

The Exposure Draft was first published on 29 September 2014. Subsequent amendments to the draft are as follows:

Publication date	Reason for amendments	Clauses affected
2 November 2015	Incorporates changes resulting from [2014] FWCFB 9156 and PR559288	9.6
	Incorporate changes resulting from [2014] FWCFB 9412	1.2, 1.5, 2.3, 3.5, 5.1, 6.4, 9.8(d), 15.1, 15.12, 17, 18, 19, 20, 21, Schedule E, Schedule G, Schedule H.
	Incorporates changes resulting from [2015] FWCFB 3500 , PR566678 , PR566819 and PR568050	9, 11, Schedule B, Schedule A, Schedule E, Schedule F
	Incorporates changes resulting from [2015] FWCFB 4658	1, 9, 15, Schedule B, Schedule H
	Incorporate changes resulting from [2015] FWCFB 6656	1.5
	Incorporates changes resulting from [2015] FWCFB 7236	3.2, 5.2, 6.5, 7.5, 10.1, 11.2, 13, 13.1, 14.3, Schedule E, Schedule H
13 June 2017	Correct error	13.1, 14.1, 20.2
	Changes agreed/proposed by the parties	6.4(e), 13.1, 14.1, 14.2, Schedule H
	Incorporate changes resulting from [2016] FWCFB 3500 , PR579762 , PR579515 , PR581528	9, 11, Schedule B, Schedule A, Schedule E, Schedule F
	Incorporate changes resulting from PR580863	Schedule G
	Incorporate changes resulting from PR583034	15, Schedule I, Schedule J
	Incorporate changes resulting from PR585478	14.5, Schedule K
	Note added	Schedule B

Underlined text indicates new text that is to be included. Strikethrough text indicates existing text that is to be deleted.

The text in red represents the provisional view of the Full Bench. Parties were asked to comment on these changes by 20 November 2015

EXPOSURE DRAFT

Mining Industry Award 2015

This exposure draft has been prepared by staff of the Fair Work Commission based on the *Mining Industry Award 2010* (the Mining award) as at 29 October 2015. This exposure draft does not seek to amend any entitlements under the Mining 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 [AM2014/79](#). 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.

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Part 1—Application and Operation

1. Title and commencement

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

2. The National Employment Standards and this award

- 2.1 The [National Employment Standards](#) (NES) and ~~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, 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 mining industry and their employees in the classifications listed in clause 9—Minimum wage rates and classifications to the exclusion of any other modern award.

3.2 Definition of mining industry

For the purposes of this clause **mining industry** means:

- (a) extracting any of the following from the earth by any method including exploration, prospecting, development and land clearing, preparatory work and rehabilitation during the life of the mine:
- (i) any metals, minerals or ores;
 - (ii) phosphates and gemstones;
 - (iii) mineral sands;

- (iv) uranium and other radioactive substances;
- (b) the processing, smelting and refining of any of the metals, minerals, ores or substances covered by clause 3.2(a);
- (c) the transportation, handling and loading of any of the metals, minerals, ores or substances covered by clause 3.2(a):
 - (i) on a mining lease or tenement; or
 - (ii) by the mine operator, a related company or an entity principally engaged by the mine operator to do such work, using the plant or infrastructure (including rail and/or ports) of the mine operator or a related company;
- (d) the servicing, maintaining (including mechanical, electrical, fabricating or engineering) or repairing of plant and equipment used in the activities set out in clauses 3.2(a) to (c) by employees principally employed to perform work on an ongoing basis at a location where those activities are being performed; or
- (e) the provision of temporary labour services used in the activities set out in clauses 3.2(a) to (d), by temporary labour personnel principally engaged to perform work at a location where the activities described above are being performed.

3.3 This award does not cover:

- (a) employers in respect of their operations or activities in the following industries or occupations:
 - (i) aluminium;
 - (ii) catering, accommodation, cleaning and incidental services (unless employed by a mine operator or a related company);
 - (iii) clerical or administrative;
 - (iv) information technology professionals, professional engineers, geologists and scientists;
 - (v) oil, gas and hydrocarbons;
 - (vi) quarrying of stone, crushed stone, sand and gravel, and land reclamation (including dredging);
 - (vii) salt;
 - (viii) security services (unless employed by a mine operator or a related company);
 - (ix) steel making;
 - (x) prospecting and resource assessment for the purposes of potential mine development, which is not on a mining lease or tenement;
 - (xi) brown coal mining; and

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(xii) melting and smelting of metals in connection with manufacturing activities covered by the *Manufacturing and Associated Industries and Occupations Award 2015*;

- (b) employers in respect of their operations or activities covered by the *Black Coal Mining Industry Award 2015*;
- (c) employers in respect of their operations or activities covered by the *Manufacturing and Associated Industries and Occupations Award 2015*, except for work covered by clause 3.2 above; and
- (d) persons employed in the head office or town office of the employer.

3.4 This award covers employers which provide group training services for apprentices and trainees engaged in the industry and/or parts of industry set out at clause 3.2; and those apprentices and/or trainees engaged by a group training service hosted by a company to perform work at a location where the activities described in clause 3.2 are being performed. This subclause operates subject to the exclusions from coverage in this award.

3.5 This award does not cover:

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

3.6 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 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:
- (a) clause 7.4(b)—Ordinary hours of work—employees other than shiftworkers;
 - (b) clause 7.5(c)—Ordinary hours of work—shiftworkers
 - (c) clause 7.7—Variation to rosters;
 - (d) clause 14.5—Time off instead of payment for overtime;
 - (e) clause 14.6—Rest breaks during overtime;
 - (f) clause 15.11(a)—Taking annual leave over an extended period
 - (g) clause 15.6—Annual leave in advance; and
 - (h) clause 18.3—Substitution of public holidays.

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 employees

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

6.3 Part-time employees

- (a) A part-time employee:
 - (i) is engaged to work an average of less than 38 ordinary hours per week; and
 - (ii) receives, on a pro rata basis, equivalent pay and conditions to those of full-time employees who do the same kind of work.
- (b) An employer must inform a part-time employee of:
 - (i) the employee's ordinary hours of work; and
 - (ii) the starting and finishing times of their work.
- (c) All time worked in excess of the hours under clause 6.3(b) will be paid at the appropriate overtime rate.
- (d) For each ordinary hour worked, a part-time employee will be paid no less than the minimum hourly rate of pay for the relevant classification in clause 9.

6.4 Casual employees

- (a) A casual employee is an employee who is engaged and paid as a casual employee.
- (b) A casual employee's ordinary hours of work are the lesser of:
 - (i) an average of 38 hours per week; or
 - (ii) the hours the employer requires the employee to work.
- (c) A casual employee will be paid:
 - (i) an hourly rate of no less than 1/38th of the minimum weekly rate for the classification in which they are employed; plus
 - (ii) a casual loading of 25%.
- (d) The casual loading constitutes part of the employee's all purpose rate.
- (e) The casual loading in clause 6.4(c)(ii) is paid instead of annual leave, personal/carer's leave, notice of termination, redundancy benefits and the other ~~entitlements~~ attributes of full-time or part-time employment.

