

The Premixed Concrete Award—Exposure Draft was first published on 11 September 2014. Subsequent amendments to the draft are as follows:

Publication date	Reason for amendments	Clauses affected
13 February 2019	Incorporate changes resulting from PR593840	16.4, Schedule D (deleted)
	Incorporate changes resulting from [2017] FWCFB 3433	1.2, 4.2, 4.6, 22, 30.5, 2 (relocated)
	Incorporate changes resulting from PR598110	Schedule G (relocated)
	Incorporating changes resulting from [2018] FWCFB 3500 , PR606382 , PR606537 , PR606630	16, Schedule A, Schedule C, 16.4, 18, Schedule B
	Incorporates changes resulting from [2018] FWCFB 3936 , PR609375	19A (deleted)
	Incorporate changes resulting from [2015] FWCFB 6656	1.1, 18.2(a)
	Incorporate changes resulting from [2018] FWCFB 3802 and [2018] FWCFB 5602 , see also PR700445	11.3, 13.1(b), 13.1(d), , 18.2(c)(i), 18.3(a)(i), 20.8, 22.2, 22.7(d), 30.2, Schedule A, Schedule B
	Incorporate changes resulting from PR701683	Schedule D (relocated)
	Incorporates changes resulting from [2018] FWCFB 6863 , PR701460	6
	Administrative changes by Modern Awards team	10.2 (deleted), 17
	Incorporates changes resulting from [2015] FWCFB 4658	17
	Incorporates changes resulting from [2018] FWCFB 4735 , PR610086	17
	Incorporates changes resulting from [2018] FWCFB 4704 , PR610220	5, 28, 29, 30, 31
	Incorporates changes resulting from [2018] FWCFB 1548	7.2
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2 September 2019	Incorporating A clauses into the numbering of the exposure draft	6,17,29
	Incorporating changes resulting from [2019] FWCFB 1333 at [35]	1.5 (deleted)
	Incorporating changes resulting from [2019] FWCFB 2548 PR707013	32
	Incorporating plain language amendments to clause content resulting from [2019]	1.4 (deleted), B.1.1

Exposure Draft—Premixed Concrete Award 20XX

The Premixed Concrete Award—Exposure Draft was first published on 11 September 2014. Subsequent amendments to the draft are as follows:

Publication date	Reason for amendments	Clauses affected
	FWCFB 2698	
	Incorporating changes resulting from AWR 2018–19 Decision [2019] FWCFB 3500 , PR707469 , PR707672 , PR709080	16, 18, Schedule A, Schedule B, Schedule C
	Incorporating changes resulting from [2019] FWCFB 5144	26
	Incorporating changes resulting from [2019] FWCFB 5145 (determination in draft form).	7, 27, Schedule G
	Administrative changes made by Modern Awards team to the document structure and Part and clause titles in accordance with [2019] FWCFB 5409 at [6] and Attachment A	2, 9, 10, 11, 13, 14, 16, 16.4, 22.3, 22.4, 25, 31, 32, Schedule D—National Training Wage (deleted), Schedule F—Definitions (moved)
	Incorporating changes resulting from [2019] FWCFB 5409	4.4, 4.5, 16, A.1.2

EXPOSURE DRAFT

Premixed Concrete Award 20XX

This exposure draft has been prepared by staff of the Fair Work Commission based on the *Premixed Concrete Award 2010* (Premixed Concrete Award) as at 11 September 2014 and incorporates award updates up to 20 June 2019. This exposure draft does not seek to amend any entitlements under the Premixed Concrete Award. Instead, it has been prepared to address some of the structural issues identified in modern awards and to apply plain language drafting principles and techniques.

The review of this award in accordance with section 156 of the *Fair Work Act 2009* is being dealt with in matter [AM2014/83](#). Additionally a number of common issues are being dealt with by the Commission which may affect this award. Some transitional provisions have been deleted as a result of decisions made during 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 of this Award

1. Title and commencement

Clause 1.4 deleted as a result of re-structure [\[2019\] FWCFB 5409](#) at [6]. Clause 1.5 deleted in accordance with [\[2019\] FWCFB 1333](#) at [35].

