

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

| Publication date | Reason for amendments | Clauses affected |
|------------------|---|--|
| 29 July 2016 | Updated as agreed in conference and in accordance to Report to the Full Bench 3 June 2016 | 5.2, 6.4(a), 8.1(d)(ii), 10.1, 11.2(b) |
| | Incorporate changes resulting from [2016] FWCFB 3500, PR579908, PR579622 and PR581528 | 10.1, 11.2, 11.3, 11.4, Schedule B, Schedule C, Schedule D, Schedule E |
| | Incorporate changes resulting from PR580863 | Schedule F |

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

EXPOSURE DRAFT

Legal Services Award 2015

This exposure draft has been prepared by staff of the Fair Work Commission based on the **Legal Services Award 2010** (the Legal award) as at 18 December 2015. This exposure draft does not seek to amend any entitlements under the Legal 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 [AM2014/233](#). 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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DRAFT

Part 1—Application and Operation

1. Title and commencement

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

2. The National Employment Standards and this award

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

3. Coverage

- 3.1 This industry award covers employers throughout Australia in the legal services industry and their employees in the classifications listed in clause 10—Minimum wages to the exclusion of any other modern award.
- 3.2 The **legal services industry** means employers engaged in the business of providing legal and legal support services.
- 3.3 The award does not cover employers in the following industries:
 - (a) community legal centres;
 - (b) aboriginal legal services; or
 - (c) an employer whose primary activity is not within the legal services industry

- 3.4** This award covers any employer which supplies labour on an on-hire basis in the industry set out at clauses 3.1 and 3.2 in respect of on-hire employees in classifications covered by this award, and those on-hire employees, while engaged in the performance of work for a business in that industry. This subclause operates subject to the exclusions from coverage in this award.
- 3.5** This award covers employers which provide group training services for trainees engaged in the industry and/or parts of industry set out at clauses 3.1 and 3.2 and those trainees engaged by a group training service hosted by a company to perform work at a location where the activities described in clause 3.1 are being performed. This subclause operates subject to the exclusions from coverage in this award.
- 3.6** This award does not cover:
- (a)** employees excluded from award coverage by the *Fair Work Act 2009* (Cth) (the Act);
 - (b)** employees who are covered by a modern enterprise award or an enterprise instrument (within the meaning of the *Fair Work (Transitional Provisions and Consequential Amendments) Act 2009* (Cth)), or employers in relation to those employees; or
 - (c)** employees who are covered by a State reference public sector modern award or a State reference public sector transitional award (within the meaning of the *Fair Work (Transitional Provisions and Consequential Amendments) Act 2009* (Cth)), or employers in relation to those employees.
- 3.7** Where an employer is covered by more than one award, an employee of that employer is covered by the award classification which is most appropriate to the work performed by the employee and to the environment in which the employee normally performs the work.

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

4. Award flexibility

- 4.1** Notwithstanding any other provision of this award, an employer and an individual employee may agree to vary the application of certain terms of this award to meet the genuine individual needs of the employer and the individual employee. The terms the employer and the individual employee may agree to vary the application of, are those concerning:
- (a)** arrangements for when work is performed;
 - (b)** overtime rates;
 - (c)** penalty rates;
 - (d)** allowances; and
 - (e)** leave loading.

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

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

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

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

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

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

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

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

4.8 The agreement may be terminated:

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

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

- 4.9** The notice provisions in clause 4.8(a) only apply to an agreement entered into from the first full pay period commencing on or after 4 December 2013. An agreement entered into before that date may be terminated in accordance with clause 4.8(a), subject to four weeks' notice of termination.
- 4.10** The right to make an agreement pursuant to this clause is in addition to, and is not intended to otherwise affect, any provision for an agreement between an employer and an individual employee contained in any other term of this award.

5. Facilitative Provisions

- 5.1** A facilitative provision provides that the standard approach in an award provision may be departed from by agreement between an employer and an individual employee, or an employer and the majority of employees in the enterprise or part of the enterprise concerned.
- 5.2** Facilitative provisions in this award are contained in the following clauses:

| Clause | Provision | Agreement between an employer and: |
|-------------|--|--|
| 8.1(c)(ii) | Spread of weekly hours of work | The majority of employees |
| 8.2(c) | Shiftworkers—roster system | The majority of employees |
| 8.3(b) | Methods of arranging ordinary working hours | An individual |
| 8.6 | Make-up time | An individual |
| 13.2 | Shiftwork—span of hours | An individual or the majority of employees |
| 13.4(c)(iv) | Shiftwork—rate for working on a public holiday | The majority of employees |
| 14.4(d) | Rest break | An individual |
| 14.5(a) | Time off instead of payment for overtime | An individual |
| 14.6(c) | Rest period after overtime | An individual |

Part 2—Types of Employment and Classifications

6. Types of employment

- 6.1** Employees under this award will be employed in one of the following categories:
- (a) full-time;
 - (b) part-time; or
 - (c) casual.

6.2 At the time of engagement the employer will inform the employee of the terms of their engagement and, in particular, whether they are to be full-time, part-time or casual.

6.3 Full-time employees

- (a) A full-time employee is engaged to work 38 ordinary hours per week.
- (b) Any employee not specifically engaged as being a part-time or casual employee is for all purposes of this award a full-time employee.

6.4 Part-time employment

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

- (a) A part-time employee:
 - (i) is engaged to work less than 38 ordinary hours per week **on a reasonably predictable basis; and**
 - (ii) ~~has reasonably predictable hours of work; and~~
 - (iii) receives, on a pro rata basis, pay and conditions equivalent to those of full-time employees who do the same kind of work.
- (b) A part-time employee must be paid the minimum hourly rate prescribed for the relevant classification in clause 10—Minimum wages for each ordinary hour worked.
- (c) Before starting part-time employment, the employer and the employee must agree in writing:
 - (i) upon a regular pattern of work, specifying at least the numbers of hours worked each day, the days of the week upon which the employee will work and the starting and finishing times for the work; and
 - (ii) the classification applying to the work to be performed.

The terms of this agreement may be varied by consent. Any variation to the agreement must be in writing and retained by the employer. A copy of the agreement and any variation to it must be provided to the employee by the employer.

- (d) The minimum period of engagement applying to part-time employees is three hours.
- (e) A part-time employee who is required by the employer to work in excess of the hours agreed upon in accordance with clause 6.4(c) must be paid overtime in accordance with clause 14—Overtime.

6.5 Casual employment

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

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

employee.

(b) Casual loading

- (i)** For each ordinary hour worked, a casual employee must be paid:
 - the minimum hourly rate; and
 - a loading of **25%** of the minimum hourly rate,for the classification in which they are employed.
- (ii)** This loading is to be paid instead of entitlements to leave and other matters from which casuals are excluded by the terms of this award and the NES.

(c) Minimum engagement

A casual employee must be paid for a minimum of four hours for each day that the casual employee is engaged.

7. Classifications

- 7.1** Employees covered by this award must be classified according to the structure set out in Schedule A—Classifications.
- 7.2** Employees must be paid the minimum rate for the classification in clause 10—Minimum wages.
- 7.3** Employers must advise their employees in writing of their classification and of any changes to their classification.
- 7.4** The classification by the employer must be according to the skill level or levels required to be exercised by the employee in order to carry out the principal functions of the employment as determined by the employer.

Part 3—Hours of Work

8. Ordinary hours of work and rostering

8.1 Ordinary hours and roster cycles—day workers

- (a)** The ordinary hours of work for day workers are to average 38 hours per week but must not exceed 152 hours in 28 days.
- (b)** The ordinary hours of work may be worked on any day or all of the days of the week, Monday to Friday.
- (c) Span of Hours**

- (i) The ordinary hours of work are to be worked continuously, except for meal breaks, at the discretion of the employer between 7.00 am and 6.30 pm, Monday to Friday.
- (ii) The spread of hours may be altered by up to one hour at either end of the spread, by agreement between the employer and the majority of employees concerned.
- (iii) Subject to clause 8.1(c)(iv) any work performed outside the spread of hours is to be paid for at overtime rates as prescribed in clause 14—Overtime.
- (iv) Any work performed by an employee prior to the spread of hours which is continuous with ordinary hours for the purpose, for example, of getting the workplace in a state of readiness for other employees to start work is to be regarded as part of the 38 ordinary hours of work.

(d) Rostered days off

- (i) Arrangements for rostered days off may be reached between an employee and an employer.
- (ii) Such arrangements will outline:
 - the method of accruing time towards a rostered day off; and
 - an agreed method of accumulating and taking rostered days off.

8.2 Ordinary hours and roster cycles—shiftworkers

(a) Continuous shiftworker

- (i) **Continuous shiftwork** means work carried on with consecutive shifts of employees throughout the 24 hours of each of at least six consecutive days without interruption except for breakdowns or meal breaks or due to unavoidable causes beyond the control of an employer.
- (ii) The ordinary hours of continuous shiftworkers are, at the discretion of the employer, to average 38 hours per week inclusive of meal breaks and must not exceed 152 hours in 28 consecutive days.
- (iii) Continuous shiftworkers are entitled to a 12 minute meal break on each shift which will be counted as time worked.

(b) Non-continuous shiftworker

- (i) The ordinary hours of work for non-continuous shiftworkers are to be an average of 38 hours per week and must not exceed 152 hours in 28 consecutive days.
- (ii) The ordinary hours of work are to be worked continuously, except for meal breaks, at the discretion of the employer.

- (c) By agreement between an employer and the majority of employees concerned, a roster system may operate on the basis that the weekly average of 38 ordinary hours is achieved over a period which exceeds 28 consecutive days but does not exceed 12 months.
- (d) Except at the regular changeover of shifts, an employee must not be required to work more than one shift in each 24 hours.

8.3 Methods of arranging ordinary working hours

- (a) Subject to the employer's right to fix the daily hours of work for day workers from time to time within the spread of hours referred to in this award and the employer's right to fix the starting and finishing time of shifts from time to time, the arrangement of ordinary working hours is to be by agreement between the employer and the majority of employees in the enterprise or part of the enterprise concerned.
- (b) This does not preclude an employer reaching agreement with individual employees about how their working hours are to be arranged.

8.4 Rosters

- (a) Rosters, where they apply, will be set for each fortnightly period. The roster may alter the times on which an employee works their ordinary hours.
- (b) An employer will give employees 14 days' notice of each fortnightly roster. However, in order to meet specific operational requirements, an employer may change rosters after consulting with the employee(s) concerned and giving them as much notice as possible.

8.5 Daylight saving

For work performed on a shift that spans the time when daylight saving begins or ends, as prescribed by relevant state or territory legislation, an employee will be paid according to adjusted time (i.e. the time on the clock at the beginning of work and the time on the clock at the end of work).

8.6 Make-up time

- (a) An employee may elect, with the consent of the employer, to work make-up time under which the employee takes time off during ordinary hours, and works those hours at a later time, during the spread of ordinary hours provided in the award.
- (b) An employee on shiftwork may elect, with the consent of the employer, to work make-up time under which the employee takes time off during ordinary hours and works those hours at a later time, at the shiftwork rate which would have been applicable to the hours taken off.

