

The Exposure Draft was first published on 15 January 2016. Subsequent amendments to the draft are as follows:

Publication date	Reason for amendments	Clauses affected
7 November 2016	Incorporate changes resulting from PR580863	Schedule E
	Incorporate changes resulting from [2016] FWCFB 3500 , PR579917 and PR579629	10, 11, 12,A.1, Schedule B, Schedule C, Schedule D
	Incorporate changes agreed to by parties and changes made by AMOD following conference of 4 August 2016	8.5, 10.2, Schedule B, Schedule F

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

EXPOSURE DRAFT

Seagoing Industry Award 2016

This exposure draft has been prepared by staff of the Fair Work Commission based on the **Seagoing Industry Award 2010** (the Seagoing award) as at 7 November 2016. This exposure draft does not seek to amend any entitlements under the Seagoing 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 [AM2014/243](#). Additionally a number of common issues are being dealt with by the Commission which may affect this award. Transitional provisions have not been included in this exposure draft pending the outcome of the review.

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

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

Table of Contents

	Page
Part 1— Application and Operation.....	3
1. Title and commencement	3
2. The National Employment Standards and this award	3
3. Coverage.....	3
4. Award flexibility	4

5.	Facilitative provisions	6
6.	Effect of Temporary Licences	6
Part 2— Types of Employment.....		7
7.	Types of employment	7
Part 3— Hours of Work		7
8.	Ordinary hours of work and rostering.....	7
9.	Breaks	9
Part 4— Wages and Allowances		9
10.	Classifications and minimum wage rates.....	9
11.	Allowances—wage related	15
12.	Allowances—expense related.....	17
13.	Superannuation	22
Part 5— Leave, Public Holidays and Other NES Entitlements.....		22
14.	Leave.....	22
15.	Annual leave	24
16.	Parental leave and related entitlements.....	24
17.	Personal/carer’s leave and compassionate leave	24
18.	Community service leave.....	24
19.	Public holidays.....	25
20.	Termination of employment	25
21.	Redundancy	25
Part 6— Consultation and Dispute Resolution		25
22.	Consultation	26
23.	Dispute resolution	27
Schedule A —Vessels Granted a Temporary Licence		28
Schedule B—Summary of Hourly Rates of Pay.....		30
Schedule C —Summary of Monetary Allowances		34
Schedule D —National Training Wage.....		36
Schedule E —2016 Part-day Public Holidays.....		46
Schedule F —Definitions		48

Part 1—Application and Operation

1. Title and commencement

- 1.1 This award is the *Seagoing Industry Award 2016*.
- 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 F—Definitions sets out definitions that apply in this award.
- 1.5 Neither the making of this award nor the operation of any transitional arrangements is intended to result in a reduction in the take-home pay of employees covered by the award. On application by or on behalf of an employee who suffers a reduction in take-home pay as a result of the making of this award or the operation of any transitional arrangements, the Fair Work Commission may make any order it considers appropriate to remedy the situation.

2. The National Employment Standards and this award

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

3. Coverage

- 3.1 This industry award covers employers which are engaged in the seagoing industry and their employees in the classification listed in clause 10 and clause A.1.1—Classifications and minimum wage rates to the exclusion of any modern award.
- 3.2 For the purposes of clause 3.1, **seagoing industry** means the operation of vessels trading as cargo vessels, passenger vessels or operated as research vessels which, in the course of such trade or operation, proceed to sea (on voyages outside the limits of bays, harbours or rivers).
- 3.3 This award covers any employer which supplies labour on an on-hire basis in the industry set out in clauses 3.1 and 3.2 in respect of on-hire employees in classifications covered by this award, and those on-hire employees, while engaged in the performance of work for a business in that industry. This subclause operates subject to the exclusions from coverage in this award.

3.4 This award covers employers which provide group training services for trainees engaged in the industry and/or parts of industry set out at clauses 3.1 and 3.2 and those trainees engaged by a group training service hosted by a company to perform work at a location where the activities described herein are being performed. This subclause operates subject to the exclusions from coverage in this award.

3.5 This award does not cover:

- (a) employees 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;
- (b) 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;
- (c) an employee excluded from award coverage by the Act;
- (d) employers covered by the following awards:
 - (i) the *Coal Export Terminals Award 2016*;
 - (ii) the *Dredging Industry Award 2016*;
 - (iii) the *Marine Towing Award 2016*;
 - (iv) the *Maritime Offshore Oil and Gas Award 2016*;
 - (v) the *Port Authorities Award 2016*;
 - (vi) the *Ports, Harbours and Enclosed Water Vessels Award 2016*;
 - (vii) the *Stevedoring Industry Award 2016*; or
- (e) maintenance contractors covered by the *Manufacturing and Associated Industries and Occupations Award 2016*.

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 an employer and the majority of employees in the enterprise or part of the enterprise concerned.
- 5.2** Facilitative provisions in this award are contained in the following clauses:

Clause	Provision	Agreement between an employer and:
A.4.2(c)	Public holidays substitute days (Vessels Granted a Temporary Licence only)	An individual

6. Effect of Temporary Licences

- 6.1** A **temporary licence** is a temporary licence granted under the *Coastal Trading (Revitalising Australian Shipping) Act 2012* (Cth).
- 6.2** The provisions contained within Schedule A—Vessels Granted a Temporary Licence, apply exclusively to vessels granted a temporary licence.
- 6.3** The following parts of this award do not apply to vessels granted a temporary licence:
- (a) Part 2—Types of Employment;
 - (b) Part 3—Hours of Work;
 - (c) Part 4—Wages and Allowances;
 - (d) Part 5—Leave, Public Holidays and Other NES Entitlements;
 - (e) Schedule D—National Training Wage; and
 - (f) Schedule E—2016 Part-day Public Holidays.

Part 2—Types of Employment

7. Types of employment

7.1 General

- (a) Employees under this award will be employed in one of the following categories:
 - (i) full-time employment; or
 - (ii) relief employment.
- (b) At the time of engagement an employer will inform each employee of the terms of their engagement and, in particular, whether they are to be a full-time or relief employee.

7.2 Full-time employees

A full-time employee is engaged to work at least 38 ordinary hours per week, plus reasonable additional hours.

Parties are asked to comment on how clause 7.2 interacts with clause 14.2(e).

7.3 Relief employees

- (a) A relief employee is specifically engaged as a relief employee.
- (b) A relief employee receives, on a pro rata basis, equivalent pay and conditions to those of full-time employees.