- 1.1** This award is the *Premixed Concrete Award 20XX*.
- 1.2** This modern award commenced operation on 1 January 2010. The terms of the award have been varied since that date.
- 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. Definitions

In this award, unless the contrary intention appears:

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

afternoon shift means any shift finishing after 6.00 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 (see clause 18.2)

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

employee means national system employee within the meaning of the [Act](#)

employer means national system employer within the meaning of the [Act](#)

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

leading hand means an employee who is required to supervise, direct or to be in charge of another employee or employees

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

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

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

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

ordinary hourly rate means the hourly rate for an employee's classification specified in clause 16—~~Minimum rates~~~~Minimum rates~~, 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.

premixed concrete industry has the meaning given in clause 4.2

premixed concrete has the meaning given in clause 4.2

standard rate means the minimum weekly wage for Level 3 in clause 16—~~Minimum rates~~~~Minimum rates~~

3. The National Employment Standards and this award

3.1 The [National Employment Standards](#) (NES) and this award contain the minimum conditions of employment for employees covered by this award.

3.2 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.

3.3 Where this award refers to a condition of employment provided for in the [NES](#), the [NES](#) definition applies.

4. Coverage

Clause 4.4 and 4.5 amended in accordance with [\[2019\] FWCFB 5409](#) at [118].

4.1 This industry award covers employers throughout Australia in the premixed concrete industry and their employees in the classifications listed in clause 12—Classifications to the exclusion of any other modern award.

4.2 **Premixed concrete industry** means the industry of premixed concrete manufacturing. **Premixed concrete** means a mixture of cement and/or aggregates and/or water and/or such materials as may be specified for delivery to the purchaser ready for use.

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- 4.3 This award does not cover employers and their employees in the on-site building, engineering and civil construction industry, covered by the *Building and Construction General On-site Award 20XX*.
- 4.4 This award covers any employer which supplies labour on an on-hire basis in the premixed concrete industry ~~set out in clause 4.1~~ 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~~ Clause 4.4 operates subject to the exclusions from coverage in this award.
- 4.5 This award covers employers which provide group training services for trainees engaged in the premixed concrete industry and/or parts of ~~that industry set out in clause 4.1~~ and those trainees engaged by a group training service hosted by a company to perform work at a location where the activities described in clause ~~4.4.2~~ are being performed. ~~This subclause~~ Clause 4.5 operates subject to the exclusions from coverage in this award.
- 4.6 This award does not cover:
- (a) an employee excluded from award coverage by 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.
- 4.7 Where an employer is covered by more than one award, an employee of that employer is covered by the award classification which is most appropriate to the work performed by the employee and to the environment in which the employee normally performs the work.

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

5. Individual flexibility arrangements

- 5.1 Despite anything else in this award, an employer and an individual employee may agree to vary the application of the terms of this award relating to any of the following in order to meet the genuine needs of both the employee and the employer:
- (a) arrangements for when work is performed; or
 - (b) overtime rates; or
 - (c) penalty rates; or
 - (d) allowances; or

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- (e) annual leave loading.
- 5.2** An agreement must be one that is genuinely made by the employer and the individual employee without coercion or duress.
- 5.3** An agreement may only be made after the individual employee has commenced employment with the employer.
- 5.4** An employer who wishes to initiate the making of an agreement must:
 - (a) give the employee a written proposal; and
 - (b) if the employer is aware that the employee has, or reasonably should be aware that the employee may have, limited understanding of written English, take reasonable steps (including providing a translation in an appropriate language) to ensure that the employee understands the proposal.
- 5.5** An agreement must result in the employee being better off overall at the time the agreement is made than if the agreement had not been made.
- 5.6** An agreement must do all of the following:
 - (a) state the names of the employer and the employee; and
 - (b) identify the award term, or award terms, the application of which is to be varied; and
 - (c) set out how the application of the award term, or each award term, is varied; and
 - (d) set out how the agreement results in the employee being better off overall at the time the agreement is made than if the agreement had not been made; and
 - (e) state the date the agreement is to start.
- 5.7** An agreement must be:
 - (a) in writing; and
 - (b) signed by the employer and the employee and, if the employee is under 18 years of age, by the employee's parent or guardian.
- 5.8** Except as provided in clause 5.7(b), an agreement must not require the approval or consent of a person other than the employer and the employee.
- 5.9** The employer must keep the agreement as a time and wages record and give a copy to the employee.
- 5.10** The employer and the employee must genuinely agree, without duress or coercion to any variation of an award provided for by an agreement.
- 5.11** An agreement may be terminated:
 - (a) at any time, by written agreement between the employer and the employee; or

- (b) by the employer or employee giving 13 weeks' written notice to the other party (reduced to 4 weeks if the agreement was entered into before the first full pay period starting on or after 4 December 2013).

