

# EXPOSURE DRAFT

## Medical Practitioners Award 2014

This exposure draft has been prepared by staff of the Fair Work Commission based on the **Medical Practitioners Award 2010** (the Medical Practitioners award) as at 8 December 2014. This exposure draft does not seek to amend any entitlements under the Medical Practitioners 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 [AM2014/206](#). 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.

Note: there are a number of general drafting/technical issues common to multiple exposure drafts that are currently being considered by the Full Bench and a decision is pending. These issues include:

- Supersession clause (clause 1.2)
- Inclusion of NES summaries
- Inclusion of index of facilitative provisions
- Inclusion of payslips provision
- Relationship between award and NES (clause 2.1)
- Inclusion of examples that clarify the operation of provisions
- Inclusion of 'ordinary hourly rates' for awards with an all purpose allowance
- Inclusion of summary wages tables

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

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## Part 1—Application and Operation

### 1. Title and commencement

- 1.1 This award is the *Medical Practitioners Award 2014*.
- 1.2 This award supersedes the *Medical Practitioners Award 2010* but this does not affect any right, privilege, obligation or liability that a person acquired, accrued or incurred under the superseded award.
- 1.3 Schedule D—Definitions sets out definitions that apply in this award.
- 1.4 The monetary obligations imposed on employers by this award may be absorbed into overaward payments. Nothing in this award requires an employer to maintain or increase any overaward payment.

### 2. The National Employment Standards and this award

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

### 3. Coverage

- 3.1 This occupational award covers employers of medical practitioners throughout Australia in the classifications listed in clause 7—Classification Definitions to the exclusion of any other modern award.
- 3.2 **Medical practitioner** means a person who is employed as a medical practitioner in hospitals, hospices, benevolent homes, day procedure centres, Aboriginal health services, community health centres, the Red Cross Blood Service, the South Australian Institute of Medical and Veterinary Science, the Victorian Cytology Service or the Victorian Institute of Forensic Medicine.
- 3.3 This award covers any employer which supplies on-hire employees in classifications set out in clause 7 and those on-hire employees, if the employer is not covered by another modern award containing a classification which is more appropriate to the work performed by the employee. This subclause operates subject to the exclusions from coverage in this award.
- 3.4 This award does not cover:
  - (a) employees excluded from award coverage by the *Fair Work Act 2009* (Cth) (the Act);

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

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

- 3.5** 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.

#### **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. Facilitative provisions are not to be used as a device to avoid award obligations nor should they result in unfairness to an employee or employees covered by this award.

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

Clause	Provision	Agreement between an employer and:
8.1	Ordinary hours of work and roster cycles—day workers	An individual
13.3(a)(iii)	Payment for working on a public holiday	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 Full-time employment

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

#### 6.3 Part-time employment

A part-time employee:

- (a) is engaged to work an average of less than 38 ordinary hours per week;
- (b) has reasonably predictable hours of work; and
- (c) receives, on a pro rata basis, pay and conditions equivalent to those of full-time employees who do the same kind of work.

#### 6.4 Casual employment

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

##### (b) Casual loading

- (i) For each ordinary hour worked, a casual employee must be paid:
  - the ordinary hourly rate; and
  - a loading of 25% of the ordinary hourly rate,
 for the classification in which they are employed.
- (ii) The casual loading is paid instead of annual leave, paid personal/carer's leave, notice of termination, redundancy benefits and other entitlements of full-time or part-time employment.

(iii) The following provisions of this award do not apply to casual employees:

Parties are asked to provide a list of provisions that do not apply to casual employees.