Part 3—Hours of Work

8. Ordinary hours of work and rostering

- 8.1 This clause provides industry specific detail and supplements the NES provisions which deal with maximum weekly hours.
- 8.2 For the purposes of the NES an employee's weekly hours may be averaged over a period of up to 52 weeks.
- 8.3 The ordinary hours for operational and maintenance work will be eight hours per day each day of the week. Employees may be required to work in excess of the ordinary hours to meet the requirements of the vessel.
- 8.4 In port, cargo duties or gear turns will be worked in shifts of not more than 12 hours' duration, except where it is impractical due to crew shortages.

8.5 Minimum hours of rest

Clause 8.5 redrafted to incorporate the Maritime Union of Australia’s proposed wording (see [further submission](#) – 28 September 2016 and following conference of 4 August 2016 (see Transcript [PN644–684](#)))

- (a) For the purpose of clause 8.5, **seafarer** means a seaman as defined in **subsection 6(1)14** of the *Navigation Act 2012* (Cth) or the master of a ship.
- (b) ~~A seafarer must not work in excess of 14 hours without a rest period.~~
- (c) ~~The minimum hours of rest for a seafarer must be 10 hours in any 24 hours and 77 hours in any seven days.~~
- (d) ~~The minimum hours of rest may be divided into two periods, of which one period must be at least six hours.~~
- (e) ~~The requirements for rest periods laid down in clauses 8.5(b) to (d) need not be maintained in the case of an emergency or drill or in other overriding operational conditions.~~
- (f) **Exception**
- (i) ~~Clauses 8.5(b) to (e) do not apply to an employee engaged on a ship in relation to which the Australian Maritime Safety Authority has approved an exception pursuant to clause 15 of Marine Order 28, Issue 4.~~
- (ii) ~~In circumstances in which clause 8.5(f)(i) applies, an employee must be provided with rest breaks in accordance with the terms of the exception granted by the Australian Maritime Safety Authority.~~
- (b) An employer shall comply with the requirements of Marine Order 28 that states that unless AMSA has granted an exemption under section 6 or emergency or drill or other overriding operational conditions as defined in section 13 exist:
- (i) The minimum hours of rest for a seafarer must be:
- 10 hours in any 24 hours; and
 - 77 hours in any 7 days.
- (ii) The minimum hours of rest may be divided into two periods, of which one period must be at least 6 hours.
- (iii) The interval between consecutive periods of rest must not exceed 14 hours.
- (c) **(g)Joining a vessel overseas**
- An employee required to travel overseas to join a vessel will be provided with adequate rest before commencing duties.

8.6 Swing cycle

- (a) **Swing cycle work** (or work cycle) means a cycle made up of working and non-working days.
- (b) Notwithstanding any other provision of this award, employees who go to sea may be engaged to work on a swing cycle.

9. Breaks

Parties are asked to clarify whether breaks under this clause are paid.

- 9.1 Meal breaks will be one hour and uninterrupted where practical.
- 9.2 Employees may be required to shorten their meal breaks to meet the operational requirements of the vessel.
- 9.3 No employee will be required to work for more than six hours without being allowed a break for a meal.

Parties are asked to clarify how clause 9.3 interacts with clause 8.5(b).

- 9.4 Meal breaks will be provided to employees, other than catering employees, during the following span of hours:

Meal break	Span of meal break
Breakfast	7.00 am – 9.00 am
Lunch	12.00 pm – 2.00 pm
Dinner	5.00 pm – 7.00 pm

- 9.5 Meal breaks may only be shortened or altered where the Master or another officer deems it necessary to meet the operational requirements of the vessel.
- 9.6 Catering employees will take their meal breaks within the spread of hours in clause 9.4 where practical.

Part 4—Wages and Allowances

10. Classifications and minimum wage rates

- 10.1 An employee under this award, except as otherwise stated, will be paid at the rate of the aggregate annual salary prescribed in accordance with this clause appropriate to that employee’s classification. For the purposes of the following tables, **18** means vessels manned at 18 or below.

Rates updated as a result of AWR 2016

Exposure draft – Seagoing Industry Award 2016

(a) Dry cargo vessels of up to 19,000 tonnes (D.C. Cat 1)

Classification	Manning	Minimum salary	Aggregate overtime component	Aggregate annual salary
		\$	\$	\$
Master	18	67,150	25,411	92,561
	AOV	65,544	24,802	90,346
Chief engineer	18	66,048	24,993	91,041
	AOV	64,474	24,398	88,872
First mate/First engineer	18	57,232	21,658	78,890
	AOV	55,918	21,160	77,078
Second mate/Second engineer	18	52,946	20,036	72,982
	AOV	51,759	19,587	71,346
Third mate/Third engineer	18	50,742	19,201	69,943
	AOV	49,619	18,776	68,395
Chief integrated rating/Chief cook/Chief steward	18	47,989	18,160	66,149
	AOV	46,944	17,763	64,707
Second cook	AOV	43,845	16,591	60,436
Integrated rating/Assistant steward/Catering attendant	18	43,704	16,538	60,242
	AOV	42,775	16,185	58,960*

* Standard rate = annual integrating rate (AOV) rate/52

(b) Dry cargo vessels of between 19,000 and 39,000 tonnes (D.C. Cat 2)

Classification	Manning	Minimum salary	Aggregate overtime component	Aggregate annual salary
		\$	\$	\$
Master	18	69,216	26,192	95,408
	AOV	67,551	25,560	93,111
Chief engineer	18	68,073	25,761	93,834
	AOV	66,441	25,141	91,582
First mate/First engineer	18	58,926	22,299	81,225
	AOV	57,559	21,782	79,341
Second mate/Second engineer	18	54,353	20,568	74,921
	AOV	53,245	20,147	73,392
Third mate/Third	18	52,189	19,749	71,938

Exposure draft – Seagoing Industry Award 2016

Classification	Manning	Minimum salary	Aggregate overtime component	Aggregate annual salary
		\$	\$	\$
engineer	AOV	51,023	19,309	70,332
Chief integrated rating/Chief cook/Chief steward	18	48,760	18,452	67,212
	AOV	47,695	18,048	65,743
Second cook	AOV	44,493	16,837	61,330
Integrated rating/Assistant steward/Catering attendant	18	44,331	16,774	61,105
	AOV	43,383	16,417	59,800