NOTE: If an employer and employee agree to an arrangement that purports to be an individual flexibility arrangement under this award term and the arrangement does not meet a requirement set out in section 144 then the employee or the employer may terminate the arrangement by giving written notice of not more than 28 days (see section 145 of the [Act](#)).

- 5.12 An agreement terminated as mentioned in clause 5.11(b) ceases to have effect at the end of the period of notice required under that clause.
- 5.13 The right to make an agreement under clause 5 is additional to, and does not affect, any other term of this award that provides for an agreement between an employer and an individual employee.

6. Requests for flexible working arrangements

6.1 Employee may request change in working arrangements

Clause 6 applies where an employee has made a request for a change in working arrangements under section 65 of the [Act](#).

NOTE 1: Section 65 of the [Act](#) provides for certain employees to request a change in their working arrangements because of their circumstances, as set out in section 65(1A). Clause 6 supplements or deals with matters incidental to the NES provisions.

NOTE 2: An employer may only refuse a section 65 request for a change in working arrangements on 'reasonable business grounds' (see section 65(5) and (5A)).

NOTE 3: Clause 6 is an addition to section 65.

6.2 Responding to the request

Before responding to a request made under section 65, the employer must discuss the request with the employee and genuinely try to reach agreement on a change in working arrangements that will reasonably accommodate the employee's circumstances having regard to:

- (a) the needs of the employee arising from their circumstances;
- (b) the consequences for the employee if changes in working arrangements are not made; and
- (c) any reasonable business grounds for refusing the request.

NOTE 1: The employer must give the employee a written response to an employee's section 65 request within 21 days, stating whether the employer grants or refuses the request (section 65(4)).

NOTE 2: If the employer refuses the request, then the written response must include details of the reasons for the refusal (section 65(6)).

6.3 What the written response must include if the employer refuses the request

- (a) Clause 6.3 applies if the employer refuses the request and has not reached an agreement with the employee under clause 6.2.
- (b) The written response under section 65(4) must include details of the reasons for the refusal, including the business ground or grounds for the refusal and how the ground or grounds apply.
- (c) If the employer and employee could not agree on a change in working arrangements under clause 6.2, then the written response under section 65(4) must:
 - (i) state whether or not there are any changes in working arrangements that the employer can offer the employee so as to better accommodate the employee’s circumstances; and
 - (ii) if the employer can offer the employee such changes in working arrangements, set out those changes in working arrangements.

6.4 What the written response must include if a different change in working arrangements is agreed

If the employer and the employee reached an agreement under clause 6.2 on a change in working arrangements that differs from that initially requested by the employee, then the employer must provide the employee with a written response to their request setting out the agreed change(s) in working arrangements.

6.5 Dispute resolution

Disputes about whether the employer has discussed the request with the employee and responded to the request in the way required by clause 6, can be dealt with under clause 30—Dispute resolution.

7. Facilitative provisions

Clause 7 amended in accordance with [\[2019\] FWCFB 5145](#) at [50].

7.1 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 employee and the majority of employees in the enterprise or part of the enterprise concerned.

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

Clause	Provision	Agreement between an employer and:
13.1	Ordinary hours and roster cycles	The majority of employees
14.6	Accumulation of rostered days off	An individual
15.4(a)	Scheduling of meal breaks and rest breaks	An individual

Clause	Provision	Agreement between an employer and:
17	Payment of wages	An individual
20.7	Time off instead of payment for overtime	An individual
22.9	Annual leave in advance	An individual
22.10	Cashing out of annual leave	An individual
27.3	Substitution of public holidays by agreement	The majority of employees An individual

Part 2—Types of Employment and Classifications

8. Types of employment

8.1 Employees will be employed in one of the following categories:

- (a) full-time;
- (b) part-time; or
- (c) casual.

