10.00 pm.

- (b) All other weekend hours for such employees will be paid according to clause 13.2(a).

14. Overtime

14.1 Definition of overtime

Unless otherwise provided, overtime means all work performed at the direction of the employer:

- (a) in excess of the employee's ordinary weekly hours as specified in clause 8.1(a);
- (b) on days other than ordinary working days as specified in clauses 8.1; or
- (c) in excess of the maximum ordinary hours on any day provided by clause 8.1(k).

14.2 Payment for overtime

- (a) Except as otherwise provided, overtime will be paid at **150%** of the minimum hourly rate for the first two hours and **200%** of the minimum hourly rate after that.
- ~~(b) Overtime worked on a Sunday will be paid at 200% of the minimum hourly rate.~~
- (b) Overtime worked from 12 noon on a Saturday and all day Sunday will be paid 200% of the minimum hourly rate.
- (c) In calculating overtime, each day's work stands alone.

14.3 Time off instead of payment for overtime

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

- (a) An employee may elect, with the consent of the employer, to take time off instead of payment for overtime.
- (b) Overtime taken as time off during ordinary time hours must be taken at the ordinary time rate, that is an hour off for each hour of overtime worked.
- (c) Time off instead of payment for overtime must be taken at a mutually convenient time and within four weeks of the overtime being worked.
- (d) Unless otherwise agreed, an employer will provide payment at the appropriate overtime rate for any overtime worked where time off has not been taken within four weeks of the overtime being worked.

14.4 Rest period after overtime

(a) Length of the rest period

When overtime work is necessary it will be arranged ~~where possible wherever~~ reasonably practicable for employees to have at least 10 consecutive hours off duty between the work on successive days.

(b) Where the employee does not get a 10 hour rest

(i) The following conditions apply to an employee (other than a casual employee) who works so much overtime that the employee has not had at least 10 consecutive hours off duty between the end of the employee's work on one day and the start of the employee's ordinary hours of work on the next day:

- the employee must be released from duty after that overtime is finished until the employee has had 10 consecutive hours off duty, and
- there will be no loss of pay for ordinary hours of work ~~time~~ which occur during this absence.

(ii) The following conditions apply to an employee who, on the instructions of the employer, resumes or continues work without having had 10 consecutive hours off duty in accordance with clause 14.4(b)(i):

- the employee must be paid at **200%** of the minimum hourly rate until the employee is released from duty;
- the employee is then entitled to be absent for 10 consecutive hours; and
- there will be no loss of pay for ordinary hours of work time which occur during this absence.

(c) On call, call-back and remote response

Clauses 14.4(a) and 14.4(b) will not apply where an employee works for less than three hours on call, call-back or remote response on any one day in accordance with clauses 14.5 or 14.6.

14.5 Call-back

(a) For the purposes of this award, an employee will be deemed to be on a call-back if the employee is recalled to work overtime after leaving the employer's premises or worksite and without receiving prior notice of the requirement to work overtime before finishing work.

(b) Employees will not be deemed to be on call-back where the employee works overtime that is continuous with the employee's ordinary hours.

(c) Any employee who is called back to work will be paid for a minimum of three hours' work at the appropriate overtime rate for each time the employee is recalled.

(d) Any subsequent call-backs occurring within three hours of a call-back will not attract any additional payment.

(e) An employee working on a call-back will be paid the appropriate overtime rate from the time the employee departs for work.

(f) Except in the case of unforeseen circumstances arising, the employee will not be required to work the full three hours if the job that the employee was recalled to perform is completed within a shorter period.

- (g) Clause 14.5 will not apply in cases where the call-back is continuous subject to a reasonable meal break with the commencement of ordinary hours.

14.6 On call

- (a) An employee directed by the employer to be available for duty outside of the employee's ordinary working hours will be on call. An employee on call must be able to be contacted and immediately respond to a request to attend work.
- (b) An employee who is on call may be paid an on call allowance in accordance with clause 11.2(e).

(c) Call out

- (i) An employee who is on call and in receipt of an on call allowance will be paid at the appropriate overtime rate in clause 14—Overtime for time required to attend work.
- (ii) Actual time worked will be deemed to apply from the time the employee leaves home.

(d) Remote response

- (i) An employee who is in receipt of an on call allowance and available to immediately:
- respond to phone calls or messages;
 - provide advice ('phone fixes');
 - arrange call out/rosters of other employees; and
 - remotely monitor and/or address issues by remote telephone and/or computer access,

will be paid the applicable overtime rate in clause 14—Overtime for the time actually taken in dealing with each particular matter.

- (ii) An employee remotely responding will be required to maintain and provide to the employer a time sheet of the length of time taken in dealing with each matter remotely for each day starting from the first remote response. The total overtime paid to an employee for all time remotely responding in any day commencing from the first response will be rounded up to the nearest 15 minutes.

14.7 Sleepover allowance

- (a) A community service employee who is required to be present at the workplace for any period while on a sleepover shift will be paid **\$10.07** for each hour plus the on call allowance provided for in clause 14.6(b).
- (b) Time spent while on a sleepover shift will not be regarded as ordinary hours or as time worked for any purpose whatsoever.
- (c) Payment of the on call allowance referred to in clause 14.7(a) will be payment for work undertaken by the employee during any continuous period of a sleepover shift unless the work is in excess of either:

- (i) one hour; or
 - (ii) two call outs.
- (d) If the work is in excess of one hour or two call outs, an employee called out to work will be paid at overtime rates for the period of the call out with a minimum payment of 30 minutes.
- (e) A sleepover shift will not exceed 12 hours unless the premises at which the employee is required to remain is the employee's principal place of residence, in which case the employee may be on a sleepover shift for up to 14 hours.
- (f) An employee will not be entitled to the sleepover shift allowance prescribed by clause 14.7 for any hour in respect of which they are entitled to payment for ordinary hours or overtime.

Part 6—Leave, Public Holidays and Other NES Entitlements

15. Annual leave

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

15.1 Annual leave is provided for in the NES. This clause supplements or deals with matters incidental to the NES provisions.

