

EXPOSURE DRAFT

Black Coal Mining Award 2014

This exposure draft has been prepared by staff of the Fair Work Commission based on the *Black Coal Mining Award 2010* (the Black Coal award) as at 26 September 2014. This exposure draft does not seek to amend any entitlements under the Black Coal 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 [AM2014/6](#). 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 *Black Coal Mining Award 2014*.
- 1.2 This award supersedes the *Black Coal Mining Award 2010* but this does not affect any right, privilege, obligation or liability that a person acquired, accrued or incurred under the superseded award.
- 1.3 Schedule F—Definitions sets out definitions that apply in this award.
- 1.4 The monetary obligations imposed on employers by this award may be absorbed into overaward payments. Nothing in this award requires an employer to maintain or increase any overaward payment.

2. The National Employment Standards and this award

- 2.1 The [National Employment Standards](#) (NES) and entitlements in this award contain the minimum conditions of employment for employees covered by this award.
- 2.2 Where this award refers to a condition of employment provided for in the NES, the NES definition applies.
- 2.3 The employer must ensure that copies of this award and the NES are available to all employees to whom they apply.

3. Coverage

- 3.1 This award covers:
- (a) employers of coal mining employees as defined in clause 3.1(b); and
 - (b) coal mining employees.

Coal mining employees are:

- (i) employees who are employed in the black coal mining industry by an employer engaged in the black coal mining industry, whose duties are directly connected with the day to day operation of a black coal mine and who are employed in a classification or class of work in Schedule A—Production and Engineering Employees or Schedule B—Staff Employees of this award;
- (ii) employees who are employed in the black coal mining industry, whose duties are carried out at or about a place where black coal is mined and are directly connected with the day to day operation of a black coal mine and who are employed in a classification or class of work in Schedule A—Production and Engineering Employees or Schedule B—Staff Employees of this award.

3.2 For the purposes of this award, **black coal mining industry** has the meaning applied by the courts and industrial tribunals, including the Coal Industry Tribunal. Subject to the foregoing, the black coal mining industry includes:

- (a) the extraction or mining of black coal on a coal mining lease by means of underground or surface mining methods;
- (b) the processing of black coal at a coal handling or coal processing plant on or adjacent to a coal mining lease;
- (c) the transportation of black coal on a coal mining lease; and
- (d) other work on a coal mining lease directly connected with the extraction, mining and processing of black coal.

3.3 The black coal mining industry does not include:

- (a) the mining of brown coal in conjunction with the operation of a power station;
- (b) the work of employees employed in head offices or corporate administration offices (but excluding work in town offices associated with the day-to-day operation of a local mine or mines) of employers engaged in the black coal mining industry;
- (c) the operation of a coal export terminal;
- (d) construction work on or adjacent to a coal mine site;
- (e) catering and other domestic services;
- (f) haulage of coal off a coal mining lease (unless such haulage is to a wash plant or char plant in the vicinity of the mine); or
- (g) the supply of shotfiring or other explosive services by an employer not otherwise engaged in the black coal mining industry.

NOTE: The coverage clause is intended to reflect the status quo which existed under key pre-modern awards in relation to the kinds of employers and employees to whom those awards applied and the extent to which the awards applied to such employers and employees.

An example of the types of issues and some of the case law to be considered when addressing coverage matters can be found in *Australian Collieries Staff Association and Queensland Coal Owners Association* – No. 20 of 1980, 22 February 1982 [Print [CR2297](#)] and in the Court decisions cited in this decision.

3.4 This award covers employers which provide group training services for apprentices and/or trainees engaged in the industry and/or parts of industry set out at clause 3.1 and those apprentices and/or 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.

3.5 This award does not cover:

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

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

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

- 3.6** Subject to clauses 3.1 and 3.2, where an employer is covered by more than one award, an employee of that employer is covered by the award classification which is most appropriate to the work performed by the employee and to the environment in which the employee normally performs the work.

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

4. Award flexibility

This provision is being reviewed as a common issue

- 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 the majority of employees in the enterprise or part of the enterprise concerned. Facilitative provisions are not to be used as a device to avoid award obligations nor should they result in unfairness to an employee or employees covered by this award.

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

- (a) clause 8—Ordinary hours of work and rostering;
- (b) clause 9—Breaks;
- (c) clause 10.2—Payment of wages;
- (d) clause 14.6—Averaging overtime payments;
- (e) clause 18.3— Substitution of recognised public holiday;
- (f) clause A.8.5—Production and Engineering Employees—Payment of allowances; and
- (g) clause B.3.4—Staff Employees—Payment of allowances.

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) in the case of classifications in Schedule B—Staff Employees, casual.

6.2 Full-time employees

A full-time employee is an employee whose average ordinary hours of work will be 35 hours per week.

6.3 Part-time employees

- (a) A part-time employee:
 - (i) is engaged to work less than 35 hours per week;
 - (ii) has reasonably predictable hours of work; and
 - (iii) receives, on a pro rata basis, equivalent pay and conditions to those of full-time employees who do the same kind of work.
- (b) 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 the actual starting and finishing times each day.

- (c) Any agreed variation to the regular pattern of work will be recorded in writing.
- (d) All time worked in excess of the hours as mutually arranged will be overtime and paid for at the rates prescribed in clause 14—Overtime.
- (e) A part-time employee will be paid the minimum hourly rate prescribed for the classification, group or level on which the employee is engaged.

6.4 Casual employees

- (a) A casual employee is an employee who is one engaged and paid as a casual employee.
- (b) A casual employee must be paid for a minimum of four hours on each engagement.

6.5 Casual loading

- (a) For each ordinary hour worked, a casual employee must be paid:
 - (i) the minimum hourly rate; and
 - (ii) a loading of 25% of the minimum hourly rate, for the classification in which they are employed.
- (b) The casual loading is paid instead of the leave entitlements under this award.

7. Classifications

The classifications in which employees may be employed are set out in the following schedules:

- (a) Schedule A—Production and Engineering Employees; and
- (b) Schedule B—Staff Employees.

7.2 Employer and employee duties

- (a) An employee:
 - (i) must perform work as reasonably required by the employer; and
 - (ii) must undertake training that the employer reasonably requires (which may include training to maintain their classification or acquire new competencies).
- (b) Where an employee does not perform work or undertake training in accordance with clause 7.2(a) the employee is not entitled to payment for that period.
- (c) The employer may direct an employee to carry out duties that are within the limits of the employee's skills, competence and training consistent with the respective classification structures of this award provided that the duties:
 - (i) are not designed to promote deskilling; and

- (ii) are within safe working practices and statutory requirements.

Part 3—Hours of Work

8. Ordinary hours of work and rostering

8.1 Ordinary hours of work

An employee's ordinary hours of work are 35 hours per week, or an average of 35 hours per week over a roster cycle.

8.2 Rostering of hours and length of shifts

- (a) The employer may determine the type of rosters to be worked.
- (b) The employer may determine the shift length to be worked where the ordinary hours of the shift do not exceed 10 hours.
- (c) A shift may be longer than 10 ordinary hours:
 - (i) where the employer and the majority of affected employees agree; or
 - (ii) in the case of a dispute, as resolved in accordance with clause 23—Dispute resolution.

8.3 Shift starting and finishing times

- (a) The employer may determine the start and finish times of shifts up to 10 ordinary hours.
- (b) Shifts of longer than 10 ordinary hours will be worked between the starting and finishing times:
 - (i) that are agreed between the employer and the majority of affected employees; or
 - (ii) in the case of a dispute, that are resolved in accordance with clause 23—Dispute resolution.

8.4 Number and spread of shifts

The number and spread of ordinary shifts may be varied by the employer and, in the case of dispute, are as determined in accordance with the procedure in clause 23—Dispute resolution.

8.5 Starting and finishing places

- (a) The starting and finishing place of a shift:
 - (i) are to be agreed between the employer and the majority of affected employees; or
 - (ii) in the absence of agreement, are as determined in accordance with the procedure in clause 23—Dispute resolution.

- (b) At underground mines, the designated starting and finishing place will be on the surface.

8.6 Changes to rosters

The employer will not change an employee's place on a roster, except where:

- (a) the employer has given one week's notice of any change to the employee; or
- (b) where less than one week's notice is given, the employee is paid at overtime rates for all work from the time of change of shift until the one week's notice referred to in clause 8.6(a) would have expired.