8.2 An employer must inform each employee in writing whether they are to be full-time, part-time or casual at the time of engagement.

9. Full-time employees

A full-time employee is engaged to work an average of 38 ordinary hours per week.¹³— Ordinary hours of work .

10. Part-time employees

10.1 A part-time employee:

- (a) is engaged to work less than 38 ordinary hours per week; and
- (b) works a regular number of ordinary hours each week.

10.2 At the time of engagement, the employer and the part-time employee will agree, in writing, on a regular pattern of work, specifying at least:

- (a) the hours worked each day;
- (b) which days of the week the employee will work; and
- (c) the actual starting and finishing times on each day.

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- 10.3** Any agreement to vary the regular pattern of work will be made in writing before the variation occurs.
- 10.4** The agreement and variation will be retained by the employer and a copy will be given to the employee.
- 10.5** An employer is required to roster a part-time employee for a minimum of ~~three~~3 consecutive hours on any rostered day/shift.
- 10.6** A part-time employee employed under clause 10 will be paid for ordinary hours worked at the ordinary hourly rate for their classification in clause 12—Classifications.

11. Casual employees

A Full Bench has been constituted in [AM2017/51](#) to deal with the issue of overtime for casuals.

11.1 A casual employee is an employee who is engaged and paid as a casual employee.

11.2 Casual loading

- (a) For each ordinary hour worked, a casual employee must be paid:
- (i) the ordinary hourly rate for the classification in which they are employed; and
 - (ii) a loading of 25% of the ordinary hourly rate for the classification in which they are employed.
- (b) A casual employee must be paid for a minimum of ~~three~~3 hours on each day the employee is employed.

11.3 Casual conversion

Casual conversion clause referred to Plain language Full Bench, see [\[2018\] FWCFB 5602](#) at [20].

- (a) An **eligible casual employee** is a casual employee:
- who works on a regular and systematic basis;
 - who is employed under this award for a sequence of periods over 12 months; and
 - whose employment is to continue beyond the period of 12 months.
- (b) An eligible casual employee has the right, after 12 months, to elect to have their contract of employment converted to full-time or part-time employment.
- (c) Where the employee requests to have their employment converted, the employer will advise in writing whether they consent or refuse the election within ~~four~~4 weeks of receiving the request.
- (d) Where such conversion occurs, the details will be recorded in writing.

- (e) After an employee has converted to a full-time or part-time employee, they may only revert to casual employment by written agreement with the employer.

12. Classifications

12.1 All employees covered by this award must be classified according to the structure set out in clause 12.4.

12.2 Employers must advise their employees in writing of their classification and any changes to their classification.

12.3 The classification by the employer must be according to the skill level or levels required to be exercised by the employee in order to carry out the principal functions of the employment as determined by the employer.

12.4 Classification definitions

(a) **Level 1**

An employee without industry skills, training to be a batcher, allocator, tester or plant assistant. An employee may work at this level for up to ~~six~~ 6 months. |

(b) **Level 2**

An employee responsible for materials handling, labouring, cleaning, casual operation of the batching plant, operation of associated plant including front end loader driver, and/or plant servicing/basic maintenance.

(c) **Level 3**

- (i) All duties of a Level 2 employee.
- (ii) Primary task of operating batch plant, including a plant with computerised batching requiring use of keyboard.
- (iii) Includes employees engaged in testing of concrete in any laboratory, or as required, on any site away from the laboratory on work in or in connection with or incidental to the sampling or testing and/or sampling and testing of concrete.

(d) **Level 4**

All duties of a Level 3 employee and performs batching and dispatching as the primary task.

(e) **Level 5**

- (i) All duties of a Level 4 employee.
- (ii) Batching plant worker in charge of a plant regularly required to perform ~~two~~ 2 or more of the following functions: |
 - nominate starting and/or finishing times for the employees and sub-contract drivers working at, or from, the plant concerned and accept

responsibility for employees' and sub-contractors' time sheets being completed correctly;

- accept responsibility for ordering raw materials and/or arranging maintenance and/or repairs to equipment from sources outside the company;
- exercise discretion as to the provisions of credit or acceptance of cheques;
- accept responsibility for ensuring availability of trucks including authorisation of truck hire; and
- approval of waiting time logs, accept responsibility and banking of monies received.