6.5 provisionally deleted in accordance with para [139] [\[2015\] FWCFB 7236](#)

6.5 ~~Probation period~~

- ~~(a) An employer may initially engage a full-time or part-time employee for a period of probationary employment for the purpose of determining the employee's suitability for ongoing employment.~~
- ~~(b) The employee must be advised in advance that the employment is probationary and of the duration of the probation which is to be either:
 - ~~(i) three months or less; or~~~~

~~(ii) more than three months and is reasonable, having regard to the nature and circumstances of the employment.~~

Part 3—Hours of Work

7. Ordinary hours of work and rostering

7.1 A full-time employee's ordinary hours of work will be an average of 38 hours per week.

7.2 The ordinary hours of part-time and casual employees will be in accordance with clause 6—Types of employment.

7.3 This clause provides industry specific detail and supplements the NES which deals with maximum weekly hours. For the purposes of [s.63](#) of the Act, an employee's ordinary weekly hours may be averaged over a period of up to 26 weeks.

7.4 Ordinary hours of work—employees other than shiftworkers

(a) Subject to clause 7.4(c) an employee who is not a shiftworker may be required to work up to 10 ordinary hours per day, between the hours of 6.00 am and 6.00 pm Monday to Sunday.

(b) The employer may agree with a majority of affected employees to:

(i) alter the span of hours in clause 7.4(a); and/or

(ii) increase the ordinary hours per day to a maximum of 12.

(c) Where an employee was required to work 12 hour shifts under roster and working hours arrangements which were in place before 1 January 2010 those arrangements may continue to operate in respect of an existing employee and a new employee.

7.5 Ordinary hours of work—shiftworkers

(a) Subject to clause 7.5(d), an employee who is a shiftworker may be required to work a shift of up to 10 consecutive ordinary hours (including meal breaks).

(b) Shiftwork may be worked on any day of the week.

(c) The employer may agree with a majority of affected employees to:

(i) alter the span of hours in clause 7.5(a); and/or

(ii) increase the ordinary hours per day to a maximum of 12.

(d) Where employees were required to work 12 hour shifts under roster and working hours arrangements which were in place before 1 January 2010 those arrangements may continue to operate in respect to both existing employees and new employees.

7.6 Special arrangements for cycle work

Regardless of any other provision of this award, the following arrangements apply to employees who are required to undertake a work cycle.

- (a) Employees may be engaged to work on a work cycle made up of working and non-working days.
- (b) The total ordinary hours of work during a work cycle must not exceed 38 hours multiplied by the total number of working (on-duty period) and non-working (off-duty period) days in the cycle, divided by seven.
 - (i) The **on-duty period** commences at the time the employee reports to the point designated by the employer for commencement of work at the workplace.
 - (ii) The **off-duty period** commences at the conclusion of the employee's last rostered shift.

7.7 Variations to rosters

- (a) The employer may vary an employee's days of work or start and finish times to meet the needs of the business by giving the employee at least 48 hours' notice, or any shorter period agreed between the employer and the individual employee.
- (b) Where an employee is performing shiftwork, the employer may change shift rosters or require the employee to work a different shift roster by giving the employee 48 hours' notice.
- (c) The notice period in clause 7.7(b) may be reduced:
 - (i) where agreed by the employer and the employee; or
 - (ii) where operational circumstances require it, at the direction of the employer.
- (d) The employer must consult with directly affected employees about any changes made under this clause in accordance with clause 22.2.

7.8 Emergency arrangements

Regardless of any other provision of clause 7, the employer may vary or suspend any roster arrangement immediately in an emergency.

8. Breaks

8.1 Meal breaks

- (a) An employee who is not a shiftworker is entitled to an unpaid meal break of at least 30 minutes after every five hours worked.
- (b) A shiftworker working 10 hours or less will be entitled to a paid meal break of 20 minutes per shift.
- (c) A shiftworker working longer than 10 hours will be entitled to paid meal breaks totalling 40 minutes per shift.

- (d) Meal breaks will be scheduled by an employee’s supervisor based upon operational requirements so as to ensure continuity of operations.
- (e) The employer will not require an employee to work more than five hours before the first meal break is taken or between subsequent meal breaks (if any).

8.2 Rest breaks during overtime

Clause 14.6 provides for rest periods during overtime.

8.3 Minimum break between work on successive days or shifts

(a) Employees other than shiftworkers

- (i) When overtime work is necessary it must, wherever reasonably practicable, be arranged so that employees have at least 10 consecutive hours off work between work on successive working days.
- (ii) An employee (other than a casual employee) who works so much overtime between the end of ordinary work on one day and the start of ordinary work on the next day that the employee has not had at least 10 consecutive hours off work between those times must be released after completion of the overtime until the employee has had 10 consecutive hours off work without loss of pay for ordinary working time occurring during such absence.
- (iii) If on the instructions of the employer an employee resumes or continues work without having had the 10 consecutive hours off work, the employee must be paid at the relevant overtime rate until released from work for such period. The employee is then entitled to be absent until they have had 10 consecutive hours off work without loss of pay for ordinary working time occurring during the absence.

(b) Shiftworkers

Clause 8.3(a) applies to an employee who is a shiftworker as if a reference to 10 consecutive hours were a reference to eight consecutive hours.

Part 4—Wages and Allowances

9. Minimum wage rates and classifications

Rates updated as a result of AWR 2016

9.1 Adult employees

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

Level	Employee classification	Minimum weekly rate \$	Minimum hourly rate \$
Entry Level	Introductory	697.40	18.35
Level 1	Basic	731.80	19.26

Level	Employee classification	Minimum weekly rate \$	Minimum hourly rate \$
Level 2	Intermediate	760.00	20.00
Level 3	Competent	783.30	20.61
Level 4	Advanced	835.60	21.99
Level 5	Advanced specialist	889.90	23.42
Level 6	Dual Trade	933.50	24.57
Level 7	Dual trade instrumentation	971.40	25.56

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

- (b) The classification structure and descriptors for the above classifications are contained in Schedule A—Classification Definitions and Structure.

9.2 Junior employees

- (a) Where the law permits junior employees to perform work in the mining industry, junior employees will be entitled to the percentage of the applicable adult weekly rate (or in the case of part-time or casual employees, the hourly rate) for their classification as follows:

Age	% of adult rate
16 years or less	75
At 17 years	85
At 18 years	100

9.3 School-based apprentices

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

9.4 Apprentices and trainees

- (a) The terms of this award apply to apprentices and trainees, subject to the provisions of an applicable contract of apprenticeship or training agreement operating under federal, state or territory apprenticeship or training legislation and Schedule E—National Training Wage.

- (b) Apprentices who commenced before 1 January 2014 will be entitled to the percentage of the applicable adult weekly wage for their classification as set out in the table below.

Year of apprenticeship	% of adult rate
1st year	45
2nd year	55
3rd year	75
4th year	88

- (c) Apprentices who commenced their apprenticeship on or after 1 January 2014 will be entitled to the following minimum percentage of the Level 3 rate for their classification:

Year of apprenticeship	% of Level 3 rate for apprentices who have not completed year 12	% of Level 3 rate for apprentices who have completed year 12
1st year	50	55
2nd year	60	65
3rd year	75	75
4th year	88	88

9.5 Adult apprentices

- (a) An adult apprentice who commenced on or after 1 January 2014 and is in the first year of their apprenticeship will be entitled to the greater of:
- (i) 80% of the Level 3 rate in clause 9.1; or
 - (ii) the rate prescribed by clause 9.4(c) for the relevant year of the apprenticeship.
- (b) An adult apprentice who commenced on or after 1 January 2014 and is in the second and subsequent years of their apprenticeship will be entitled to the greater of:
- (i) the lowest adult classification in clause 9.1; or
 - (ii) the rate prescribed by clause 9.4(c) for the relevant year of the apprenticeship.
- (c) A person employed by an employer under this award in that enterprise for at least six months as a full-time employee (or 12 months as a part-time or regular and systematic casual employee) immediately prior to entering into a training agreement as an adult apprentice with that employer must not suffer a reduction in their minimum wage by virtue of entering into the training agreement. For the purpose only of fixing a minimum wage, the adult apprentice must continue to receive the minimum wage that applies to the classification specified in clause 9.1 in which the adult apprentice was engaged immediately prior to entering into the training agreement.