15.2 Shiftworkers for the purposes of the NES

For the purpose of s.87(1)(b) of the Act, a **shiftworker** is an employee:

- (a) who works a roster and who, over the roster cycle, may be rostered to work ordinary shifts on any of the seven days of the week; and
- (b) who is regularly rostered to work on Sundays and public holidays.

15.3 Payment for annual leave

- (a) Employees will be paid their minimum hourly rate of pay during periods of annual leave for the hours so taken.
- (b) An employee entitled to a first aid allowance in accordance with clause 11.2(b) will be paid that allowance when on annual leave.

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

15.4 Annual leave loading

- (a) The employee will be paid an annual leave loading of **17.5%** calculated on the employee's minimum weekly rate of pay in addition to payment for annual leave provided.
- (b) Annual leave loading will, at the discretion of the employer, be paid in any of the following ways:

- (i) on the anniversary date of employment;
 - (ii) on the same date each year as determined by the employer; or
 - (iii) when taking annual leave.
- (c) The maximum amount of annual leave loading that an employer may be required to pay in any year of service will not exceed **70%** of the minimum weekly rate for Level 11.

15.5 Requirement to take annual leave—excessive accrual and annual close-down

An employer may require an employee to take annual leave by giving at least four weeks' notice in the following circumstances:

- (a) as part of a close-down of its operations; or
- (b) where more than eight weeks' leave is accrued, provided that the employee retains a balance of at least eight weeks.

15.6 Leave in advance

- (a) An employee may agree with their employer to take annual leave in advance of an entitlement accruing under the NES.
- (b) The employer may deduct from the employee's termination payments, leave taken in advance where the entitlement to that leave has not accrued as at the date of termination.

16. Personal/carer's leave and compassionate leave

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

17. Parental leave and related entitlements

Parental leave is provided for in the NES.

18. Public holidays

Public holidays provisions may be affected by [AM2014/301](#)

18.1 Public holiday entitlements are provided for in the NES.

18.2 Where an employee is required to work on a public holiday they will be paid **250%** of the minimum hourly rate for the actual hours worked.

18.3 Observed public holiday

Parties are asked to clarify whether clause 18.3 applies where a State or Territory government declares an 'observed public holiday' for example when a public holiday falls on a weekend and the Monday is declared a public holiday.

- (a) Where an employee is required to work on the observed public holiday they will be paid **250%** of the minimum hourly rate for the actual hours worked.
- (b) An employee who works on an observed and actual public holiday will be paid the penalty rate for working on the observed public holiday, but not both.

18.4 Substitution of public holiday by agreement

An employer and employee may agree to substitute a public holiday as provided by the NES with an alternative day.

18.5 Public holiday occurring on a rostered day off

- (a) When a public holiday occurs on a day on which an employee is rostered off while employed on a seven day a week rotating roster system, the employee will be paid a day's pay at ordinary rates in addition to the ordinary week's pay.
- (b) Instead of making the additional payment in clause 18.5(a), the employer may grant a day's leave for each such public holiday which may be taken at a time that is mutually agreed to between the employer and the employee.

Parties are asked to clarify how clause 18.5 interacts with clause 8.2(d).

19. Community service leave

Community service leave is provided for in the NES.

20. Termination of employment

20.1 Notice of termination is provided for in the NES.

20.2 Notice of termination by an employee

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

20.3 Job search entitlement

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

21. Redundancy

21.1 Redundancy pay is provided for in the NES.

21.2 Transfer to lower paid duties

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

21.3 Employee leaving during notice period

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

21.4 Job search entitlement

- (a) An employee given notice of termination in circumstances of redundancy must be allowed up to one day's time off without loss of pay during each week of notice for the purpose of seeking other employment.
- (b) If the employee has been allowed paid leave for more than one day during the notice period for the purpose of seeking other employment, the employee must, at the request of the employer, produce proof of attendance at an interview or they will not be entitled to payment for the time absent. For this purpose a statutory declaration is sufficient.
- (c) This entitlement applies instead of clause 20.3.

Part 7—Consultation and Dispute Resolution

22. Consultation

22.1 Consultation regarding major workplace change

(a) Employers to notify

- (i) Where an employer has made a definite decision to introduce major changes in production, program, organisation, structure or technology that are likely to have significant effects on employees, the employer must notify the employees who may be affected by the proposed changes and their representatives, if any.
- (ii) **Significant effects** include termination of employment; major changes in the composition, operation or size of the employer's workforce or in the skills required; the elimination or diminution of job opportunities, promotion opportunities or job tenure; the alteration of hours of work; the need for retraining or transfer of employees to other work or locations;

and the restructuring of jobs. Provided that where this award makes provision for alteration of any of these matters an alteration is deemed not to have significant effect.

(b) Employers to discuss change

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

22.2 Consultation about changes to rosters or hours of work

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

23. Dispute resolution

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

New 23.7 inserted in accordance with [PR575440](#)

23.7 Dispute Resolution Training Leave

- (a) An eligible employee shall be entitled to a maximum of five days paid leave to attend courses which are specifically directed towards effective resolution of disputes regarding industrial matters under this award and /or industrial issues which arise at the workplace. .
- (b) Eligible employees are only entitled to leave in accordance with this clause for accredited courses.
- (c) Such leave will be available to an individual eligible employee once only during their employment. The employer and eligible employee may reach an agreement on any requests for refresher training.
- (d) For the purpose of this clause an accredited course means Dispute Resolution Training Course conducted by or on behalf of a registered training organisation whose scope of registration Includes industrial relations training.
- (e) Nothing in this clause will prevent the employer and the eligible employee from reaching agreement that such training can be provided by a union or other accredited training provider(s).