8.7 Rostered days off

(a) Period of notice to be given

Subject to this clause, where an employee is entitled to a rostered day off (RDO) the employer must advise the employee of this:

- (i) at least four weeks before the day the employee is to take off; or
- (ii) within a lesser period agreed by the employer and the majority of employees in the mine or sections affected.

(b) An employee required to work on an RDO

An employer will only require an employee to work on an RDO after attempts by the employer to cover the casual vacancy by other means have failed.

(c) Payment for working on an RDO

An employee will be paid for working ordinary hours on an RDO at either:

- (i) ordinary rates for time worked during ordinary hours on an RDO, and
- the employee will then take a day off in lieu before the end of the employee's next roster cycle;
 - this day in lieu will be selected by the employee provided that at least one week's notice is given to the employer; and
 - the employee will be allowed this day off unless the operations of the mine will be affected by the absence,

or

- (ii) overtime rates for the time worked during ordinary hours on the RDO, without any day off in lieu.

- (d) An employee will be paid overtime rates for all time worked outside or in excess of the ordinary hours for that day or shift.

(e) RDO moved to another day

- (i) An employer, with the agreement of the majority of employees affected, may move the RDO of these employees to another day in the case of:
- a breakdown of machinery;

- a failure or shortage of electric power;
 - meeting the requirements of the mine; or
 - an emergency situation.
- (ii) In the case of another day being substituted for the RDO, the new day becomes the RDO and the original day becomes an ordinary working day.
- (iii) An individual employee, with the agreement of the employer, may substitute the day the employee is to take off for another day.

(f) RDO falling on a recognised public holiday

An employee who is entitled to an RDO which falls on a public holiday is, at the discretion of the employer:

- (i) to be paid at the employee's classification rate; or
- (ii) to be credited with one day for each public holiday (payable at ordinary rates).

(g) RDO not to fall on a recognised public holiday for an employee working Monday to Friday shifts of up to 8.5 ordinary hours

- (i) Subject to clause 8.7(g)(ii), where an employee is working Monday to Friday shifts of up to 8.5 hours and the employee's roster does not include work on a public holiday, an RDO is not to be scheduled to fall on a public holiday.
- (ii) Where a public holiday is prescribed after an employee who is covered by clause 8.7(g)(i) has been notified of an RDO, and that holiday falls on the employee's RDO, the employer must allow the employee to take the RDO on an alternative weekday.

9. Breaks

9.1 Paid meal breaks—rostered hours

- (a) An employee is entitled to a meal break of 30 minutes without deduction from pay for each five hours worked during rostered hours.
- (b) Subject to clause 9.1(c), an employee will not be required to work for more than five hours without a meal break
- (c) Where the employer and employee agree that the employee will work for more than five hours without a break, then the employee will, unless otherwise agreed, be paid for any work beyond five hours at the applicable overtime rates until a meal break is taken.

9.2 Paid meal break—non-rostered overtime

- (a) If an employee is required to work more than one and a half hours past their rostered shift (exclusive of crib time) then the employee will, unless agreed

otherwise, before starting this overtime be allowed at least 30 minutes for a meal without deduction of pay.

- (b) The employee will also, unless notified the previous day of the requirement to work overtime, be supplied with a meal or paid a meal allowance (see Schedule A.8.3 and Schedule B.3.2).
- (c) After each four hours of overtime worked after a crib break the employee will have a further crib break and either be supplied with a meal or be paid a meal allowance.
- (d) Where the overtime worked is not continuous with an employee's rostered hours, the employee is entitled to a meal break of 30 minutes without deduction from pay after each five hours worked.

Parties to submit whether the break provided in clause 9.2(a) taken before starting overtime would be paid at the ordinary time rate or the overtime rate.

Parties are asked to consider whether the length of the crib break in clause 9.2(c) should be specified and also whether the terms 'crib time' and 'crib break' can be replaced with 'paid break' or 'paid meal break'.

Part 4—Wages and Allowances

10. Minimum wages and allowances

10.1 The wages and allowances which an employee is to be paid are specified in the following schedules:

- (a) Schedule A—Production and Engineering Employees; and
- (b) Schedule B—Staff Employees.

10.2 Payment of wages

- (a) Unless otherwise agreed between the employer and the majority of employees, wages will be paid weekly.
- (b) Wages will be paid by cheque or electronic funds transfer.
- (c) In the absence of agreement to the contrary, not more than one week's pay will be kept in hand by the employer.
- (d) Upon termination of employment, wages due to an employee will be paid on the day of such termination or forwarded by post, within 72 hours, to the last address notified in writing by the employee.
- (e) Subject to all relevant laws, an employer and an individual employee may agree to a salary sacrifice arrangement. The obligations of the employer in respect of payment of remuneration will be satisfied by the employer complying with such an arrangement provided that the salary sacrificed amount and the residual wages combined are not less than the classification rate otherwise payable.

- (f) An employee absent from work is not entitled to payment for the period of absence unless paid absence is agreed by the employer, or permitted by this award or the law.
- (g) Section [536](#) of the Act requires the employer to give a pay slip to an employee within one working day of paying an amount to the employee in relation to the performance of work. The [Fair Work Regulations 2009](#) specify the information that must be included in a pay slip.

10.3 Mixed functions

An employee who performs mixed functions on any shift must be paid for the whole shift at the rate prescribed for the highest of such functions.

10.4 National training wage

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

10.5 School-based apprentices

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

11. Superannuation

11.1 Superannuation contributions for defined benefit members

An employer is permitted to make superannuation contributions to a superannuation fund or scheme in relation to a default fund employee who is a defined benefit member of the fund or scheme.

Part 5—Penalties and Overtime

12. Shiftwork

12.1 Definitions

- (a) **Afternoon shift** means any shift, the ordinary hours of which finish after 6.00 pm and at or before midnight.
- (b) **Night shift** means any shift, the ordinary hours of which finish after midnight and at or before 8.00 am.
- (c) **Permanent night shift** employee is an employee who:
 - (i) works night shift only; or
 - (ii) stays on night shift for a longer period than four consecutive weeks; or
 - (iii) works on a roster that does not give at least one-third of the employee's working time off night shift in each roster cycle.
- (d) **Rotating night shift** employee is an employee other than a permanent night shift employee who works night shift.

13. Penalty rates

13.1 An employee will be paid the following rates for all ordinary hours worked during the following periods:

Shift	Penalty rate	Casual penalty rate (includes casual loading)
	% of minimum hourly rate	
Afternoon and rotating night	115%	140%
Permanent night	125%	150%

13.2 Weekend work—other than shiftworkers

13.3 An employee will be paid the following rates for all ordinary hours worked on the following days:

Day	Period	Penalty rate	Casual penalty rate (includes casual loading)
		% of minimum hourly rate	
Saturday	First four hours	150%	175%
	After first four hours	200%	225%
Sunday	All hours	200%	225%

The rates in the table in clause 13.2 are taken from [clause 21](#) in the current award. Parties are asked to confirm whether they apply to 'other than shiftworkers'.

13.4 Change of shift for permanent day shift employees

(a) For at least three consecutive working days

If an employee who normally works on day shift only is required to work afternoon or night shift on at least three consecutive working days then the employee will be paid:

- (i) at overtime rates in accordance with clause 14.3 for the first afternoon or night shift so worked; and
- (ii) in accordance with the provisions of clause 13.1 for any other shifts after that.

(b) For fewer than three consecutive working days

If the employee is required to work afternoon or night shiftwork for a period fewer than three consecutive working days, overtime rates will be paid for any afternoon or night shiftwork. An exception to this is where the requirement is caused by the failure of another employee to come on duty at the proper time.

14. Overtime

14.1 In calculating overtime, except for clause 14.7, each day is to be treated separately.

14.2 Payment for overtime

(a) Subject to the exceptions in clause 14.2(b), all time worked in excess of or outside the ordinary hours of any shift on the following days will be paid for at the following rates:

For overtime worked on	Overtime rate
	% of minimum hourly rate
Monday to Friday – first three hours	150%
Monday to Friday – after first three hours	200%
Saturday – first three hours	150%
Saturday – after first three hours	200%
Sunday – all hours	200%

(b) All time worked in excess of or outside the ordinary hours of any shift by employees:

- (i) who are six day roster employees or seven day roster employees;
- (ii) who work a roster which requires ordinary shifts on public holidays and not less than 272 ordinary hours per year on Sundays; or
- (iii) who work a roster which requires ordinary shifts on Saturday and Sunday where the majority of the rostered hours on the Saturday or Sunday shifts fall between midnight Friday and midnight Sunday;

will be paid for at the rate of 200%.