Part 3—Hours of Work

13. Ordinary hours of work

13.1 Ordinary hours and roster cycles

- (a) Ordinary hours for employees other than shiftworkers are worked between 6.00 am and 6.00 pm, Monday to Friday. The employer and the majority of the employees in the section or sections of the operation may agree to vary the spread of hours in ~~this subclause~~ clause 13.1.
- (b) Ordinary hours for employees who are shiftworkers are worked between Monday to Friday inclusive.
- (c) The ordinary hours of work for a full-time employee are an average of 38 hours per week as directed by the employer.
- (d) The ordinary hours of work for a part-time employee will be in accordance with clause 8—Types of employment.
- (e) Unless the employer and the majority of the employees in the section or sections of the operation agree, an employee's ordinary hours of work must not exceed 10 hours on any day.

14. Rostering arrangements

14.1 Rosters

- (a) The employer must give an employee a roster for working their ordinary hours at least ~~seven~~ 7 days in advance.
- (b) If due to unforeseen circumstances the employer needs to change an employee's roster to keep the operation operating effectively, the employer may change the employee's roster upon giving the employee no less than notice on the previous day of the change.

- (c) For the purpose of clause 14.1(b), **unforeseen circumstances** means circumstances outside the control of the employer which the employer would not ordinarily have had the opportunity to plan for in advance.
- (d) If the employee is a shiftworker and is given less than ~~seven~~7 days' notice of a change to the employee's roster under clause 14.1(b), the employee will continue to be paid the shift penalties that would have otherwise been payable under clause 21—Penalty rates for the balance of the ~~seven~~7 day notice period, even if the employee is transferred to day work.

14.2 Method of arranging ordinary hours

The method of working the 38 hour week will be arranged by the employer fixing a roster:

- (a) with one work day in the fourth week of a ~~four~~4 week work cycle as a rostered day off on which the employee will be off work;
- (b) with ~~two~~2 half days on which the employee may be rostered off during a particular ~~four~~4 week work cycle;
- (c) for the employee to work their 38 ordinary hours each week in a fortnight, such that the employee is rostered off work for one day each fortnight; or
- (d) for the employee to work less than ~~eight~~8 ordinary hours on each day.

14.3 Rostered days off

Rostered days off will be taken as a paid day off.

14.4 Rostered days off on public holidays

When a rostered day off falls on a public holiday as prescribed in clause 27—Public holidays, the next working day will be taken instead of the rostered day off unless an alternate day is agreed to between the employee and the employer.

14.5 Rostered day off accrual

Each day of paid leave taken and any public holiday occurring during any cycle of ~~four~~4 weeks will be regarded as a day worked for the purposes of accruing a rostered day off.

14.6 Accumulation of rostered days off

Rostered days off may be:

- (a) accumulated for a specific purpose (taking with annual leave etc.) and taken at a time agreed by the employee and the employer (such agreement to be made in writing); or
- (b) accumulated for no specific purpose in which case they will:
 - (i) be taken on at least 24 hours' notice on a day that does not disrupt the satisfactory operation of the operation; or

- (ii) by agreement between the employer and employee, be paid out by the employer to the employee at the rate of 7.6 ordinary hours pay per rostered day off accumulated but not taken as at 31 January each year.

15. Breaks

15.1 Unpaid meal breaks—employees other than shiftworkers

An employee is entitled to an unpaid meal break of not less than 30 minutes to be taken no later than ~~five~~⁵ ordinary hours after starting work. The employer and an employee may agree that the employee will work up to ~~six~~⁶ ordinary hours before taking a break.

15.2 Paid meal breaks—shiftworkers

Shiftworkers must be allowed a 30 minute paid meal break during each shift, which will be counted as time worked.

15.3 Paid rest breaks

- (a) An employee must be given a paid rest break of 10 minutes each day.
- (b) The employer may require a shiftworker to combine the paid rest break with the paid meal break allowed under clause 15.2 as a 40 minute paid meal break.

15.4 Scheduling of meal breaks and rest breaks

- (a) Subject to clauses 15.1 and 15.3, the time of taking a scheduled meal break or rest break may be altered:
- by agreement between an employee and the employer; or
 - by the employer if it is necessary to maintain continuity of operations.
- (b) The employer may stagger the time of taking a meal break or rest break to meet operational requirements.