## 7. Classification Definitions

- 7.1 Intern** is a medical practitioner in the first postgraduate year of clinical experience.
- 7.2 Resident Medical Practitioner (RMP)** is a medical practitioner in the second or any subsequent post-graduate year of clinical experience. An RMP must complete 12 months of clinical experience to advance to the next pay point.
- 7.3 Registrar** is a medical practitioner admitted to an Australian Medical Council accredited vocational training program leading to a fellowship of a Medical College including those of General Practice and Rural and Remote Medicine.
- 7.4 Senior Registrar** is a medical practitioner who has successfully completed examinational requirements for appointment as a Fellow of an Australian or Australasian Specialists College and is awaiting granting of the fellowship.
- 7.5 Career Medical Practitioner** is a medical practitioner with not less than four completed years of post-graduate clinical experience who is appointed as such.
- 7.6 Senior Career Medical Practitioner** is a medical practitioner not enrolled in a vocational training program, who has 10 or more years of clinical experience or who has sufficient experience to satisfy the employer.
- 7.7 Community Medical Practitioner** is a medical practitioner who has completed not less than four years of post-graduate experience who is employed to practise in community health centres or in general medical practice.
- 7.8 Specialist** is a medical practitioner who has successfully completed a recognised specialist training program, and has been admitted as a fellow of the relevant college, provided that a practitioner may be appointed a Specialist if the practitioner has had sufficient experience in the specialty to satisfy the employer.
- 7.9 Senior Specialist** means a medical practitioner who possesses a higher qualification appropriate to the specialty in which they are employed and has had not less than three years of practical experience in the relevant specialty.
- 7.10 Principal Specialist** means a medical practitioner who possesses a higher qualification appropriate to the specialty in which they are employed and has had not less than eight years of practical experience in that specialty after obtaining the highest qualification. Notwithstanding an officer not having such years of experience, an officer may be appointed as a Principal Specialist if they have had sufficient experience in their specialty to satisfy the employer.
- 7.11 Senior Principal Specialist** means a medical practitioner appointed as a head of a department or section in a Teaching Hospital who meets all requirements specified for employment as a Principal Specialist.

- 7.12 Deputy Director of Medical Services** means a medical practitioner appointed as deputy to a Director of Medical Services.
- 7.13 Director of Medical Services** means a medical practitioner appointed as the Director of Medical Services (however styled) of a hospital or other organisation, provided that a Director of Medical Services will require a higher qualification appropriate to the specialty of medical administration, or will be able to satisfy the employer that the medical practitioner has sufficient experience in the specialty.
- 7.14** Employers must advise their employees in writing of their classification upon commencement and any changes to their classification.

## 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 a full-time employee will be an average of 38 hours per week and may be worked by agreement between the employer and employee in one of the following ways:
- (i) over five days per week or over 19 days per four week period;
  - (ii) over 40 hours in any period of seven consecutive days or 80 hours in any period of 14 consecutive days; or
  - (iii) 38 hours per week or 10 sessions per week over five days per week or, as agreed between the employee and the employer, averaged over four days per week or a longer roster period.

Parties are asked whether the term “sessions” should be defined. i.e. how long is a session?

#### (b) Span of hours

- (i) The span of hours for full-time day work Medical Practitioners except Senior Doctors is 6.00 am to 6.00 pm Monday to Friday.
- (ii) The span of hours for Senior Doctors is between 7.00 am and 6.00 pm Monday to Friday. Where normal duties are averaged over a roster period longer than one week, as provided for in clause 8.1(a), normal duties may be worked between Monday and Friday inclusive.

#### (c) Senior Career Medical Practitioners, Career Medical Practitioners and Doctors in training

The following provisions apply to Senior Career Medical Practitioners, Career Medical Practitioners and Doctors in training:

- (i) These medical practitioners will be free from ordinary hours of duty for not less than two days in each week or where this is not practicable, four days in each fortnight. Where practicable, the days off will be consecutive.



- (ii) Additional rostered days off will be granted to the extent of one day per calendar month which may accumulate to a maximum of 12 days and which may be taken in periods ranging from one day to two weeks.
- (iii) Upon termination of employment, any untaken rostered leave will be paid at the medical practitioner's minimum hourly rate.

## 8.2 Ordinary hours and roster cycles—shiftworkers

- (a) A **shiftworker** is an employee who is regularly rostered to work their ordinary hours outside the ordinary hours of work of a day worker as defined in clause 8.1(b)(i).
- (b) **Shift length—Doctors in training**
  - (i) No shift will be less than eight hours in length on a week day or less than four hours in length on Saturday, Sunday or a public holiday.
  - (ii) No broken or split shifts will be worked.
  - (iii) All time worked in excess of 10 hours in any one shift will be paid as overtime.