14.3 Six day and seven day roster employees

- (a) All time worked in excess of or outside ordinary hours after an afternoon shift or a rotating night shift by a six day roster employee or a seven day roster employee will be paid at 215% of the employee's ordinary base hourly rate of pay.
- (b) All time worked in excess of or outside ordinary hours after a permanent night shift by a six day roster employee or a seven day roster employee will be paid at 225% of the employee's ordinary base hourly rate of pay.

Clauses 14.3(a) and 14.3(b) are taken from that table in [clause 22.2](#) in the current award. Parties are asked to confirm how they interact with the rest of clause 14.

14.4 Minimum payment for overtime on Saturday and Sunday

An employee called on to work overtime on a Saturday or Sunday (that is not continuous with work started on the previous day) will be paid for at least three hours at the appropriate rate.

14.5 Reasonable additional hours

Subject to the NES, an employer may require an employee to work reasonable additional hours in addition to their rostered hours, in which case the employee will be paid the applicable overtime rates.

14.6 Averaging overtime payments

An employer and an employee employed in a classification in Schedule B—Staff Employees may agree to average overtime payments over a length of a defined period.

14.7 Rest period after working overtime

(a) Length of the rest period

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

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

(i) The following conditions apply to an 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 ordinary hours of work on one day and the start of the employee’s ordinary hours of work on the next day:

- the employee will 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 14.7(b)(i):

- the employee will be paid at 200% of the minimum hourly rate during ordinary hours and after that until the employee is released from duty;
- the employee will then be 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.

Parties to submit whether “the end of the employee’s ordinary hours of work” in 14.7(b)(i) should refer instead to “the end of the employee’s overtime”?

14.8 Call-back

(a) Where an employer requires an employee to return to work overtime after leaving the mine (regardless of whether or the employee is notified before or after leaving):

- (i) the employee must be paid at the overtime rate for not less than four hours for each time the employee is recalled; and
 - (ii) except where unforeseen circumstances arise, the employee will not be required to work the full four hours if the job to be performed is completed within a shorter period.
- (b) Clause 14.8(a) does not apply where:
- (i) it is customary for the employee to return to the mine to perform a specific job outside their ordinary working hours; or
 - (ii) the overtime is continuous (subject to a reasonable meal break) with the completion or commencement of the employee's ordinary working hours.

14.9 Call-back less than four hours

Overtime worked in the circumstances set out in clause 14.8 will not be regarded as overtime for the purposes of a rest period as set out in clause 14.7, where the actual time worked on a recall is less than four hours.

14.10 Meal breaks during non-rostered overtime

Meal breaks during non-rostered overtime will be taken in accordance with clause 9.2.

Part 6—Leave, Public Holidays and Other NES Entitlements

15. Annual leave

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

15.1 Annual leave is provided for in the NES. Casual employees are not entitled to paid annual leave. For the full NES annual leave entitlement see [ss.86–94](#) of the Act. This clause supplements those entitlements and provides industry specific detail.

15.2 Entitlement to annual leave

- (a) An employee is entitled to annual leave, in addition to the amount provided for in the NES, such that the employee's total entitlement to annual leave pursuant to the NES and this award for each year of employment is a cumulative total of 175 ordinary hours (five weeks).
- (b) An employee who:
 - (i) is a seven day roster employee; or
 - (ii) works a roster which requires ordinary shifts on public holidays and not less than 272 ordinary hours per year on Sundays,

is entitled annually to an additional 35 ordinary hours (one week) of annual leave.

15.3 Accrual of annual leave

Employees, other than casual employees, accrue annual leave at the following rate:

For employees who would be entitled to annual leave of:	Hours of annual leave for each completed week of employment:
175 hours (5 weeks)	3.3654
210 hours (6 weeks)	4.0385

15.4 Taking annual leave

- (a) An employee with an annual leave entitlement, who wishes to take all or part of that entitlement will, unless otherwise agreed between the employee and the employer, give the employer at least 28 days’ notice in writing of the amount of leave to be taken. The employer will grant that leave unless, in the employer’s opinion, the operations of the mine will be affected.
- (b) Unless otherwise agreed, annual leave will be taken within 12 months of the date the employee received the annual leave entitlement.
- (c) The employer may direct an employee to take all or part of an annual leave entitlement provided at least 28 days’ notice in writing is given to the employee.

15.5 Deduction of annual leave

For each period of annual leave taken by an employee the ordinary hours of rostered shifts that would have been worked by the employee will be deducted from the employee’s accrued annual leave entitlement.

15.6 Amount of annual leave to be taken

Unless otherwise agreed between the employer and employee, annual leave will be given and taken in not more than three periods, one of which will be of at least three weeks’ duration.

15.7 Shutdown

- (a) An employer that shuts down all or any part of its operation must give employees at least 28 days’ notice of the shutdown or such shorter period as agreed between the employer and the employees affected.
- (b) Employees directly affected by the shutdown who have an entitlement to annual leave may take all or part of that entitlement during the shutdown period.
- (c) Employees who are directly affected by the shutdown and who are not yet entitled to sufficient annual leave may, during the shutdown period, take any annual leave accrued in accordance with clause 15.8.

15.8 Paid leave in advance of accrual

- (a) An employer may allow an employee to take annual leave in advance.
- (b) Any annual leave which has been taken in accordance with clause 15.8(a) will be deducted from the employee’s entitlement as it accrues.

- (c) The employer may deduct from the employee’s termination pay the payment for any annual leave taken in advance which the employee has not yet accrued in accordance with clause 15.2(b).

15.9 Payment and loading

An employee who takes annual leave must be paid the greater of:

- (a) the employee’s ordinary rate of pay plus a loading of 20% of that rate; or
- (b) the employee’s rostered earnings for the period of annual leave, which includes all rostered overtime and rostered public holidays (paid at 200%), but, not including shift allowances, except in the case of seven day roster employees.

15.10 When payment will be made for annual leave

An employee will be paid for a period of annual leave in accordance with the employee’s normal pay period(s), unless an employee requests that payment of the entire period of annual leave be made prior to the employee commencing leave.

16. Personal/carer’s leave and compassionate leave

16.1 Personal/carer’s leave and compassionate leave are provided for in the NES. Casual employees are not entitled to paid personal/carer’s leave or paid compassionate leave.

16.2 For the full NES entitlement to personal/carer’s leave and compassionate leave see [ss.95–107](#) of the Act. This clause supplements those entitlements and deals with evidence required to be provided by an employee when taking paid personal/carer’s leave.

16.3 Entitlement

This provision is being reviewed in [AM2014/6](#)

A full-time employee is entitled to 105 ordinary hours of personal/carer’s leave (inclusive of the employee’s NES entitlement) on commencing employment and on each anniversary of commencement. Any personal leave which is not taken by an employee must accumulate without limitation.

16.4 Evidence required

- (a) Where requested to do so by the employer, an employee who has taken personal/carer’s leave or compassionate leave must provide a medical certificate or such other evidence as will prove to the employer’s reasonable satisfaction that the leave was taken for a reason set out in the NES.
- (b) Where the employer is not satisfied by the evidence provided by an employee under clause 16.4(a), any dispute may be dealt with in accordance with the dispute resolution procedure in this award.

16.5 Deduction of personal leave

Paid personal/carer’s leave taken by an employee must be deducted from the employee’s paid personal/carer’s leave entitlement as follows:

- (a) where the absence is for fewer than half the ordinary hours component of the shift, no deduction; or
- (b) in any other case, the full ordinary hours component of the shift will be deducted.

17. Parental leave and related entitlements

17.1 Parental leave and related entitlements are provided for in the NES. The NES provides up to 12 months' unpaid leave to eligible employees, plus a right to request an additional 12 months' unpaid leave, plus other forms of maternity, paternity and adoption-related leave.

17.2 For the full NES parental leave entitlement see [ss.67–85](#) of the Act.

18. Public holidays

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

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

18.3 Substitution of recognised public holidays

The employer and the majority of employees affected may agree to observe a holiday on a day other than the day prescribed. If this occurs, the day agreed upon is the award holiday and the actual holiday becomes an ordinary working day.