15.5 Working through a meal break

Where an employee who works during a meal break at the employer's request is unable to take a meal break as prescribed, the employee will be paid at:

- (a) 200% of the ordinary hourly rate for the time worked during the meal break on any day Monday to Friday inclusive; or
- (b) 300% of the ordinary hourly rate for the time worked during the meal break on Saturdays, Sundays and public holidays.

15.6 Breaks during or after overtime

See clause 20—~~Minimum rates~~^{Minimum rates} for arrangements for breaks during and after overtime.

Part 4—Wages and Allowances

16. Minimum rates

Monetary amounts have been adjusted as a result of AWR 2019 – changes not tracked.

Minimum rates table amended in accordance with [2019] FWCFB 5409 at [114].

- 16.1 An employer must pay employees the following minimum ~~rates~~ ~~wages~~ for ordinary hours worked by the employee:

Employee classification	Minimum weekly rate (full-time employee)	Minimum hourly rate
	\$	\$
Level 1	761.80	20.05
Level 2	768.60	20.23
Level 3	796.00	20.95
Level 4	818.50	21.54
Level 5	862.50	22.70

See Schedule A—~~Summary of Hourly Rates of Pay~~—~~Summary of Hourly Rates of Pay~~ for a summary of hourly rates of pay including overtime and penalties.

16.2 Higher duties

- (a) An employee required by the employer to perform the work of a higher classification level for more than ~~two~~ ~~2~~ hours, must be paid for all work done on that day, the ordinary hourly rate applicable for that higher level.
- (b) An employee required by the employer to perform the work of a higher classification level for less than ~~two~~ ~~2~~ hours, must be paid the higher rate for the actual time worked at that higher level.

16.3 Supported wage system

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

16.4 National training wage

- (a) Schedule E to the *Miscellaneous Award 2010* sets out minimum wage rates and conditions for employees undertaking traineeships.
- (b) This award incorporates the terms of Schedule E to the *Miscellaneous Award 2010* as at ~~1 July 2018~~ 1 July 2019. Provided that any reference to “this award” in Schedule E to the *Miscellaneous Award 2010* is to be read as referring to the *Premixed Concrete Award 2010* and not the *Miscellaneous Award 2010*.

17. Payment of wages

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.

- 17.1** Wages (including overtime, any penalties and allowances) must be paid weekly or, by agreement between the employer and the employee fortnightly.
- 17.2** An employer may pay an employee's wages by electronic funds transfer (EFT) into a bank or financial institution nominated by the employee or by cash or cheque.
- 17.3** If payment is by cash or cheque, wages will be paid during ordinary working hours.
- 17.4** When an employee is paid by way of EFT and their wages are not in their nominated account on the designated pay day the employer, if requested to do so by the employee, must provide their wages in cash by conclusion of the next day's shift.

17.5 Payment on termination of employment

- (a) The employer must pay an employee no later than 7 days after the day on which the employee's employment terminates:
- (i) the employee's wages under this award for any complete or incomplete pay period up to the end of the day of termination; and
 - (ii) all other amounts that are due to the employee under this award and the [NES](#).
- (b) The requirement to pay wages and other amounts under ~~paragraph (a) clause 17.5(a)~~ is subject to further order of the Commission and the employer making deductions authorised by this award or the [Act](#).

NOTE 1: Section 117(2) of the [Act](#) provides that an employer must not terminate an employee's employment unless the employer has given the employee the required minimum period of notice or "has paid" to the employee payment instead of giving notice.

NOTE 2: ~~Paragraph (b) Clause 17.5(b)~~ allows the Commission to make an order delaying the requirement to make a payment under ~~this clause 17.5~~. For example, the Commission could make an order delaying the requirement to pay redundancy pay if an employer makes an application under section 120 of the [Act](#) for the Commission to reduce the amount of redundancy pay an employee is entitled to under the [NES](#).

NOTE 3: State and Territory long service leave laws or long service leave entitlements under section 113 of the [Act](#), may require an employer to pay an employee for accrued long service leave on the day on which the employee's employment terminates or shortly after.

18. Allowances

Monetary amounts adjusted as a result of AWR 2019 – changes not tracked.