9.6 Apprentice conditions of employment

- (a) Where an apprentice is required to attend block release training for training identified in or associated with their training contract, and such training requires an overnight stay, the employer must pay for the excess reasonable travel costs incurred by the apprentice in the course of travelling to and from such training. Provided that this clause will not apply where the apprentice could attend an alternative Registered Training Organisation (RTO) and the use of the more distant RTO is not agreed between the employer and the apprentice.

- (b) For the purposes of clause 9.6(a) above, excess reasonable travel costs include the total costs of reasonable transportation (including transportation of tools where required), accommodation costs incurred while travelling (where necessary) and reasonable expenses incurred while travelling, including meals, which exceed those incurred in travelling to and from work. For the purposes of this subclause, excess travel costs do not include payment for travelling time or expenses incurred while not travelling to and from block release training.
- (c) The amount payable by an employer under clause 9.6(a) may be reduced by an amount the apprentice is eligible to receive for travel costs to attend block release training under a Government apprentice assistance scheme. This will only apply if an apprentice has either received such assistance or their employer has advised them in writing of the availability of such assistance.
- (d) All training fees charged by an RTO for prescribed courses and the cost of all prescribed textbooks (excluding those textbooks which are available in the employer's technical library) for the apprenticeship, which are paid by an apprentice, shall be reimbursed by the employer within six months of the commencement of the apprenticeship or the relevant stage of the apprenticeship, or within three months of the commencement of the training provided by the RTO, whichever is the later, unless there is unsatisfactory progress.
- (e) An employer may meet its obligations under clause 9.6(d) by paying any fees and/or cost of textbooks directly to the RTO.
- (f) An apprentice is entitled to be released from work without loss of continuity of employment and to payment of the appropriate wages to attend any training and assessment specified in, or associated with, the training contract.
- (g) Time spent by an apprentice in attending any training and/or assessment specified in, or associated with, the training contract is to be regarded as time worked for the employer for the purposes of calculating the apprentice's wages and determining the apprentice's employment conditions. This subclause operates subject to the provisions of Schedule D—School-based Apprentices.
- (h) No apprentice will, except in an emergency, work or be required to work overtime or shiftwork at times which would prevent their attendance at training consistent with their training contract.

9.7 Supported wage system

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

9.8 Payment of wages

- (a) Wages, penalties and allowances will be paid at a frequency of not longer than monthly.
- (b) The employer must pay an employee's wages by electronic funds transfer into a bank or financial institution nominated by the employee.
- (c) The employer may deduct from any amount required to be paid to an employee the amount of any overpayment of wages or allowances.

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

10. Annualised salaries

Annualised salaries are being reviewed in [AM2016/13](#)

10.1 Annual salary instead of award provisions

- (a) An employer may pay an employee an annual salary to compensate for any or all of the following provisions of this award:
 - (i) clause 9—Minimum wage rates and classifications;
 - (ii) clause 11—Allowances
 - (iii) clause 13—Shiftwork and Penalty Rates
 - (iv) clause 14—Overtime; and

10.1(a)(v) provisionally amended in accordance with para [140] [\[2015\] FWCFCB 7236](#)

- (v) clause 15—Annual leave **loading**.
- (b) 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.
- (c) 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 time worked).
- (d) 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.

10.2 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 rate of pay in clause 9—Minimum wage rates and classifications and excludes any incentives-based payments, bonuses, loading, monetary allowances, overtime and penalties.

11. Allowances

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

- 11.1 Employers must pay to an employee the allowances the employee is entitled to under this clause. Where an employee is paid by the hour, the allowance will be 1/38th of the weekly allowance. See Schedule A 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, loadings or payment while they are on annual leave. The following allowances are paid for all purposes under this award:

- (i) industry allowance (clause 11.2(b));
- (ii) licence allowance—electricians (clause 11.2(c)); and
- (iii) drilling, prospecting and exploration—cooks and cooks' assistants—broken shift allowance (clause 11.2(d)(iii)).

(b) Industry allowance

- (i) Employees will be paid an allowance of **\$28.98** per week which will be paid for all purposes.
- (ii) The industry allowance recognises and is in payment for all aspects of work in the industry, including but not limited to the location and nature of mining operations, clothing, dirt, wet, height, fumes, heat, cold, confined space, and all other disabilities not expressly dealt with under this clause.

(c) Licence allowance—electricians

Employees will be paid an allowance of **\$35.64** per week if they are required by their employer to hold an Electrical Technicians licence (or equivalent). This allowance will be paid for all purposes.

(d) Drilling, prospecting and exploration allowances

The following allowances apply only to employees who are required to perform drilling, prospecting and exploration duties.

- (i) Employees who are required to camp at remote locations (including remote from a mine site) and reasonable transport to and from their home is not provided by their employer, will be paid an allowance as follows:
 - **\$26.55** per day, where meals are not provided by the employer; and
 - **\$14.65** per day where meals are provided by the employer.
- (ii) However, the allowance is not required to be paid where accommodation and meals are provided by the employer, or where the employer pays for, or reimburses the employee for, fares to return to and from home each weekend, or where the employee is engaged on a regular commute arrangement as part of a mining operation.
- (iii) Employees who are classified as cooks and cooks assistants will be paid an allowance for all purposes of **\$8.38** per week whilst they are required by their employer to work broken shifts.
- (iv) Where an employee is required by the employer:

- to transfer from one place of employment to another place of employment; or
- to work away from their usual place of employment for a temporary period,

they will be reimbursed for the cost of transport, and they will be paid travelling time of up to eight hours at the employee’s ordinary hourly rate (provided that no reimbursement will be required to be made if the employer provides transport).

(e) First aid allowance

An employee who holds first aid qualifications from St John Ambulance or an equivalent body, and who is appointed by the employer to participate in the emergency response team or otherwise to perform first aid duty, will be paid a first aid payment of **\$15.67** per week.

(f) Leading hand

A leading hand must be paid a weekly allowance of:

In charge of	\$ per week
3–10 employees	34.47
11–20 employees	43.86
More than 20 employees	58.98

11.2(g) provisionally amended in accordance with para [142] [\[2015\] FWCFB 7236](#)

(g) Rail allowance

An employee who is assessed as being mainline competent and appointed by their employer as Locomotive Drivers and required to operate on the mainline will receive a rail allowance of **30%** of the ~~ordinary hourly rate~~ minimum rate of pay.

(h) Underground allowance

An employee, other than an employee classified as an underground miner, will be paid an allowance of **\$1.44** per hour whilst required by their employer to work underground.

11.3 Expense related allowances

(a) Meal allowance for overtime work

An employee will be paid a meal allowance of **\$15.91** on each occasion that the employee is entitled to a rest break during overtime work, provided that an allowance is not required to be paid if the employer provides a meal or meal-making facilities or if the employee was notified no later than the previous day or shift that the employee would be required to work the overtime.

(b) Tool allowance

An employee who is required by the employer to supply and maintain tools ordinarily required in the performance of work will be paid an allowance of **\$14.92** per week.