18.4 Employee not required to work on a public holiday

- (a) An employee who is not required to work on a holiday which would otherwise have been a working day for that employee will be paid for that day at the employee's classification rate.
- (b) An employee is not entitled to payment for such holiday if the employee, without good and sufficient reason, fails to work on the employee's:
 - (i) last working day immediately before the holiday; or
 - (ii) first working day after the holiday.

Clause 18.4(b) (which corresponds to [clause 27.3](#) in the current award) may be inconsistent with s.116 of the *Fair Work Act 2009*.

The above provision is being reviewed in [AM2014/6](#)

18.5 Employee required to work on a recognised public holiday

- (a) An employee who is required to work on a holiday is to be paid at the rate of double time for work performed during ordinary hours, in addition to the payment prescribed.

- (b) Work performed in excess of ordinary hours on a holiday is to be paid at the rate of treble time.

Parties are asked to submit whether clause 18.5(a) means the employee is to be paid at the rate of 200% of the minimum hourly rate in addition to their ordinary rate which includes shift payments. If so, does this differ from clause 18.5(b)?

18.6 Notice of public holidays to be worked (other than employees working shifts of up to 8.5 ordinary hours)

- (a) On a date agreed, the employer will nominate which public holidays will be worked in the following 12 months by employees (other than employees working shifts of up to 8.5 ordinary hours on weekdays), provided that work will not be carried out on two of such holidays.
- (b) If the employer does not require employees to work on a public holiday (as nominated in clause 18.6(a)) the employer must give the employees as much notice as possible of this decision.
- (c) If the notice required by clause 18.6(b) is less than four weeks inclusive of the holiday, an employee who was rostered to work on the holiday is to be paid for ordinary hours as if the holiday had been worked.
- (d) If the employer decides not to require work to be performed on a public holiday because of a strike or ban, employees, other than those involved in the strike or ban, are to be paid at their classification rate for ordinary hours.

18.7 Employees working Monday to Friday shifts of up to 8.5 ordinary hours

- (a) An employee who only works shifts of up to 8.5 ordinary hours on weekdays cannot, as an integral part of their roster cycle, be rostered for ordinary hours on public holidays. Such employees may, however, in exceptional circumstances, be required to work on public holidays to meet operational needs.

19. Community service leave

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

20. Termination of employment

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

20.2 Termination by employee

An employee must give one week's notice to terminate employment, or forfeit to the employer one week's pay instead of giving notice.

20.3 Termination by employer

This clause does not affect the right of the employer to dismiss an employee without notice for serious misconduct and in such cases the wages will be payable up to the time of dismissal only.

20.4 Notice of termination—redundancy

Where termination occurs due to redundancy as defined in clause 21.2 the employee whose employment is terminated is entitled to a minimum of four weeks' notice of termination.

20.5 Payments on termination

In the case of termination of employment, and in addition to any other amounts payable pursuant to this award to an employee on termination, the employee must be paid in accordance with this clause.

(a) Accrued annual leave

The employee must be paid for all annual leave entitlements, and annual leave accrued in accordance with clause 15.2(b), at the employee's base rate of pay.

(b) Accrued personal/carer's leave

(i) An employee whose employment is terminated:

- by retrenchment;
- by retirement at or after age 60;
- by the employer because of ill health; or
- by death;

must, if the employee has 70 or more hours of untaken personal leave entitlement, be paid for that entitlement at the employee's base rate of pay.

(ii) When an employer terminates the employment of an employee during a period of absence on paid personal leave, the employee must be paid until the employee has no further accumulation of personal leave or until the employee is fit for duty, whichever occurs first.

21. Redundancy

21.1 The redundancy arrangements in this award are an industry-specific redundancy scheme and, as such, Subdivision B of Division 11 of the NES does not apply.

21.2 Definition of redundancy

- (a) An employee is made redundant where an employee's employment is terminated at the employer's initiative:
- (i) because the employer no longer requires the job done by the employee to be done by anyone except where this is due to the ordinary and customary turnover of labour; or
 - (ii) because of insolvency or bankruptcy of the employer.
- (b) This clause does not apply to employees engaged for a fixed term or a specified task.

21.3 Severance payment

Except where clause 21.5 applies, when terminations occur due to redundancy the employees terminated are entitled to severance pay equal to one ordinary week's pay for each completed year of employment.

21.4 Retrenchment payment

This provision may be reviewed in [AM2014/6](#)

- (a) Except where clause 21.5 applies, where redundancies occur due to:
- (i) technological change;
 - (ii) market forces; or
 - (iii) diminution of reserves,
- the employees terminated are entitled to retrenchment pay equal to two ordinary weeks' pay for each completed year of employment. This payment is additional to the payment prescribed in clause 21.3. This makes a total of three ordinary weeks' pay for each completed year of employment.
- (b) Regardless of length of employment, the minimum payment due to employees under clause 21.4(a) is two ordinary weeks' pay.
- (c) The amount of payment due under clause 21.4 is not to be more than what an employee would have received had the employee remained in employment with the employer until the age of 60 years.

21.5 Exemption

An employer is not liable for the payment in clauses 21.3 and 21.4 if the employer obtains, or causes to be made available for the employee, work:

- (a) that the employee is competent to perform;
- (b) in a position that carries the same or a higher classification rate of pay than the employee's previous position;

- (c) that can reasonably be regarded as permanent; and
- (d) allows the employee to reside in the same general locality as the employee's previous residence.

21.6 Variation of retrenchment pay

Despite anything in this clause, an employer may make application to the Fair Work Commission to be granted relief from the obligation to make a payment pursuant to clause 21.4. A dispute over what is just and expedient may be resolved through the dispute resolution procedure.

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.

DRAFT

Schedule A—Production and Engineering Employees

A.1 Preamble and principles

- A.1.1** The classification structure in this award determines the minimum weekly wages payable to employees whose employment is subject to this award.
- A.1.2** The structure is a single stream structure, which does not contain any demarcations relating to the performance of work. It allows for a list of minesite competencies to be developed. Each mine's indicative competencies will use as a guide the competency standards contained in the Coal Industry Training Package.
- A.1.3** The definitions for each of the classification levels are necessarily general and intended to cover the types of work actually performed under this award. To eliminate doubt, the work performed by the employee, the assessment of the employee against minesite standards and, in relevant cases, the appointment of an employee to a particular classification by the employer, are the only relevant matters that determine an employee's entitlement to wages pursuant to this clause.
- A.1.4** The employer will make available to employees at a minesite the following:
- (a) the classification that will be occupied by employees whose employment is subject to this award; and
 - (b) the requirements each employee must meet to occupy those classifications.
- A.1.5** Whenever an employer alters the requirements that an employee must hold, to occupy a classification, the altered requirements will be published at the minesite.

NOTE: A proposal to alter such requirements will typically be subject to the consultation obligations in clause 22—Consultation of this award.

A.2 Definitions

A.2.1 Mineworker - Induction Level I

Mineworker - Induction Level 1 is the entry level for a non-trade person who is undertaking the statutory/generic and/or minesite induction and who remains at this level until assessed by the employer to have successfully completed the induction requirements when they then advance to a Mineworker - Training.

A.2.2 Mineworker - Induction Level 2 / Mineworker - Training

Mineworker - Induction Level 2 is the entry level for a certificated tradesperson who is undertaking the statutory/generic and/or minesite induction. The tradesperson after successful completion of the induction phase then becomes a Mineworker - Training at this level.

A Mineworker - Training is an employee who trains in and performs the required tasks under direct supervision. This classification applies to employees until assessed by the employer as meeting the requirements to be classified as a mineworker.

A.2.3 Mineworker

A Mineworker is an employee who is assessed by the employer as competent to perform the required tasks in a variety of operating circumstances and under limited supervision. An employee continues in this classification until assessed for advancement to Mineworker - Advanced.

A.2.4 Mineworker - Advanced

A Mineworker - Advanced is an employee who is assessed by the employer against the employer's available criteria as competent to perform the required tasks in all relevant operating circumstances at a level above that of a Mineworker.

A Mineworker - Advanced may be required to supervise the work of other employees.