(c) Dry cargo vessels over 39,000 tonnes (D.C. Cat 3)

Classification	Manning	Minimum salary	Aggregate overtime component	Aggregate annual salary
		\$	\$	\$
Master	18	71,644	27,110	98,754
	AOV	69,911	26,454	96,365
Chief engineer	18	70,453	26,660	97,113
	AOV	68,754	26,018	94,772
First mate/First engineer	18	60,918	23,051	83,969
	AOV	59,495	22,514	82,009
Second mate/Second engineer	18	56,151	21,248	77,399
	AOV	54,867	20,763	75,630
Third mate/Third engineer	18	53,293	20,167	73,460
	AOV	52,097	19,714	71,811
Chief integrated rating/Chief cook/Chief steward	18	49,121	18,589	67,710
	AOV	48,045	18,181	66,226
Second cook	AOV	45,305	17,145	62,450
Integrated rating/Assistant steward/Catering attendant	18	44,526	16,848	61,374
	AOV	43,569	16,487	60,056

(d) Crude tankers

Classification	Manning	Minimum salary	Aggregate overtime component	Aggregate annual salary
		\$	\$	\$
Master	18	81,193	30,724	111,917
	AOV	78,533	29,718	108,251
Chief engineer	18	79,813	30,201	110,014
	AOV	77,206	29,216	106,422
First mate/First engineer	18	68,058	25,754	93,812
	AOV	65,906	24,938	90,844
Second mate/Second engineer	18	63,217	23,923	87,140
	AOV	61,251	23,177	84,428
Third mate/Third engineer	18	59,070	22,352	81,422
	AOV	57,261	21,668	78,929
Chief integrated rating/Chief cook/Chief steward	18	52,969	20,042	73,011
	AOV	51,400	19,450	70,850
Second cook	AOV	48,074	18,190	66,264
Integrated rating/Assistant steward/Catering attendant	18	47,437	17,951	65,388
	AOV	45,654	17,277	62,931

(e) Other (product) tankers

Classification	Manning	Minimum salary	Aggregate overtime component	Aggregate annual salary
		\$	\$	\$
Master	18	84,359	31,922	116,281
	AOV	80,916	30,620	111,536
Chief engineer	18	82,914	31,374	114,288
	AOV	79,537	30,098	109,635
First mate/First engineer	18	69,899	26,450	96,349
	AOV	67,144	25,409	92,553
Second mate/Second engineer	18	64,836	24,534	89,370
	AOV	62,321	23,583	85,904
Third mate/Third	18	61,222	23,167	84,389

Exposure draft – Seagoing Industry Award 2016

Classification	Manning	Minimum salary	Aggregate overtime component	Aggregate annual salary
		\$	\$	\$
engineer	AOV	58,879	22,280	81,159
Chief integrated rating/Chief cook/Chief steward	18	54,711	20,703	75,414
	AOV	52,805	19,981	72,786
Second cook	AOV	49,362	18,679	68,041
Integrated rating/Assistant steward/Catering attendant	18	49,775	18,836	68,611
	AOV	47,984	18,157	66,141

(f) **Gas carriers**

Classification	Manning	Minimum salary	Aggregate overtime component	Aggregate annual salary
		\$	\$	\$
Master	18	82,460	31,202	113,662
	AOV	81,451	30,820	112,271
Chief engineer	18	82,104	31,067	113,171
	AOV	80,065	30,297	110,362
First mate/First engineer	18	69,237	26,200	95,437
	AOV	67,572	25,570	93,142
Second mate/Second engineer	18	64,236	24,308	88,544
	AOV	62,714	23,731	86,445
Third mate/Third engineer	18	61,730	23,359	85,089
	AOV	60,285	22,812	83,097
Chief integrated rating/Chief cook/Chief steward	18	56,369	21,331	77,700
	AOV	55,078	20,841	75,919
Second cook	AOV	52,427	19,840	72,267
Integrated	18	51,488	19,484	70,972

Classification	Manning	Minimum salary	Aggregate overtime component	Aggregate annual salary
		\$	\$	\$
	AOV	50,343	19,052	69,395

(g) Research vessels

Classification	Minimum salary	Aggregate overtime component	Aggregate annual salary
	\$	\$	\$
Master	62,303	21,893	84,196
Chief engineer	61,181	21,497	82,678
First mate/First engineer	52,114	18,310	70,424
Second mate/Second engineer/ Electrical engineer	47,678	16,752	64,430
Third mate/Third engineer	45,724	16,066	61,790
Bosun/Chief steward/Chief cook/Chief integrated rating	43,692	15,266	58,958
Integrated rating/ AB/Greaser/Second cook	40,291	14,156	54,447

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

10.2 The training, qualifications, roles and responsibilities of the classification of employees included in the tables above are incorporated in Australian Marine Orders—~~Part 3~~ [70–73](#), the *Navigation Act 2012* (Cth) and other relevant State Flag requirements.

10.3 The annual salaries have been fixed on an aggregate basis taking into account all aspects and conditions of employment. The aggregate salaries are based on work for 10 hours per day (70 hours per week) for 27 weeks per year over seven days a week with:

- (a) eight hours per day at the minimum hourly rate;
- (b) two hours per day at **200%** of the minimum hourly rate; and
- (c) the balance of hours above 38 ordinary hours per week (56 hours less 38 ordinary hours) at **200%** of the minimum hourly rate.

Parties are asked whether the formula for calculating the aggregate overtime component should be included in the award to provide greater transparency when wages are adjusted.

10.4 Payment of wages

- (a) The employer will pay the employee’s wages, penalties and allowances at a frequency of not longer than monthly by electronic funds transfer into the employee’s nominated bank or other recognised financial institution account.

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.

- (b) An employer may deduct from any amount required to be paid to an employee under this clause the amount of any overpayment of wages or allowances.

- (c) Salaries will be calculated in the following way:

- (i) the monthly rate—by dividing the annual rate by 12;
- (ii) the fortnightly rate—by dividing the annual rate by 26; and
- (iii) the daily rate for fortnightly paid employees—by dividing the fortnightly rate by 14.

- (d) **Withholding of wages**

- (i) An employee will not be entitled to payment of any wages or salary or any other allowance or payment for any period during which a refusal or failure to work as required continues.
- (ii) The non-entitlement will be at the hourly rate of each hour or part of an hour that the employee refuses or fails to work.
- (iii) The hourly rate for the purposes of this clause will be 1/24th of the appropriate daily rate.