12. Superannuation

12.1 Superannuation contributions for defined benefit members

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

Part 5—Penalties and Overtime

13. Shiftwork and Penalty Rates

13.1 Definitions

afternoon shift means any shift finishing after 7.00 pm and at or before midnight

continuous shiftworker means an employee engaged in a continuous process who is rostered to work regularly on Sundays and public holidays

night shift means any shift finishing after midnight and at or before 8.00 am

permanent night shift means a period of shiftwork where an employee works ~~afternoon shift only or~~ night shift only; ~~or~~ remains on ~~afternoon or~~ night shift for longer than four consecutive weeks; or works on ~~afternoon or~~ night shift that does not rotate or alternate with another shift or with day work so as to give that employee at least one third of working time off the ~~afternoon or~~ night shift in each cycle

13.2 A shiftworker or a continuous shiftworker must be paid:

- (a)** **115%** of their ordinary hourly rate of pay, while on afternoon shift or night shift; and
- (b)** **130%** of their ordinary hourly rate of pay, while on permanent night shift.

13.3 Weekend work and public holiday rates

An employee will be paid the following rates for ordinary hours worked on a Saturday, a Sunday or a public holiday:

For ordinary hours worked on:	% of ordinary hourly rate
Saturday before 12 noon – first three hours	150%
Saturday before 12 noon – after three hours	200%
Saturday after 12 noon and all hours on Sunday	200%
Public holiday	250%

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

13.4 Payments under clause 13 are in substitution for any other loadings or penalty rates.

14. Overtime

14 amended in accordance with [PR585478](#) (14.5 substituted)

14.1 Overtime payments—employees other than continuous shiftworkers

Except where provided otherwise in clauses ~~13 and~~ 14, an employee who is not a continuous shiftworker will be paid for all work done in addition to their ordinary hours at the following rates:

For overtime worked on:	Overtime rate <u>% of ordinary hourly rate</u>
Monday to 12 noon on Saturday – first three hours	150%
Monday to 12 noon on Saturday – after three hours	200%
After 12 noon on Saturday and all hours on Sunday	200%
Public holiday	250%

14.2 Overtime—continuous shiftworkers

A continuous shiftworker will be paid for all hours worked in addition to their ordinary hours at the following rate:

For overtime worked on:	Overtime rate <u>% of ordinary hourly rate</u>
Monday to Sunday – all hours	200%

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

14.3 Recall—employees other than continuous shiftworkers

Where the employer requires an employee to return to work overtime after leaving the employer’s premises (regardless of whether or the employee is notified before or after leaving) the employee will be:

- (a) engaged to work for a minimum of four hours; or
- (b) where the employee is engaged to work for less than four hours, paid for a minimum of four hours at the appropriate overtime rate.

14.4 Method of calculation

- (a) When calculating overtime payments, each day or shift worked will stand alone.
- (b) Overtime payments under clause 14 are in substitution for any other loadings or penalty rates.

14.5 Time off instead of payment for overtime

- (a) An employee and employer may agree in writing to the employee taking time off instead of being paid for a particular amount of overtime that has been worked by the employee.
- (b) Any amount of overtime that has been worked by an employee in a particular pay period and that is to be taken as time off instead of the employee being paid for it must be the subject of a separate agreement under clause 14.5.
- (c) An agreement must state each of the following:
 - (i) the number of overtime hours to which it applies and when those hours were worked;
 - (ii) that the employer and employee agree that the employee may take time off instead of being paid for the overtime;
 - (iii) that, if the employee requests at any time, the employer must pay the employee, for overtime covered by the agreement but not taken as time off, at the overtime rate applicable to the overtime when worked;
 - (iv) that any payment mentioned in subparagraph (iii) must be made in the next pay period following the request.

Note: An example of the type of agreement required by this clause is set out at Schedule K. There is no requirement to use the form of agreement set out at Schedule K. An agreement under clause 14.5 can also be made by an exchange of emails between the employee and employer, or by other electronic means.

- (d) The period of time off that an employee is entitled to take is the same as the number of overtime hours worked.

EXAMPLE: By making an agreement under clause 14.5 an employee who worked 2 overtime hours is entitled to 2 hours' time off.

- (e) Time off must be taken:
 - (i) within the period of 6 months after the overtime is worked; and
 - (ii) at a time or times within that period of 6 months agreed by the employee and employer.
- (f) If the employee requests at any time, to be paid for overtime covered by an agreement under clause 14.5 but not taken as time off, the employer must pay the employee for the overtime, in the next pay period following the request, at the overtime rate applicable to the overtime when worked.
- (g) If time off for overtime that has been worked is not taken within the period of 6 months mentioned in paragraph (e), the employer must pay the employee for the overtime, in the next pay period following those 6 months, at the overtime rate applicable to the overtime when worked.
- (h) The employer must keep a copy of any agreement under clause 14.5 as an employee record.

- (i) An employer must not exert undue influence or undue pressure on an employee in relation to a decision by the employee to make, or not make, an agreement to take time off instead of payment for overtime.
- (j) An employee may, under section 65 of the Act, request to take time off, at a time or times specified in the request or to be subsequently agreed by the employer and the employee, instead of being paid for overtime worked by the employee. If the employer agrees to the request then clause 14.5 will apply, including the requirement for separate written agreements under paragraph (b) for overtime that has been worked.

Note: If an employee makes a request under section 65 of the Act for a change in working arrangements, the employer may only refuse that request on reasonable business grounds (see section 65(5) of the Act).

- (k) If, on the termination of the employee's employment, time off for overtime worked by the employee to which clause 14.5 applies has not been taken, the employer must pay the employee for the overtime at the overtime rate applicable to the overtime when worked.

Note: Under section 345(1) of the Act, a person must not knowingly or recklessly make a false or misleading representation about the workplace rights of another person under clause 14.5.

14.6 Rest breaks during overtime

- (a) An employee may take a paid rest break of 20 minutes after each four hours of overtime worked, if the employee is required to continue work after the rest break.
- (b) The employer and an employee may agree to vary clause 14.6 to meet the circumstances of the workplace, 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.

14.7 Rest breaks after overtime

Clause 8.3 provides for a minimum rest period after overtime.

Part 6—Leave, Public Holidays and Other NES Entitlements

15. Annual leave

15 amended in accordance with [PR583034](#). (new 15.5; old 15.5 renumbered and substituted as 15.6; 15.7 substituted; old 15.8 renumbered as 15.11; 15.9, 15.10, 15.12 inserted.)

15.1 This clause of the award supplements the provisions of the NES which deal with annual leave. Annual leave does not apply to casual employees.

15.2 For the purposes of the provisions of the NES which deal with annual leave, shiftworker means a continuous shiftworker.

15.3 Payment for annual leave

The amount to be paid to an employee prior to going on leave must be worked out on the basis of the greater of:

- (a) the amount the employee would have been paid for working ordinary hours during the period of annual leave including loadings, penalties and allowances paid for all purposes; but excluding payments in respect of overtime, or any other payment which might have been payable to the employee as a reimbursement for expenses incurred; or
- (b) the employee's minimum rate of pay for ordinary hours under clause 9— Minimum wage rates and classifications; plus an annual leave loading of 17.5%.

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 Arrangements for taking leave

- (a) Where an employee works in a remote location or on cycle work made up of working days and non-working days, a period of paid annual leave includes the working days and the non-working days during the period.
- (b) Where an employee works in a remote location or on cycle work made up of working days (on-duty period) and non-working days (off-duty period), the employer may reasonably require that:
 - (i) any period of annual leave taken by the employee is a multiple of the on-duty period and/or the off-duty period under the employee's work cycle; or
 - (ii) the employee takes annual leave in accordance with the work cycle.