A.2.5 Mineworker - Specialised

A Mineworker - Specialised is an employee assessed by the employer as competent to perform specialised functions beyond the level of a Mineworker - Advanced. An employee appointed to this classification will undertake a specialised role, which requires them to exercise independent discretion in undertaking functions within the bounds set by the employer.

The performance of this role may require the employee to supervise the work of other employees.

A.3 Advancement

A.3.1 An employee's advancement through the classification structure will be determined in accordance with the definitions above and as outlined in the following table:

Mineworker - Induction Level 1	Non-trades undertaking generic/minesite induction
Mineworker - Induction Level 2	Trades Certificate and undertaking generic/minesite induction
Mineworker - Training	Non-trade - Training in 4 Advancement Competencies; Trade - Training in 2 Advancement Competencies
Mineworker	Non-trade - Competent in 4 Advancement Competencies; Trade - Certificate plus 2 Advancement Competencies

- A.3.2** Progression to the classification of Mineworker - Advanced may occur where an employee is assessed as competent against the available criteria or is appointed to a statutory position. Although advancement to this classification is not governed by the acquisition of skills alone, for a trade certificated employee this may be achieved by exercising skills which require six post-trade modules of training or an equivalent level of skills in non-trade or cross-trade work.
- A.3.3** Progression to the classification of Mineworker - Specialised is by appointment of the employer where an employee is assessed as a specialist against the available criteria or is appointed to a statutory position. Although advancement to this classification is not governed by the acquisition of skills alone, for a trade certificated employee this may be achieved by exercising skills which require 12 post-trade modules of training or an equivalent level of skills in non-trade or cross-trade work.
- A.3.4** Non-trade work referred to in clauses A.3.2 and A.3.3 above, is work by certificated tradespersons, which is not part of their trade and is of a production or operations nature.
- A.3.5** Cross-trade work referred to in clauses A.3.2 and A.3.3 above, is work by certificated tradespersons, which is not part of their trade but is part of another certified trade in which they are competent.

A.4 Minimum Rates

Classification	Minimum weekly rate	Minimum hourly rate (based on 35 hour week)
	\$	\$
Mineworker - Induction Level 1	726.70	20.76
Mineworker - Induction Level 2	740.80	21.17
Mineworker - Training	740.80	21.17
Mineworker	791.90	22.63
Mineworker - Advanced	830.10	23.72
Mineworker - Specialised	915.50	26.16

A.5 Indicative Competencies

A.5.1 Open cut mines

The following lists are not exhaustive, but rather are indicative of the types of competencies utilised in open cut mines.

INDUCTION

Induction (Generic, Minesite); Interpersonal; First Aid; Fire Fighting; Occupational Health and Safety.

ADVANCEMENT COMPETENCIES

Dragline operation; Auger operation; Truck operation; Shovel operation; Cable handling; Drilling; Blasting; Shotfiring; Scraper operation; Excavator operation; Loader operation; Grader operation; Dozer operation; Pit Dewatering; Equipment servicing and maintenance; Washplant operation; Coal handling; Reclaim operation; Loader operation; Grader operation; Load out operation; Crusher/conveyor operation; Washplant servicing and maintenance; Tyre fitting; Crane operation; Rigging and dogging; Cross-trade skilling.

While an employer may require an employee to become competent in one or more of the following, these competencies will not be required for advancement through the classification structure:

Equipment servicing; Medium vehicles operation; Low loaders operation; Scaffolding; Minor maintenance; Conveyors; Bobcat; etc.

A.5.2 Underground mines

The following lists are not exhaustive, but rather are indicative of the types of competencies utilised in underground mines.

INDUCTION

Induction (Generic, Minesite); Interpersonal; First Aid; Fire Fighting; Occupational Health and Safety.

ADVANCEMENT COMPETENCIES

Face operations, Continuous Miner; Shuttle car operation; FCT operation; Strata control; Bord and pillar mining; Face operations, Longwall; Supports installation; Shearer operation; AFC operation; Stage loader operation; Ancillary equipment; Face operations, Shortwall; Recovery and installation of major equipment; Drift and shaft operations; Environmental monitoring; Ventilation control; Fire control and emergency procedures; Geomechanics; Exploration techniques; Training/Safety co-ordination; Systematic Safety Assessment technique; Reviewing complex tasks and resources; Environmental management; Undermanager functions; Deputy functions; Shotfirer; Process Monitoring Control; Washery operations; Train loading operations; Railway maintenance; Haulage winder operation; Cross-trade skilling.

OTHER COMPETENCIES

While an employer may require an employee to become competent in one or more of the following, these competencies will not be required for advancement through the classification structure:

Coal haulage; Mine services; TQC principles; Roadways; Roof and rib support; Gas drainage; Riggers certificate; Surface operations; Coal stockpile and reclaim; Washery services.

NOTE: The Mineworker – Induction Level 2/Mineworker – Training classification includes the classifications formerly listed in Group B in the *Coal Mining Industry (Production and Engineering) Interim Consent Award, September 1990*, including the classification of coalcutting machineman. This note is inserted in light of the decision of a Full Bench of the Australian Industrial Relations Commission dated 5 December 2002 [[PR925329](#)].

A.6 Apprentices

- A.6.1** The terms of this award apply to the employment of apprentices.
- A.6.2** The off-the-job training of an apprentice may be undertaken on day release or block release basis.
- A.6.3** In order to ensure sufficient training, an apprentice may be engaged by more than one employer in the coal mining industry. Where this occurs, an agreement must be reached between the employers involved on their responsibilities arising under the apprenticeship. A copy of the agreement must be given to the apprentice.
- A.6.4** An adult apprentice is a person who is 21 years of age or over when they commence a three year apprenticeship.
- A.6.5** An employer may provide an apprentice with a tool kit if they agree on the terms for the payment of the cost of the tool kit.
- A.6.6** Except where inconsistent with this award, the State legislation regulating apprenticeships applies.
- A.6.7** The weekly minimum wage rates for apprentices (including adult apprentices) that commenced a training contract prior to 1 January 2014 are as follows:

Apprentices other than adult apprentices	% of the Mineworker - Induction Level 2 weekly rate	\$ per week
First year of experience	45	333.36
Second year of experience	60	444.48
Third year of experience	75	555.60
Fourth year of experience	90	666.72
Adult apprentices	% of the Mineworker - Induction Level 2 weekly rate	\$ per week
First year of apprenticeship	80	592.64
Second year of apprenticeship	90	666.72
Third year of apprenticeship	95	703.76

A.6.8 Apprentice minimum wage arrangements for apprentices that commenced on or after 1 January 2014

- (a) Minimum wage rates for apprentices and adult apprentices commencing a training contract on or after 1 January 2014 are set out below as a percentage of the wage prescribed for Mineworker – Induction Level 2 of this award.
- (b) For first year apprentices (other than adult apprentices), who commenced on or after 1 January 2014, the increased rate will be phased in. From 1 January 2014 it will be 50% of the Mineworker – Induction Level 2 rate, from the first pay period on or after 1 January 2015 this will increase to 55% of the level 5 rate.

(i) Apprentices other than adult apprentices

Stage	Has not completed year 12		Has completed year 12	
	% of Mineworker – Induction Level 2	\$ per week	% of Mineworker – Induction Level 2	\$ per week
1	50%	370.40	From 1 January 2014: 50%	370.40
			From first pay period commencing on or after 1 January 2015: 55%	407.44
2	60%	444.48	65%	481.52
3	75%	555.60	75%	555.60
4	90%	666.72	90%	666.72

(ii) Adult apprentices

Stage	Rate of pay	\$ per week
1	80% of Mineworker – Induction Level 2	592.64
2	Mineworker – Induction Level 1	726.70
3	Mineworker – Induction Level 1	726.70

- (c) A person employed by an employer under this award immediately prior to entering into a training contract as an adult apprentice with that employer must not suffer a reduction in their minimum wage by virtue of entering into the training contract. For the purpose only of fixing a minimum wage, the adult apprentice must continue to receive the minimum wage that applies to the classification in which the adult apprentice was engaged immediately prior to entering into the training contract.
- (d) Clause A.6.8(c) only applies where the employee, immediately prior to entering into a training contract as an adult apprentice has been an employee in the enterprise for a minimum of 6 months full-time employment or twelve months part-time or regular and systematic casual employment.