- (f) An eligible employee is defined as a full-time or part-time employee:
- (i) who is a union delegate, who has been duly appointed by a union and the employer has been formally notified of that appointment; and
 - (ii) who has completed 12 months continuous service with the current employer.
- (g) An eligible employee must comply with the following notice requirements:
 - (i) provide the employer with at least five (5) weeks prior notice in writing of their request to attend a dispute resolution training course;
 - (ii) outline details of the type, content, venue and duration of the course to be attended in the written notice provided in accordance with clause 23.7(g)(i)
- (h) The employer will consider a request for leave in accordance with this clause having regard to:
 - (i) the operational requirements of the employer; and
 - (ii) the capacity of the employer to make adequate staffing arrangements among current employees during the proposed period of leave.
- (i) An employer must not unreasonably refuse to agree to a request by the employee to take dispute resolution training leave.
- (j) An employer will not be liable for any additional expenses associated with an employee's attendance at a course other than the payment of ordinary hourly ordinary time rate for such absence.
- (k) An eligible employee will be required to provide the employer with proof of attendance at, and satisfactory completion of, the course to qualify for payment of leave.
- (l) Leave granted pursuant to this clause counts as service for all purposes of this award.

Schedule A—Classification Definitions

This award structure consists of skill-based classifications defined according to the following skill descriptors. Various positions may also require employees to hold and maintain appropriate licences, certificates and/or tickets for the operation of machinery, plant and/or tools.

A.1 Level 1

Level 1 covers entry level for operational employees with minimal experience and qualifications.

- A.1.1 Authority and accountability:** Completion of generic and basic tasks involving the utilisation of basic skills under established practices and procedures. Individual or team work is closely monitored under direct supervision.
- A.1.2 Judgment and problem solving:** Judgment is minimal and work activities include routine and clearly defined work which is co-ordinated by other employees. The tasks to be performed may involve the use of a basic range of tools, techniques and methods within a limited range of work.
- A.1.3 Specialist knowledge and skills:** Job specific knowledge and skill are obtained through on-the-job training and workplace-based induction training.
- A.1.4 Management skills:** Not required at this level.
- A.1.5 Interpersonal skills:** Limited to basic communications with other staff and possibly with the public.
- A.1.6 Qualifications and experience:** An employee in this level will have commenced on-the-job training, which may include an induction course.

A.2 Level 2

Level 2 covers operational employees undertaking duties and responsibilities in excess of Level 1 with relevant local government industry or equivalent experience.

- A.2.1 Authority and accountability:** Completion of basic tasks involving the utilisation of a range of basic skills under established practices and procedures. Work is monitored under supervision either individually or in a team environment.
- A.2.2 Judgment and problem solving:** Judgment is limited to the tasks to be performed and may involve the use of a limited range of tools, techniques and methods within a specified range of work. An employee may resolve minor problems that relate to immediate work tasks.
- A.2.3 Specialist knowledge and skills:** Obtained through on-the-job training and workplace induction training. May include off-the-job training through accredited short courses.
- A.2.4 Management skills:** Not required at this level.
- A.2.5 Interpersonal skills:** Limited to basic communications with other staff and possibly with the public.

A.2.6 Qualifications and experience: Completion of Year 10 and/or an appropriate labour market program or similar work/skills.

A.3 Level 3

Level 3 covers operational employees undertaking duties and responsibilities in excess of Level 2 and entry level administrative employees.

A.3.1 Authority and accountability: Responsible for completion of regularly occurring tasks with general guidance on a daily basis. May supervise work or provide on-the-job training, based on their skills and/or experience, to employees of the same or lower levels.

A.3.2 Judgment and problem solving: Personal judgment is required to follow predetermined procedures where a choice between more than two options is present. Work performed falls within general guidelines but with scope to exercise discretion in the application of established practices and procedures.

A.3.3 Specialist knowledge and skills: Application of developed skills acquired through on-the-job training or accredited external training over a number of months. Positions may require demonstrated competence in administrative areas.

A.3.4 Management skills: Not required at this level.

A.3.5 Interpersonal skills: Employees at this level require communication skills to enable them to effectively communicate with clients, other employees and members of the public and in the resolution of minor matters.

A.3.6 Qualifications and experience: Qualifications or relevant experience in accordance with the requirements of work in this level, which may be acquired through a Certificate II or a non-trades Certificate III, however described.

A.4 Level 4

Level 4 covers operational and administrative employees undertaking duties and responsibilities in excess of Level 3 and is the entry level for technical and trades employees.

A.4.1 Authority and accountability: Work performed is within general guidelines. May supervise work or provide on-the-job training, based on their skills and/or experience, to employees of the same or lower levels. Responsible for leading employees in operational duties or the application of trades, administrative or technical skills.

A.4.2 Judgment and problem solving: The nature of the work is clearly defined with procedures well understood. Tasks performed may involve selection from a range of existing techniques, systems, equipment, methods or processes. Guidance is available from more senior staff.

A.4.3 Specialist knowledge and skills: Requires demonstrated competence in a number of key skill areas related to major elements of the job. Proficiency in the application of standardised procedures and practices. May also include the operation of tools, plant, machinery and/or equipment, in accordance with the requirements of the position. Performance of trades and non-trade tasks incidental to the work.

- A.4.4 Management skills:** Provide employees with on-the-job training, guidance and basic knowledge of workplace policies and procedures. Employees may lead small groups of employees at the ‘work face’.
- A.4.5 Interpersonal skills:** Employees at this level require effective communication skills to enable them to communicate with clients, other employees and members of the public and in the resolution of routine and usual matters.
- A.4.6 Qualifications and experience:** Qualifications or relevant experience in accordance with the requirements of work in this level which may be acquired through:
- (a) a trade certificate or equivalent;
 - (b) completion of accredited/industry-based training courses equivalent to a Certificate IV (non-trade); and/or
 - (c) knowledge and skills gained through on-the-job training.

A.5 Level 5

Level 5 covers technical, administrative and trades employees undertaking duties and responsibilities in excess of Level 4.