10.5 National training wage

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

11. Allowances—wage related

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

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

11.1 Tanker allowance

- (a) An employee will receive a tanker allowance of **\$9.41** for each day of duty on a tanker.
- (b) This payment includes a travelling allowance and is instead of any other such allowance.

11.2 Handling/securing cargo allowances

An employee who is required to perform manual work involving handling cargo in port (handling), or work consisting of the securing or lashing of cargo (securing or lashing), will be paid an allowance under this clause.

(a) Handling/securing cargo between 7.00 am and 5.00 pm on Monday to Friday

Unless watches are being kept and work is done outside an employee’s watch on duty:

- (i) handling cargo—**\$13.27** per hour; or
- (ii) securing or lashing cargo—**\$4.65** per hour,

(b) At any other time Monday to Friday; or where watches are being kept and work is outside an employees’ watch on duty; or on Saturdays, Sundays or public holidays (except where work is performed in the circumstances outlined in clause 11.2(c)):

- (i) handling cargo—**\$16.89** per hour; or
- (ii) securing or lashing cargo—**\$5.44** per hour,

(c) Handling/securing cargo between 11.00 pm and 7.00 am

The allowances in clauses 11.2(d) and 11.2(e)(i) are payable:

- (i) for work performed after 11.00 pm on any day where the work has already extended for at least four hours at 11.00 pm;
- (ii) where the work has extended for four hours ending at any time between 11.00 pm and 7.00 am or the commencement of ordinary duty on the following day; or
- (iii) for work after 11.00 pm where watches are being kept and four hours’ work has already been performed off watch after 11.00 pm.

(d) Handling/securing cargo between 11.00 pm and 7.00 am

In the circumstances of clause 11.2(c):

- (i) handling cargo—**\$21.20** per hour; or
- (ii) securing or lashing cargo—**\$6.46** per hour.

(e) Handling/securing cargo—mail, passengers’ luggage or motor cars

For work where the cargo is mail, passengers’ luggage or passengers’ motor cars, the following allowances are payable:

- (i) in circumstances outline in clause 11.2(c):

	\$ per hour
Handling	17.46

Securing or lashing	5.56
---------------------	------

(ii) at any other time:

	\$ per hour
Handling	13.27
Securing or lashing	4.65

11.3 Disturbance of sleep allowance

- (a) When the rest of an employee sleeping onboard a vessel is seriously disturbed by noise from cargo operations between the hours of 11.00 pm and 6.00 am, or during an eight hour rest period, the employee will be paid an allowance of **\$21.20** per night or rest period affected.
- (b) In determining the applicability of this allowance, the Master or officer in charge will carefully assess the merits of each claim.

11.4 Vessels wrecked or stranded allowance

If a vessel becomes wrecked or stranded in the course of a voyage and an employee is called upon for special efforts while the vessel is still wrecked or stranded, the employee will, for the time during which the employee so assists, be paid at the rate of **\$14.74** per hour in addition to any other entitlement under this award.

See Schedule C for a summary of monetary allowances

12. Allowances—expense related

Monetary amounts in this award updated as a result of AWR 2016

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

12.1 Study allowance

- (a) An **approved course of study** is a Certificate of Competency, including an Endorsement, as prescribed by the *Navigation Act 2012* (Cth) or regulations made thereunder, conducted by the Australian Maritime College or an approved technical institution or academy.
- (b) **Eligibility**

This allowance will apply to:

- (i) a Deck officer who goes ashore to study and sit for an approved course of study qualifying the employee as a First mate (Chief deck officer) or Master of a ship; and

- (ii) a Marine engineer, Marine electrician or Electrical engineer who goes ashore to study and sit for an approved course of marine engineering study.

(c) Conditions for accessing entitlement

The entitlements prescribed in clause 12.1(d) will only be payable by the employer if the following conditions are met:

- (i) an application has been made by the employee in writing and has been approved in writing by the employer;
- (ii) the employee has been employed by the employer for the 12 months prior to commencing the period of study;
- (iii) if the employer desires, the employee will enter into a written undertaking that the employee will remain in the employer's employment for a period of at least 12 months after sitting for the certificate in question;
- (iv) the entitlement will be confined to the first attempt to obtain the certificate in question; and
- (v) the employee will provide the employer with reasonable proof of satisfactory attendance at the course of study and examination.

(d) Entitlement

- (i) For approved study outside period of accrued leave—**75%** of the eligible employee's salary or wages for the authorised period of study.
- (ii) For approved study during period of accrued leave—a period of additional leave (immediately following the sitting for each certificate), equal to **75%** of the authorised period of study.
- (iii) An employer and an employee may agree to grant the additional leave under clause 12.1(d)(ii) as payment instead of leave.
- (iv) Where an application by an employee to undertake an approved course of study has been approved by the employer, and the employee is subsequently retrenched, the employee will be entitled to payment in accordance with clause 12.1(d)(i). For these purposes, the employee's salary rate will be the rate applicable at the date of termination.

(e) Living away from home

When it is necessary for an employee to take up temporary residence away from their home port to undertake the approved study, the employee will be entitled to the following living away from home allowance during the authorised period of study:

- (i) **\$117.35** per week; or
- (ii) **\$165.48** per week (if the employee has a spouse or de facto partner and/or dependent children).

(f) Authorised period of study

The authorised period of study for eligible employees under this clause will consist of:

- (i) the period of their attendance at the course of study for each certificate;
- (ii) the prescribed examination times; and
- (iii) vacation times or holidays of not more than seven consecutive days (including Saturdays, Sundays and public holidays).

12.2 Meal and accommodation allowance

(a) An employee will be entitled to the relevant meal or accommodation allowance set out in clause 12.2(d), in the following circumstances:

- (i) an employee in a vessel is required by the employer to take a meal ashore and/or be accommodated ashore at a port other than at the employee's home port; or
- (ii) subject to clause 12.2(c) an employee is directly travelling to their home port at the employer's expense pursuant to clause 12.2(a) or any applicable legislation; or
- (iii) an employee is undertaking travel in accordance with clause 12.3.

(b) Employees in their home port

Employees in a vessel in their home port will only be entitled to the accommodation allowance set out in clause 12.2(d) when:

- (i) their usual place of residence is not actually located in their home port;
- (ii) accommodation is not provided; and
- (iii) they produce evidence to the reasonable satisfaction of the employer that they properly incurred the particular expenditure.