9. Breaks

9.1 Unpaid meal breaks

- (a) A meal break of between 30 and 60 minutes must be taken not later than five hours after the employee starts work or after resuming work after a previous meal break.
- (b) An employee directed by an employer to work in excess of five hours without a meal break must be:
 - (i) paid at the rate of 150% of the minimum hourly rate for the meal break; and
 - (ii) be permitted to have their usual meal break without deduction from their wage as soon as possible after the prescribed meal break.
- (c) This clause will not operate outside an employee's ordinary working hours. Meal breaks during overtime are prescribed in clause 14—Overtime.

9.2 Paid rest breaks

- (a) All employees will be allowed two paid rest breaks on each day as follows:
 - (i) the first of 10 minutes to be allowed between the time of starting work and the usual meal break; and
 - (ii) the second of 10 minutes to be allowed between the usual meal break and the time of finishing work for the day.
- (b) All employees who work more than four hours on a Saturday before 12 noon must be allowed a paid rest break of 10 minutes between the times of starting work and finishing work.
- (c) Rest breaks are to be counted as part of time worked.

Part 4—Wages and Allowances

10. Minimum wages

Rates updated as a result of AWR 2016

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

| Employee classification | Minimum weekly rate | Minimum hourly rate (full-time employees) |
|--|---------------------|--|
| | \$ | \$ |
| Level 1—Legal clerical and administrative employee | 750.60 | 19.75 |

| Employee classification | Minimum weekly rate | Minimum hourly rate (full-time employees) |
|--|----------------------------|--|
| Level 2—Legal clerical and administrative employee | 783.30 | 20.61 |
| Level 3—Legal clerical and administrative employee | 827.30 | 21.77 |
| Level 4—Legal clerical and administrative employee | 868.70 | 22.86 |
| Level 5—Legal clerical and administrative employee | 904.00 | 23.79 |
| Level 5—Law graduate | 904.00 | 23.79 |
| Level 6—Law clerk | 958.30 | 25.22 |

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

10.2 Junior employees

Junior employees must be paid the following percentage of the appropriate wage rate in clause 10—Minimum wages:

| Age | % of adult rate |
|----------------|------------------------|
| Under 16 years | 45 |
| 16 years | 50 |
| 17 years | 60 |
| 18 years | 70 |
| 19 years | 80 |
| 20 years | 90 |

10.3 Payment of wages

- (a) An employee will be paid fortnightly unless the employer and the employee otherwise agree.
- (b) Wages must either be paid by cash, cheque or electronic funds transfer into the bank or financial institution account nominated by the employee.

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

10.4 Annualised salaries

(a) Annual salary instead of award provisions

- (i) An employer may pay an employee an annual salary in satisfaction of any or all of the following provisions of the award:
 - clause 10.1—Minimum wages;

- clause 11—Allowances;
 - clause 14—Overtime; and
 - clause 15.4—Annual leave loading.
- (ii) Where an annual salary is paid the employer must advise the employee in writing of the annual salary that is payable and which of the provisions of this award are incorporated in the annual salary.
- (b) **Annual salary not to disadvantage employees**
- (i) The annual salary must be no less than the amount the employee would have received under this award for the work performed over the year for which the salary is paid (or if the employment ceases earlier over the period worked).
 - (ii) The annual salary of the employee must be reviewed by the employer at least annually to ensure that the compensation is appropriate having regard to the award provisions which are incorporated in the annual salary.
- (c) **Base rate of pay for employees on annual salary arrangements**

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

10.5 Higher duties

An employee required by the employer to perform any of the duties set out in Levels 2–5 of Schedule A—Classifications for one day or more must be paid at least the rate applicable if such duties were performed on a permanent basis.

10.6 Supported wage system

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

10.7 National training wage

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

11. Allowances

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

11.2 Meal allowance

Monetary amounts in this clause adjusted as a result of AWR 2016

- (a) An employee must be supplied with an adequate meal where an employer has their own cooking and dining facilities or be paid a meal allowance in addition to any overtime payment as follows:
 - (i) a meal allowance of **\$14.98** when required to work one hour or more of overtime (Monday to Friday inclusive) and the overtime finishes one and a half hours after the normal finishing time or five hours after the preceding meal break, whichever first occurs, or in the case of a shiftworker when the overtime work on any shift exceeds one hour. Provided that where the overtime exceeds four hours a further meal allowance of **\$11.94** must be paid;
 - (ii) a meal allowance of **\$14.98** when required to work more than five hours overtime on a Saturday or a Sunday, or more than five hours by a shiftworker on their rostered day off. A further meal allowance of **\$11.94** when required to work more than nine hours on such day. The provisions of this clause will not apply where an employee could reasonably return home for a meal within the period allowed.
- (b) **Where an employee is paid a meal allowance under clause 11.2, on request the On request, a** meal allowance must be paid on the same day as overtime is worked.

11.3 Uniform allowance

Monetary amounts in this clause adjusted as a result of AWR 2016

An employee must be paid an allowance of **\$3.65** per week where required to wear any special uniform, dress or clothing, unless the uniform, dress, or clothing is supplied and laundered by the employer.

11.4 Vehicle allowance

Monetary amounts in this clause adjusted as a result of AWR 2016

- (a) Where an employer requires an employee to use the employee's own motor vehicle in the performance of their duties the employee must be paid:
 - (i) **\$0.78** per kilometre for a motor car; and
 - (ii) **\$0.26** per kilometre for a motorcycleon any day when the employee is so required to use their vehicle.
- (b) Where an employee is required as a condition of employment to provide a motor vehicle which is used in the performance of the employee's duties, the employer must pay all expenses including registration, running and maintenance.

11.5 Transport of employees—overtime

When an employee is required to work overtime and the overtime finishes when reasonable means of transport to the employee's home is not reasonably available, the employer will reimburse the employee an amount equal to the cost of any transport which allows the employee to reach their home by other means of transport, unless the employer provides suitable transport.

11.6 Living away from home allowance

- (a) An employee, required by the employer to work temporarily for the employer away from the employee's usual place of employment, and who is required to sleep away from their usual place of residence, will be entitled to the following:
 - (i) the payment of an allowance to cover all fares to and from the place at which the employer requires the employee to work; and
 - (ii) the payment of an allowance to cover all reasonable expenses incurred for board and lodging.
- (b) The allowances referred to in clause 11.6(a) will not be paid where the fares and the board and lodging are provided by the employer.
- (c) In addition to the above, the employee must receive payment at ordinary rates of pay for all time spent in travelling between the employee's usual place of employment and the temporary location, with a maximum payment of eight hours in 24 hours.

11.7 Protective clothing

The employer will reimburse employees engaged in work damaging to clothing an amount equal to the costs of uniforms and/or protective clothing, except where uniforms and/or protective clothing are provided free of charge by the employer.

See Schedule C for a summary of monetary allowances.

12. Superannuation

12.1 Superannuation legislation

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

- (b) The rights and obligations in these clauses supplement those in superannuation legislation.

12.2 Employer contributions

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

12.3 Voluntary employee contributions

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

12.4 Superannuation fund

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

- (a) Legalsuper;
- (b) AustralianSuper;
- (c) Tasplan;
- (d) CareSuper;
- (e) Statewide Superannuation Trust;
- (f) Law Employees Superannuation Fund;
- (g) any superannuation fund to which the employer was making superannuation contributions for the benefit of its employees before 12 September 2008, provided the superannuation fund or its successor is an eligible choice fund and is a fund that offers a MySuper product or is an exempt public sector superannuation scheme; or
- (h) a superannuation fund or scheme which the employee is a defined benefit member of.

Part 5—Penalties and Overtime

13. Shiftwork

13.1 Definitions

- (a) For the purposes of this award:
- (i) **rostered shift** means any shift of which the employee concerned has had at least 48 hours' notice;
 - (ii) **afternoon shift** means any shift finishing after 6.00 pm and at or before midnight;
 - (iii) **night shift** means any shift finishing after midnight and at or before 8.00 am;
 - (iv) **early morning shift** applies to an employee whose ordinary hours on a regular shift commence between 5.00 am and 6.00 am, except where such a shift is part of a shift system and precedes an afternoon shift finishing at 11.00 pm;
 - (v) **seven day shiftworker** means an employee who is rostered to work regularly on Sundays and public holidays;
 - (vi) **non-continuous afternoon or night shift** applies to an employee who works on an afternoon or night shift which does not continue:
 - for at least five successive afternoon or night shifts or six successive afternoon or night shifts in a six day workplace (where no more than eight ordinary hours are worked on each shift); or
 - for at least 38 ordinary hours (where more than eight ordinary hours are worked on each shift); and
 - (vii) **permanent night shift** applies to an employee who:
 - during a period of engagement on shift, works night shift only;
 - remains on night shift for a longer period than four consecutive weeks; or
 - works on a night shift which does not rotate or alternate with another shift or with day work so as to give the employee at least one third of their working time off night shift in each shift cycle.

- 13.2 By agreement between an employer and the majority of employees concerned, or in appropriate cases an individual employee, the span of hours over which shifts may be worked may be altered by up to one hour at either end of the span.

13.3 Early morning, afternoon and night shift penalties

- (a) An employee will be paid the following shift penalties for all ordinary hours worked by the employee on the following shifts:

| Shift | Penalty rate | Casual penalty rate (inclusive of 25% loading) |
|---|--------------|--|
| Afternoon or night | 115% | 140% |
| Early morning | 110% | 135% |
| Non-continuous afternoon or night—first 3 hours | 150% | 175% |
| Non-continuous afternoon or night—after 3 hours | 200% | 225% |
| Permanent night | 130% | 155% |

13.4 Rate for working on Saturday, Sunday and public holiday shifts

(a) **Saturday shifts**

A shiftworker must be paid **150%** of the minimum hourly rate for work performed on a Saturday.

(b) **Sunday and public holiday shifts**

(i) **Continuous shiftworkers**

Where the major portion of a rostered shift is worked on a Sunday or public holiday, a continuous shiftworker is to be paid **200%** of the minimum hourly rate.

(ii) **Shiftworkers other than continuous shiftworkers**

Shiftworkers, other than continuous shiftworkers on other than continuous work, are to be paid for all time worked on a Sunday or public holiday at the following rates:

- Sundays—**200%** of the minimum hourly rate; and
- public holidays—**250%** of the minimum hourly rate.

(c) **Calculating shift penalties**

- (i) Where shifts start between 11.00 pm and midnight on a Sunday or public holiday, the time worked before midnight does not entitle the employee to the Sunday or public holiday rate for the shift.

- (ii) Where a shift starts before midnight on the day before a Sunday or public holiday and extends into the Sunday or public holiday, the employee will be entitled to the Sunday or public holiday rate for the shift.
- (iii) Where a shift falls partly on a public holiday, the shift which has the major portion falling on the public holiday will be regarded as the public holiday shift.