- A.5.1 Authority and accountability:** The exercise of discretion within standard practices and processes and may involve the exercise of high precision occupational skills using various specialised techniques, systems, equipment, methods or processes. Positions provide local decisions, direction, leadership and on-the-job training to supervised employees or groups of employees.
- A.5.2 Judgment and problem solving:** Skills to solve problems which require assessment of a range of options having elements of complexity in reaching decisions and making recommendations. For supervisors, the work processes often requires the quantification of the amount of resources needed to meet those objectives. Assistance may be readily available from other staff in the work area in solving problems.
- A.5.3 Specialist knowledge and skills:** Specialist knowledge in a number of advanced skill areas relating to the more complex elements of post-trades or specialist disciplines either through formal training programs or on-the-job training.
- A.5.4 Management skills:** May require skills in co-ordinating a team of employees, to motivate and monitor performance against work outcomes. Positions may lead large groups of employees at the ‘work face’.
- A.5.5 Interpersonal skills:** Persuasive communication skills are required to participate in specialised discussions to resolve issues, including explaining policy to the public and/or others and reconciling different points of view.
- A.5.6 Qualifications and experience:** Positions require thorough working knowledge and experience of all work procedures for the application of technical, trades or administrative skills, based upon suitable certificate or post-certificate level qualifications which may include:
- (m) post-trade certificate and/or other post-secondary qualification below diploma or degree; or
 - (n) extensive knowledge and skill gained through on-the-job training in accordance with the requirements of the work in this level.

A.6 Level 6

Level 6 covers administrative, technical or trades employees undertaking duties and responsibilities in excess of Level 5.

- A.6.1 Authority and accountability:** May be responsible for providing a specialised/technical service and for completing work with elements of complexity. May make internal and external recommendations which represent the employer to the public and/or other organisations. Employees are accountable for the quality, effectiveness, cost and timeliness of the programs, projects or work plans under their control and for safety and security of the assets being managed.
- A.6.2 Judgment and problem solving:** Judgment and problem solving skills are required where there is a lack of definition requiring analysis of a number of options. Typical judgments may require variation of work priorities and approaches; some creativity and originality may be required. Guidance and counsel may be available within the time available to make a choice.
- A.6.3 Specialist knowledge and skills:** Employees have advanced knowledge and skills in a number of areas where analysis of complex options is involved.
- A.6.4 Management skills:** May provide higher level supervision of groups of operational, administrative, trades or technical employees. Employees supervised may be in a number of different work areas, requiring motivation, monitoring, managing and co-ordination to achieve specific outputs. Positions may require an understanding and implementation of relevant employment policies and practices.
- A.6.5 Interpersonal skills:** Skills to communicate with employees in lower levels and the public. Employees in this level are expected to write detailed and non-standard reports and correspondences in their field of expertise.
- A.6.6 Qualifications and experience:** Positions require working knowledge and experience of all work procedures for the application of technical, trades or administrative skills in the most complex areas of the job and suitable qualifications, which may include:
- (a) diploma or advanced diploma; or
 - (b) appropriate in-house training or equivalent.

A.7 Level 7

Level 7 covers specialist technical employees undertaking duties in excess of Level 6 and is the entry level for graduate professional employees.

- A.7.1 Authority and accountability:** Provides professional and/or specialist technical services to complete assignments or projects in consultation with other employees. May work with a team of employees requiring the review and approval of more complex elements of the work.
- A.7.2 Judgment and problem solving:** Problems require assessment of a range of options having elements of complexity in reaching decisions and making recommendations. Precedent is available from the employer's internal sources, and assistance is usually available from other professional and/or specialist technical employees in the work area.

- A.7.3 Specialist knowledge and skills:** Positions require considerable knowledge and a level of skill in a specific area to resolve issues having elements of complexity which may not be clearly defined.
- A.7.4 Management skills:** Technical and administrative employees at this level may manage minor projects involving employees in lower levels and other resources. Graduate professional employees at this level are not expected to perform such management functions.
- A.7.5 Interpersonal skills:** Persuasive skills are required to participate in technical discussions to resolve problems, explain policy and reconcile viewpoints. Employees may write reports in the field of their expertise and/or prepare external correspondence.
- A.7.6 Qualifications and experience:** Skills and knowledge needed are beyond those normally acquired through the completion of secondary education alone and normally acquired through completion of a degree with little or no relevant work experience, or a diploma with considerable work experience.

A.8 Level 8

Level 8 covers professionals/specialists positions that provide both advisory and project management responsibilities in excess of Level 7. The positions in Level 8 generally have a major impact upon the day-to-day operations of a function, department or work area of the employer.

- A.8.1 Authority and accountability:** Provides a specialist service in the completion of work and/or projects which have elements of complexity (composed of many parts that may be more conceptual than definite).
- A.8.2 Judgment and problem solving:** Positions require the interpretation of information and development of suitable procedures to achieve satisfactory outcomes. The nature of the work is usually specialised with methods, procedures and processes developed from theory or precedent. Decision making requires analysis of data to reach decisions and/or determine progress.
- A.8.3 Specialist knowledge and skills:** Positions require the application of extensive knowledge and a high level of skill in a specific area to resolve issues having elements of complexity.
- A.8.4 Management skills:** Technical employees at this level may manage more complex projects involving people and other resources. Professional employees at this level may manage minor projects involving employees in lower levels and other resources.
- A.8.5 Interpersonal skills:** Interpersonal skills in leading and motivating employees in different teams/locations may be required, as well as persuasive skills to resolve problems or provide specialised advice.
- A.8.6 Qualifications and experience:** Employees at this level supplement base level professional qualifications with additional skills training. Considerable practical experience or skills training is required to effectively control key elements of the job.

A.9 Level 9

Level 9 involves duties and responsibilities in excess of Level 8 and typically involves key specialists in a specific field and the undertaking of a management function. Level 9 also covers experienced professionals.