## 8.3 Rostering—Doctors in training

- (a) Doctors in training will be given at least two weeks' notice of rosters to be worked in relation to ordinary hours. Where practicable, this will include additional (overtime) rostered hours, provided that the employer may change the rosters without notice to meet any emergency situation. This clause will not apply to additional roster leave granted by the employer.
- (b) Time worked does not include breaks allowed and actually taken for meals.
- (c) Time worked means the time when the Doctor in training is required by the employer to be in attendance.

## 8.4 Rostering—Senior Doctors

### (a) Development of rosters

The employer, when developing rosters, will ensure that:

- (i) Senior Doctors will be consulted and regard will be given to any family, carer or other personal and professional concerns and responsibilities identified by the Senior Doctor to ensure, where practicable, that the Senior Doctor is not adversely affected and that alternative arrangements can be made if possible (e.g. change of childcare or outside practice arrangements);
- (ii) Rosters will identify the general nature of the work to be performed on each shift (clinical/direct patient care, administrative, teaching, research or quality improvement) and the facility at which the shift is to be worked; and
- (iii) Wherever practicable, the usual pattern of normal duties will be consistent from one roster period to the next.

**(b) Notice of changes**

- (i) Wherever possible, the following notice periods will apply to changes to the normal duties roster:
- three months’ notice of an ongoing change; or
  - one month’s notice of short-term change (e.g. to cover a planned absence or one-off event).
- (ii) These provisions do not prevent the employer from varying the roster of normal duties at short notice in an emergency, in response to an unplanned event or to cover an unplanned absence.
- (iii) Shifts are to be shared equally amongst the Senior Doctors unless otherwise agreed.

**9. Breaks**

**9.1 Rest period between periods of duty—Community Medical Practitioners**

Community Medical Practitioners will be allowed eight hours off duty between successive periods of duty.

**Part 4—Wages and Allowances**

**10. Minimum wages**

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

**(a) Intern**

	<b>Minimum annual salary</b> \$	<b>Minimum weekly rate</b> \$	<b>Minimum hourly rate</b> \$	<b>Casual hourly rate</b> \$
Intern	44,292	851.77	22.42	28.03

**(b) Resident Medical Practitioner**

<b>Pay points</b>	<b>Minimum annual salary</b> \$	<b>Minimum weekly rate</b> \$	<b>Minimum hourly rate</b> \$	<b>Casual hourly rate</b> \$
Pay point 1	47,023	904.29	23.80	29.75
Pay point 2	48,918	940.73	24.76	30.95
Pay point 3	49,393	949.87	25.00	31.25

**(c) Registrar**

<b>Pay points</b>	<b>Minimum annual salary \$</b>	<b>Minimum weekly rate \$</b>	<b>Minimum hourly rate \$</b>	<b>Casual hourly rate \$</b>
Pay point 1	53,504	1,028.92	27.08	33.85
Pay point 2	55,697	1,071.10	28.19	35.24
Pay point 3	58,238	1,119.96	29.47	36.84
Pay point 4	60,017	1,154.17	30.37	37.96

**(d) Senior Registrar**

<b>Pay points</b>	<b>Minimum annual salary \$</b>	<b>Minimum weekly rate \$</b>	<b>Minimum hourly rate \$</b>	<b>Casual hourly rate \$</b>
Pay point 1	69,922	1,344.65	35.39	44.24
Pay point 2	72,680	1,397.69	36.78	45.98

**(e) Career Medical Practitioner**

<b>Pay points</b>	<b>Minimum annual salary \$</b>	<b>Minimum weekly rate \$</b>	<b>Minimum hourly rate \$</b>	<b>Casual hourly rate \$</b>
Pay point 1	70,640	1,358.46	35.75	44.69
Pay point 2	73,262	1,408.88	37.08	46.35
Pay point 3	74,716	1,436.85	37.81	47.26
Pay point 4	77,463	1,489.67	39.20	49.00

**(f) Senior Career Medical Practitioner**

<b>Pay points</b>	<b>Minimum annual salary \$</b>	<b>Minimum weekly rate \$</b>	<b>Minimum hourly rate \$</b>	<b>Casual hourly rate \$</b>
Pay point 1	79,908	1,536.69	40.44	50.55
Pay point 2	82,450	1,585.58	41.73	52.16
Pay point 3	85,219	1,638.83	43.13	53.91
Pay point 4	87,811	1,688.67	44.44	55.55