Note inserted in accordance with [\[2015\] FWCFB 4658](#) at [57].

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.

18.1 Allowance rates

Employers must pay to an employee such allowances as the employee is entitled to under ~~this~~ clause 18. See Schedule B—Summary of Monetary Allowances for a summary of monetary allowances and method of adjustment.

18.2 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 disability allowance (clause 18.2(b))
- (ii) leading hand allowance (clause 18.2(c))
- (iii) first aid allowance (clause 18.2(d))

(b) Industry disability allowance

An industry allowance of **\$24.68** per week is payable to an employee for all disabilities associated with work in the premixed concrete industry. This amount will be paid to all employees engaged in work specified in this award and is payable for all purposes.

(c) Leading hand allowance

- (i) A leading hand allowance is payable to an employee performing work as a leading hand or who is in charge of the plant as follows:

In charge of	\$ per week
3–5 employees and/or delivery vehicles	29.69
6–10 employees and/or delivery vehicles	33.03
More than 10 employees and/or delivery vehicles	44.89

- (ii) This allowance will be paid for all purposes.

(d) First aid allowance

A first aid allowance of **\$15.52** per week is payable to an employee who has been trained to provide first aid and who holds appropriate first aid qualifications (such as a certificate from St John Ambulance or a similar body)

and is appointed by their employer to perform first aid duty. This amount will be paid for all purposes of this award.

18.3 Expense-related allowances

(a) Meal allowance for overtime

- (i) A meal allowance of **\$15.75** is payable to an employee who is required to work ~~two-2~~ or more hours beyond the employee's normal finishing time. The employee will be entitled to this meal allowance again ~~six-6~~ hours or more after their normal finishing time and every ~~four-4~~ hours after that while they are continuing to work.
- (ii) If the employee is notified of the requirement to work overtime but the employee is not called upon to work that overtime, the employee must be paid the amount provided in clause 18.3(a)(i).

(b) Vehicle allowance

A vehicle allowance of **\$0.78** per km is payable to an employee who is directed by the employer to use the employee's own private vehicle for any purpose during working hours.

(c) Protective clothing and equipment

(i) Clothing issue

- Each employee must be provided with ~~two-2~~ pairs of appropriate overalls or trousers/shirt or shorts/shirt combinations per annum free of charge.
- Each employee must be provided with a maximum of ~~two-2~~ pairs of safety boots/shoes per annum on a one pair for one pair replacement basis.
- Any other article of protective clothing that is required must be provided by the employer and must be worn.
- The employer must replace such articles when, in the opinion of the employer, they are no longer in a serviceable condition, but no employee will be entitled to a replacement unless they return the corresponding article issued to them. If the article is lost or misplaced by the employee to whom it was issued, the employee must pay a reasonable price for the article.
- The articles supplied in accordance with ~~this subclause-clause~~ 18.3(c) will remain the property of the employer.

(ii) Prescription case hardened lenses

An employer who requires an employee to have their prescription lenses case hardened must pay for the cost of such case hardening.

(iii) Replacement of damaged personal articles

An employer must compensate an employee to the extent of the damage sustained where, in the course of undertaking their work, the employee's clothing (other than that referred to in clause 18.3(c)(i)), spectacles, hearing aids or tools are damaged or destroyed by fire, molten metal or through the use of corrosive substances.

(d) Travel, board and lodging

(i) Temporary transfer

Employees temporarily transferred from their usual place of employment to another location must be paid at the ordinary hourly rate for all time in excess of that usually spent in travelling to their place of employment. When required to use their private vehicle an employee must be paid an allowance as set out in clause 18.3(b) for all distance travelled in excess of that usually travelled to their place of employment.

(ii) Permanent change in locality

An employee:

- employed in one locality to work in another; or
- sent other than at their own request from their usual locality to another for employment which can reasonably be regarded as permanent, involving a change of residence;

must be paid travelling time whilst necessarily travelling between such localities and expenses for a period not exceeding ~~three~~ 3 months. In cases where the employee is in the process of buying a place of residence in the new locality, expenses will be paid for a period not exceeding ~~six~~ 6 months. Expenses will cease to be paid after the employee has taken up permanent residence at the new location.