A.7 Juniors

Where the law permits junior employees to perform work in the coal mining industry, the weekly minimum wages rates for juniors are as follows:

Age	% of the Mineworker - Induction Level 2 weekly rate	\$ per week
15-16 years	40	296.32
16-17 years	55	407.44
17-18 years	75	555.60

A.8 Allowances

A.8.1 Except where specifically indicated, the following allowances will apply to all employees covered by this schedule and are payable in addition to the employee's classification rate, but are not taken into account in the calculation of any other penalty rate prescribed by the award, except where specifically indicated.

A.8.2 Wage related allowances and reimbursements

Allowance	Application	% of the <u>standard rate</u> /reimbursement	\$ per shift unless stated otherwise
Washery allowance	Where an employee is employed in or about a washery	0.63	4.67 per day or per shift
	This allowance is in substitution of all other disability allowances except water money	0.32	2.37 minimum payment per day/shift
Water money	<p>Where, through no fault of the employee, and in the course of duties, an employee's clothing becomes wet</p> <p>The employee is to notify the supervisor of the intention to claim water money and the reasons for making it as soon as is possible</p> <p>An employee regularly receiving water money must not have the payment discontinued without notice</p>	0.49	3.63

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Allowance	Application	% of the <u>standard rate/ reimbursement</u>	\$ per shift unless stated otherwise
Shaft work (Electrical/ Mechanical)	An employee is engaged on shaft work	0.59	4.37
	<p>Minimum payment of 4 hours at this rate for employees required to carry out work in connection with the release of blockages in sewerage lines and connections thereto (including pumps)</p> <p>A minimum payment of one hour for work on pumps after removal from a pumping station or treatment works for cleaning or stripping</p>	0.3	2.22 minimum payment per day/shift
Dirty work	Where an employee has to handle machinery, equipment, appliances or gear of any description which is covered with oil or grease	0.23	1.70
Confined spaces allowance (Electrical/ Mechanical)	Employees working in a space, the dimensions of which necessitate working in a stooped or otherwise cramped position or without proper ventilation, or where confinement within a limited space is unusually discomfoting	0.08	0.59 per hour
Height money (Electrical/ Mechanical)	Where an employee is engaged on work at a height of 7.5 metres or more above the nearest horizontal plane	0.23	1.70
First Aid Officer allowance (does not apply to employees employed under the open cut or underground work models)	Where an employee is appointed as a first aid officer	0.76	5.63 per day or shift or attendance at or paid absence from work

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Allowance	Application	% of the <u>standard rate</u> / reimbursement	\$ per shift unless stated otherwise
First Aid Attendant allowance (does not apply to employees employed under the open cut or underground work models)	Where an employee is appointed as a first aid attendant	0.45	3.33 per day or shift
Boom Welding allowance (does not apply to employees employed under the open cut work model)	Where an employee carries out pressure or x-ray standard welding on booms	0.095	0.70 per hour
Underground allowance (Electrical/ Mechanical)	An adult employee who works underground on any shift	0.23	1.70 per day or shift
Additional shift allowance—Open cut employees	Where an employee is engaged on afternoon shift and/or night shift at open cut workings and who is in receipt of the 15% shift allowance	0.43	3.19 per afternoon shift (additional to the shiftwork rates)
		0.85	6.30 per night shift (additional to the shiftwork rates)
Working clothes and safety boots	<p>Employees required to provide and wear industrial outer clothing and safety boots</p> <p>This provision does not apply where such footwear and clothing are supplied to the employee at the employer's expense</p>	Reimbursement by the employer each year for one pair of safety boots and two sets of industrial outer clothing; the articles are to be at a standard normally issued by the Company	

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Allowance	Application	% of the <u>standard rate</u> / reimbursement	\$ per shift unless stated otherwise
Damage to clothing and tools (Electrical/ Mechanical)	Where in the course of the work clothing or tools are damaged or destroyed by fire or molten metal or through the use of corrosive substances	<p>Compensation to the extent of damage sustained will be made</p> <p>Provided that the employer's liability for such tools will be limited to such tools of trade as are ordinarily required for the performance of the employee's duties</p>	
Transport	When employee is required to work during annual leave shutdown and the normal means of transport is unavailable and provided the employee attends for work and performs such work as the employer reasonably requires	1. Reimbursement of any expense reasonably incurred in excess of expenses usually incurred travelling between home and normal place of work	
	When an employee is required to temporarily work away from their ordinary location	2. Payment at ordinary rates for all time reasonably spent outside ordinary hours of work travelling between home and the temporary location beyond the time usually spent in travelling between home and the ordinary location and/or reimbursement of any expense reasonably incurred in such travelling in excess of the expense usually incurred travelling between home and the employee's ordinary location	
	When an employee works shiftwork, overtime or pre-shift overtime and the employee's normal means of transport is unavailable	3. Payment for one hour at ordinary rates or the provision of transport at the employer's cost	

A.8.3 Expense related allowances

Allowance	Application	Amount
Tool allowance	Employers will continue to supply tools customarily supplied by them	Employees required to provide necessary tools must be paid an additional \$11.10 per week
Meal allowance	When an employee is entitled to a meal allowance in accordance with the provisions of this award	\$14.23 for each meal

A.8.4 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
Tool allowance	Tools and equipment for house and garden component of the household appliances, utensils and tools sub-group
Meal allowance	Take away and fast foods sub-group

A.8.5 Facilitative provision

Notwithstanding the other provisions of this Schedule, the method of payment of any or all allowances contained in this schedule may be varied by agreement between an employer and the majority of affected employees.

Schedule B—Staff Employees

B.1 Employment functions

Assistant undermanager means an employee, the holder of at least a second class mine manager's certificate of competency under the *Coal Mining Safety and Health Act 1999* (Qld), who is appointed to such position. Provided that an assistant undermanager will not be appointed to any shift unless at least one undermanager has been appointed thereto and the assistant undermanager is subject to the direction and control of that undermanager as appropriate, or the shift is of a size which the *Coal Mining Safety and Health Act 1999* (Qld) does not require the appointment of a second class mine manager's certificate of competency.

Production supervisor means an employee at an open-cut mine whose duties include operational planning, co-ordination, supervision and control of mining and overburden operations and personnel on all shifts worked at the mine.

Open-cut overseer means an employee appropriately qualified and certified performing general supervisory duties which may include the duties of an open-cut examiner under the *Coal Mine Health and Safety Act 2002* (NSW).

Senior chemist means an employee, the holder of an appropriate qualification who is responsible for the co-ordination and control of the work on all shifts at a laboratory where at least one other chemist is employed.

Chemist means an employee who is the holder of an appropriate qualification and is required to carry out testing, analysis and verification of results and may be responsible for the supervision and work of laboratory technicians, laboratory assistants and/or samplers on shift.

Laboratory technician means an employee who has experience in laboratory techniques and who is required to carry out independent testing and analysis of coal samples according to company standards and who reports the results and may be responsible for the supervision and work of one or more Laboratory assistants and/or samplers on shift.

Paymaster means an employee responsible at a mine or group of mines for the full payroll function for at least 300 employees.

Chief surveyor means an employee in charge of a group of mines where a mine surveyor is also employed.

Mine surveyor means an employee who is required by the management to certify the accuracy of mine plans, sections and tracings pursuant in New South Wales to the *Coal Mine Health and Safety Act 2002* (NSW), and in Queensland to the *Coal Mining Safety and Health Act 1999* (Qld).

Surveyor means an employee holding a surveyor's certificate of competency in accordance with the *Coal Mining Safety and Health Act 1999* (Qld) appointed by management to use surveying instruments.

Assistant surveyor means an employee holding a surveyor's certificate of competency appointed by the management to use surveying instruments.

Trainee means an employee being trained and educated technically to take a managerial position or a position as a surveyor, metallurgist, chemist, geologist, draftsman or a mining, mechanical or electrical engineer.

Deputy means a person whose duties are prescribed by the *Coal Mine Health and Safety Act 2002* (NSW).