**(g) Community Medical Practitioner**

<b>Pay points</b>	<b>Minimum annual salary \$</b>	<b>Minimum weekly rate \$</b>	<b>Minimum hourly rate \$</b>	<b>Casual hourly rate \$</b>
Pay point 1	70,626	1,358.19	35.74	44.68
Pay point 2	73,207	1,407.83	37.05	46.31
Pay point 3	75,571	1,453.29	38.24	47.80
Pay point 4	77,461	1,489.63	39.20	49.00
Pay point 5	79,896	1,536.46	40.43	50.54
Pay point 6	82,418	1,584.96	41.71	52.14
Pay point 7	85,177	1,638.02	43.11	53.89
Pay point 8	87,756	1,687.62	44.41	55.51

**(h) Specialist**

	<b>Minimum annual salary \$</b>	<b>Minimum weekly rate \$</b>	<b>Minimum hourly rate \$</b>	<b>Casual hourly rate \$</b>
Specialist	81,030	1,558.27	41.01	51.26

**(i) Senior Specialist**

<b>Pay points</b>	<b>Minimum annual salary \$</b>	<b>Minimum weekly rate \$</b>	<b>Minimum hourly rate \$</b>	<b>Casual hourly rate \$</b>
Pay point 1	86,643	1,666.21	43.85	54.81
Pay point 2	89,618	1,723.42	45.35	56.69
Pay point 3	92,685	1,782.40	46.91	58.64
Pay point 4	99,254	1,908.73	50.23	62.79
Pay point 5	100,664	1,935.85	50.94	63.68

**(j) Principal Specialist**

	<b>Minimum annual salary \$</b>	<b>Minimum weekly rate \$</b>	<b>Minimum hourly rate \$</b>	<b>Casual hourly rate \$</b>
Principal Specialist	102,716	1,975.31	51.98	64.98

**(k) Senior Principal Specialist**

	<b>Minimum annual salary</b> \$	<b>Minimum weekly rate</b> \$	<b>Minimum hourly rate</b> \$	<b>Casual hourly rate</b> \$
Senior Principal Specialist	106,353	2,045.25	53.82	67.28

**(l) Deputy Director of Medical Services**

<b>Pay points</b>	<b>Minimum annual salary</b> \$	<b>Minimum weekly rate</b> \$	<b>Minimum hourly rate</b> \$	<b>Casual hourly rate</b> \$
Pay point 1	71,565	1,376.25	36.22	45.28
Pay point 2	78,487	1,509.37	39.72	49.65
Pay point 3	86,643	1,666.21	43.85	54.81
Pay point 4	95,911	1,844.44	48.54	60.68

**(m) Director of Medical Services**

<b>Pay points</b>	<b>Minimum annual salary</b> \$	<b>Minimum weekly rate</b> \$	<b>Minimum hourly rate</b> \$	<b>Casual hourly rate</b> \$
Pay point 1	81,010	1,557.88	41.00	51.25
Pay point 2	89,576	1,722.62	45.33	56.66
Pay point 3	102,716	1,975.31	51.98	64.98
Pay point 4	111,106	2,136.65	56.23	70.29

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

**10.2 Progression through pay points**

- (a) Progression to the next pay point for all classifications for which there is more than one pay point will have regard to the acquisition and use of skills.
- (b) Progression will be:
  - (i) for full-time employees—by annual movement; or
  - (ii) for part-time or casual employees—after 1824 hours of similar experience.

**10.3 Higher duties allowance**

Where an employee temporarily occupies a position in a higher classification for a period of more than three days, that employee must be paid not less than the

minimum rate applicable to that higher classification, including any relevant managerial allowance, for all time worked at that higher level.

## 11. Allowances

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

### 11.2 Wage related allowances

#### (a) All purpose allowances

Allowances paid for **all purposes** are included in the rate of pay of an employee who is entitled to the allowance, when calculating any penalties or loadings or payment while they are on leave. The on call allowance in clause 14.4 is paid for all purposes under this award.