Parties are asked to clarify the interaction between 13.4(c)(ii) & 13.4(c)(iii) as they appear inconsistent.

- (iv) By agreement between an employer and the majority of employees concerned, the shift which has the minor portion falling on the public holiday may be regarded as the public holiday shift instead of the above.

13.5 Work on a rostered day off

- (a) Where an employee is required to work on a rostered day off, the employee is to be paid for all time worked on the rostered day off as follows:
 - (i) Monday to Saturday—at the overtime rates prescribed in clause 14.2;
 - (ii) Sunday—**200%** of the minimum hourly rate with a minimum payment of four hours; and
 - (iii) public holiday—**250%** of the minimum hourly rate with a minimum payment of four hours.
- (b) When not less than 7 hours 36 minutes' notice has been given to an employer by a relief shiftworker that they will be absent from work and the shiftworker whom that person should relieve is not relieved and is required to continue work on their rostered day off, the unrelieved employee will be paid **200%** of the minimum hourly rate.
- (c) A shiftworker whose rostered day off coincides with a public holiday must be paid a day's pay additional to their weekly wage, or have a day added to their annual leave.

13.6 Extra rates not cumulative

The extra rates in clauses 13.4 and 13.5 are in substitution for and not cumulative upon the shift penalties prescribed in clause 13.3.

14. Overtime

14.1 Definition of overtime

Overtime is any time worked:

- (a) outside ordinary hours on any day or shift; or

- (b) in excess of an average of 38 hours per week.

14.2 Overtime rates

- (a) Day workers and non-continuous shiftworkers

| For overtime worked on | Overtime rate % of minimum hourly rate | Minimum payment |
|--|--|-----------------|
| | | – |
| Monday to Saturday until 12.00 pm—first 3 hours | 150% | – |
| Monday to Saturday until 12.00 pm—after 3 hours | 200% | – |
| Saturday after 12.00 pm and Sunday | 200% | 3 hours |
| Public holiday | 250% | 3 hours |

- (b) Continuous shiftworkers

For continuous shiftworkers the rate for working overtime is **200%** of the minimum hourly rate.

14.3 Calculating overtime

- (a) The hourly rate, when calculating overtime, is to be determined by dividing the appropriate weekly rate by 38, even in cases when an employee works more than 38 ordinary hours in a week.
- (b) Any portion of one hour not exceeding 30 minutes will be reckoned as 30 minutes and any portion of one hour in excess of 30 minutes will be reckoned as one hour.
- (c) When calculating overtime, each day is to stand alone.

14.4 Rest break

- (a) An employee working overtime must be allowed a paid rest break of 20 minutes without deduction of pay after each four hours of overtime worked if the employee is to continue work after the rest break.
- (b) Where an employee is required to work overtime on a Saturday, Sunday or public holiday or on a rostered day off, the first rest break will be paid at the employee's ordinary rate of pay.
- (c) Where overtime is to be worked immediately after the completion of ordinary work on a day or shift and the period of overtime is to be more than one and a

half hours, an employee, before starting the overtime, is entitled to a rest break of 20 minutes to be paid at the employee's ordinary rate of pay.

- (d) An employer and employee may agree to any variation of clause 14.4 to meet the circumstances of the work in hand provided that the employer is not required to make any payment in excess of or less than what would otherwise be required under this clause.

14.5 Time off instead of payment for overtime

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

- (a) An employee may elect, with the consent of the employer, to take time off instead of payment for overtime at a time or times agreed with the employer within 12 months.
- (b) Overtime taken as time off during ordinary time hours will be taken at the ordinary time rate; that is, an hour for each hour worked.
- (c) If, having elected to take time as leave and the leave is not taken for whatever reason, payment for time accrued at overtime rates will be made at the expiry of the 12 month period or on termination.
- (d) The employer must keep accurate records of time accrued as time off instead of payment for overtime.

14.6 Rest period after overtime

(a) **Length of the rest period**

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

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

- (i) The following conditions apply to an employee (other than a casual employee) who works so much overtime that the employee has not had at least 10 consecutive hours off duty between the end of work on one day and the start of the employee's ordinary hours of work on the next day:
- the employee must be released from duty after that overtime is finished until the employee has had 10 consecutive hours off duty, and
 - there will be no loss of pay for ordinary hours of work time which occur during this absence.
- (ii) The following conditions apply to an employee who, on the instructions of the employer, resumes or continues work without having had 10 consecutive hours off duty in accordance with clause 14.6(a):

- the employee must be paid at 200% of the minimum hourly rate until the employee is released from duty;
 - the employee is then entitled to be absent for 10 consecutive hours; and
 - there will be no loss of pay for ordinary hours of work time which occur during this absence.
- (c) By agreement between an employer and individual employee, the 10 hour break provided for in this clause may be reduced to a period no less than eight hours.
- (d) The provisions of this subclause will apply in the case of shiftworkers as if eight hours were substituted for 10 hours when overtime is worked:
- (i) for the purpose of changing shift rosters;
 - (ii) where a shiftworker does not report for duty and a day worker or a shiftworker is required to replace the shiftworker; or
 - (iii) where a shift is worked by arrangement between the employees themselves.

14.7 Call-back

- (a) An employee recalled to work overtime after leaving the employer's place of work (whether notified before or after leaving the place of work) is to be paid for a minimum of four hours' work as follows:
- (i) **Employees other than continuous shiftworkers**
 - 150% of the minimum hourly rate for the first 3 hours; and
 - 200% of the minimum hourly rate after 3 hours.
 - (ii) **Continuous shiftworkers**
 - 200% of the minimum hourly rate.
- (b) Where an employee is required to regularly hold themselves in readiness for a call-back they will be paid for a minimum of three hours' work at the appropriate overtime rate. This is subject to clause 14.8.
- (c) If the employee is recalled on more than one occasion between the end of their ordinary work on one day and the start of their ordinary work on the next ordinary working day they will be entitled to the three or four hour minimum overtime payment provided for in this clause for each call-back. However, in such circumstances, it is only the time which is actually worked during the previous call or calls which is to be taken into account when determining the overtime rate for subsequent calls.

- (d) Except in the case of unforeseen circumstances arising, an employee will not be required to work the full three or four hours as the case may be if the job they were recalled to perform is completed within a shorter period.
- (e) This clause does not apply in cases where it is customary for an employee to return to the employer's enterprise to perform a specific job outside the employee's ordinary working hours or where the overtime is continuous (subject to a meal break) with the commencement or completion of ordinary working time.
- (f) Overtime worked in the circumstances specified in this subclause is not to be regarded as overtime for the purpose of clause 14.1 when the actual time worked is less than three hours on the call-back or on each call-back.

14.8 Standing by

Subject to any custom prevailing at the place of work concerned, where an employee is required regularly to hold themselves in readiness to work after ordinary hours, the employee is to be paid standing by time at the employee's ordinary rate of pay for the time they are standing by.

Part 6—Leave, Public Holidays and Other NES Entitlements

15. Annual leave

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

15.1 Annual leave is provided for in the NES.

15.2 Definition of shiftworker

For the purposes of the additional week of annual leave provided for in the NES, a **shiftworker** is a seven day shiftworker who is rostered to work regularly on Sundays and public holidays.

15.3 Payment for period of annual leave

Each employee prior to commencing a period of annual leave must be paid a sum equal to the wages the employee would have received in respect of the ordinary time the employee would have worked had the employee not been on leave.

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

15.4 Annual leave loading

- (a) During a period of annual leave an employee must also receive a loading calculated on the wages prescribed in clause 10—Minimum wages of this award. Annual leave loading payment is payable on leave accrued.

(b) The loading must be as follows:

(i) **Day work**

Employees who would have worked on day work only had they not been on leave—**17.5%**;

(ii) **Shiftwork**

Employees who would have worked on shiftwork had they not been on leave—**17.5%** or the shift loading (including relevant weekend penalty rates) whichever is greater but not both.

15.5 Paid leave in advance of accrual

- (a) An employer may allow an employee to take annual leave either wholly or partly in advance before the leave has accrued.
- (b) Where paid leave has been granted to an employee in excess of the employee's accrued entitlement, and the employee subsequently leaves or is discharged from the service of the employer before completing the required amount of service to account for the leave provided in advance, the employer is entitled to deduct the amount of leave in advance still owing from any remuneration payable to the employee upon termination of employment.

15.6 Requirement to take leave notwithstanding terms of the NES

Annual leave is to be taken at a time agreed between the employer and employee. However, an employer may require an employee to take annual leave by giving at least four weeks' notice in the following circumstances:

- (a) as part of a close-down of its operations, or part of its operations, where the request is reasonable; or
- (b) where more than eight weeks' leave is accrued.

16. Personal/carer's leave and compassionate leave

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

17. Parental leave and related entitlements

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

18. Community service leave

Community service leave is provided for in the NES.

19. Public holidays

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

Public holiday entitlements are provided for in the NES.

20. Special conditions of employment—Law graduate

20.1 A law graduate is entitled to leave of absence with pay:

- (a) for study and attendance at examinations, not exceeding four days in respect of each subject for which they present themselves for examination which is necessary to enable the employee to qualify for admission; and
- (b) to attend lectures and organised classes at a university or other course of instruction which is required to enable the employee to qualify for admission.

21. Termination of employment

21.1 Notice of termination is provided for in the NES.

21.2 Notice of termination by an employee

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

21.3 Job search entitlement

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

22. Redundancy

22.1 Redundancy pay is provided for in the NES.

22.2 Transfer to lower paid duties

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

22.3 Employee leaving during notice period

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

22.4 Job search entitlement

- (a) An employee given notice of termination in circumstances of redundancy must be allowed up to one day's time off without loss of pay during each week of notice for the purpose of seeking other employment.
- (b) If the employee has been allowed paid leave for more than one day during the notice period for the purpose of seeking other employment, the employee must, at the request of the employer, produce proof of attendance at an interview or they will not be entitled to payment for the time absent. For this purpose a statutory declaration is sufficient.
- (c) This entitlement applies instead of clause 21.3.

Part 7—Consultation and Dispute Resolution

23. Consultation

23.1 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 23.1(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 23.1(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.

23.2 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.

24. Dispute resolution

- 24.1** 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.
- 24.2** 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 24.1 have been taken, a party to the dispute may refer the dispute to the Fair Work Commission.
- 24.3** The parties may agree on the process to be utilised by the Fair Work Commission including mediation, conciliation and consent arbitration.
- 24.4** 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.
- 24.5** An employer or employee may appoint another person, organisation or association to accompany and/or represent them for the purposes of this clause.
- 24.6** While the dispute resolution procedure is being conducted, work must continue in accordance with this award and the Act. Subject to applicable occupational health and safety legislation, an employee must not unreasonably fail to comply with a direction by the employer to perform work, whether at the same or another workplace, that is safe and appropriate for the employee to perform.