B.2 Minimum rates

The minimum rates of pay to be paid to employees will be as follows:

B.2.1 Adults

	Minimum weekly rate	Minimum hourly rate (based on 35-hour week)	Casual hourly rate (based on 35-hour week)
	\$	\$	\$
GROUP A (Adult coal mining industry employees, without prior experience in the coal mining industry, engaged in one of the following classifications) Tracer Surveyor's Assistant Clerk Laboratory Assistant Technical Assistant Stores Clerk Trainee Coal and/or Dust Sampler	779.00	22.26	27.83

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	Minimum weekly rate	Minimum hourly rate (based on 35-hour week)	Casual hourly rate (based on 35-hour week)
	\$	\$	\$
<p>GROUP B (Adult coal mining industry employee engaged in one of the following classifications) Tracer Surveyor's Assistant Clerk Laboratory Assistant Technical Assistant Stores Clerk Trainee Coal and/or Dust Sampler Screen and Surface Overseer Traffic Controller</p>	801.30	22.89	28.61
<p>GROUP C Computer Operator Senior Clerk Senior Stores Clerk Laboratory Technician Assistant Surveyor Assistant Safety Officer</p>	821.80	23.48	29.35
<p>GROUP D Surveyor Draftsperson Shotfirer</p>	834.40	23.84	29.80
<p>GROUP E Leading Draftsperson Assistant Training Officer Assistant Electrical and/or Mechanical Engineer</p>	851.30	24.32	30.40

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	Minimum weekly rate	Minimum hourly rate (based on 35-hour week)	Casual hourly rate (based on 35-hour week)
	\$	\$	\$
GROUP F Senior Computer Operator Assistant Purchasing and Stores Control Officer Administrative Officer	859.50	24.56	30.70
GROUP G Chemist Analyst and/or Programmer Environmental Scientist Paymaster Purchasing Officer Stores Control Officer Personnel Officer Safety Officer Assistant to the Chief Clerk	904.90	25.85	32.31
GROUP H Deputy Training Officer	915.50	26.16	32.70
GROUP I Foreperson Senior Analyst and/or Programmer Coal Preparation Plant Foreperson (Tasmania) Commercial Officer Assistant Accountant Chief Clerk Purchasing and Store Control Officer Mine Surveyor Planning Officer Occupational Health Nurse	929.70	26.56	33.20

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	Minimum weekly rate	Minimum hourly rate (based on 35-hour week)	Casual hourly rate (based on 35-hour week)
	\$	\$	\$
GROUP J Engineer Assistant to the Chief Electrical and/or Mechanical Engineer Open Cut Overseer Chief Surveyor Metallurgist Senior Chemist Geologist Assistant Undermanager Senior Foreperson Accountant Washing Plant Superintendent and/or Supervisor EDP Supervisor	942.20	26.92	33.65
GROUP K Senior Geologist Chief Geologist Chief Chemist Senior Metallurgist Senior Engineer Senior Open Cut Overseer Coal Preparation Plant Supervisor	963.50	27.53	34.41
GROUP L Production Supervisor Chief Electrical and/or Mechanical Engineer	987.00	28.20	35.25
GROUP M Electrical and/or Mechanical Engineer (in charge) Undermanager (in charge)	1026.10	29.32	36.65

B.2.2 Juniors

The minimum rates of pay to be paid to juniors are the following percentages of the Group A weekly rate in each state:

Age	% of the Group A weekly rate	\$ per week
Up to 17 years	65	506.35
17 to 18 years	70	545.30
18 to 19 years	80	632.20
19 to 20 years	90	701.10
20 to 21 years	95	740.05

Provided that no existing employee will have their current percentage rate increased or decreased as a result of making this award.

B.2.3 Graduates**(a) Graduate Engineers**

A degree qualified Engineer entering the workforce without experience will start at the Graduate Engineer – Level 1 rate. At the completion of 12 months' service that engineer will be assessed by the employer and, having regard to the acquisition and utilisation of skills and knowledge through experience over such period, may advance one increment to the Graduate Engineer – Level 2 rate.

Advancement to the Graduate Engineer – Level 3 and the Engineer rate may occur by annual increments, following assessment of the employee by the employer, having regard to the acquisition of skills and knowledge through experience over such period.

The minimum rates of pay to be paid to Graduate Engineers will be the following percentages of the Group J – Engineer's weekly rate:

Classification	% of the Group J – Engineer's weekly rate	\$ per week
Graduate Engineer – Level 1	80	753.76
Graduate Engineer – Level 2	86	810.29
Graduate Engineer – Level 3	94	885.67

Provided that no existing employee will have their current percentage rate increased or decreased as a result of making this award.

(b) Commercial Graduates

An employee with a tertiary qualification in a commercial discipline entering the workforce without experience will start at the Commercial Graduate – Level 1 rate. At the completion of 12 months' service that employee will be assessed by the employer and, having regard to the acquisition and utilisation

of skills and knowledge through experience over such period, may advance one increment to the Commercial Graduate – Level 2 rate.

Advancement to the Commercial Graduate – Level 3 and the Commercial Officer rate may occur by annual increments, following assessment of the employee by the employer, having regard to the acquisition of skills and knowledge through experience over such period.

The minimum rates of pay to be paid to Commercial Graduates will be the following percentages of the Group I – Commercial Officer’s weekly rate:

Classification	% of the Group I – Commercial Officer’s weekly rate	\$ per week
Commercial Graduate – Level 1	80	743.76
Commercial Graduate – Level 2	86	799.54
Commercial Graduate – Level 3	94	873.92

B.3 Allowances

Except where specified the following allowances and reimbursements are payable in addition to the employee’s classification rate but are not taken into account in the calculation of any other penalty rate prescribed by this award except where specifically indicated.

B.3.1 Wage Related Allowances and Reimbursements

Allowance	Application	% of the <u>standard rate</u>/ reimbursement	\$ per shift unless stated otherwise
First Aid Officer allowance	Where an employee is appointed as the first aid officer	0.76	5.63 per day or shift or attendance at, or paid absence from, work
First Aid Attendant allowance	Where an employee is appointed as a first aid attendant	0.45	3.33 per day or shift
Working clothes and safety boots	Employees required to provide and wear industrial outer clothing and safety boots. This provision does not apply where such footwear and clothing are supplied to the employee at the employer’s expense	Reimbursement by their employer each year for one pair of safety boots and two sets of industrial outer clothing	

Allowance	Application	% of the <u>standard rate</u> / reimbursement	\$ per shift unless stated otherwise
Transport	When an employee is required to work during annual leave shutdown and the normal means of transport is unavailable	1. Reimbursement of any expense reasonably incurred in excess of expenses usually incurred travelling between home and normal place of work	
	When an employee is required to temporarily work away from the ordinary location	2. Payment at ordinary rates for all time reasonably spent outside ordinary hours of work travelling between home and the temporary location beyond the time usually spent in travelling between home and the ordinary location and/or reimbursement of any expense reasonably incurred in such travelling in excess of the expense usually incurred travelling between home and the employee's ordinary location	
	When an employee works shiftwork or overtime and the employee's normal means of transport is unavailable	3. Payment for one hour at ordinary rates or the provision of transport at the employer's cost	

B.3.2 Expense related allowances

Allowance	Application	Amount
Meal	When an employee is entitled to a meal allowance in accordance with the provisions of this award	\$14.23 for each meal

B.3.3 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

B.3.4 Facilitative provision

Notwithstanding the other provisions of this clause, the method of payment of any or all allowances contained in this schedule may be varied by agreement between an employer and an employee.

Schedule C—Summary of Hourly Rates of Pay

Note: Summary tables of hourly rates of pay for full-time, part-time and casual employees in this award including penalties and loadings have not been included as a schedule in this exposure draft. If parties think such tables would be useful, they can be prepared for consideration.

DRAFT

Schedule D—National Training Wage

D.1 Title

This is the *National Training Wage Schedule*.

D.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

D.3 Coverage

D.3.1 Subject to clauses D.3.2 to D.3.5 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 D.7 or by clause D.5.4 of this schedule.

D.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 D.7.

D.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.

D.3.4 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.

D.3.5 At the conclusion of the traineeship, this schedule ceases to apply to the employee.

D.4 Types of Traineeship

The following types of traineeship are available under this schedule:

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

D.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.