- A.9.1 Authority and accountability:** Accountable for the effective management of major sections or projects within their area of expertise. Provides a professional advisory role to people within or outside the employer on major areas of policy or on key issues of significance to the organisation. Such advice may commit the employer and have significant impact upon external parties dealing with the employer. The position's influence would have an important role in the overall performance of the function.
- A.9.2 Judgment and problem solving:** Employees have a high level of independence and determine and/or oversee the framework for problem solving or set strategic plans. At this level, the position may represent management or the employer in the resolution of problems.
- A.9.3 Specialist knowledge and skills:** Positions require knowledge and skills for the direction and control of a key function of the employer or major functions within a department. Positions require expert knowledge and skills involving elements of creativity and innovation in addressing and resolving major issues.
- A.9.4 Management skills:** Employees may direct professional or other staff in the planning, implementation and review of major programs, as well as participating as a key member of a functional team. Positions at this level may also be required to manage staff, resolve operational problems and participate in a discrete management team to resolve key problems.
- A.9.5 Interpersonal skills:** Interpersonal skills in leading and motivating staff will be required at this level. Positions require the ability to persuade, convince or negotiate with staff, clients, members of the public, tribunals and persons in other organisations in the pursuit and achievement of specific and set objectives. Communication skills may be required to enable provision of key advice both within and outside the employer and to liaise with external bodies.
- A.9.6 Qualifications and experience:** Employees will have a relevant degree or equivalent with extensive practical experience.

A.10 Level 10

Level 10 positions can be described as those which have a management focus upon the attainment of operational and strategic objectives. This level includes senior managers who report to senior executive officers.

- A.10.1 Authority and accountability:** Makes determinative decisions and is accountable under delegated authority. Influences day-to-day and/or strategic direction of a department. May lead development and/or implementation of policy.
- A.10.2 Judgment and problem solving:** Resolution of problems which require analytic reasoning and integration of wide-ranging and complex information. High level of independence in determining direction and approach to issues.

- A.10.3 Specialist knowledge and skills:** Positions require the application of a range of specialist knowledge and skills, including relevant legislation, policies and other areas of precedent.
- A.10.4 Management skills:** Application of developed management skills to establish and/or monitor goals and objectives. Manage employees, budgets, work programs or major projects of the employer or a department utilising leadership, evaluation and monitoring skills to facilitate achievement of objectives. Ability to generate innovative approaches to more effectively deploy resources, meet changing circumstances and improve services.
- A.10.5 Interpersonal skills:** Employees at this level are required to use highly developed interpersonal skills to influence, persuade and/or motivate others to achieve objectives critical to the employer and to resolve conflict.
- A.10.6 Qualifications and experience:** Employees require a relevant degree or equivalent and management experience.

A.11 Level 11

Level 11 positions can be described as those which have a management focus upon the attainment of operational and strategic objectives undertaking duties and responsibilities at a higher level than Level 10 and includes senior executive officers (but not the chief executive officer, however described) who have overall responsibility and accountability for a number of significant functions.

- A.11.1 Authority and accountability:** Makes determinative decisions and is accountable under delegated authority. Influences day-to-day and/or strategic direction of a department. Leads policy development and implementation.
- A.11.2 Judgment and problem solving:** Resolution of problems which require highly analytic reasoning and integration of wide-ranging and complex information. High level of independence in determining direction and approach to issues.
- A.11.3 Specialist knowledge and skills:** Positions require the application of a wide range of specialist knowledge and skills, including relevant legislation and policies and other areas of precedent.
- A.11.4 Management skills:** Application of highly developed management skills to establish and/or monitor goals and objectives. Manage employees, budgets, work programs or major projects of the employer or a department utilising leadership, evaluation and monitoring skills to facilitate achievement of objectives. Ability to generate innovative approaches to more effectively deploy resources, meet changing circumstances and improve services.
- A.11.5 Interpersonal skills:** Positions at this level are required to use highly developed interpersonal skills to influence, persuade and/or motivate others to achieve objectives critical to the employer and to resolve complex conflict situations.
- A.11.6 Qualifications and experience:** Positions require a relevant degree or equivalent and significant management experience.

Schedule B—Summary of Hourly Rates of Pay

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

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

B.1.1 Full-time and part-time adult employees ~~other than shiftworkers~~—ordinary and penalty rates

	Ordinary hours	Work outside span of ordinary hours	Saturday ¹	Sunday ¹	Public holiday
	% of minimum hourly rate				
	100%	120%	150%	175%	250%
	\$	\$	\$	\$	\$
Level 1	18.48	22.18	27.72	32.34	46.20
Level 2	19.10	22.92	28.65	33.43	47.75
Level 3	19.83	23.80	29.75	34.70	49.58
Level 4	20.13	24.16	30.20	35.23	50.33
Level 5	21.39	25.67	32.09	37.43	53.48
Level 6	23.15	27.78	34.73	40.51	57.88
Level 7	23.55	28.26	35.33	41.21	58.88
Level 8	25.44	30.53	38.16	44.52	63.60
Level 9	27.22	32.66	40.83	47.64	68.05
Level 10	29.75	35.70	44.63	52.06	74.38
Level 11	33.55	40.26	50.33	58.71	83.88
¹ See clause 13.2					

B.1.2 Full-time and part-time adult employees ~~other than shiftworkers~~—overtime rates

	Monday to Saturday – first 2 hours	Monday to Saturday – after 2 hours	Sunday	Public holiday
	% of minimum hourly rate			
	150%	200%	200%	250%
	\$	\$	\$	\$
Level 1	27.72	36.96	36.96	46.20
Level 2	28.65	38.20	38.20	47.75
Level 3	29.75	39.66	39.66	49.58

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	Monday to Saturday – first 2 hours	Monday to Saturday – after 2 hours	Sunday	Public holiday
	% of minimum hourly rate			
	150%	200%	200%	250%
	\$	\$	\$	\$
Level 4	30.20	40.26	40.26	50.33
Level 5	32.09	42.78	42.78	53.48
Level 6	34.73	46.30	46.30	57.88
Level 7	35.33	47.10	47.10	58.88
Level 8	38.16	50.88	50.88	63.60
Level 9	40.83	54.44	54.44	68.05
Level 10	44.63	59.50	59.50	74.38
Level 11	50.33	67.10	67.10	83.88

B.2 Casual adult employees

B.2.1 Casual adult employees ~~other than shiftworkers~~—ordinary and penalty rates