Schedule A—Classifications

A.1 Level 1—Legal, clerical and administrative employee

A.1.1 Characteristics

- (a) Employees at this level may work under direct supervision with regular checking, but may take the form of less direct guidance and some autonomy where working in teams is required.
- (b) Competency at this level involves the application of knowledge and skill to a limited range of tasks and roles. There is a specified range of contexts where the choice of actions required is clear.
- (c) Competencies are used within established routines, methods and procedures that are predictable and within which judgment against established criteria is involved.
- (d) An indicative training and vocational educational level for this level is Year 10 standard.

A.1.2 Generic skills

Indicative typical duties and skills at this level may include:

(a) Problem solving

Identify and resolve problems by being able to:

- identify routine problems;
- identify and assess options; and
- implement solutions.

(b) Literacy

Read and write routine texts.

(c) Numeracy

Use numbers in the workplace by being able to:

- operate with numbers to complete routine tasks;
- calculate numerical and related information to perform routine tasks; and
- interpret and present numerical and related information to complete routine tasks.

A.1.3 Core skills

(a) Information handling

- (i) To handle mail to facilitate communication by being able to:
 - receive and distribute incoming mail;
 - receive and dispatch outgoing mail; and
 - collate and dispatch documents for bulk mailing.
- (ii) To handle information to maintain access to and security of records by being able to:
 - file documents; and
 - identify and retrieve documents.

(b) Communication

- To process information to facilitate communication flow by being able to:
- receive and relay oral messages; and
 - receive and relay written messages.

(c) Enterprise/industry

- To apply knowledge of the enterprise/industry to complete routine administrative tasks, by being able to:
- identify key functions and personnel/departments; and
 - apply office procedures.

(d) Technology

- (i) To operate a range of office equipment to complete routine tasks by being able to:
 - select equipment to be used for tasks;
 - locate equipment to be used for tasks; and
 - operate equipment.
- (ii) To access and retrieve computer data using keyboard skills by being able to:
 - open files;
 - retrieve data;
 - close files; and
 - shut down equipment.

(e) Organisational

To follow established work schedules to achieve designated group/section goals by being able to plan and organise personal daily work routine.

(f) Team

To participate in a team to achieve designated tasks by being able to complete allocated tasks.

(g) Business/financial

To record and prepare financial documentation for cash flow and accounting records by being able to:

- record petty cash transactions;
- prepare banking documents; and
- prepare business source documents.

(h) Legal

Not applicable at this level.

A.2 Level 2—Legal, clerical and administrative employee

A.2.1 Characteristics

- (a)** Employees at this level may work under routine supervision with intermittent checking, but this checking may take the form of general guidance and considerable autonomy where working in teams is required. Responsibility for some roles and co-ordination within a team may be required.
- (b)** Competency at this level involves the application of knowledge and skills to a range of tasks and roles. There is a defined range of contexts where the choice of actions required is usually clear, with limited complexity in the choice.
- (c)** Competencies are used within established routines, methods and procedures, in some cases involving discretion and judgment about possible actions.
- (d)** An indicative training and vocational educational level for this level is Year 11 standard.

A.2.2 Generic skills

As per Level 1.

A.2.3 Core skills

As per Level 1, together with the following:

(a) Information handling

Process information to provide access to current records, by being able to:

- update and modify existing organisational records; and

- remove inactive and dead files.

(b) Communication

Process and respond to information to facilitate communication flow by being able to:

- respond to incoming telephone calls;
- make telephone calls; and
- draft simple correspondence.

(c) Enterprise/industry

(i) Respond to and act upon internal/external enquiries to promote the products and services of the organisation by being able to:

- provide information from own function area;
- re-direct enquiries; and
- undertake follow up action where required.

(ii) Receive visitors to ensure a positive image of the organisation is presented by being able to:

- greet visitors; and
- attend to visitors' needs.

(d) Technology

(i) Operate a range of office equipment to complete non-routine tasks by being able to:

- operate equipment; and
- identify and/or rectify minor faults.

(ii) Edit computer data using keyboard skills by being able to:

- open files;
- edit information;
- save and exit; and
- shut down equipment.

(iii) Produce simple documents using keyboard skills by being able to document from written text using standard format.

(e) Organisation

Establish own work schedule to achieve designated group/section goals by being able to organise own work schedule.

(f) Team

Participate in allocation and completion of team tasks by being able to:

- participate in identifying tasks for team;
- complete own tasks; and
- assist others to complete (team) tasks.

(g) Business/financial

Process financial documentation for cash flow and accounting records by being able to:

- reconcile invoices for payment to creditors;
- prepare statements for debtors;
- enter payment summaries into journals; and
- post journals to ledgers.

(h) Legal

Not applicable at this level.

A.3 Level 3—Legal, clerical and administrative employee

A.3.1 Characteristics

- (a)** Work is under limited supervision with checking related to overall progress, but may take the form of broad guidance and autonomy where working in teams is required. Responsibility for the work of others may be involved, and team co-ordination may be required.
- (b)** Competency at this level involves the application of knowledge with depth in some areas and a broad range of skills. There is a range of tasks and roles in a variety of contexts, with some complexity in the extent and choice of actions required. Competencies are used within routines, methods and procedures where some discretion and judgment is required in selection of equipment, work organisation, services, actions and achieving outcomes within time constraints.
- (c)** An indicative training and educational level for this level is the Trade Certificate or equivalent TAFE/Year 12 standard.

A.3.2 Generic skills

As per Levels 1 and 2, together with the following:

(a) Problem solving

Identify, clarify and resolve problems by being able to:

- identify non-routine problems;

- clarify the nature of the problem;
- investigate options and decide on the appropriate course of action;
- implement solutions;
- evaluate and report on effectiveness of solutions and related outcomes;
- assist others to identify and resolve problems in the workplace; and
- report on effectiveness of solutions and related outcomes.

(b) Literacy

- write non-routine texts; and
- read non-routine texts.

(c) Numeracy

Use numbers in the workplace by being able to:

- operate with numbers to complete non-routine tasks;
- calculate numerical and related information to perform non-routine tasks; and
- interpret and present numerical and related information to complete non-routine tasks.

A.3.3 Core skills

As per Levels 1 and 2, together with the following:

(a) Information handling

Maintain information records system to ensure integrity of system by being able to:

- assemble new files;
- identify and process inactive and dead files; and
- record documentation movements.

(b) Communication

(i) Collect and provide information to facilitate communication flow by being able to:

- respond to telephone, oral and written requests for information; and
- draft routine correspondence in response to a need or request.

(ii) Transcribe oral instructions by writing shorthand notes for the production of a text by being able to take dictation.

(c) Enterprise/industry

- (i)** Provide information and advice to promote the products/services of the organisation by being able to:
 - clarify specific needs of a client;
 - provide information and advice; and
 - follow up.
- (ii)** Process client complaints to ensure the goals of the organisation are met by being able to:
 - clarify the nature of the complaint;
 - identify options for resolution; and
 - act to resolve the complaint.

(d) Technology

- (i)** Co-ordinate the use of a range of office equipment to complete complex tasks by being able to:
 - operate equipment; and
 - maintain equipment.
- (ii)** Organise the copying, collating and binding of documents by being able to:
 - select appropriate media;
 - copy and collate documents; and
 - distribute documents.
- (iii)** Produce complex documents using keyboard skills by being able to:
 - establish document structure;
 - produce documents; and
 - shut down equipment.

(e) Organisational

Organise schedules to achieve agreed group/section goals by being able to:

- co-ordinate own work routine with others;
- make and record appointments on behalf of another; and
- make travel and accommodation bookings in line with given itinerary.

(f) Team

Negotiate with team members to allocate and complete tasks to achieve group goals by being able to:

- clarify tasks to achieve group goals;
- negotiate allocation of tasks; and
- monitor completion of allocated tasks.

(g) Business/financial

- (i)** Monitor records of income and expenditure for budgetary records by being able to:
 - reconcile accounts to balance; and
 - prepare bank reconciliations.
- (ii)** Monitor cash control accounting purposes by being able to:
 - document and lodge takings at a bank;
 - receive and document payments/takings;
 - dispatch statements to debtors;
 - follow up and record outstanding accounts; and
 - dispatch payments to creditors.
- (iii)** Monitor stock levels for control purposes by being able to maintain stock control records.

(h) Legal

An understanding of the basic structures of the relevant State or Territory legal system by being able to:

- locate the major legal institutions and process standard legal procedures;
- operate within the information channels and procedures of the institutions; and
- exhibit a basic understanding of areas of law for the purposes of information flow and referral.

A.4 Level 4—Legal, clerical and administrative employee

A.4.1 Characteristics

- (a)** The employee may be required to work without supervision, with general guidance on progress and outcomes sought as required. The work of others may be supervised or teams guided or facilitated. Responsibility for and limited organisation of the work of others may be involved.

- (b) Competency at this level involves the application of knowledge with depth in some areas and a broad range of skills. There is a wide range of tasks and roles in a variety of contexts, with complexity in the range and choice of actions required.
- (c) Competencies are used within routines, methods and procedures where discretion and judgment is required, for both self and others, in planning and selection of equipment, work organisation, services, actions and achieving outcomes within time constraints.
- (d) An indicative training and vocational educational level for this level is TAFE Advanced Certificate.

A.4.2 Generic skills

As per Levels 1, 2 and 3 together with the following:

(a) Problem solving

Identify, clarify and resolve problems by being able to:

- identify problems;
- clarify the nature of the problem;
- determine criteria for optimal solution;
- implement solution;
- evaluate and report on effectiveness of solution and related outcomes; and
- assist others to identify, clarify and resolve problems in the workplace.

(b) Literacy

- compose routine and non-routine texts; and
- read and analyse routine and non-routine texts.

(c) Numeracy

Use numbers in the workplace by being able to:

- operate with numbers to establish procedures;
- calculate numerical and related information to establish procedures; and
- interpret and present numerical and related information to establish procedures.

A.4.3 Core skills

(a) Information handling

Manage an established records management system to ensure integrity of the system by being able to:

- maintain existing filing arrangements;

- ensure distribution of files and records;
- maintain security of filing system; and
- train staff.

(b) Communication

- (i)** Organise and provide information to facilitate communication flow by being able to:
 - receive and process a request for information;
 - identify information sources; and
 - compose reports/correspondence.
- (ii)** Transcribe oral instructions by writing shorthand notes for the production of a text by being able to take dictation.

(c) Enterprise/industry

Provide advice in order to meet current and anticipated client requirements by being able to:

- identify current client requirements;
- provide information on current service provision and resource allocation within area of responsibility; and
- identify trends in client requirements.

(d) Technology

- (i)** Produce complex documents, reports and work sheets using keyboard skills by being able to:
 - determine presentation and format documentation;
 - produce documents; and
 - shut down equipment.
- (ii)** Operate computer equipment to maintain storage media and filing system by being able to:
 - maintain storage media;
 - maintain filing system;
 - shut down equipment; and
 - train others in the use of office equipment.
- (iii)** Operate and maintain computer printers by being able to:
 - set printers for document requirements; and

- maintain printers.