D.5 Minimum Wages**D.5.1 Minimum wages for traineeships****(a) Wage Level A**

Subject to clauses D.5.2 and D.5.3 of this schedule, the minimum wages for a trainee undertaking a full-time or part-time AQF Certificate Level I–III traineeship whose training package and AQF certificate levels are allocated to Wage Level A in clause D.7 are:

	Highest year of schooling completed					
	Year 10		Year 11		Year 12	
	Full-time per week	Part-time per hour	Full-time per week	Part-time per hour	Full-time per week	Part-time per hour
	\$	\$	\$	\$	\$	\$
School leaver	287.90	9.47	317.10	10.44	377.80	12.43
Plus 1 year out of school	317.10	10.44	377.80	12.43	439.60	14.47
Plus 2 years out of school	377.80	12.43	439.60	14.47	511.60	16.83
Plus 3 years out of school	439.60	14.47	511.60	16.83	585.80	19.26
Plus 4 years out of school	511.60	16.83	585.80	19.26		
Plus 5 or more years out of school	585.80	19.26				

(b) Wage Level B

Subject to clauses D.5.2 and D.5.3 of this schedule, the minimum wages for a trainee undertaking a full-time or part-time AQF Certificate Level I–III traineeship whose training package and AQF certificate levels are allocated to Wage Level B in clause D.7 are:

	Highest year of schooling completed					
	Year 10		Year 11		Year 12	
	Full-time per week	Part-time per hour	Full-time per week	Part-time per hour	Full-time per week	Part-time per hour
	\$	\$	\$	\$	\$	\$
School leaver	287.90	9.47	317.10	10.44	367.60	12.10
Plus 1 year out of school	317.10	10.44	367.60	12.10	422.80	13.91
Plus 2 years out of school	367.60	12.10	422.80	13.91	495.80	16.32
Plus 3 years out of school	422.80	13.91	495.80	16.32	565.60	18.61
Plus 4 years out of school	495.80	16.32	565.60	18.61		
Plus 5 or more years out of school	565.60	18.61				

(c) Wage Level C

Subject to clauses D.5.2 and D.5.3 of this schedule, the minimum wages for a trainee undertaking a full-time or part-time AQF Certificate Level I–III

traineeship whose training package and AQF certificate levels are allocated to Wage Level C in clause D.7 are:

	Highest year of schooling completed					
	Year 10		Year 11		Year 12	
	Full-time per week	Part-time per hour	Full-time per week	Part-time per hour	Full-time per week	Part-time per hour
	\$	\$	\$	\$	\$	\$
School leaver	287.90	9.47	317.10	10.44	367.60	12.10
Plus 1 year out of school	317.10	10.44	367.60	12.10	413.80	13.61
Plus 2 years out of school	367.60	12.10	413.80	13.61	462.20	15.20
Plus 3 years out of school	413.80	13.61	462.20	15.20	515.00	16.94
Plus 4 years out of school	462.20	15.20	515.00	16.94		
Plus 5 or more years out of school	515.00	16.94				

(d) AQF Certificate Level IV traineeships

- (i) Subject to clauses D.5.2 and D.5.3 of this schedule, the minimum wages for a trainee undertaking a full-time or part-time AQF Certificate Level IV traineeship are the minimum wages for the relevant full-time or part-time AQF Certificate Level III traineeship with the addition of 3.8% to those minimum wages.
- (ii) Subject to clauses D.5.2 and D.5.3 of this schedule, the minimum wages for an adult trainee undertaking an 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	
	Full-time per week	Part-time per hour	Full-time per week	Part-time per hour
	\$	\$	\$	\$
Wage Level A	608.30	20.01	631.90	20.79
Wage Level B	586.90	19.29	609.50	20.04
Wage Level C	534.10	17.57	554.30	18.24

(e) School-based traineeships

Subject to clauses D.5.2 and D.5.3 of this schedule, the minimum hourly 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 traineeship by clause D.7 are as follows when the trainee works ordinary hours:

Year of schooling	
Year 11 or lower	Year 12
per hour	per hour
\$	\$
9.47	10.44

D.5.2 Calculating the actual minimum wage

- (a) For a full-time traineeship, 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 D.5.1(a)–(e) of this schedule by 38 and then dividing the figure obtained by the full-time ordinary hours of work per week.
- (b) 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 D.5.1(a)–(e) of this schedule applies to each ordinary hour worked by the trainee.
- (c) 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 D.5.1(a)–(e) of this schedule minus 20% applies to each ordinary hour worked by the trainee.

D.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.

D.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 in clause D.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.

D.6 Employment conditions

- D.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.
- D.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.
- D.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 D.5.2(b) and not by this clause.

D.6.4 Subject to clause D.3.4 of this schedule, all other terms and conditions of this award apply to a trainee unless specifically varied by this schedule.

D.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:

D.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 (in Western Australia only)
Electricity Supply Industry—Transmission, Distribution and Rail Sector	II

Training package	AQF certificate level
Electrotechnology	I II 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 Services	II III
Plastics, Rubber and Cablemaking	III
Public Safety	III
Public Sector	II III
Pulp and Paper Manufacturing Industries	III
Retail Services (including wholesale and Community pharmacy)	III
Telecommunications	II III
Textiles, Clothing and Footwear	III

Training package	AQF certificate level
Tourism, Hospitality and Events	I II III
Training and Assessment	III
Transport and Distribution	III
Water Industry (Utilities)	III

D.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

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

Training package	AQF certificate level
Visual Arts, Craft and Design	I II III
Water Industry	I II

D.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 E—School-based Apprentices

- E.1** The terms of this award apply pro rata to school-based apprentices, except where otherwise stated. A **school-based apprentice** is a person who is undertaking an apprenticeship in accordance with this clause 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 minimum hourly wages for full-time apprentices as set out in this award 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 a school-based apprentice is a full-time school student, the time spent in off-the-job training for which the apprentice is paid is deemed to be 25% of the actual hours each week worked on-the-job. The wages paid for training time may be averaged over the semester or year.
- E.5** A school-based apprentice is 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 clause E.5, off-the-job training is structured training delivered by a registered training organisation as specified in the training plan associated with the training contract which is separate from normal work duties or general supervised practice undertaken on-the-job.
- E.7** The duration of the apprenticeship is as specified in the training contract. The period so specified to which apprentice wages apply 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.

Schedule F—Definitions

F.1 In this award, unless the contrary intention appears:

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

afternoon shift means any shift, the ordinary hours of which finish after 6.00 pm and at or before midnight

base rate of pay means the rate of pay payable to an employee for their ordinary hours of work, but not including any of the following:

loadings;

monetary allowances;

overtime or penalty rates; and

any other separately identifiable amounts

day (unless otherwise agreed by the employer and a majority of the employees affected) means a calendar day commencing at midnight on one day and concluding 24 hours later

default fund employee means an employee who has no chosen fund within the meaning of the *Superannuation Guarantee (Administration) Act 1992* (Cth)

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

mine means any open cut or underground coal mine, or any operation or establishment, in the black coal mining industry

NES means the National Employment Standards as contained in sections 59 to 131 of the Act

night shift means any shift, the ordinary hours of which finish after midnight and at or before 8.00 am

non-working day means any day on which an employee by virtue of the employee's roster is never rostered to attend for rostered hours of work

ordinary hours means the hours required to be worked by an employee for the payment of their award classification rate

How does this definition interact with clause 8—Ordinary hours of work and rostering?

ordinary week's pay means the amount in the total payment column for the award classification rate in respect of 35 ordinary hours

What does 'total payment column' refer to? See also clause 21.3.

permanent night shift employee means an employee who:

- (a) works night shift only; or
- (b) stays on night shift for a longer period than four consecutive weeks; or
- (c) works on a roster that does not give at least one-third of the employee's working time off night shift in each roster cycle

roster means any arrangement of rostered hours worked by an employee

roster cycle means the period over which a roster repeats and an employee's hours average 35

rostered day off or **RDO** each mean any day on which an employee, by virtue of the employee's roster, is not rostered to attend for rostered hours of work and does not include non-working days

rostered hours means ordinary hours of work and rostered overtime

rostered overtime means reasonable additional hours which are required to be worked by an employee as an integral part of the employee's roster

rotating night shift employee means an employee other than a permanent night shift employee who works night shift

seven day roster employee means an employee, other than a six day roster employee, who, over, a roster cycle, may be rostered to work shifts on any of the seven days of the week

six day roster employee means an employee who, over a roster cycle, is rostered to work shifts, the hours of which occur during any six consecutive 24 hour periods in a span of seven consecutive 24 hour periods, and where the roster includes a non-working period of at least 24 consecutive hours at the same time each week

standard rate means the minimum weekly wage for a Mineworker—Induction Level 2 in Schedule A—Production and Engineering Employees