(c) Meals while travelling by air

An employee will only be entitled to payment of the respective meal allowance set out in clause 12.2(d) when:

- (i) the employee is travelling at the employer's expense in accordance with clause 12.2(a); and
- (ii) an in-flight airline meal is not available to the employee whilst travelling during breakfast hours (7.00 am to 9.00 am) and/or lunch hours (12.00 pm to 2.00 pm) and/or dinner hours (5.00 pm to 7.00 pm).

(d) Entitlement

(i) An employee's entitlement under clause 12.2 will be as follows:

Daily rates	\$
Breakfast	20.30

Daily rates	\$
Lunch	24.48
Dinner	40.55
Accommodation	138.70
Accommodation and meals	224.03
Weekly rates	\$
Meals	426.71
Accommodation	693.55

- (ii) This clause will not apply where the employer provides meals and accommodation.

12.3 Travel expenses

Subject to the employee producing evidence to the reasonable satisfaction of the employer that expenditure claimed was properly incurred by the employee, the employer will reimburse the reasonable travel expenses of an employee when the employee is travelling:

- (a) as required by and for the purposes of the employer; or
- (b) to and/or from the employee's home port in the following circumstances:
 - (i) incidentally to the taking of leave as required by the employer;
 - (ii) pursuant to the application of the *Navigation Act 2012* (Cth);
 - (iii) when the employee's employment is terminated by the employer, except where the employee is dismissed for misconduct and the dismissal is not subsequently overturned; or
 - (iv) when the employee terminates their employment at the same time that articles of agreement expire through the passing of time at any port other than at the employee's home port.
- (c) Clause 12.3 will not apply where the employer provides free travel.

12.4 Personal effects allowance

An employee who sustains damage or loss of their personal effects or equipment due to fire, explosion, foundering, shipwreck, collision or stranding, will be compensated by the employer for the damage or loss by a payment equivalent to the value thereof, not exceeding **\$4182.00**.

12.5 Conveyance

- (a) Where a vessel lies at anchorage or at any buoy within port limits and is not duly treated as being at sea while there, the employer will reimburse the employee the cost of conveyance between the vessel and a safe landing place.
- (b) Clause 12.5(a) will not apply where the employer provides the conveyance or the Master considers it unreasonable in the circumstances at the time.

12.6 Medical expenses

An employee who undergoes a medical examination by a medical inspector of seamen, at the requirement of the employer, or pursuant to requirements under the *Navigation Act 2012* (Cth) and relevant Marine Orders, will be reimbursed the cost of the applicable fees by the employer.

12.7 Passports/travel document expenses

The employer will reimburse an employee for all reasonable charges, fees and expenses incurred by an employee who is required by the employer to have and maintain:

- (a) a valid passport;
- (b) any necessary visas; and
- (c) any necessary vaccinations.

12.8 Reimbursement of expenses

Upon production of evidence to the reasonable satisfaction of the employer that the expenditure claimed was properly incurred by the employee, the employer will reimburse an employee any expenses reasonably incurred by the employee in the performance of their duties and on behalf of the employer, including:

- (a) expenses in respect of fees incurred by a Master or Deck officer in obtaining or renewing a pilotage exemption certificate in the course of their service with the employer;
- (b) expenses associated with enquiries as to casualties or as to the conduct of employees and to proceedings for any alleged breach of any maritime or port or other regulations; and
- (c) reimbursement of reasonable legal costs incurred or fines imposed by a competent tribunal under any applicable environmental legislation provided that the expenses incurred were not due to, or arising from, the employee's personal default or misconduct.

12.9 Industrial clothing

(a) Uniforms

If the employer requires an employee to wear a uniform, the employer must reimburse the employee for two-thirds of the cost of purchasing the clothing.

(b) Trappings

Parties are asked to define 'trappings'.

If an employer requires an employee to purchase any trappings, the employer must reimburse the employee for the full cost of purchasing the items. Any trappings will remain the property of the employer.

(c) Safety shoes and protective clothing

If an employer requires an employee to purchase any safety shoes and protective clothing (including overalls), the employer must reimburse the employee for the full cost of purchasing such items. Any such clothing will remain the property of the employer.

- (d)** Clause 12.9 will not apply where the industrial clothing is supplied to the employee wholly at the employer's expense.

See Schedule C for a summary of monetary allowances

13. Superannuation

13.1 Superannuation contributions for defined benefit members

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

Part 5—Leave, Public Holidays and Other NES Entitlements

14. Leave

14.1 Leave factor and entitlement to leave

- (a)** Subject to clause 14.1(c), for each day of duty on a vessel or a day during which the employee is involved in travelling to or from a vessel or place of work as required by the employer, an employee will accrue an entitlement to 0.926 of a day's leave without loss of pay.
- (b)** Where leave granted is less or more than that actually due, it will be debited or credited to the employee as less or additional leave.
- (c)** Leave will not accrue:
- (i)** on a day when an employee is on leave;
 - (ii)** on a day, or that part of a day, during which an employee fails or refuses to attend for or perform work as lawfully required by the employer;
 - (iii)** on any day on which the employee is undertaking an approved course of study or training ashore;
 - (iv)** when an employee's engagement is less than one day;
 - (v)** on a day when an employee accepts shore-based secondment; or
 - (vi)** where a leave ratio higher than that contained in clause 14.1(a) operates, in order to give effect to an employee's leave entitlement:

- days of joining or leaving a vessel; and
- days of travel to and from a vessel or required place of work despite that work is performed on any such day.

14.2 Calculation of leave entitlement

The leave entitlement in clause 14.1(a) gives effect to, amongst other things:

Parties are asked to comment on whether the 'other things' referred to in clause 14.2 should be specified.

- (a) leave with pay for weekends and public holidays worked;
- (b) annual leave with pay of five weeks per year;
- (c) personal/carer's leave;
- (d) compassionate leave; and
- (e) a 35 hour working week.

Parties are asked to comment on how clause 14.2(e) interacts with clause 7.2.

14.3 Taking of leave

- (a) The taking of leave will, as far as practicable, be arranged to suit the running of the vessel in which the employee is engaged.
- (b) The period of leave granted will approximate as closely as possible both to the actual amount of leave due to the employee and to the date and time when the employee can most conveniently return to duty.
- (c) Unless otherwise agreed between the employer and the employee, the leave to which an employee is entitled under this clause will be granted by the employer and taken by the employee not later than eight months after it has commenced to accrue.