(e) Organisational

- (i) Manage appointments to achieve identified goals by being able to:
 - manage a diary on behalf of another/others; and
 - assist with appointment preparation and follow up.
- (ii) Plan business trips and associated itinerary for management/executive to ensure effective use of time management principles by being able to:
 - organise business itinerary; and
 - identify credit facilities.
- (iii) Plan meetings to enable the stated objectives of the meeting to be met by being able to:
 - prepare documentation for meetings;
 - make meeting arrangements; and
 - record minutes of meetings.

(f) Team

Manage the team to ensure team goals are achieved by being able to:

- plan work for the team;
- allocate tasks to members of the team;
- monitor team performance; and
- provide training for team members.

(g) Business/financial

Produce end of period reports for cash flow projections and budgetary records by being able to:

- prepare financial reports;
- undertake and document costing procedures; and
- draft financial forecasts/budgets.

(h) Legal

An understanding and appreciation of the structures of the relevant State or Territory legal system by being able to:

- acquire and apply a limited knowledge of professional legal functions under direct supervision as a clerk by being able to interview clients, draft (for checking) documents and instructing on standard legal matters; and

- exhibit a basic understanding of different areas of law as they are dealt with, within the firm or between firms or between the firm and legal institutions for means of referral.

A.5 Level 5—Legal, clerical and administrative employee

A.5.1 Characteristics

- (a) An employee at this level may work under broad guidance. The work of others may be supervised or teams guided. Responsibility for the planning and management of the work of others may be involved.
- (b) Competency at this level involves the self-directed application of knowledge with substantial depth in some areas and a range of technical and other skills to tasks, roles and functions in both varied and highly specific contexts.
- (c) Competencies are normally used independently and both routinely and non-routinely. Judgment is required in planning and selecting appropriate equipment, services, techniques and work organisation for self and others.
- (d) An indicative training and vocational education level for this level is part achievement of Associate Diploma at TAFE or tertiary level (or equivalent).

A.5.2 Generic skills

As per Levels 1, 2, 3 and 4.

A.5.3 Core skills

As per Levels 1, 2, 3 and 4 together with the following:

(a) Information handling

Establish a records system to ensure integrity of system by being able to:

- determine the needs of the organisation;
- select appropriate system;
- implement new/improved system; and
- provide staff training.

Establish and maintain library resource collection by being able to:

- store publications;
- update incoming publications; and
- circulate publications.

(b) Communication

Initiate research and prepare information to facilitate communication flow by being able to:

- identify need for documents;

- identify need for research;
- obtain data from external sources;
- prepare drafts; and
- produce reports.

(c) Enterprise/industry

Provide advice on response to the changing environment in order to achieve organisational goals by being able to:

- analyse changes to the internal/external environment which impact on the role of the department or enterprise;
- assist with the development of options for future strategies; and
- assist with planning to match future requirements.

(d) Technology

Manage the design and development of documents, reports and work sheets by being able to:

- identify document requirements; and
- design document format.

Establish, maintain and supervise a small network by being able to:

- establish a small network;
- maintain a small network;
- assist network users;
- shut down network equipment; and
- train network users.

(e) Organisational

Plan and manage meetings to achieve identified group/section goals by being able to:

- organise meetings; and
- conduct meetings on behalf of management.

Plan and manage conferences on behalf of management to achieve identified goals by being able to:

- plan conferences;
- organise conferences;
- promote conferences; and

- co-ordinate conference proceedings.

(f) Team

Manage the team to ensure team achievements reflect identified enterprise objectives by being able to:

- clarify the link between goals of the team and goals of the enterprise;
- plan and allocate work for the team;
- monitor team performance;
- evaluate achievements of team; and
- organise training for team.

Participate in staff selection to ensure team goals are achieved by being able to:

- identify requirements for new team positions;
- draft job vacancy advertisements;
- select staff; and
- employ staff.

(g) Business/financial

Manage payroll records for employee salaries and statutory record keeping purposes by being able to:

- prepare payroll data;
- process payment of wages and salaries; and
- administer PAYG salary records.

(h) Legal

Acquire and apply a working knowledge of the structures and methods of the relevant State or Territory legal system by being able to:

- understand and participate in, under supervision, the processes of major legal institutions;
- display an understanding of areas of law and legal procedures for resolving matters referred to the employee, subject to general and procedural supervision; and
- initiate routine legal procedures and documentation.

A.6 Level 5—Law graduate

A.6.1 Characteristics

This position requires the completion of a course of study which is recognised as an academic qualification for admission and a formal offer by the employer to the law

graduate, the acceptance of that offer and registration and approval of all documentation required by the relevant governing bodies.

A.7 Level 6—Law clerk

A.7.1 General

- (a) Work is under limited guidance in line with a broad plan, budget or strategy. Responsibility and defined accountability for the management and output of the work of others and for a defined function or functions may be involved.
- (b) Competency at this level involves the self-directed development of knowledge with substantial depth across a number of areas and/or mastery of a specified area with a range of skills. Application is to major functions in either varied or highly specific contexts.
- (c) Competencies are normally used independently and are substantially non-routine. Significant judgment is required in planning, design, technical or supervisory functions related to products, services, operations or processes of the firm.
- (d) Specific clerical and administrative competencies do not automatically apply at this level or above. Legal competencies continue to apply at least in conjunction with the clerical and administrative competencies.
- (e) Employees will be graded at the level where the principal functions of their employment, as determined by the employer, require the exercise of skills at the level set out in the respective grade.
- (f) An indicative training and vocational educational level for this level is Associate Diploma at TAFE or tertiary level (or equivalent).

A.7.2 Legal

The employee will be able to display a practical understanding and application of the structures, methods and procedures of the relevant State or Territory legal system.

Schedule B—Summary of Hourly Rates of Pay

Rates updated as a result of AWR 2016

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

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

B.1.1 Full-time and part-time shiftworkers—ordinary, early morning, afternoon and night shift rates

| | Ordinary hours | Early morning | Afternoon & night | Non-continuous afternoon or night ¹ | | Permanent night |
|--|-------------------|------------------|----------------------|--|------------------|--------------------|
| | | | | First 3 hours | After 3 hours | |
| % of minimum hourly rate | | | | | | |
| | 100% | 110% | 115% | 150% | 200% | 130% |
| | \$ | \$ | \$ | \$ | \$ | \$ |
| Level 1—Legal clerical and administrative employee | 19.75 | 21.73 | 22.71 | 29.63 | 39.50 | 25.68 |
| Level 2—Legal clerical and administrative employee | 20.61 | 22.67 | 23.70 | 30.92 | 41.22 | 26.79 |
| Level 3—Legal clerical and administrative employee | 21.77 | 23.95 | 25.04 | 32.66 | 43.54 | 28.30 |
| Level 4—Legal clerical and administrative employee | 22.86 | 25.15 | 26.29 | 34.29 | 45.72 | 29.72 |
| Level 5—Legal clerical and administrative employee | 23.79 | 26.17 | 27.36 | 35.69 | 47.58 | 30.93 |
| Level 5—Law graduate | 23.79 | 26.17 | 27.36 | 35.69 | 47.58 | 30.93 |
| Level 6—Law clerk | 25.22 | 27.74 | 29.00 | 37.83 | 50.44 | 32.79 |

¹**Non-continuous afternoon or night shift** means work on any afternoon or night shift that does not continue for at least five successive afternoon or night shifts or six successive afternoon or night shifts in a six day workplace (where no more than eight ordinary hours are worked on each shift); or for at least 38 ordinary hours (where more than eight ordinary hours are worked on each shift).

B.1.2 Full-time and part-time shiftworkers—weekend and public holiday rates

| | All shiftworkers | Shiftworkers other than continuous shiftworkers | | Continuous shiftworkers only |
|--|--------------------------|---|-----------------|------------------------------|
| | Saturday | Sunday | Public holidays | Sunday & public holidays |
| | % of minimum hourly rate | | | |
| | 150% | 200% | 250% | 200% |
| | \$ | \$ | \$ | \$ |
| Level 1—Legal clerical and administrative employee | 29.63 | 39.50 | 49.38 | 39.50 |
| Level 2—Legal clerical and administrative employee | 30.92 | 41.22 | 51.53 | 41.22 |
| Level 3—Legal clerical and administrative employee | 32.66 | 43.54 | 54.43 | 43.54 |
| Level 4—Legal clerical and administrative employee | 34.29 | 45.72 | 57.15 | 45.72 |
| Level 5—Legal clerical and administrative employee | 35.69 | 47.58 | 59.48 | 47.58 |
| Level 5—Law graduate | 35.69 | 47.58 | 59.48 | 47.58 |
| Level 6—Law clerk | 37.83 | 50.44 | 63.05 | 50.44 |

B.1.3 Full-time and part-time shiftworkers—overtime rates

| | Shiftworkers other than continuous shiftworkers | | | | Continuous shiftworkers only Monday to Sunday & Public holidays |
|--|---|---------------|----------------------------------|----------------|--|
| | Monday to Friday & Saturday until 12.00 pm | | Saturday after 12.00 pm & Sunday | Public holiday | |
| | First 3 hours | After 3 hours | | | |
| % of minimum hourly rate | | | | | |
| | 150% | 200% | 200% | 250% | 200% |
| | \$ | \$ | \$ | \$ | \$ |
| Level 1—Legal clerical and administrative employee | 29.63 | 39.50 | 39.50 | 49.38 | 39.50 |
| Level 2—Legal clerical and administrative employee | 30.92 | 41.22 | 41.22 | 51.53 | 41.22 |
| Level 3—Legal clerical and administrative employee | 32.66 | 43.54 | 43.54 | 54.43 | 43.54 |
| Level 4—Legal clerical and administrative employee | 34.29 | 45.72 | 45.72 | 57.15 | 45.72 |
| Level 5—Legal clerical and administrative employee | 35.69 | 47.58 | 47.58 | 59.48 | 47.58 |
| Level 5—Law graduate | 35.69 | 47.58 | 47.58 | 59.48 | 47.58 |
| Level 6—Law clerk | 37.83 | 50.44 | 50.44 | 63.05 | 50.44 |

B.2 Casual adult employees

B.2.1 Casual shiftworkers—ordinary, early morning, afternoon and night shift rates

| | Ordinary hours | Early morning | Afternoon & night | Non-continuous afternoon or night ¹ | Permanent night | |
|--|--------------------------|------------------|----------------------|--|--------------------|-------|
| | | | | First 3 hours | After 3 hours | |
| | % of minimum hourly rate | | | | | |
| | 125% | 135% | 140% | 175% | 225% 155% | |
| | \$ | \$ | \$ | \$ | \$ | |
| Level 1—Legal clerical and administrative employee | 24.69 | 26.66 | 27.65 | 34.56 | 44.44 | 30.61 |
| Level 2—Legal clerical and administrative employee | 25.76 | 27.82 | 28.85 | 36.07 | 46.37 | 31.95 |
| Level 3—Legal clerical and administrative employee | 27.21 | 29.39 | 30.48 | 38.10 | 48.98 | 33.74 |
| Level 4—Legal clerical and administrative employee | 28.58 | 30.86 | 32.00 | 40.01 | 51.44 | 35.43 |
| Level 5—Legal clerical and administrative employee | 29.74 | 32.12 | 33.31 | 41.63 | 53.53 | 36.87 |
| Level 5—Law graduate | 29.74 | 32.12 | 33.31 | 41.63 | 53.53 | 36.87 |
| Level 6—Law clerk | 31.53 | 34.05 | 35.31 | 44.14 | 56.75 | 39.09 |

¹**Non-continuous afternoon or night shift** means work on any afternoon or night shift that does not continue for at least five successive afternoon or night shifts or six successive afternoon or night shifts in a six day workplace (where no more than eight ordinary hours are worked on each shift); or for at least 38 ordinary hours (where more than eight ordinary hours are worked on each shift).