15.5 Electronic funds transfer (EFT) payment of annual leave

Despite anything else in this clause, an employee paid by electronic funds transfer (EFT) may be paid in accordance with their usual pay cycle while on paid annual leave. The amount to be paid must be worked out in accordance with clause 15.3.

15.6 Annual leave in advance

- (a) An employer and employee may agree in writing to the employee taking a period of paid annual leave before the employee has accrued an entitlement to the leave.
- (b) An agreement must:
 - (i) state the amount of leave to be taken in advance and the date on which leave is to commence; and
 - (ii) be signed by the employer and employee and, if the employee is under 18 years of age, by the employee's parent or guardian.

Note: An example of the type of agreement required by clause 15.6 is set out at Schedule I. There is no requirement to use the form of agreement set out at Schedule I.

- (c) The employer must keep a copy of any agreement under clause 15.6 as an employee record.
- (d) If, on the termination of the employee's employment, the employee has not accrued an entitlement to all of a period of paid annual leave already taken in accordance with an agreement under clause 15.6, the employer may deduct from any money due to the employee on termination an amount equal to the amount that was paid to the employee in respect of any part of the period of annual leave taken in advance to which an entitlement has not been accrued.

15.7 Taking of annual leave during shut downs

- (a) An employer may direct an employee to take paid annual leave during all or part of a period where the employer shuts down the business or part of the business where the employee works.
- (b) If an employee does not have sufficient accrued annual leave for the period of the shut down, then the employee may be required to take leave without pay.

15.8 Excessive leave accruals: general provision

Note: Clauses 15.8 to 15.10 contain provisions, additional to the National Employment Standards, about the taking of paid annual leave as a way of dealing with the accrual of excessive paid annual leave. See Part 2.2, Division 6 of the Fair Work Act.

- (a) An employee has an **excessive leave accrual** if the employee has accrued more than 8 weeks' paid annual leave (or 10 weeks' paid annual leave for a shiftworker, as defined by clause 15.2).
- (b) If an employee has an excessive leave accrual, the employer or the employee may seek to confer with the other and genuinely try to reach agreement on how to reduce or eliminate the excessive leave accrual.
- (c) Clause 15.9 sets out how an employer may direct an employee who has an excessive leave accrual to take paid annual leave.
- (d) Clause 15.10 sets out how an employee who has an excessive leave accrual may require an employer to grant paid annual leave requested by the employee.

15.9 Excessive leave accruals: direction by employer that leave be taken

- (a) If an employer has genuinely tried to reach agreement with an employee under clause 15.8(b) but agreement is not reached (including because the employee refuses to confer), the employer may direct the employee in writing to take one or more periods of paid annual leave.
- (b) However, a direction by the employer under paragraph (a):
 - (i) is of no effect if it would result at any time in the employee's remaining accrued entitlement to paid annual leave being less than 6 weeks when any other paid annual leave arrangements (whether made under clause

15.8, 15.9 or 15.10 or otherwise agreed by the employer and employee) are taken into account; and

- (ii) must not require the employee to take any period of paid annual leave of less than one week; and
 - (iii) must not require the employee to take a period of paid annual leave beginning less than 8 weeks, or more than 12 months, after the direction is given; and
 - (iv) must not be inconsistent with any leave arrangement agreed by the employer and employee.
- (c) The employee must take paid annual leave in accordance with a direction under paragraph (a) that is in effect.
- (d) An employee to whom a direction has been given under paragraph (a) may request to take a period of paid annual leave as if the direction had not been given.

Note 1: Paid annual leave arising from a request mentioned in paragraph (d) may result in the direction ceasing to have effect. See clause 15.9(b)(i).

Note 2: Under section 88(2) of the Fair Work Act, the employer must not unreasonably refuse to agree to a request by the employee to take paid annual leave.

15.10 Excessive leave accruals: request by employee for leave

- (a) Clause 15.10 comes into operation from 29 July 2017.
- (b) If an employee has genuinely tried to reach agreement with an employer under clause 15.8(b) but agreement is not reached (including because the employer refuses to confer), the employee may give a written notice to the employer requesting to take one or more periods of paid annual leave.
- (c) However, an employee may only give a notice to the employer under paragraph (b) if:
- (i) the employee has had an excessive leave accrual for more than 6 months at the time of giving the notice; and
 - (ii) the employee has not been given a direction under clause 15.9(a) that, when any other paid annual leave arrangements (whether made under clause 15.8, 15.9 or 15.10 or otherwise agreed by the employer and employee) are taken into account, would eliminate the employee's excessive leave accrual.
- (d) A notice given by an employee under paragraph (b) must not:
- (i) if granted, result in the employee's remaining accrued entitlement to paid annual leave being at any time less than 6 weeks when any other paid annual leave arrangements (whether made under clause 15.8, 15.9 or 15.10 or otherwise agreed by the employer and employee) are taken into account; or
 - (ii) provide for the employee to take any period of paid annual leave of less than one week; or

- (iii) provide for the employee to take a period of paid annual leave beginning less than 8 weeks, or more than 12 months, after the notice is given; or
 - (iv) be inconsistent with any leave arrangement agreed by the employer and employee.
- (e) An employee is not entitled to request by a notice under paragraph (b) more than 4 weeks' paid annual leave (or 5 weeks' paid annual leave for a shiftworker, as defined by clause 15.2) in any period of 12 months.
 - (f) The employer must grant paid annual leave requested by a notice under paragraph (b).

15.11 Taking of annual leave over an extended period

- (a) An employer and employee may agree that the employee can take a period of paid leave over a longer period.
- (b) Where an agreement under clause 15.11(a) is made, the payment for the leave will be reduced in proportion to the period of extension. For example, it may be agreed that the leave period is doubled and taken on half pay.

EXAMPLE – Taking annual leave over an extended period

George is a full-time Grade 1 employee who makes an agreement with his employer that his 4 weeks of annual leave is to be taken over a period of 8 weeks. George will be paid for each of the 8 weeks at half the rates of pay he would have received under clause 15.3.

15.12 Cashing out of annual leave

- (a) Paid annual leave must not be cashed out except in accordance with an agreement under clause 15.12.
- (b) Each cashing out of a particular amount of paid annual leave must be the subject of a separate agreement under clause 15.12.
- (c) An employer and an employee may agree in writing to the cashing out of a particular amount of accrued paid annual leave by the employee.
- (d) An agreement under clause 15.12 must state:
 - (i) the amount of leave to be cashed out and the payment to be made to the employee for it; and
 - (ii) the date on which the payment is to be made.
- (e) An agreement under clause 15.12 must be signed by the employer and employee and, if the employee is under 18 years of age, by the employee's parent or guardian.
- (f) The payment must not be less than the amount that would have been payable had the employee taken the leave at the time the payment is made.
- (g) An agreement must not result in the employee's remaining accrued entitlement to paid annual leave being less than 4 weeks.

- (h) The maximum amount of accrued paid annual leave that may be cashed out in any period of 12 months is 2 weeks.
- (i) The employer must keep a copy of any agreement under clause 15.12 as an employee record.

Note 1: Under section 344 of the Fair Work Act, an employer must not exert undue influence or undue pressure on an employee to make, or not make, an agreement under clause 15.12.

Note 2: Under section 345(1) of the Fair Work Act, a person must not knowingly or recklessly make a false or misleading representation about the workplace rights of another person under clause 15.12.

Note 3: An example of the type of agreement required by clause 15.12 is set out at Schedule J. There is no requirement to use the form of agreement set out at Schedule J.