14.4 Leave in advance

- (a) Where an employee's leave has expired, an employer may require an employee to take up to 14 days of leave in advance. An employee will not be required to take more than 14 days of leave in advance unless:
 - (i) there has been prior consent by the employee; or
 - (ii) a swing cycle agreement applying to the employee provides otherwise.
- (b) The giving and taking of leave will be arranged having regard to:
 - (i) avoidance of delays to a vessel's schedule, the voyaging pattern of the employee's regular vessel and urgent needs or demands of the employer's service;
 - (ii) the need to correct imbalances in leave and duty periods;
 - (iii) the employee's home port;

- (iv) the need to reduce costs of travel; and
- (v) whether the employee has a right to accumulate leave under clause 14.5.

14.5 Accumulation of leave for study

A Deck officer or Marine engineer who wishes to take leave for the purposes of an approved course of study in circumstances where the study allowance provisions in clause 12.1 do not apply (e.g. for a second or subsequent attempt at a Certificate of Competency), may accumulate and take their accrued leave in one period, at the time so desired by the employee, provided the employee has given reasonable notice of their intention to the employer.

14.6 Leave during dry docking

Whilst a vessel has ceased operation for the purpose of a survey, overhaul or docking, the employer may require an employee to proceed to their home port to take accrued leave and any leave in advance to the extent permitted by clause 14.4.

14.7 Payment of leave on termination of employment

Upon termination of employment, an employee's leave entitlement under this clause will be paid at the salary rate for the last position in which the employee served.

15. Annual leave

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

Clause 14.1 of this award gives full effect to the NES entitlements to annual leave.

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

16. Parental leave and related entitlements

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

17. Personal/carer's leave and compassionate leave

17.1 Clause 14.1 of this award gives full effect to the NES entitlements to personal/carer's leave and compassionate leave.

17.2 Arrangements for taking of personal leave will be governed by the *Navigation Act 2012* (Cth).

18. Community service leave

Community service leave is provided for in the NES.

19. Public holidays

19.1 Clause 14.1 of this award gives full effect to the NES entitlements to public holidays.

19.2 Part-day public holidays

19.2 inserted on 21 September 2016

For provisions in relation to part-day public holidays see Schedule E

20. Termination of employment

20.1 Notice of termination is provided for in the NES.

20.2 Notice of termination by an employee

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

21. Redundancy

21.1 Redundancy arrangements are provided for in the NES.

21.2 Transfer to lower paid duties

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

21.3 Employee leaving during notice period

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

Part 6—Consultation and Dispute Resolution

This part applies to all employers to which this award applies irrespective of whether the vessel was granted a temporary licence.

22. Consultation

22.1 Consultation regarding major workplace change

(a) Employer 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) Employer 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—Vessels Granted a Temporary Licence

The following provisions are to apply to vessels granted a temporary licence under the *Coastal Trading (Revitalising Australian Shipping) Act 2012* (Cth).

A.1 Minimum Wages and Related Matters

Rates updated as a result of AWR 2016

A.1.1 Classifications and minimum wage rates

Classification	Minimum weekly wage ¹
	\$
Master	1287.30
Chief engineer	1266.10
First mate/First engineer	1097.70
Second mate/Second engineer/Radio Officer/Electrical Engineer	1016.10
Third mate/Third engineer	973.90
Chief integrated rating/Bosun/ Chief cook/Chief steward/Carpenter/ Fitter/ Repairer/Donkeyman/Electrician	921.40
Integrated rating/Able seaman/ Fireman/Motorman/Pumpman/ Oiler greaser/Steward	839.70
OS/Wiper/Deckboy/Catering Boy/2nd Cook/Messroom Steward	708.20
¹ Based on 40 hour week	

A.2 Allowances

A.2.1 If, by fire, explosion, foundering, shipwreck, collision or stranding, an employee should sustain damage to or loss of their personal effects or equipment, the employer will compensate them for such damage or loss by a payment equivalent to the value thereof, not exceeding **\$4128.00**.

A.2.2 The monetary amount in A.2.1 will be treated as a personal effects allowance and will be adjusted in accordance with clause C.2.

A.3 Hours of Work and Related Matters

A.3.1 Ordinary hours of work

(a) The ordinary hours of work will be eight hours per day from Monday to Friday.

Parties are asked to comment on whether clause A.3.1(a) is inconsistent with the NES.

(b) All hours worked in excess of eight hours per day from Monday to Friday will be paid as overtime.

(c) All hours worked on Saturdays, Sundays and public holidays will be paid for as overtime.

(d) Overtime

All overtime worked will be paid at **125%** of the minimum rate.

A.3.2 Rest periods

(a) Each employee will have a minimum of 10 hours' rest in any 24 hour period and 77 hours in any seven day period.

(b) This period of 24 hours will begin at the time an employee starts work immediately after having had a period of at least 6 consecutive hours off duty.

(c) The hours of rest may be divided into no more than two periods, one of which will be at least six hours in length, and the interval between consecutive periods of rest must not exceed 14 hours.

A.4 Leave and Public Holidays

A.4.1 Leave

Notwithstanding the NES, each employee will be entitled to payment of leave of eight days for each completed month of service and pro rata for any shorter period.

Parties are asked to clarify if the leave in clause A.4.1 is annual leave and replaces the entitlement under the NES or is additional to the NES entitlement to four weeks' annual leave.

A.4.2 Public holidays

(a) Public holiday entitlements are provided for in the NES.

(b) Where a public holiday falls on a Saturday or Sunday, the following working day(s) will be observed as a public holiday.

(c) An employer and an individual employee may agree to the employee taking another day as the public holiday instead of the day provided in the NES.