	Ordinary hours	Work outside spread of ordinary hours	Saturday ¹	Sunday ¹	Public holiday
	% of minimum hourly rate				
	125%	145%	175%	200%	275%
	\$	\$	\$	\$	\$
Level 1	23.10	26.80	32.34	36.96	50.82
Level 2	23.88	27.70	33.43	38.20	52.53
Level 3	24.79	28.75	34.70	39.66	54.53
Level 4	25.16	29.19	35.23	40.26	55.36
Level 5	26.74	31.02	37.43	42.78	58.82
Level 6	28.94	33.57	40.51	46.30	63.66
Level 7	29.44	34.15	41.21	47.10	64.76
Level 8	31.80	36.89	44.52	50.88	69.96
Level 9	34.03	39.47	47.64	54.44	74.86
Level 10	37.19	43.14	52.06	59.50	81.81
Level 11	41.94	48.65	58.71	67.10	92.26

¹ See clause 13.2

Schedule C—Summary of Monetary Allowances

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

C.1 Wage-related allowances:

C.1.1 The following wage-related allowances are based on the standard rate as defined in Schedule H—Definitions as the minimum hourly rate for a Level 4 employee in clause 10.1—Minimum wages = **\$20.13**

Allowance	Clause	% of standard rate \$20.13	\$ per week unless stated otherwise
Leading hand allowance:	11.2(a)		
Supervisor level 3 or 4— supervising 1–5 employees		110	22.14
Supervisor level 3 or 4— supervising 6–15 employees		150	30.20
Supervisor level 3, 4 or 5— supervising over 15 employees		190	38.25
First aid allowance	11.2(b)	70	14.09
Adverse working conditions allowance:	11.2(c)		
Level 1	11.2(c)(iii)	3.5	0.70 per hour
Level 2	11.2(c)(iii)	5.0	1.01 per hour
Level 3	11.2(c)(iii)	50	10.07 per hour
Camping allowance (operative from 31 January 2014)	11.2(d)	115	23.15 per night
On call allowance:	11.2(e)		
Monday to Friday	11.2(e)(i)	100	20.13 per day
Saturday	11.2(e)(ii)	150	30.20 per day
Sunday or public holiday	11.2(e)(iii)	200	40.26 per day
Sleepover allowance—additional to on call allowance in clause 11.2(e)	14.7(a)	50	10.07 per hour

C.1.2 Adjustment of wage-related allowances

Wage-related allowances are adjusted in accordance with increases to wages and are based on a percentage of the standard rate as specified.

C.2 Expense-related allowances

C.2.1 The following expense-related allowances will be payable to employees in accordance with clause 11.3:

Allowance	Clause	\$
Meal allowance:	11.3(a)	
Overtime of more than two hours— minimum 10 hours on duty	11.3(a)(i)	14.65 per occasion
After further four hours of overtime	11.3(a)(ii)	14.65 per occasion
Tool allowance—tradespersons and apprentices	11.3(b)(i)	18.25 per week
Vehicle allowance:	11.3(c)	
Motor vehicle	11.3(c)(i)	0.78 per km
Motorcycle	11.3(c)(i)	0.26 per km

C.2.2 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 percentage movement in the applicable index figure most recently published by the Australian Bureau of Statistics since the allowance was last adjusted.

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

Allowance	Applicable Consumer Price Index figure
Meal allowance	Take away and fast foods sub-group
Tool allowance	Tools and equipment for house and garden component of the household appliances, utensils and tools sub-group
Vehicle allowance	Private motoring sub-group

Schedule D—Supported Wage System

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

D.2 In this schedule:

approved assessor means a person accredited by the management unit established by the Commonwealth under the supported wage system to perform assessments of an individual's productive capacity within the supported wage system

assessment instrument means the tool provided for under the supported wage system that records the assessment of the productive capacity of the person to be employed under the supported wage system

disability support pension means the Commonwealth pension scheme to provide income security for persons with a disability as provided under the *Social Security Act 1991* (Cth), as amended from time to time, or any successor to that scheme

relevant minimum wage means the minimum wage prescribed in this award for the class of work for which an employee is engaged

supported wage system (SWS) means the Commonwealth Government system to promote employment for people who cannot work at full award wages because of a disability, as documented in the Supported Wage System Handbook. The Handbook is available from the following website: www.jobaccess.gov.au

SWS wage assessment agreement means the document in the form required by the Department of Social Services that records the employee's productive capacity and agreed wage rate

D.3 Eligibility criteria

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

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

D.4 Supported wage rates

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

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

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

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

D.5 Assessment of capacity

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

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

D.6 Lodgement of SWS wage assessment agreement

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

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

D.7 Review of assessment

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

D.8 Other terms and conditions of employment

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

D.9 Workplace adjustment

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

D.10 Trial period

- D.10.1** In order for an adequate assessment of the employee's capacity to be made, an employer may employ a person under the provisions of this schedule for a trial period not exceeding 12 weeks, except that in some cases additional work adjustment time (not exceeding four weeks) may be needed.
- D.10.2** During that trial period the assessment of capacity will be undertaken and the percentage of the relevant minimum wage for a continuing employment relationship will be determined.
- D.10.3** The minimum amount payable to the employee during the trial period must be no less than **\$81** per week.
- D.10.4** Work trials should include induction or training as appropriate to the job being trialled.
- D.10.5** Where the employer and employee wish to establish a continuing employment relationship following the completion of the trial period, a further contract of employment will be entered into based on the outcome of assessment under clause D.5.