#### (b) Managerial allowance per annum for Senior Doctors only

(i) To be eligible for payment of this allowance, the additional management responsibilities will include direct line responsibility for a unit, department or service and involvement in a number of, but not necessarily all of the following:

- cost centre management including budget preparation and management of allocated budget;
- participation in planning and policy development;
- responsibility for the co-ordination of research, training or teaching programs; or
- membership and participation in senior executive management teams.

(ii) A Level 1 allowance of **\$4,817.35** per annum is payable to Senior Doctors who satisfy the criteria in clause 11.2(b)(i) and who are specifically required by the employer to undertake these additional managerial responsibilities. It is expected that a Senior Doctor receiving a Level 1 allowance will:

- as a minimum perform human resource management responsibilities which include the direct supervision of staff, allocation of duties, approval of staff rosters, monitoring of hours worked and other performance management matters; and
- be responsible for ensuring that quality improvement and clinical governance activities are implemented.

(iii) A Level 2 allowance of **\$11,280.92** is payable to those Senior Doctors satisfying the criteria in clauses 11.2(b)(i) and (ii) who, in the assessment of the employer, have significant additional managerial responsibilities involving multiple units, services or departments.

- (iv) A Level 3 allowance of **\$17,761.82** is payable to those Senior Doctors who, in addition to satisfying the criteria in clause 11.2(b)(ii), have a level of managerial responsibility deemed by the employer to require an allowance at the Level 3 rate. It is recognised that managerial responsibilities at this level may not involve the duties at a department or unit level outlined in clause 11.2(b)(ii).

### 11.3 Expense related allowances

#### (a) Meal allowance

When an employee is rostered to work in excess of 10 continuous hours, the employee will be supplied with an adequate meal free of charge or will be paid a meal allowance of **\$11.96**. Where the continuous period exceeds 15 hours, a further meal will be supplied free of charge or a further meal allowance of **\$11.96** will be paid.

#### (b) Telephone allowance

Where the employer requires an employee to install and/or maintain a telephone for the purpose of being on call, the employer will refund the installation costs and the subsequent rental charges on production of receipted account(s).

#### (c) Travelling, transport and fares

- (i) An employee required and authorised to use their own motor vehicle in the course of their duties will be paid an allowance of not less than **\$0.78** per kilometre.
- (ii) When an employee is required to travel on duty, all reasonably incurred expenses in respect to fares, meals and accommodation will be met by the employer on production of receipted account(s) or other evidence acceptable to the employer, if the employer cannot provide the appropriate transport.
- (iii) The employee will not be entitled to reimbursement for expenses referred to in clause 11.3(c)(ii) which exceed the mode of transport, meals or the standard of accommodation agreed with the employer for these purposes.

### 11.4 Deduction for board and lodging

Where the employer provides board and lodging, the minimum salaries prescribed in this award will be reduced by **\$57.07** per week.

## 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) Health Super Fund;
- (b) any superannuation fund to which the employer was making superannuation contributions for the benefit of its employees before 12 September 2008, provided the superannuation fund is an eligible choice fund and is a fund that offers a MySuper product or is an exempt public sector superannuation scheme; or
- (c) a superannuation fund or scheme which the employee is a defined benefit member of.



## Part 5—Penalties and Overtime

### 13. Penalty rates

#### 13.1 Payment of shift penalties

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

##### (a) Doctors in Training

	Penalty rate
Rostered ordinary duty commencing or ending between 9.00 pm and 6.00 am	2.5% of minimum weekly rate per occasion*

\*Payment per occasion in addition to payment for hours worked. Penalty rate calculations are based on the rate for first year of experience of each respective classification

##### (b) Career Medical Practitioners and Senior Career Medical Practitioners

Ordinary hours worked:	Penalty rate	Casual penalty rate
	% of ordinary hourly rate	
Monday to Friday— between 6.00 pm and midnight	112.5	137.5
Monday to Friday—between midnight and 8.00 am	125	150
Saturday—all hours	150	175
Sunday—all hours	175	200

##### (c) Senior Doctors

Ordinary hours worked:	Penalty rate	Casual penalty rate
	% of ordinary hourly rate	
Monday to Friday—between 6.00 pm and midnight	112.5	137.5
Saturday—between 7.00 am and midnight	150	175
Sunday—between 7.00 am and midnight	175	200
Public holidays—all hours	250	275