Schedule B—Summary of Hourly Rates of Pay

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

Rates updated as a result of AWR 2016

B.1—Employees of vessels other than those granted a temporary licence

B.1.1—Full-time and relief employees—dry cargo vessels

		Up to 19,000 tonnes (D.C. Cat 1)	Between 19,000 and 39,000 tonnes (D.C. Cat 2)	Over 39,000 tonnes (D.C. Cat 3)
		% of minimum hourly rate		
		100%	100%	100%
Classification	Manning	\$	\$	\$
Master	18	31.79	32.76	33.91
	AOV	31.03	31.98	33.09
Chief Engineer	18	31.26	32.22	33.35
	AOV	30.52	31.45	32.55
First mate/First engineer	18	27.09	27.89	28.84
	AOV	26.47	27.25	28.16
Second mate/Second engineer	18	25.06	25.73	26.58
	AOV	24.50	25.20	25.97
Third mate/third engineer	18	24.02	24.70	25.23
	AOV	23.49	24.15	24.66
Chief Integrated Rating/Chief cook/Chief steward	18	22.72	23.08	23.25
	AOV	22.22	22.58	22.74
Second cook	AOV	20.75	21.06	21.45
Integrated rating/Assistant steward/Catering attendant	18	20.69	20.98	21.08
	AOV	20.25	20.54	20.62

18 means vessels manned at 18 or below for the purposes of this table

B.1.2— Full-time and relief employees—other than dry cargo vessels

		Crude tankers	Other (product) tankers	Gas carriers
		% of minimum hourly rate		
		100%	100%	100%
Classification	Manning	\$	\$	\$
Master	18	38.43	39.93	39.03
	AOV	37.17	38.30	38.56
Chief Engineer	18	37.78	39.25	38.86
	AOV	36.55	37.65	37.90
First mate/First engineer	18	32.22	33.09	32.77
	AOV	31.20	31.78	31.99
Second mate/Second engineer	18	29.93	30.69	30.41
	AOV	28.99	29.50	29.69
Third mate/third engineer	18	27.96	28.98	29.22
	AOV	27.11	27.87	28.54
Chief Integrated Rating/Chief cook/Chief steward	18	25.07	25.90	26.68
	AOV	24.33	25.00	26.07
Second cook	AOV	22.76	23.37	24.82
Integrated rating/Assistant steward/Catering attendant	18	22.46	23.56	24.37
	AOV	21.61	22.71	23.83

18 means vessels manned at 18 or below for the purposes of this table

B.1.3— Full-time and relief employees—research vessels

		Research vessels
		% of minimum hourly rate
		100%
Classification		\$
Master		28.91
Chief Engineer		28.39
First mate		24.18
First engineer		

Exposure draft – Seagoing Industry Award 2016

	Research vessels
	% of minimum hourly rate
	100%
Classification	\$
Second mate	22.13
Second engineer	
Electrical engineer	
Third mate	21.22
Third engineer	
Bosun	20.25
Chief steward	
Chief cook	
Chief Integrated Rating	
Integrated rating	18.70
AB	
Greaser	
Second cook	

B.2 — Employees of vessels granted a temporary licence

The rates in B.2.1 are based on the rates contained in clause A.1.1 on the basis of a 40 hour week.

B.2.1 — Full-time and relief employees

	Ordinary hours	Overtime
	% of minimum hourly rate	
	100%	125%
Classification	\$	\$
Master	32.18	40.23
Chief Engineer	31.65	39.56
First mate/First engineer	27.44	34.30
Second mate/Second engineer/Radio Officer/Electrical engineer	25.40	31.75
Third mate/Third engineer	24.35	30.44

Exposure draft – Seagoing Industry Award 2016

	Ordinary hours	Overtime
	% of minimum hourly rate	
	100%	125%
Classification	\$	\$
Chief Integrated Rating/ Bosun/ Chief cook/ Chief steward/ Carpenter/ Fitter/ Repairer/ Donkeyman/ Electrician	23.04	28.80
Integrated rating/ Able seaman/ Fireman/ Motorman/ Pumpman/ Oil greaser/ Steward	20.99	26.24
OS/ Wiper/ Deckboy/ Catering Boy/ 2nd Cook/ Messroom Steward	17.71	22.14

DRAFT

Schedule C—Summary of Monetary Allowances

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

See clauses 11, 12 and A.2 for full details of allowances payable

C.1 Wage related allowances

The wage related allowances in this award are based on the standard rate as defined in Schedule F as the aggregate annual salary for the Integrated rating classification for dry cargo vessels of up to 19,000 tonnes (AOV) in clause 10.1 divided by 52 = **\$1133.80**

Allowance	Clause	% of standard rate \$1133.80	\$ per hour unless stated otherwise
Tanker allowance	11.1	0.83	9.41 per day
Cargo allowances	11.2		
Between 7.00am and 5.00pm, unless the work is done outside the employee's watch on duty if watches are being kept	Handling	1.17	13.27
	Securing or lashing	0.41	4.65
At any other time, or if the work is done outside the employee's watch on duty, if watches are being kept, or on Saturdays, Sundays or public holidays	Handling	1.49	16.89
	Securing or lashing	0.48	5.44
Between 11.00pm and 7.00am if certain prescribed conditions are met	Handling	1.87	21.20
	Securing or lashing	0.57	6.46
If the cargo is mail, passengers' luggage or passengers' motor cars	Handling	1.17	13.27
	Securing or lashing	0.41	4.65
Between 11.00pm and 7.00am if certain prescribed conditions are met and if the cargo is mail, passengers' luggage or passengers' motor cars	Handling	1.54	17.46
	Securing or lashing	0.49	5.56
Disturbance of sleep allowance	11.3	1.87	21.20 per night or rest period
Vessels wrecked or stranded allowance—special efforts	11.4	1.30	14.74

C.1.1 Adjustment of wage related allowances

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

C.2 Expense related allowances

The following expense related allowances will be payable to employees in accordance with clauses 12 and A.2:

Allowance	Clause	\$
Personal effects allowance	12.4	Not exceeding 4182.00 per occasion
Living away from home allowance	12.1(e)(i)	117.35 per week
Living away from home (with spouse, etc) allowance	12.1(e)(ii)	165.48 per week
Meal and accommodation allowance— daily rates	12.2	
Breakfast		20.30 per occasion
Lunch		24.48 per occasion
Dinner		40.55 per occasion
Accommodation		138.70 per night
Total		Total of 224.03 per day
Meal and accommodation allowances— weekly rates	12.2	
Meals		426.71 per week
Accommodation		693.55 per week
Personal effects allowance—vessels granted a temporary licence	A.2.1	Not exceeding 4182.00 per occasion

C.2.1 Adjustment of expense related allowances payable under this award.

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

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

Allowance	Applicable Consumer Price Index figure
Accommodation allowance	Domestic holiday travel and accommodation sub-group
Living away from home allowance	Domestic holiday travel and accommodation sub-group
Meal allowance	Take away and fast foods sub-group
Personal effects allowance	All groups

Schedule D—National Training Wage

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

Rates updated as a result of AWR 2016

D.1 Title

This is the *National Training Wage Schedule*.