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. Public holidays

18.1 Public holidays are provided for in the NES.

18.2 Where an employee works on a public holiday they will be paid in accordance with clauses 13.3 and 14.

18.3 Substitution of public holidays by agreement

An employer and a majority of affected employees or an individual employee may reach agreement in writing to substitute a day or part-day for a day or part-day that would otherwise be a public holiday under the NES.

18.4 Part-day public holidays

18.4 inserted on 1 September 2016

For provisions relating to part-day public holidays see Schedule G—2016 Part-day public holidays.

19. Community service leave

Community service leave is provided for in the NES.

20. Termination of employment

20.2 amended to reflect wording in current award

20.1 Notice of termination is provided for in the NES.

20.2 Notice of termination by an employee

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

20.3 Job search entitlement

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

21. Redundancy

21.1 Redundancy pay is provided for in the NES.

21.2 Transfer to lower paid duties

Where an employee is transferred to lower paid duties by reason of redundancy, the same period of notice must be given as 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.

21.3 Employee leaving during notice period

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

21.4 Job search entitlement

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

- (c) This entitlement applies instead of clause 20.3.

Part 7—Consultation and Dispute Resolution

22. Consultation

22.1 Consultation regarding major workplace change

(a) **Employers to notify**

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

(b) **Employers to discuss change**

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

22.2 Consultation about changes to rosters or hours of work

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

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

23. Dispute resolution

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

Schedule A—Classification Definitions and Structure

A.1 Classification and progression principles

A.1.1 Classification

In each of the classifications under this award it is a requirement that an employee must:

- (a) perform work in a fully flexible manner as reasonably required by the employer and in accordance with the employee's ability and competence;
- (b) acquire any skills as reasonably requested by the employer and, where necessary, undertake required training and assist with the training of others; and
- (c) use such tools and equipment as may be required, subject to the limit of the employee's skills and competence and provided that the employee has been properly trained in the use of such tools and equipment.

A.1.2 Progression

An employee will progress through the classification levels subject to:

- (a) possessing the applicable skills for the level; and
- (b) being required by the employer to perform work at that level.

Progression from Level 4 and above will be subject to the employee being appointed by the employer.

A.2 Classification groups

A.2.1 Mining Industry Services Employees

A Mining Industry Services Employee is designated as such by their employer and performs all tasks as directed by their employer which include but are not limited to:

- labouring;
- assisting work crews and tradespersons;
- operation of plant and equipment (including mobile plant);
- maintenance work on plant, equipment or buildings;
- performance of general plant, stores, workshop, warehouse, packaging, and marine interface tasks, resource assessment (including prospecting, drilling and exploration);
- preparing and cleaning equipment and materials; and
- on site catering cleaning and security.

This classification group also encompasses work performed by Laboratory Assistants, who do not hold tertiary qualifications.

A.2.2 Mining Industry Surface Mining and Haulage Employees

A Mining Industry Surface Mining and Haulage Employee is designated as such by their employer and performs all tasks as directed by their employer which include but are not limited to:

- open cut mining activities (including labouring, sampling, spotting);
- operating all forms of mining industry plant and equipment (including mobile plant);
- operating equipment used in the transportation handling and loading (or discharge) of ores, metals, minerals and/or product (including rail activities); and
- all tasks associated with drilling and blasting.

A.2.3 Mining Industry Processing Employees

A Mining Industry Processing Employee is designated as such by their employer and performs all tasks as directed by their employer which include but are not limited to:

- operating and adjusting all plant equipment (and associated control panels) utilised in mining industry production, processing, smelting and refining operations; and
- issuing clearances and permits as required.

A.2.4 Mining Industry Underground Mine Employees

A Mining Industry Underground Mine Employee is designated as such by their employer and performs all tasks as directed by their employer which include but are not limited to:

- underground mining activities (including labouring, sampling, drilling, blasting, mine ventilation, ground control and shaft activities); and
- operation and maintenance of underground mining plant and equipment (including mobile plant).

A.2.5 Mining Industry Maintenance Trades Employees

A Mining Industry Maintenance Trades Employee is designated as such by their employer, performs all tasks on the surface or underground as directed by their employer and is trade qualified.

A.3 Classification Structure

A.3.1 Entry Level—Introductory

An employee at this level is undertaking the standard induction training required for the operation or business. Such training covers:

- conditions of employment;
- mine and plant safety;
- first aid procedures;
- movement around the site;

- work and documentation procedures;
- quality control and quality assurance; and
- introduction to supervisors and fellow workers.

Employees at this level perform routine duties under direct supervision.

This level applies to the following classification groups:

- Mining Industry Services Employees;
- Mining Industry Surface Mining and Haulage Employees;
- Mining Industry Processing Employees; and
- Mining Industry Underground Mine Employees.

A.3.2 Level 1—Basic

An employee at this level will have completed the standard induction training and have been assessed to be able to competently carry out the basic and semi-skilled work required for this level.

This level applies to the following classification groups:

- Mining Industry Services Employees;
- Mining Industry Surface Mining and Haulage Employees;
- Mining Industry Processing Employees; and
- Mining Industry Underground Mine Employees.

A.3.3 Level 2—Intermediate

An employee at this level will have been assessed as being competent to carry out semi-skilled work on a broad range of plant and equipment functions. The employee exercises discretion within their level of skill and is responsible for the quality of the work subject to routine supervision.

This level applies to the following classification groups:

- Mining Industry Services Employees;
- Mining Industry Surface Mining and Haulage Employees;
- Mining Industry Processing Employees; and
- Mining Industry Underground Mine Employees.

A.3.4 Level 3—Competent

An employee at this level will have been assessed as being competent to apply skills and knowledge in complex but routine situations where discretion and judgment are involved. The skills and knowledge are acquired through the completion of a trade certificate, or through practical experience, which has equipped the employee with an equivalent level of skills and knowledge.

An employee at this level can plan tasks, select equipment and appropriate procedures from known alternatives and takes responsibility for the work of others. An employee at this level requires only limited supervision or guidance.

An employee at this level:

- understands and applies quality control techniques;
- exercises discretion within the scope of this level;
- performs work under limited supervision;
- operates all equipment incidental to the work; and
- assists in the provision of on-the-job training.

This level applies to the following classification groups:

- Mining Industry Surface Mining and Haulage Employees;
- Mining Industry Processing Employees;
- Mining Industry Underground Mine Employees; and
- Mining Industry Maintenance Trades Employees.

A.3.5 Level 4—Advanced

An employee at this level will have met the requirements for Level 3 and been assessed as being competent to perform tasks which require in depth skill or knowledge, or the employee is assessed as having the integration of a broad range of skills. The work may be of a non-routine nature requiring the application of the relevant skills and knowledge to new but predictable situations.

The level of skills or knowledge required to perform this work will involve the completion of a post trade training appropriate for this level, or through the acquisition of practical skills and knowledge which has equipped the employee with the equivalent level of skills and knowledge.

An employee at this level will provide guidance and assistance to others.

This level applies to the following classification groups:

- Mining Industry Surface Mining and Haulage Employees;
- Mining Industry Processing Employees;
- Mining Industry Underground Mine Employees; and
- Mining Industry Maintenance Trades Employees.

A.3.6 Level 5—Advanced Specialist

An employee at this level will have met the requirements for Level 4 and holds a trade qualification used in the operation and has acquired additional knowledge by having satisfactorily completed a prescribed post trade course appropriate for this level or the achievement to the satisfaction of the employer of a comparable standard of skill and knowledge by other means including in-plant training or on-the-job experience.