**(d) Community Medical Practitioners**

	<b>Penalty rate</b>	<b>Casual penalty rate</b>
	<b>% of ordinary hourly rate</b>	
Shift starting between 5.00 am and before 6.30 am	102.5	127.5
Shift finishing between 6.00 pm and before midnight	102.5	127.5
Shift or part of shift rostered between midnight and 5.00 am	104	129
Shifts permanently worked between midnight and 5.00 am*	105	130

\*Permanently worked means any period in excess of four consecutive weeks

- (e) Where duty performed attracts more than one penalty, only the higher penalty will apply. For the purposes of this clause, the term penalty will include overtime.

**13.2 Saturday and Sunday work**

<b>Ordinary hours worked:</b>	<b>Penalty rate</b>	<b>Casual penalty rate</b>
	<b>% of ordinary hourly rate</b>	
Between midnight Friday and midnight Sunday	150	175

**13.3 Payment for working on a public holiday**

- (a) A Medical Practitioner who is required to work on a public holiday will receive one of the following:
- (i) payment at the rate of **250%** of the minimum hourly rate;
  - (ii) payment at the rate of **150%** of the minimum hourly rate, and one day will be added to their annual leave entitlement; or
  - (iii) payment at the minimum hourly rate, and one and a half days will be added to their annual leave entitlement or taken at another time, by agreement between the employer and employee.

**14. Overtime**

**14.1 Definition of overtime**

For all Medical Practitioners, except Senior Doctors, hours worked in excess of 38 ordinary hours per week will be deemed overtime.

**14.2 Overtime rates**

Where an employee, except a Senior Doctor, works overtime the employer must pay the employee overtime rates as follows:

For overtime worked on	Overtime rate % of ordinary hourly rate	Casual overtime rate
Monday to Saturday—first 2 hours	150%	175%
Monday to Saturday—after 2 hours	200%	225%
Sunday—all day	200%	225%
Public holidays—all day	250%	275%

#### 14.3 Time off instead of payment for overtime—Doctor in training

- (a) A Doctor in training may elect, with the consent of the employer, to take time off instead of payment for overtime.
- (b) Such time off instead of payment will be taken at a mutually agreed time within four weeks of accrual and calculated on the basis of hour for hour worked. If time off instead of payment is not taken within four weeks of accrual, it is to be paid out in accordance with clause 14.2.

#### 14.4 On call

- (a) Medical Practitioners, except for Senior Doctors, required by the employer to be on call will be paid an allowance equal to **10%** of their daily rate for each day on call.
- (b) Senior Doctors will be available for reasonable on call and recall duties. Wherever practicable, on call rosters should align with rostered normal duties.
- (c) Senior Doctors will remain on duty when patient needs require, notwithstanding the occurrence of normal meal breaks, conferences or the expiration of their normal hours and will be paid an allowance of **10%** of their annual base salary. This allowance will be regarded as part of salary for all purposes, including leave entitlements and superannuation.

#### 14.5 Recall

- (a) When a Medical Practitioner is recalled for duty, they will be paid an amount equal to one hour at the minimum hourly rate as payment for travelling time.
- (b) In addition, payment for the time worked will be made at the rate of **150%** of the minimum hourly rate on weekdays and **200%** of the minimum hourly rate on weekends and public holidays with a minimum payment of three hours.

Parties are asked to clarify whether this provision is intended to apply to Senior Doctors as suggested in clause 14.4(b).

#### 14.6 Sleepover arrangement—Doctors in training

Where the employer requires a Doctor in training to sleepover, the following provisions will apply:

- (a) the employees will be entitled to an amount of **\$69.31** for each sleepover period. Payment will be deemed to provide compensation for the sleepover and

also include compensation for all work necessarily undertaken by an employee up to a total of one hour duration;

- (b) any work performed by the Doctor in training in excess of one hour during their sleepover will attract the appropriate overtime payment as specified in clause 14.2; and
- (c) if, during the course of the sleepover, the Doctor in training is called to active duty more than five times, the entire period of the sleepover will be paid as active duty at the appropriate rate instead of the payment prescribed in clause 14.6(a) above.