B.2.2 Casual shiftworkers—weekend and public holiday rates

| | All shiftworkers | Shiftworkers other than continuous shiftworkers | | Continuous shiftworkers only |
|--|--------------------------|---|----------------|------------------------------|
| | Saturday | Sunday | Public holiday | Sunday & public holiday |
| | % of minimum hourly rate | | | |
| | 175% | 225% | 275% | 225% |
| | \$ | \$ | \$ | \$ |
| Level 1—Legal clerical and administrative employee | 34.56 | 44.44 | 54.31 | 44.44 |
| Level 2—Legal clerical and administrative employee | 36.07 | 46.37 | 56.68 | 46.37 |
| Level 3—Legal clerical and administrative employee | 38.10 | 48.98 | 59.87 | 48.98 |
| Level 4—Legal clerical and administrative employee | 40.01 | 51.44 | 62.87 | 51.44 |
| Level 5—Legal clerical and administrative employee | 41.63 | 53.53 | 65.42 | 53.53 |
| Level 5—Law graduate | 41.63 | 53.53 | 65.42 | 53.53 |
| Level 6—Law clerk | 44.14 | 56.75 | 69.36 | 56.75 |

B.2.3 Casual shiftworkers—overtime rates

| | Shiftworkers other than continuous shiftworkers | | | | Continuous shiftworkers only |
|--|---|----------------------|---|-----------------------|-------------------------------------|
| | Monday to Friday & Saturday until 12.00 pm | | Saturday after 12.00 pm & Sunday | Public holiday | |
| | First 3 hours | After 3 hours | | | |
| % of minimum hourly rate | | | | | |
| | 175% | 225% | 225% | 275% | 225% |
| | \$ | \$ | \$ | \$ | \$ |
| Level 1—Legal clerical and administrative employee | 34.56 | 44.44 | 44.44 | 54.31 | 44.44 |
| Level 2—Legal clerical and administrative employee | 36.07 | 46.37 | 46.37 | 56.68 | 46.37 |
| Level 3—Legal clerical and administrative employee | 38.10 | 48.98 | 48.98 | 59.87 | 48.98 |
| Level 4—Legal clerical and administrative employee | 40.01 | 51.44 | 51.44 | 62.87 | 51.44 |
| Level 5—Legal clerical and administrative employee | 41.63 | 53.53 | 53.53 | 65.42 | 53.53 |
| Level 5—Law graduate | 41.63 | 53.53 | 53.53 | 65.42 | 53.53 |
| Level 6—Law clerk | 44.14 | 56.75 | 56.75 | 69.36 | 56.75 |

B.3 Junior employees

The **junior hourly rate** is based on a percentage of the appropriate adult rate in accordance with clause 10.2. Adult rates apply from 21 years of age.

B.3.1 Full-time and part-time junior shiftworkers—ordinary, early morning, afternoon and night shift rates

| Age | Ordinary hours | Early morning | Afternoon & night | Non-continuous afternoon or night¹ | | Permanent night |
|--|--------------------------------|----------------------|------------------------------|--|----------------------|------------------------|
| | | | | First 3 hours | After 3 hours | |
| Legal, clerical and administrative employee | % of junior hourly rate | | | | | |
| | 100% | 110% | 115% | 150% | 200% | 130% |
| | \$ | \$ | \$ | \$ | \$ | \$ |
| Level 1 | | | | | | |
| Under 16 years | 8.89 | 9.78 | 10.22 | 13.34 | 17.78 | 11.56 |
| 16 years | 9.88 | 10.87 | 11.36 | 14.82 | 19.76 | 12.84 |
| 17 years | 11.85 | 13.04 | 13.63 | 17.78 | 23.70 | 15.41 |
| 18 years | 13.83 | 15.21 | 15.90 | 20.75 | 27.66 | 17.98 |
| 19 years | 15.80 | 17.38 | 18.17 | 23.70 | 31.60 | 20.54 |
| 20 years | 17.78 | 19.56 | 20.45 | 26.67 | 35.56 | 23.11 |
| Level 2 | | | | | | |
| Under 16 years | 9.27 | 10.20 | 10.66 | 13.91 | 18.54 | 12.05 |
| 16 years | 10.31 | 11.34 | 11.86 | 15.47 | 20.62 | 13.40 |
| 17 years | 12.37 | 13.61 | 14.23 | 18.56 | 24.74 | 16.08 |
| 18 years | 14.43 | 15.87 | 16.59 | 21.65 | 28.86 | 18.76 |
| 19 years | 16.49 | 18.14 | 18.96 | 24.74 | 32.98 | 21.44 |
| 20 years | 18.55 | 20.41 | 21.33 | 27.83 | 37.10 | 24.12 |
| Level 3 | | | | | | |
| Under 16 years | 9.80 | 10.78 | 11.27 | 14.70 | 19.60 | 12.74 |
| 16 years | 10.89 | 11.98 | 12.52 | 16.34 | 21.78 | 14.16 |
| 17 years | 13.06 | 14.37 | 15.02 | 19.59 | 26.12 | 16.98 |
| 18 years | 15.24 | 16.76 | 17.53 | 22.86 | 30.48 | 19.81 |
| 19 years | 17.42 | 19.16 | 20.03 | 26.13 | 34.84 | 22.65 |
| 20 years | 19.59 | 21.55 | 22.53 | 29.39 | 39.18 | 25.47 |

| Age | Ordinary hours | Early morning | Afternoon & night | Non-continuous afternoon or night ¹ | | Permanent night |
|--|--------------------------------|---------------|-------------------|--|---------------|-----------------|
| | | | | First 3 hours | After 3 hours | |
| Legal, clerical and administrative employee | % of junior hourly rate | | | | | |
| | 100% | 110% | 115% | 150% | 200% | 130% |
| | \$ | \$ | \$ | \$ | \$ | \$ |
| Level 4 | | | | | | |
| Under 16 years | 10.29 | 11.32 | 11.83 | 15.44 | 20.58 | 13.38 |
| 16 years | 11.43 | 12.57 | 13.14 | 17.15 | 22.86 | 14.86 |
| 17 years | 13.72 | 15.09 | 15.78 | 20.58 | 27.44 | 17.84 |
| 18 years | 16.00 | 17.60 | 18.40 | 24.00 | 32.00 | 20.80 |
| 19 years | 18.29 | 20.12 | 21.03 | 27.44 | 36.58 | 23.78 |
| 20 years | 20.57 | 22.63 | 23.66 | 30.86 | 41.14 | 26.74 |

¹**Non-continuous afternoon or night shift** means work on any afternoon or night shift that does not continue for at least five successive afternoon or night shifts or six successive afternoon or night shifts in a six day workplace (where no more than eight ordinary hours are worked on each shift); or for at least 38 ordinary hours (where more than eight ordinary hours are worked on each shift).

B.3.2 Full-time and part-time junior shiftworkers—weekend and public holiday rates

| Age | All shiftworkers | Shiftworkers other than continuous shiftworkers | | Continuous shiftworkers only |
|--|--------------------------------|--|------------------------|---|
| | Saturday | Sunday | Public holidays | Sunday & public holidays |
| Legal, clerical and administrative employee | % of junior hourly rate | | | |
| | 150% | 200% | 250% | 200% |
| | \$ | \$ | \$ | \$ |
| Level 1 | | | | |
| Under 16 years | 13.34 | 17.78 | 22.23 | 17.78 |
| 16 years | 14.82 | 19.76 | 24.70 | 19.76 |
| 17 years | 17.78 | 23.70 | 29.63 | 23.70 |
| 18 years | 20.75 | 27.66 | 34.58 | 27.66 |
| 19 years | 23.70 | 31.60 | 39.50 | 31.60 |
| 20 years | 26.67 | 35.56 | 44.45 | 35.56 |
| Level 2 | | | | |
| Under 16 years | 13.91 | 18.54 | 23.18 | 18.54 |
| 16 years | 15.47 | 20.62 | 25.78 | 20.62 |
| 17 years | 18.56 | 24.74 | 30.93 | 24.74 |
| 18 years | 21.65 | 28.86 | 36.08 | 28.86 |
| 19 years | 24.74 | 32.98 | 41.23 | 32.98 |
| 20 years | 27.83 | 37.10 | 46.38 | 37.10 |
| Level 3 | | | | |
| Under 16 years | 14.70 | 19.60 | 24.50 | 19.60 |
| 16 years | 16.34 | 21.78 | 27.23 | 21.78 |
| 17 years | 19.59 | 26.12 | 32.65 | 26.12 |
| 18 years | 22.86 | 30.48 | 38.10 | 30.48 |
| 19 years | 26.13 | 34.84 | 43.55 | 34.84 |
| 20 years | 29.39 | 39.18 | 48.98 | 39.18 |
| Level 4 | | | | |
| Under 16 years | 15.44 | 20.58 | 25.73 | 20.58 |
| 16 years | 17.15 | 22.86 | 28.58 | 22.86 |
| 17 years | 20.58 | 27.44 | 34.30 | 27.44 |
| 18 years | 24.00 | 32.00 | 40.00 | 32.00 |
| 19 years | 27.44 | 36.58 | 45.73 | 36.58 |
| 20 years | 30.86 | 41.14 | 51.43 | 41.14 |