An employee at this level will provide guidance and assistance to others.

This level applies to the following classification groups:

- Mining Industry Underground Mine Employees; and
- Mining Industry Maintenance Trades Employees.

A.3.7 Level 6—Dual Trade

An employee at this level will have met the requirements for Level 5 and holds a dual trade qualification or equivalent prescribed post trade course used in the operation and has acquired additional knowledge enabling the employee to apply dual trade skills or an equivalent level of high precision specialised trade skills in one area.

An employee at this level:

- has high precision trade skills in more than one area;
- is qualified to work on machinery or equipment with complex mechanical, hydraulic, electrical circuitry or controls; and
- meets the skills requirements for Tradespersons in accordance with the [Manufacturing and Associated Industries and Occupations Award 2015](#) for this level.

This level applies to Mining Industry Maintenance Trades Employees.

A.3.8 Level 7—Dual Trade Instrument Technician

An employee at this level will have met the requirements for Level 6 and have acquired further additional knowledge by having satisfactorily completed a prescribed post trades course or an advanced trade equivalent enabling the employee to apply advanced dual trade instrument electrical technician skills.

This level applies to Mining Industry Maintenance Trades Employees.

Schedule B—Summary of Hourly Rates of Pay

Rates updated as a result of AWR 2016; note added to the tables.

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

B.1 Full-time and part-time employees

B.1.1 The ordinary hourly rate includes the industry allowance (clause 11.2(b)) which is payable for all purposes.

B.1.2 Where an additional allowance is payable for all purposes in accordance with clause 11.2(a), this forms part of the employee’s ordinary hourly rate and must be added to the ordinary hourly rate prior to calculating penalties and overtime.

B.1.3 Full-time and part-time employees—ordinary and penalty rates

	Day	Afternoon & night	Permanent night	Saturday before 12 noon		Saturday - after 12 noon & Sunday	Public holiday
				First 3 hours	After 3 hours		
% of ordinary hourly rate ¹							
	100%	115%	130%	150%	200%	200%	250%
	\$	\$	\$	\$	\$	\$	\$
Entry level	19.11	21.98	24.84	28.67	38.22	38.22	47.78
Level 1	20.02	23.02	26.03	30.03	40.04	40.04	50.05
Level 2	20.76	23.87	26.99	31.14	41.52	41.52	51.90
Level 3	21.37	24.58	27.78	32.06	42.74	42.74	53.43
Level 4	22.75	26.16	29.58	34.13	45.50	45.50	56.88
Level 5	24.18	27.81	31.43	36.27	48.36	48.36	60.45
Level 6	25.33	29.13	32.93	38.00	50.66	50.66	63.33
Level 7	26.32	30.27	34.22	39.48	52.64	52.64	65.80

¹**Ordinary hourly rate** includes the industry allowance payable to all employees for all purposes. Any additional all purpose allowances applicable need to be added to these rates.

B.1.4 Full-time and part-time employees—other than continuous shiftworkers—overtime

	Monday to Saturday noon		Saturday after 12 noon & Sunday	Public holiday
	First 3 hours	After 3 hours		
% of ordinary hourly rate¹				
	150%	200%	200%	250%
	\$	\$	\$	\$
Entry level	28.67	38.22	38.22	47.78
Level 1	30.03	40.04	40.04	50.05
Level 2	31.14	41.52	41.52	51.90
Level 3	32.06	42.74	42.74	53.43
Level 4	34.13	45.50	45.50	56.88
Level 5	36.27	48.36	48.36	60.45
Level 6	38.00	50.66	50.66	63.33
Level 7	39.48	52.64	52.64	65.80

¹Ordinary hourly rate includes the industry allowance payable to all employees for all purposes. Any additional all purpose allowances applicable need to be added to these rates.

B.1.5 Full-time and part-time employees—continuous shiftworkers—overtime

	Monday to Sunday
	200% of ordinary hourly rate¹
	\$
Entry level	38.22
Level 1	40.04
Level 2	41.52
Level 3	42.74
Level 4	45.50
Level 5	48.36
Level 6	50.66
Level 7	52.64

¹Ordinary hourly rate includes the industry allowance payable to all employees for all purposes. Any additional all purpose allowances applicable need to be added to these rates.

B.2 Casual employees

B.2.1 Casual ordinary hourly rate includes the casual loading and industry allowance (clause 11.2(b)) which are payable for all purposes.

B.2.2 Where an additional allowance is payable for all purposes in accordance with clause 11.2(a), this forms part of the employee’s ordinary hourly rate and must be added to the ordinary hourly rate prior to calculating penalties and overtime.

The rates in clause B.2.3 may be affected by [AM2014/197](#)

B.2.3 Casual employees—ordinary and penalty rates

	Day	Afternoon & night	Permanent night	Saturday before 12 noon		Saturday - after 12 noon & Sunday	Public holiday
				First 3 hours	After 3 hours		
% of casual ordinary hourly rate¹							
	100%	115%	130%	150%	200%	200%	250%
	\$	\$	\$	\$	\$	\$	\$
Entry level	23.89	27.47	31.06	35.84	47.78	47.78	59.73
Level 1	25.03	28.78	32.54	37.55	50.06	50.06	62.58
Level 2	25.95	29.84	33.74	38.93	51.90	51.90	64.88
Level 3	26.71	30.72	34.72	40.07	53.42	53.42	66.78
Level 4	28.44	32.71	36.97	42.66	56.88	56.88	71.10
Level 5	30.23	34.76	39.30	45.35	60.46	60.46	75.58
Level 6	31.66	36.41	41.16	47.49	63.32	63.32	79.15
Level 7	32.90	37.84	42.77	49.35	65.80	65.80	82.25

¹**Casual ordinary hourly rate** includes the casual loading and industry allowance payable to all employees for all purposes. Any additional all purpose allowances applicable need to be added to these rates.

Schedule C—Summary of Monetary Allowances

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

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

C.1 Wage related allowances

The wage related allowances in this award are based on the standard rate as defined in Schedule G as the minimum weekly base rate for classification level 3 in clause 9.1 = \$764.90.

Allowance	Clause	% of standard rate (\$764.90)	\$ per week unless stated otherwise
Industry allowance ¹	11.2(b)	3.70	28.98
Licence allowance—electricians ¹	11.2(c)	4.55	35.64
Drilling, prospecting and exploration allowance:	11.2(d)		
Meals not provided		3.39	26.55 per day
Meals provided		1.87	14.65 per day
Cooks and cooks' assistants – broken shifts ¹		1.07	8.38
First aid allowance	11.2(d)(iii)	2.00	15.67
Leading hand allowance:	11.2(f)		
3 to 10 employees		4.40	34.47
11 to 20 employees		5.60	43.86
More than 20 employees		7.53	58.98
Underground allowance—other than underground miners	11.2(h)	7.00	1.44 per hour
¹ This allowance is payable for all purposes			

C.2 Adjustment of wage related allowances

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

C.3 Expense related allowances

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

Allowance	Clause	\$
Meal allowance for overtime work	11.3(a)	15.91 per meal
Tool allowance	11.3(b)	14.92 per week

C.4 Adjustment of expense related allowances

C.4.1 At the time of any adjustment to the [standard rate](#), each expense related allowance will be increased by the percentage movement in the applicable index figure most recently published by the Australian Bureau of Statistics since the allowance was last adjusted.