## Part 6—Leave, Public Holidays and Other NES Entitlements

### 15. Annual leave

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

**15.1** Annual leave is provided for in the NES. Casual employees are not entitled to paid annual leave. The NES provides for the accrual of four weeks paid leave per year (five weeks paid leave per year for certain shiftworkers). For the full NES annual leave entitlement see [ss.86–94](#) of the Act.

### 15.2 Additional leave for certain shiftworkers

A Medical Practitioner required to work shifts including weekends is entitled to an additional week's annual leave.

### 15.3 Public holidays falling during annual leave

An additional day will be added to a Medical Practitioner's annual leave entitlement for any public holiday which falls during the period of annual leave.

### 15.4 Annual leave loading

- (a) At the time of taking leave, a Medical Practitioner will be paid a loading of **17.5%** of the minimum weekly rate based on a maximum of four weeks' annual leave.
- (b) A shiftworker, in addition to their ordinary pay, will be paid the higher of:
  - (i) the annual leave loading; or
  - (ii) the weekend and shift penalties the employee would have received had they not been on leave during the relevant period.

## 16. Public holidays

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

- 16.2 A Medical Practitioner who is required to work on a public holiday will be paid in accordance with clause 13.3.

## 17. Personal/carer's leave and compassionate leave

- 17.1 Personal/carer's leave and compassionate leave are provided for in the NES. Casual employees are not entitled to paid personal/carer's leave or paid compassionate leave. The NES provides for:

- the accrual of 10 days' paid personal/carer's leave per year;
- 2 days' unpaid carer's leave (as required); and
- 2 days' paid (unpaid for casuals) compassionate leave (as required).

- 17.2 For the full NES entitlement to personal/carer's leave and compassionate leave see [ss.95–107](#) of the Act.

- 17.3 Personal/carer's leave and compassionate leave are not paid on termination of employment.

## 18. Parental leave and related entitlements

Parental leave and related entitlements are provided for in the NES. The NES provides up to 12 months' unpaid leave to eligible employees, plus a right to request an additional 12 months' unpaid leave, plus other forms of maternity, paternity and adoption-related leave. For the full NES parental leave entitlement see [ss.67–85](#) of the Act.

## 19. Community service leave

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

## 20. Termination of employment

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

### 20.2 Notice of termination by an employee

The notice of termination required to be given by an employee is the same as that required of an employer, except that there is no requirement for employees over 45 years old to give additional notice. If an employee fails to give the required notice, the employer may withhold any money due to the employee on termination under this award or the NES, an amount not exceeding the amount the employee

would have been paid under this award in respect of the period of notice required by this clause, less any period of notice actually given by the employee.

### **20.3 Job search entitlement**

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

## **21. Redundancy**

**21.1** Redundancy pay is provided for in the NES. The NES provides between zero and 16 weeks' redundancy pay upon redundancy, depending on length of service. Small business employers are excluded from the obligation to pay redundancy pay. For the full NES redundancy pay entitlement see [ss.119–122](#) of the Act.

**21.2** A **small business employer** is defined in the Act as an employer that employs fewer than 15 employees. The way that the number of employees is calculated is set out in [s.23](#) of the Act.

### **21.3 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 if the employment had been terminated and the employer may, at the employer's option, make payment instead. The payment will be equal to the difference between the former ordinary time rate of pay and the ordinary time rate of pay for the number of weeks of notice still owing.

### **21.4 Employee leaving during notice period**

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

### **21.5 Job search entitlement**

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

## Part 7—Consultation and Dispute Resolution

### 22. Consultation

#### 22.1 Consultation regarding major workplace change

##### (a) Employers to notify

- (i) Where an employer has made a definite decision to introduce major changes in production, program, organisation, structure or technology that are likely to have significant effects on employees, the employer must notify the employees who may be affected by the proposed changes and their representatives, if any.
- (ii) **Significant effects** include termination of employment; major changes in the composition, operation or size of the employer's workforce or in the skills required; the elimination or diminution of job opportunities, promotion opportunities or job tenure; the alteration of hours of work; the need for retraining or transfer of employees to other work or locations; and the restructuring of jobs. Provided that where this award makes provision for alteration of any of these matters an alteration is deemed not to have significant effect.