D.2 Definitions

In this schedule:

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

approved training means the training specified in the training contract

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

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

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

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

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

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

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

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

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

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

Tasmania: *Vocational Education and Training Act 1994*;

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

Western Australia: *Vocational Education and Training Act 1996*

trainee is an employee undertaking a traineeship under a training contract

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

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

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

Year 10 includes any year before Year 10

D.3 Coverage

- D.3.1** Subject to clauses D.3.2 to D.3.6 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 D.7 to this schedule or by clause D.5.4 of this schedule.
- D.3.2** This schedule only applies to AQF Certificate Level IV traineeships for which a relevant AQF Certificate Level III traineeship is listed in clause D.7 to this schedule.
- D.3.3** This schedule does not apply to:
- (a) the apprenticeship system;
 - (b) qualifications not identified in training packages; or
 - (c) qualifications in training packages which are not identified as appropriate for a traineeship.
- D.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.
- D.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.
- D.3.6** At the conclusion of the traineeship, this schedule ceases to apply to the employee.

D.4 Types of Traineeship

The following types of traineeship are available under this schedule:

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

D.5 Minimum Wages

D.5.1 Minimum wages for full-time traineeships

(a) Wage Level A

Subject to clause D.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 D.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 D.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 D.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

	Highest year of schooling completed		
	Year 10	Year 11	Year 12
	per week	Per week	per week
	\$	\$	\$
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 D.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 D.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 D.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 D.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

D.5.2 Minimum wages for part-time traineeships

(a) Wage Level A

Subject to clauses D.5.2(f) and D.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 D.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 D.5.2(f) and D.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 D.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 D.5.2(f) and D.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 D.7.3 are:

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

(d) School-based traineeships

Subject to clauses D.5.2(f) and D.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 D.7 are as follows when the trainee works ordinary hours:

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

(e) AQF Certificate Level IV traineeships

(i) Subject to clauses D.5.2(f) and D.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 D.5.2(f) and D.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 D.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 D.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 D.5.2(a)–(e) of this schedule minus 20% applies to each ordinary hour worked by the trainee.

D.5.3 Other minimum wage provisions

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

D.5.4 Default wage rate

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

D.6 Employment conditions

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

contract is to be regarded as time worked for the employer for the purposes of calculating the trainee’s wages and determining the trainee’s employment conditions.

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

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

D.7 Allocation of Traineeships to Wage Levels

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

D.7.1 Wage Level A

Training package	AQF certificate level
Aeroskills	II
Aviation	I, II, III
Beauty	III
Business Services	I, II, III
Chemical, Hydrocarbons and Refining	I, II, III
Civil Construction	III
Coal Training Package	II, III
Community Services	II, III
Construction, Plumbing and Services Integrated Framework	I, II, III
Correctional Services	II, III
Drilling	II, III
Electricity Supply Industry—Generation Sector	II, III (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

Training package	AQF certificate level
Manufactured Mineral Products	III
Manufacturing	I, II, III
Maritime	I, II, III
Metal and Engineering (Technical)	II, III
Metalliferous Mining	II, III
Museum, Library and Library/Information Services	II, III
Plastics, Rubber and Cablemaking	III
Public Safety	III
Public Sector	II, III
Pulp and Paper Manufacturing Industries	III
Retail Services (including wholesale and Community pharmacy)	III
Telecommunications	II, III
Textiles, Clothing and Footwear	III
Tourism, Hospitality and Events	I, II, III
Training and Assessment	III
Transport and Logistics	III
Water Industry (Utilities)	III

D.7.2 Wage Level B

Training package	AQF certificate level
Animal Care and Management	I, II, III
Asset Maintenance	I, II, III
Australian Meat Industry	I, II, III
Automotive Industry Manufacturing	II, III
Automotive Industry Retail, Service and Repair	I, II, III
Beauty	II
Caravan Industry	II, III
Civil Construction	I
Community Recreation Industry	III
Entertainment	I, II, III
Extractive Industries	II, III
Fitness Industry	III
Floristry	II

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

D.7.3 Wage Level C

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

Schedule E—2016 Part-day Public Holidays

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

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

This schedule operates in conjunction with award provisions dealing with public holidays.

E.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 E.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 E.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.
- (h) Nothing in this schedule affects the right of an employee and employer to agree to substitute public holidays.

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

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

DRAFT

Schedule F—Definitions

Following the conference of 4 August 2016 (see Transcript [PN691–739](#)), definition inserted by AMOD for the term ‘trappings’ that appears at clause 12.9(b)

This schedule applies to all employers to which this award applies irrespective of whether the vessel was granted a temporary licence.

In this award, unless the contrary intention appears:

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

AOV means all other vessels

approved course of study is a Certificate of Competency, including an Endorsement, as prescribed by the *Navigation Act 2012* (Cth) or regulations made thereunder, conducted by the Australian Maritime College or an approved technical institution or academy

cargo includes all freight carried in a ship but does not include bunker fuel and other articles carried for the vessel’s use

day means from 12 midnight to the following 12 midnight

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

home port means the port at which the employee is originally engaged or the port which is agreed upon between the employer and employee concerned

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

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

~~**repatriation** means the provision of transport to and from the home port of an employee at the employer’s cost~~

research vessel means fisheries research vessels and vessels used by the CSIRO, universities and similar institutions or governments for oceanographic research and which may carry non-maritime personnel engaged in research related activities including from time to time activities normally performed by maritime personnel

seafarer means a seaman as defined in ~~subsection 6(1)14~~ of the *Navigation Act 2012* (Cth) or the master of a ship

seagoing industry means the operation of vessels trading as cargo vessels, passenger vessels or operated as research vessels which, in the course of such trade or operation, proceed to sea (on voyages outside the limits of bays, harbours or rivers)

standard rate means the aggregate annual salary for the Integrated rating classification for dry cargo vessels of up to 19 000 tonnes (AOV) in clause 10.1(a) divided by 52

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

trappings means articles of equipment or dress, especially of an ornamental character, such as hats, epaulettes and lanyards and other than required uniforms and protective clothing

temporary licence means a temporary licence granted under the *Coastal Trading (Revitalising Australian Shipping) Act 2012* (Cth).

vessel means any kind of vessel used in navigation other than air navigation

DRAFT