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

| Age | Shiftworkers other than continuous shiftworkers | | | | Continuous shiftworkers only Monday to Sunday & Public holidays |
|--|---|---------------|----------------------------------|----------------|--|
| | Monday to Friday & Saturday until 12.00 pm | | Saturday after 12.00 pm & Sunday | Public holiday | |
| | First 3 hours | After 3 hours | | | |
| Legal, clerical and administrative employee | % of minimum hourly rate | | | | |
| | 150% | 200% | 200% | 250% | 200% |
| | \$ | \$ | \$ | \$ | \$ |
| Level 1 | | | | | |
| Under 16 years | 13.34 | 17.78 | 17.78 | 22.23 | 17.78 |
| 16 years | 14.82 | 19.76 | 19.76 | 24.70 | 19.76 |
| 17 years | 17.78 | 23.70 | 23.70 | 29.63 | 23.70 |
| 18 years | 20.75 | 27.66 | 27.66 | 34.58 | 27.66 |
| 19 years | 23.70 | 31.60 | 31.60 | 39.50 | 31.60 |
| 20 years | 26.67 | 35.56 | 35.56 | 44.45 | 35.56 |
| Level 2 | | | | | |
| Under 16 years | 13.91 | 18.54 | 18.54 | 23.18 | 18.54 |
| 16 years | 15.47 | 20.62 | 20.62 | 25.78 | 20.62 |
| 17 years | 18.56 | 24.74 | 24.74 | 30.93 | 24.74 |
| 18 years | 21.65 | 28.86 | 28.86 | 36.08 | 28.86 |
| 19 years | 24.74 | 32.98 | 32.98 | 41.23 | 32.98 |
| 20 years | 27.83 | 37.10 | 37.10 | 46.38 | 37.10 |
| Level 3 | | | | | |
| Under 16 years | 14.70 | 19.60 | 19.60 | 24.50 | 19.60 |
| 16 years | 16.34 | 21.78 | 21.78 | 27.23 | 21.78 |
| 17 years | 19.59 | 26.12 | 26.12 | 32.65 | 26.12 |
| 18 years | 22.86 | 30.48 | 30.48 | 38.10 | 30.48 |
| 19 years | 26.13 | 34.84 | 34.84 | 43.55 | 34.84 |
| 20 years | 29.39 | 39.18 | 39.18 | 48.98 | 39.18 |
| Level 4 | | | | | |
| Under 16 years | 15.44 | 20.58 | 20.58 | 25.73 | 20.58 |
| 16 years | 17.15 | 22.86 | 22.86 | 28.58 | 22.86 |
| 17 years | 20.58 | 27.44 | 27.44 | 34.30 | 27.44 |
| 18 years | 24.00 | 32.00 | 32.00 | 40.00 | 32.00 |
| 19 years | 27.44 | 36.58 | 36.58 | 45.73 | 36.58 |
| 20 years | 30.86 | 41.14 | 41.14 | 51.43 | 41.14 |

B.3.4 Casual junior shiftworkers—ordinary, early morning, afternoon and night shift rates

| Age | Ordinary hours | Early morning | Afternoon & night | Non-continuous afternoon or night ¹ | | Permanent night |
|---|----------------|---------------|-------------------|--|---------------|-----------------|
| | | | | First 3 hours | After 3 hours | |
| % of junior hourly rate | | | | | | |
| Legal, clerical and administrative employee | 125% | 135% | 140% | 175% | 225% | 155% |
| | \$ | \$ | \$ | \$ | \$ | \$ |
| Level 1 | | | | | | |
| Under 16 years | 11.11 | 12.00 | 12.45 | 15.56 | 20.00 | 13.78 |
| 16 years | 12.35 | 13.34 | 13.83 | 17.29 | 22.23 | 15.31 |
| 17 years | 14.81 | 16.00 | 16.59 | 20.74 | 26.66 | 18.37 |
| 18 years | 17.29 | 18.67 | 19.36 | 24.20 | 31.12 | 21.44 |
| 19 years | 19.75 | 21.33 | 22.12 | 27.65 | 35.55 | 24.49 |
| 20 years | 22.23 | 24.00 | 24.89 | 31.12 | 40.01 | 27.56 |
| Level 2 | | | | | | |
| Under 16 years | 11.59 | 12.51 | 12.98 | 16.22 | 20.86 | 14.37 |
| 16 years | 12.89 | 13.92 | 14.43 | 18.04 | 23.20 | 15.98 |
| 17 years | 15.46 | 16.70 | 17.32 | 21.65 | 27.83 | 19.17 |
| 18 years | 18.04 | 19.48 | 20.20 | 25.25 | 32.47 | 22.37 |
| 19 years | 20.61 | 22.26 | 23.09 | 28.86 | 37.10 | 25.56 |
| 20 years | 23.19 | 25.04 | 25.97 | 32.46 | 41.74 | 28.75 |
| Level 3 | | | | | | |
| Under 16 years | 12.25 | 13.23 | 13.72 | 17.15 | 22.05 | 15.19 |
| 16 years | 13.61 | 14.70 | 15.25 | 19.06 | 24.50 | 16.88 |
| 17 years | 16.33 | 17.63 | 18.28 | 22.86 | 29.39 | 20.24 |
| 18 years | 19.05 | 20.57 | 21.34 | 26.67 | 34.29 | 23.62 |
| 19 years | 21.78 | 23.52 | 24.39 | 30.49 | 39.20 | 27.00 |
| 20 years | 24.49 | 26.45 | 27.43 | 34.28 | 44.08 | 30.36 |
| Level 4 | | | | | | |
| Under 16 years | 12.86 | 13.89 | 14.41 | 18.01 | 23.15 | 15.95 |
| 16 years | 14.29 | 15.43 | 16.00 | 20.00 | 25.72 | 17.72 |
| 17 years | 17.15 | 18.52 | 19.21 | 24.01 | 30.87 | 21.27 |
| 18 years | 20.00 | 21.60 | 22.40 | 28.00 | 36.00 | 24.80 |
| 19 years | 22.86 | 24.69 | 25.61 | 32.01 | 41.15 | 28.35 |
| 20 years | 25.71 | 27.77 | 28.80 | 36.00 | 46.28 | 31.88 |

¹**Non-continuous afternoon or night shift** means work on any afternoon or night shift that does not continue for at least five successive afternoon or night shifts or six successive afternoon or night shifts in a six day workplace (where no more than eight ordinary hours are worked on each shift); or for at least 38 ordinary hours (where more than eight ordinary hours are worked on each shift).

B.3.5 Casual junior shiftworkers—weekend and public holiday rates

| Age | All shiftworkers | Shiftworkers other than continuous shiftworkers | | Continuous shiftworkers only |
|--|--------------------------------|---|-----------------|------------------------------|
| | Saturday | Sunday | Public holidays | Sunday & public holidays |
| Legal, clerical and administrative employee | % of junior hourly rate | | | |
| | 175% | 225% | 275% | 225% |
| | \$ | \$ | \$ | \$ |
| Level 1 | | | | |
| Under 16 years | 15.56 | 20.00 | 24.45 | 20.00 |
| 16 years | 17.29 | 22.23 | 27.17 | 22.23 |
| 17 years | 20.74 | 26.66 | 32.59 | 26.66 |
| 18 years | 24.20 | 31.12 | 38.03 | 31.12 |
| 19 years | 27.65 | 35.55 | 43.45 | 35.55 |
| 20 years | 31.12 | 40.01 | 48.90 | 40.01 |
| Level 2 | | | | |
| Under 16 years | 16.22 | 20.86 | 25.49 | 20.86 |
| 16 years | 18.04 | 23.20 | 28.35 | 23.20 |
| 17 years | 21.65 | 27.83 | 34.02 | 27.83 |
| 18 years | 25.25 | 32.47 | 39.68 | 32.47 |
| 19 years | 28.86 | 37.10 | 45.35 | 37.10 |
| 20 years | 32.46 | 41.74 | 51.01 | 41.74 |
| Level 3 | | | | |
| Under 16 years | 17.15 | 22.05 | 26.95 | 22.05 |
| 16 years | 19.06 | 24.50 | 29.95 | 24.50 |
| 17 years | 22.86 | 29.39 | 35.92 | 29.39 |
| 18 years | 26.67 | 34.29 | 41.91 | 34.29 |
| 19 years | 30.49 | 39.20 | 47.91 | 39.20 |
| 20 years | 34.28 | 44.08 | 53.87 | 44.08 |
| Level 4 | | | | |
| Under 16 years | 18.01 | 23.15 | 28.30 | 23.15 |
| 16 years | 20.00 | 25.72 | 31.43 | 25.72 |
| 17 years | 24.01 | 30.87 | 37.73 | 30.87 |
| 18 years | 28.00 | 36.00 | 44.00 | 36.00 |
| 19 years | 32.01 | 41.15 | 50.30 | 41.15 |
| 20 years | 36.00 | 46.28 | 56.57 | 46.28 |

Schedule C—Summary of Monetary Allowances

Monetary amounts in this clause adjusted as a result of AWR 2016

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

C.1 Expense related allowances

The following allowances will be payable to employees in accordance with clause 11:

| Allowance | Clause | \$ per occasion unless otherwise stated |
|---------------------------------------|-------------|---|
| Meal allowances—overtime: | | |
| Monday to Friday | 11.2(a)(i) | 14.98 |
| Monday to Friday—further allowance | 11.2(a)(i) | 11.94 |
| Saturday or Sunday | 11.2(a)(ii) | 14.98 |
| Saturday or Sunday —further allowance | 11.2(a)(ii) | 11.94 |
| Uniform allowance | 11.3 | 3.65 per week |
| Vehicle allowances: | 11.4(a) | |
| Motor car | | 0.78 per km |
| Motorcycle | | 0.26 per km |

C.1.1 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 |
| Uniform allowance | Clothing and footwear group |
| Vehicle allowance | Private motoring sub-group |

Schedule D—Supported Wage System

Schedule updated in accordance with [PR581528](#)

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

D.2 In this schedule:

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

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

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

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

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

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

D.3 Eligibility criteria

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

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

D.4 Supported wage rates

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

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

- D.4.2** Provided that the minimum amount payable must be not less than \$82 per week.
- D.4.3** Where an employee's assessed capacity is 10%, they must receive a high degree of assistance and support.

D.5 Assessment of capacity

- D.5.1** For the purpose of establishing the percentage of the relevant minimum wage, the productive capacity of the employee will be assessed in accordance with the Supported Wage System by an approved assessor, having consulted the employer and employee and, if the employee so desires, a union which the employee is eligible to join.
- D.5.2** All assessments made under this schedule must be documented in an SWS wage assessment agreement, and retained by the employer as a time and wages record in accordance with the Act.

D.6 Lodgement of SWS wage assessment agreement

- D.6.1** All SWS wage assessment agreements under the conditions of this schedule, including the appropriate percentage of the relevant minimum wage to be paid to the employee, must be lodged by the employer with the Fair Work Commission.
- D.6.2** All SWS wage assessment agreements must be agreed and signed by the employee and employer parties to the assessment. Where a union which has an interest in the award is not a party to the assessment, the assessment will be referred by the Fair Work Commission to the union by certified mail and the agreement will take effect unless an objection is notified to the Fair Work Commission within 10 working days.

D.7 Review of assessment

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

D.8 Other terms and conditions of employment

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

D.9 Workplace adjustment

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

D.10 Trial period

- D.10.1** In order for an adequate assessment of the employee's capacity to be made, an employer may employ a person under the provisions of this schedule for a trial period not exceeding 12 weeks, except that in some cases additional work adjustment time (not exceeding four weeks) may be needed.
- D.10.2** During that trial period the assessment of capacity will be undertaken and the percentage of the relevant minimum wage for a continuing employment relationship will be determined.
- D.10.3** The minimum amount payable to the employee during the trial period must be no less than \$82 per week.
- D.10.4** Work trials should include induction or training as appropriate to the job being trialled.
- D.10.5** Where the employer and employee wish to establish a continuing employment relationship following the completion of the trial period, a further contract of employment will be entered into based on the outcome of assessment under clause D.5.