##### (b) Employers to discuss change

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

#### 22.2 Consultation about changes to rosters or hours of work

- (a) Where an employer proposes to change an employee's regular roster or ordinary hours of work, the employer must consult with the employee or employees affected and their representatives, if any, about the proposed change.
- (b) The employer must:

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

## **23. Dispute resolution**

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



**Schedule A—Summary of Hourly Rates of Pay**

Note: Summary tables of hourly rates of pay have not been included due to the large number of classifications. If parties think rates tables would be useful, they can be prepared for consideration.

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## Schedule B—Summary of Monetary Allowances

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

### B.1 Wage related allowances and penalties

#### B.1.1 Wage related allowances

The wage related allowances in this award are based on the standard rate as defined in Schedule D as the minimum annual salary for a Senior Specialist—Pay point 1 in clause 10.1(i) = \$86,643

Allowance	Clause	% of standard rate \$86,643	\$ per annum unless otherwise stated
Managerial allowance for Senior Doctors only:	11.2(a)		
Level 1		5.56	4,817.35
Level 2		13.02	11,280.92
Level 3		20.50	17,761.82

#### B.1.2 Adjustment of wage related allowances

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

#### B.1.3 Penalties

The following penalties are calculated by reference to the amount specified:

Allowance	Clause	Method	\$
On call allowance:	14.4		
Medical Practitioners, except for Senior Doctors		10% of employee's daily rate per each day on call	
Senior Doctors <sup>1</sup>		10% of employee's annual base salary	
Sleepover arrangement—Doctors in training	14.6	0.08% of standard rate	69.31 per sleepover period

<sup>1</sup>This allowance applies for all purposes of this award

## B.2 Expense related allowances

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

Allowance	Clause	\$
Meal allowances	11.3(a)	
Work in excess of 10 continuous hours		11.96 per occasion
Work in excess of 15 continuous hours		11.96 per occasion
Travelling, transport and fares	11.3(c)	0.78 per km

### B.2.1 Adjustment of expense related allowances

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

Allowance	Applicable Consumer Price Index figure
Vehicle allowance	Private motoring sub-group
Board and lodging (deduction)	Domestic holiday travel and accommodation sub-group
Meal allowance	Take away and fast foods sub-group

## Schedule C—2014 Part-day public holidays

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

**C.1** Where a part-day public holiday is declared or prescribed between 7.00 pm and midnight on Christmas Eve (24 December 2014) or New Year's Eve (31 December 2014) 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 C.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 C.1(a), will not be entitled to another day off, another day's pay or another day of annual leave as a result of the part-day public holiday.

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

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

## Schedule D—Definitions

In this award, unless the contrary intention appears:

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

**all purposes** means the payment will be included in the rate of pay of an employee who is entitled to the allowance, when calculating any penalties, loadings, payment while they are on leave and superannuation

**daily rate** means the employee's minimum annual salary for the class of work performed divided by 260

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

**doctor in training** means an Intern, Resident Medical Practitioner, Registrar or Senior Registrar

**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)

**medical practitioner** means a person who is employed as a medical practitioner in hospitals, hospices, benevolent homes, day procedure centres, Aboriginal health services, community health centres, the Red Cross Blood Service, the South Australian Institute of Medical and Veterinary Science, the Victorian Cytology Service or the Victorian Institute of Forensic Medicine

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

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

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

**ordinary hourly rate** means the minimum hourly rate for an employee's classification in clause 10.1 plus any all purpose allowances to which an employee is entitled

**senior doctor** means a Specialist, Senior Specialist, Principal Specialist, Senior Principal Specialist, Deputy Director of Medical Services or Director of Medical Services

**shiftworker** means an employee who is regularly rostered to work their ordinary hours outside the ordinary hours of work of a day worker set out in clause 8.1(b)

**small business employer** is defined in the Act as an employer that employs fewer than 15 employees. The way that the number of employees is calculated is set out in [s.23](#) of the Act

**standard rate** means the minimum annual salary for a Senior Specialist—Pay point 1 in clause 10.1(i)

**weekly rate** means the employee’s minimum annual salary for the class of work performed divided by 52

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