Schedule E—School-based Apprentices

- E.1** This schedule applies to school-based apprentices. A school-based apprentice is a person who is undertaking an apprenticeship in accordance with this schedule while also undertaking a course of secondary education.
- E.2** A school-based apprenticeship may be undertaken in the trades covered by this award under a training agreement or contract of training for an apprentice declared or recognised by the relevant State or Territory authority.
- E.3** The relevant minimum wages for full-time junior and adult apprentices provided for in this award, calculated hourly, will apply to school-based apprentices for total hours worked including time deemed to be spent in off-the-job training.
- E.4** For the purposes of clause E.3, where an apprentice is a full-time school student, the time spent in off-the-job training for which the apprentice must be paid is 25% of the actual hours worked each week on-the-job. The wages paid for training time may be averaged over the semester or year.
- E.5** A school-based apprentice must be allowed, over the duration of the apprenticeship, the same amount of time to attend off-the-job training as an equivalent full-time apprentice.
- E.6** For the purposes of this schedule, off-the-job training is structured training delivered by a Registered Training Organisation separate from normal work duties or general supervised practice undertaken on the job.
- E.7** The duration of the apprenticeship must be as specified in the training agreement or contract for each apprentice but must not exceed six years.
- E.8** School-based apprentices progress through the relevant wage scale at the rate of 12 months progression for each two years of employment as an apprentice or at the rate of competency-based progression if provided for in this award.
- E.9** The apprentice wage scales are based on a standard full-time apprenticeship of four years (unless the apprenticeship is of three years duration) or stages of competency based progression (if provided for in this award). The rate of progression reflects the average rate of skill acquisition expected from the typical combination of work and training for a school-based apprentice undertaking the applicable apprenticeship.
- E.10** If an apprentice converts from school-based to full-time, the successful completion of competencies (if provided for in this award) and all time spent as a full-time apprentice will count for the purposes of progression through the relevant wage scale in addition to the progression achieved as a school-based apprentice.
- E.11** School-based apprentices are entitled pro rata to all of the other conditions in this award.

Schedule F—National Training Wage

F.1 Title

This is the *National Training Wage Schedule*.

F.2 Definitions

In this schedule:

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

approved training means the training specified in the training contract

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

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

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

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

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

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

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

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

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

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

Tasmania: *Vocational Education and Training Act 1994*;

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

Western Australia: *Vocational Education and Training Act 1996*

trainee is an employee undertaking a traineeship under a training contract

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

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

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

Year 10 includes any year before Year 10

F.3 Coverage

F.3.1 Subject to clauses F.3.2 to F.3.6 of this schedule, this schedule applies in respect of an employee covered by this award who is undertaking a traineeship whose training package and AQF certificate level is allocated to a wage level by clause F.7 to this schedule or by clause F.5.4 of this schedule.

F.3.2 This schedule only applies to AQF Certificate Level IV traineeships for which a relevant AQF Certificate Level III traineeship is listed in clause F.7 to this schedule.

F.3.3 This schedule does not apply to:

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

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

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

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

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

F.4 Types of Traineeship

The following types of traineeship are available under this schedule:

F.4.1 a full-time traineeship based on 38 ordinary hours per week, with 20% of ordinary hours being approved training; and

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

F.5 Minimum Wages

F.5.1 Minimum wages for full-time traineeships

(a) Wage Level A

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

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

(b) Wage Level B

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

	Highest year of schooling completed		
	Year 10	Year 11	Year 12
	per week	Per week	per week
	\$	\$	\$
School leaver	295.10	325.00	376.80
Plus 1 year out of school	325.00	376.80	433.40
Plus 2 years out of school	376.80	433.40	508.20
Plus 3 years out of school	433.40	508.20	579.70
Plus 4 years out of school	508.20	579.70	
Plus 5 or more years out of school	579.70		

(c) Wage Level C

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

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

(d) AQF Certificate Level IV traineeships

(i) Subject to clause F.5.3 of this schedule, the minimum wages for a trainee undertaking a full-time AQF Certificate Level IV traineeship are the minimum wages for the relevant full-time AQF Certificate Level III traineeship with the addition of 3.8% to those minimum wages.

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

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

F.5.2 Minimum wages for part-time traineeships

(a) Wage Level A

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

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

(b) Wage Level B

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

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

(c) Wage Level C

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

	Highest year of schooling completed		
	Year 10	Year 11	Year 12
	per hour	per hour	per hour
	\$	\$	\$
School leaver	9.71	10.70	12.40
Plus 1 year out of school	10.70	12.40	13.95
Plus 2 years out of school	12.40	13.95	15.58
Plus 3 years out of school	13.95	15.58	17.36

	Highest year of schooling completed		
	Year 10	Year 11	Year 12
	per hour	per hour	per hour
	\$	\$	\$
Plus 4 years out of school	15.58	17.36	
Plus 5 or more years out of school	17.36		

(d) School-based traineeships

Subject to clauses F.5.2(f) and F.5.3 of this schedule, the minimum wages for a trainee undertaking a school-based AQF Certificate Level I–III traineeship whose training package and AQF certificate levels are allocated to Wage Levels A, B or C by clause F.7 are as follows when the trainee works ordinary hours:

Year of schooling	
Year 11 or lower	Year 12
per hour	per hour
\$	\$
9.71	10.70

(e) AQF Certificate Level IV traineeships

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

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

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

(f) Calculating the actual minimum wage

(i) Where the full-time ordinary hours of work are not 38 or an average of 38 per week, the appropriate hourly minimum wage is obtained by multiplying the relevant minimum wage in clauses F.5.2(a)–(e) of this schedule by 38 and then dividing the figure obtained by the full-time ordinary hours of work per week.

- (ii) Where the approved training for a part-time traineeship is provided fully off-the-job by a registered training organisation, for example at school or at TAFE, the relevant minimum wage in clauses F.5.2(a)–(e) of this schedule applies to each ordinary hour worked by the trainee.
- (iii) Where the approved training for a part-time traineeship is undertaken solely on-the-job or partly on-the-job and partly off-the-job, the relevant minimum wage in clauses F.5.2(a)–(e) of this schedule minus 20% applies to each ordinary hour worked by the trainee.

F.5.3 Other minimum wage provisions

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

F.5.4 Default wage rate

The minimum wage for a trainee undertaking an AQF Certificate Level I–III traineeship whose training package and AQF certificate level are not allocated to a wage level by clause F.7 is the relevant minimum wage under this schedule for a trainee undertaking an AQF Certificate to Level I–III traineeship whose training package and AQF certificate level are allocated to Wage Level B.

F.6 Employment conditions

F.6.1 A trainee undertaking a school-based traineeship may, with the agreement of the trainee, be paid an additional loading of 25% on all ordinary hours worked instead of paid annual leave, paid personal/carer's leave and paid absence on public holidays, provided that where the trainee works on a public holiday then the public holiday provisions of this award apply.