Schedule E—National Training Wage

Schedule updated in accordance with [PR579908](#)

E.1 Title

This is the *National Training Wage Schedule*.

E.2 Definitions

In this schedule:

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

approved training means the training specified in the training contract

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

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

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

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

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

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

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

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

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

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

Tasmania: *Vocational Education and Training Act 1994*;

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

Western Australia: *Vocational Education and Training Act 1996*

trainee is an employee undertaking a traineeship under a training contract

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

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

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

Year 10 includes any year before Year 10

E.3 **Coverage**

- E.3.1** Subject to clauses E.3.2 to E.3.6 of this schedule, this schedule applies in respect of an employee covered by this award who is undertaking a traineeship whose training package and AQF certificate level is allocated to a wage level by clause E.7 to this schedule or by clause E.5.4 of this schedule.
- E.3.2** This schedule only applies to AQF Certificate Level IV traineeships for which a relevant AQF Certificate Level III traineeship is listed in clause E.7 to this schedule.
- E.3.3** This schedule does not apply to:
- (a) the apprenticeship system;
 - (b) qualifications not identified in training packages; or
 - (c) qualifications in training packages which are not identified as appropriate for a traineeship.

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

- E.3.4** This schedule does not apply to qualifications not identified in training packages or to qualifications in training packages which are not identified as appropriate for a traineeship.
- E.3.5** Where the terms and conditions of this schedule conflict with other terms and conditions of this award dealing with traineeships, the other terms and conditions of this award prevail.
- E.3.6** At the conclusion of the traineeship, this schedule ceases to apply to the employee.

E.4 Types of Traineeship

The following types of traineeship are available under this schedule:

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

E.5 Minimum Wages

E.5.1 Minimum wages for full-time traineeships

(a) Wage Level A

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

| | Highest year of schooling completed | | |
|------------------------------------|--|-----------------|-----------------|
| | Year 10 | Year 11 | Year 12 |
| | per week | per week | per week |
| | \$ | \$ | \$ |
| School leaver | 302.20 | 332.80 | 396.50 |
| Plus 1 year out of school | 332.80 | 396.50 | 461.40 |
| Plus 2 years out of school | 396.50 | 461.40 | 537.00 |
| Plus 3 years out of school | 461.40 | 537.00 | 614.80 |
| Plus 4 years out of school | 537.00 | 614.80 | |
| Plus 5 or more years out of school | 614.80 | | |

(b) Wage Level B

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

| | Highest year of schooling completed | | |
|----------------------------|--|-----------------|-----------------|
| | Year 10 | Year 11 | Year 12 |
| | per week | Per week | per week |
| | \$ | \$ | \$ |
| School leaver | 302.20 | 332.80 | 385.80 |
| Plus 1 year out of school | 332.80 | 385.80 | 443.80 |
| Plus 2 years out of school | 385.80 | 443.80 | 520.40 |

| | Highest year of schooling completed | | |
|------------------------------------|--|-----------------|-----------------|
| | Year 10 | Year 11 | Year 12 |
| | per week | Per week | per week |
| | \$ | \$ | \$ |
| Plus 3 years out of school | 443.80 | 520.40 | 593.60 |
| Plus 4 years out of school | 520.40 | 593.60 | |
| Plus 5 or more years out of school | 593.60 | | |

(c) Wage Level C

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

| | Highest year of schooling completed | | |
|------------------------------------|--|-----------------|-----------------|
| | Year 10 | Year 11 | Year 12 |
| | per week | per week | per week |
| | \$ | \$ | \$ |
| School leaver | 302.20 | 332.80 | 385.80 |
| Plus 1 year out of school | 332.80 | 385.80 | 434.30 |
| Plus 2 years out of school | 385.80 | 434.30 | 485.20 |
| Plus 3 years out of school | 434.30 | 485.20 | 540.60 |
| Plus 4 years out of school | 485.20 | 540.60 | |
| Plus 5 or more years out of school | 540.60 | | |

(d) AQF Certificate Level IV traineeships

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

| Wage level | First year of traineeship | Second and subsequent years of traineeship |
|-------------------|----------------------------------|---|
| | per week | per week |
| | \$ | \$ |
| Wage Level A | 638.50 | 663.20 |
| Wage Level B | 616.00 | 639.70 |

| Wage level | First year of traineeship | Second and subsequent years of traineeship |
|-------------------|----------------------------------|---|
| | per week | per week |
| | \$ | \$ |
| Wage Level C | 560.60 | 581.80 |

E.5.2 Minimum wages for part-time traineeships

(a) Wage Level A

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

| | Highest year of schooling completed | | |
|------------------------------------|--|-----------------|-----------------|
| | Year 10 | Year 11 | Year 12 |
| | per hour | per hour | per hour |
| | \$ | \$ | \$ |
| School leaver | 9.94 | 10.96 | 13.05 |
| Plus 1 year out of school | 10.96 | 13.05 | 15.19 |
| Plus 2 years out of school | 13.05 | 15.19 | 17.66 |
| Plus 3 years out of school | 15.19 | 17.66 | 20.21 |
| Plus 4 years out of school | 17.66 | 20.21 | |
| Plus 5 or more years out of school | 20.21 | | |

(b) Wage Level B

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

| | Highest year of schooling completed | | |
|----------------------------|--|-----------------|-----------------|
| | Year 10 | Year 11 | Year 12 |
| | per hour | per hour | per hour |
| | \$ | \$ | \$ |
| School leaver | 9.94 | 10.96 | 12.70 |
| Plus 1 year out of school | 10.96 | 12.70 | 14.60 |
| Plus 2 years out of school | 12.70 | 14.60 | 17.13 |
| Plus 3 years out of school | 14.60 | 17.13 | 19.54 |
| Plus 4 years out of school | 17.13 | 19.54 | |

| | Highest year of schooling completed | | |
|------------------------------------|--|-----------------|-----------------|
| | Year 10 | Year 11 | Year 12 |
| | per hour | per hour | per hour |
| | \$ | \$ | \$ |
| Plus 5 or more years out of school | 19.54 | | |

(c) Wage Level C

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

| | Highest year of schooling completed | | |
|------------------------------------|--|-----------------|-----------------|
| | Year 10 | Year 11 | Year 12 |
| | per hour | per hour | per hour |
| | \$ | \$ | \$ |
| School leaver | 9.94 | 10.96 | 12.70 |
| Plus 1 year out of school | 10.96 | 12.70 | 14.28 |
| Plus 2 years out of school | 12.70 | 14.28 | 15.95 |
| Plus 3 years out of school | 14.28 | 15.95 | 17.78 |
| Plus 4 years out of school | 15.95 | 17.78 | |
| Plus 5 or more years out of school | 17.78 | | |

(d) School-based traineeships

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

| Year of schooling | |
|--------------------------|-----------------|
| Year 11 or lower | Year 12 |
| per hour | per hour |
| \$ | \$ |
| 9.94 | 10.96 |

(e) AQF Certificate Level IV traineeships

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

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

| Wage level | First year of traineeship | Second and subsequent years of traineeship |
|-------------------|----------------------------------|---|
| | per hour | per hour |
| | \$ | \$ |
| Wage Level A | 21.00 | 21.82 |
| Wage Level B | 20.24 | 21.03 |
| Wage Level C | 18.44 | 19.15 |

(f) Calculating the actual minimum wage

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

E.5.3 Other minimum wage provisions

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

E.5.4 Default wage rate

The minimum wage for a trainee undertaking an AQF Certificate Level I–III traineeship whose training package and AQF certificate level are not allocated to a wage level by clause E.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.

E.6 Employment conditions

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

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

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

E.7 Allocation of Traineeships to Wage Levels

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

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

E.7.1 Wage Level A

| 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 |

| Training package | AQF certificate level |
|--|---|
| Electricity Supply Industry—Generation Sector | II, III (III in Western Australia only) |
| Electricity Supply Industry—Transmission, Distribution and Rail Sector | II |
| Electrotechnology | I, II, III (III in Western Australia only) |
| Financial Services | I, II, III |
| Floristry | III |
| Food Processing Industry | III |
| Gas Industry | III |
| Information and Communications Technology | I, II, III |
| Laboratory Operations | II, III |
| Local Government (other than Operational Works Cert I and II) | I, II, III |
| Manufactured Mineral Products | III |
| Manufacturing | I, II, III |
| Maritime | I, II, III |
| Metal and Engineering (Technical) | II, III |
| Metalliferous Mining | II, III |
| Museum, Library and Library/Information Services | II, III |
| Plastics, Rubber and Cablemaking | III |
| Public Safety | III |
| Public Sector | II, III |
| Pulp and Paper Manufacturing Industries | III |
| Retail Services (including wholesale and Community pharmacy) | III |
| Telecommunications | II, III |
| Textiles, Clothing and Footwear | III |
| Tourism, Hospitality and Events | I, II, III |
| Training and Assessment | III |
| Transport and Logistics | III |
| Water Industry (Utilities) | III |

E.7.2 Wage Level B

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

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

E.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 F—2016 Part-day Public Holidays

Schedule F updated in accordance with [PR580863](#)

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

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

F.1 Where a part-day public holiday is declared or prescribed between 7.00 pm and midnight on Christmas Eve (24 December 2016) or New Year's Eve (31 December 2016) the following will apply on Christmas Eve and New Year's Eve and will override any provision in this award relating to public holidays to the extent of the inconsistency:

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

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

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

DRAFT

Schedule G—Definitions

In this award, unless the contrary intention appears:

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

admission means admission as a practitioner of the Supreme Court of any State or Territory in the Commonwealth of Australia

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

employee means national system employee within the meaning of the Act

employer means national system employer within the meaning of the Act

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

law clerk means a clerk who is engaged for the major part of their time in interviewing clients, preparing documents and general work assisting a barrister or solicitor in their practice, but will not include account clerks, law graduates, titles office clerks, receptionists and employees principally engaged in word processing, computer use, filing, machine operation, switchboard, delivery of documents or duties of a routine nature

law graduate means a lawyer not admitted to practice but who is undertaking a period of training within a law firm with the view to being admitted to practice

legal clerical and administrative employee means an employee in the clerical and administrative stream

legal services industry means employers engaged in the business of providing legal and legal support services

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

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

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

standard rate means the minimum weekly wage for a Level 2 employee in clause 10.1—Minimum wages

work experience clerk means a person, whether a student or not, who is employed for not more than two months in any consecutive period of 12 months for the purposes of gaining experience, but does not include law students or any person who is undertaking work experience according to the provisions of the relevant State or Territory legislation or secondary school student on a formal work program