C.4.2 The applicable index figure is the index figure published by the Australian Bureau of Statistics for the Eight Capitals Consumer Price Index (Cat No. 6401.0), as follows:

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

Schedule D—School-based Apprentices

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

Schedule E—National Training Wage

Rates updated as a result of AWR 2016

This schedule is being reviewed in matter [AM2016/17](#)

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.

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
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 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	
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

	Highest year of schooling completed		
	Year 10	Year 11	Year 12
	per hour	per hour	per hour
	\$	\$	\$
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

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
Electricity Supply Industry—Generation Sector	II, III (III in Western Australia only)
Electricity Supply Industry—Transmission, Distribution and Rail Sector	II
Electrotechnology	I, II, III (III in Western Australia only)
Financial Services	I, II, III
Floristry	III
Food Processing Industry	III
Gas Industry	III
Information and Communications Technology	I, II, III
Laboratory Operations	II, III
Local Government (other than Operational Works Cert I and II)	I, II, III
Manufactured Mineral Products	III
Manufacturing	I, II, III
Maritime	I, II, III
Metal and Engineering (Technical)	II, III
Metalliferous Mining	II, III
Museum, Library and Library/Information	II, III

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

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

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

Rates updated as a result of AWR 2016

F.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.

F.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

F.3 Eligibility criteria

F.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.

F.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.

F.4 Supported wage rates

F.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 F.5)	Relevant minimum wage
%	%
10	10
20	20
30	30
40	40
50	50
60	60
70	70
80	80
90	90

F.4.2 Provided that the minimum amount payable must be not less than \$82 per week.

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

F.5 Assessment of capacity

F.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.

F.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.

F.6 Lodgement of SWS wage assessment agreement

F.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.

F.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.

F.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.

F.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.

F.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.

F.10 Trial period

- F.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.
- F.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.
- F.10.3** The minimum amount payable to the employee during the trial period must be no less than \$82 per week.
- F.10.4** Work trials should include induction or training as appropriate to the job being trialled.
- F.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 F.5.

Schedule G—2016 Part-day public holidays

This provision is being reviewed in [AM2014/301](#)

Schedule G amended in accordance with [PR580863](#)

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

G.1 Where a part-day public holiday is declared or prescribed between 7.00 pm and midnight on Christmas Eve (24 December 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 G.1(f) applies, where an employee works any hours between 7.00 pm and midnight they will be entitled to the appropriate public holiday penalty rate (if any) in this award for those hours worked.
- (f) Where an employee is paid an annualised salary under the provisions of this award and is entitled under this award to time off in lieu or additional annual leave for work on a public holiday, they will be entitled to time off in lieu or pro-rata annual leave equivalent to the time worked between 7.00 pm and midnight.
- (g) An employee not rostered to work between 7.00 pm and midnight, other than an employee who has exercised their right in accordance with clause G.1(a), will not be entitled to another day off, another day's pay or another day of annual leave as a result of the part-day public holiday.

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

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

Schedule H—Definitions

In this award, unless the contrary intention appears:

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

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

afternoon shift means any shift finishing after 7.00 pm and at or before midnight

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 or payment while they are on annual leave

base rate of pay has the meaning in the NES

casual ordinary hourly rate means the hourly rate for a casual employee for the employee's classification specified in clause B.2.3, inclusive of the casual loading and the industry allowance. Where an employee is entitled to an additional all purpose allowance, this allowance forms part of that employee's ordinary hourly rate.

continuous shiftworker means an employee engaged in a continuous process who is rostered to work regularly on Sundays and public holidays

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

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

employee means national system employee within the meaning of the Act

employer means national system employer within the meaning of the Act

minimum weekly rate means the minimum weekly rate of pay set out in clause 9—Minimum wage rates and classifications

mining industry is defined in clause 3.2

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

night shift means any shift finishing after midnight and at or before 8.00 am

ordinary hourly rate means the hourly rate for an employee's classification specified in clause B.1.3, inclusive of the industry allowance. Where an employee is entitled to an additional all purpose allowance, this allowance forms part of that employee's ordinary hourly rate.

permanent night shift means a period of shiftwork where an employee works ~~afternoon shift only~~ or night shift only; remains on ~~afternoon or~~ night shift for longer than four consecutive weeks; or works on ~~afternoon or~~ night shift that does not rotate or alternate with another shift or with day work so as to give that employee at least one third of working time off the ~~afternoon or~~ night shift in each cycle

remote work means a location that is operated by the employer where remote work is required to be performed, including but not limited to sites operating on a fly in/fly out, drive in/drive out or bus in/bus out basis

shiftworker means an employee for the time being engaged to work in a system of shifts, being afternoon shifts, night shifts or both, or a continuous shiftworker

standard rate means the minimum weekly wage for a Level 3 employee in clause 9—Minimum wage rates and classifications

work cycle means a roster cycle made up of working and non-working days

DRAFT

Schedule I—Agreement to Take Annual Leave in Advance

Schedule I inserted in accordance with [PR583034](#)

Link to PDF copy of [Agreement to Take Annual Leave in Advance](#).

Name of employee: _____

Name of employer: _____

The employer and employee agree that the employee will take a period of paid annual leave before the employee has accrued an entitlement to the leave:

The amount of leave to be taken in advance is: ____ hours/days

The leave in advance will commence on: ____/____/20____

Signature of employee: _____

Date signed: ____/____/20____

Name of employer representative: _____

Signature of employer representative: _____

Date signed: ____/____/20____

[If the employee is under 18 years of age - include:]

I agree that:

if, on termination of the employee’s employment, the employee has not accrued an entitlement to all of a period of paid annual leave already taken under this agreement, then the employer may deduct from any money due to the employee on termination an amount equal to the amount that was paid to the employee in respect of any part of the period of annual leave taken in advance to which an entitlement has not been accrued.

Name of parent/guardian: _____

Signature of parent/guardian: _____

Date signed: ____/____/20____

Schedule J—Agreement to Cash Out Annual Leave

Schedule J inserted in accordance with [PR583034](#)

Link to PDF copy of [Agreement to Cash Out Annual Leave](#).

Name of employee: _____

Name of employer: _____

The employer and employee agree to the employee cashing out a particular amount of the employee's accrued paid annual leave:

The amount of leave to be cashed out is: ____ hours/days

The payment to be made to the employee for the leave is: \$_____ subject to deduction of income tax/after deduction of income tax (strike out where not applicable)

The payment will be made to the employee on: ___/___/20___

Signature of employee: _____

Date signed: ___/___/20___

Name of employer representative: _____

Signature of employer representative: _____

Date signed: ___/___/20___

Include if the employee is under 18 years of age:

Name of parent/guardian: _____

Signature of parent/guardian: _____

Date signed: ___/___/20___

Schedule K—Agreement for Time Off Instead of Payment for Overtime

Schedule K— Agreement for time off instead of payment for overtime inserted in accordance with [PR585478](#)

Link to PDF copy of [Agreement for Time Off Instead of Payment for Overtime](#).

Name of employee: _____

Name of employer: _____

The employer and employee agree that the employee may take time off instead of being paid for the following amount of overtime that has been worked by the employee:

Date and time overtime started: ___/___/20___ am/pm

Date and time overtime ended: ___/___/20___ am/pm

Amount of overtime worked: _____ hours and _____ minutes

The employer and employee further agree that, if requested by the employee at any time, the employer must pay the employee for overtime covered by this agreement but not taken as time off. Payment must be made at the overtime rate applying to the overtime when worked and must be made in the next pay period following the request.

Signature of employee: _____

Date signed: ___/___/20___

Name of employer representative: _____

Signature of employer representative: _____

Date signed: ___/___/20___