F.6.2 A trainee is entitled to be released from work without loss of continuity of employment and to payment of the appropriate wages to attend any training and assessment specified in, or associated with, the training contract.

F.6.3 Time spent by a trainee, other than a trainee undertaking a school-based traineeship, in attending any training and assessment specified in, or associated with, the training contract is to be regarded as time worked for the employer for the purposes of calculating the trainee's wages and determining the trainee's employment conditions.

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

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

F.7 Allocation of Traineeships to Wage Levels

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

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

F.7.1 Wage Level A

Training package	AQF certificate level
Aeroskills	II
Aviation	I, II, III
Beauty	III
Business Services	I, II, III
Chemical, Hydrocarbons and Refining	I, II, III
Civil Construction	III
Coal Training Package	II, III
Community Services	II, III
Construction, Plumbing and Services Integrated Framework	I, II, III
Correctional Services	II, III
Drilling	II, III
Electricity Supply Industry—Generation Sector	II, III (III in Western Australia only)
Electricity Supply Industry—Transmission, Distribution and Rail Sector	II
Electrotechnology	I, II, III (III in Western Australia only)
Financial Services	I, II, III
Floristry	III
Food Processing Industry	III
Gas Industry	III
Information and Communications Technology	I, II, III
Laboratory Operations	II, III
Local Government (other than Operational Works Cert I and II)	I, II, III
Manufactured Mineral Products	III
Manufacturing	I, II, III
Maritime	I, II, III
Metal and Engineering (Technical)	II, III
Metalliferous Mining	II, III
Museum, Library and Library/Information	II, III

Training package	AQF certificate level
Services	
Plastics, Rubber and Cablemaking	III
Public Safety	III
Public Sector	II, III
Pulp and Paper Manufacturing Industries	III
Retail Services (including wholesale and Community pharmacy)	III
Telecommunications	II, III
Textiles, Clothing and Footwear	III
Tourism, Hospitality and Events	I, II, III
Training and Assessment	III
Transport and Logistics	III
Water Industry (Utilities)	III

F.7.2 Wage Level B

Training package	AQF certificate level
Animal Care and Management	I, II, III
Asset Maintenance	I, II, III
Australian Meat Industry	I, II, III
Automotive Industry Manufacturing	II, III
Automotive Industry Retail, Service and Repair	I, II, III
Beauty	II
Caravan Industry	II, III
Civil Construction	I
Community Recreation Industry	III
Entertainment	I, II, III
Extractive Industries	II, III
Fitness Industry	III
Floristry	II
Food Processing Industry	I, II
Forest and Forest Products Industry	I, II, III
Furnishing	I, II, III
Gas Industry	I, II
Health	II, III
Local Government (Operational Works)	I, II
Manufactured Mineral Products	I, II

Training package	AQF certificate level
Metal and Engineering (Production)	II, III
Outdoor Recreation Industry	I, II, III
Plastics, Rubber and Cablemaking	II
Printing and Graphic Arts	II, III
Property Services	I, II, III
Public Safety	I, II
Pulp and Paper Manufacturing Industries	I, II
Retail Services	I, II
Screen and Media	I, II, III
Sport Industry	II, III
Sugar Milling	I, II, III
Textiles, Clothing and Footwear	I, II
Transport and Logistics	II
Visual Arts, Craft and Design	I, II, III
Water Industry	I, II

F.7.3 Wage Level C

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

Schedule G—2015 Part-day Public Holidays

The part-day public holidays schedule may be affected by [AM2014/301](#)

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

G.1 Where a part-day public holiday is declared or prescribed between 7.00 pm and midnight on Christmas Eve (24 December 2015) or New Year's Eve (31 December 2015) the following will apply on Christmas Eve and New Year's Eve and will override any provision in this award relating to public holidays to the extent of the inconsistency:

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

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

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

Schedule H—Definitions

In this award, unless the contrary intention appears:

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

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

community services means those employees whose role is to encourage, promote or conduct community pursuits or community development programs for the maintenance or improvement of general social and living standards with regard to family support, services related to income, welfare, employment, education, health, housing, youth, the aged, domiciliary, arts and/or culture including arts programs, exhibitions, museums, art galleries, events, entertainment and theatres

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

employee means national system employee within the meaning of the Act

employer means national system employer within the meaning of the Act

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

full rate of pay has the meaning in the NES

garbage, sanitary and sullage services means services in the following work functions: recycling, street sweeping, waste collection, waste disposal including at tips, landfills and waste transfer stations including mechanical services in connection with these work functions

local government entity means a council, local council, county council, municipal council, shire council or other local government body created under or regulated by local government legislation of a State or Territory

local government industry means all activities undertaken by local government entities, including activities undertaken by corporations controlled by one or more local government entities. In this definition a corporation is controlled by one or more local government entities if one or more local government entities have the capacity to determine the outcome of decisions about the corporation's financial and operating policies.

local law enforcement and community safety services means those services undertaken to enforce one or more of the local government entity's by-laws or any legislative requirements which the local government entity is empowered to enforce or to ensure community safety or security including rangers, security, parking inspectors, watchpersons or night patrol

minimum weekly rate of an employee is the minimum weekly rate of pay specified in clause 10.1—Minimum wages, for the employee's classification

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

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

normal starting point means a workshop, depot, office or facility to which the employee is usually assigned or any other designated starting and/or finishing point

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

Definition amended in accordance with [PR575440](#)

recreation centres means a recreation centre, leisure centre, swimming pool, ~~aquatic centre or sports centre~~ aquatic centre, golf course or sports centre or any other municipal centre that provides physical, recreational and/or cultural/historical activities or such other similar activities provided in the public interest

~~**shiftworker** is an employee who works a roster and who, over the roster cycle, may be rostered to work ordinary shifts on any of the seven days of the week; and who is regularly rostered to work on Sundays and public holidays~~

standard rate means the minimum hourly rate for a Level 4 employee in clause 10.1—Minimum wages

tourism services means the following services: visitor and regional information centres; exhibition, convention and amusement complexes; heritage, tourism and cultural centres; animal parks and aquariums; guided tours and other educational services operated by local government for the benefit of tourists, visitors and the local community