(iii) Temporary change in locality

An employee sent from their usual locality to another (in circumstances other than those prescribed in clause 18.3(d)(ii)) and required to remain away from their usual residence must be paid travelling time whilst necessarily travelling between such localities and such expenses incurred whilst so absent from their usual locality.

(iv) Rate for travelling time

The rate of pay for travelling time will be the ordinary hourly rate, except on Sundays and public holidays when it will be 150% of the ordinary hourly rate.

(v) Maximum travel time

The maximum travelling time to be paid will be 12 hours out of every 24 or when a sleeping berth is provided by the employer for all night travel, ~~eight~~ 8 hours out of every 24.

(vi) **Meaning of expense**

Expense for the purpose of clause 18.3(d) means:

- all fares reasonably incurred;
- reasonable expenses incurred whilst travelling, including the amount of **\$15.75** for each meal taken; and
- the provision of reasonable board and lodging, or an allowance of **\$543.24** per week of ~~seven~~7 days or **\$76.45** per day to cover the cost incurred for board and lodging.

19. Superannuation

19.1 Superannuation legislation

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

19.2 Employer contributions

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

19.3 Voluntary employee contributions

- (a) Subject to the governing rules of the relevant superannuation fund, an employee may, in writing, authorise their employer to pay on behalf of the employee a specified amount from the post-taxation wages of the employee into the same superannuation fund as the employer makes the superannuation contributions provided for in clause 19.2.
- (b) An employee may adjust the amount the employee has authorised their employer to pay from the wages of the employee from the first of the month following the giving of three months' written notice to their employer.
- (c) The employer must pay the amount authorised under clauses 19.3(a) or 19.3(b) no later than 28 days after the end of the month in which the deduction authorised under clauses 19.3(a) or 19.3(b) was made.

19.4 Superannuation fund

Unless, to comply with superannuation legislation, the employer is required to make the superannuation contributions provided for in clause 19.2 to another superannuation fund that is chosen by the employee, the employer must make the superannuation contributions provided for in clause 19.2, and pay the amount authorised under clauses 19.3(a) or 19.3(b), to one of the following superannuation funds or its successor:

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

Part 5—Overtime and Penalty Rates

20. Overtime

A Full Bench has been constituted in [AM2017/51](#) to deal with the issue of overtime for casuals.

20.1 Definition of overtime

- (a) For a full-time or casual employee (including a shiftworker), overtime is any time worked:
 - (i) in excess of an average of 38 hours ordinary hours per week; and/or
 - (ii) outside of the employee’s ordinary hours.
- (b) For a part-time employee, hours worked in excess of the employee’s ordinary hours (agreed in accordance with clause 10—Part-time employees) will be paid at overtime rates.

20.2 Overtime rates

Where an employee works overtime the employer must pay to the employee the overtime rates as follows:

For overtime worked on	Overtime rate	Casual overtime rate (includes casual loading)	Minimum payment
	% of ordinary hourly rate		

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For overtime worked on	Overtime rate	Casual overtime rate (includes casual loading)	Minimum payment
	% of ordinary hourly rate		
Monday to Friday—first 2 hours	150%	175%	—
Monday to Friday—after 2 hours	200%	225%	—
Saturday—first 2 hours	150%	175%	4 hours
Saturday—after 2 hours	200%	225%	4 hours
Sunday all day	200%	225%	4 hours

See Schedule A—~~Summary of Hourly Rates of Pay—Summary of Hourly Rates of Pay~~ for a summary of overtime rates.

20.3 Day stands alone

Except as provided in clause 20.4, in computing overtime each day's work will stand alone.

20.4 Minimum break between shifts

- (a) Where overtime work is necessary and it is practical to do so, an employee will have at least 10 consecutive hours off duty between the work of successive days.
- (b) Where, after working overtime, an employee has not had at least 10 consecutive hours break between shifts, the employee must be released until the employee has ten consecutive hours off duty without loss of pay for ordinary working time occurring during such absence.
- (c) If on the direction of the employer such an employee resumes or continues work without having had 10 consecutive hours off duty, the employee must be paid at 200% of the ordinary hourly rate until released from duty for 10 consecutive hours. The employee is entitled to be absent until they have had 10 consecutive hours off duty without loss of pay for ordinary working time occurring during such absence.

20.5 Minimum break between shifts—shiftworkers

Clause 20.4 will apply in the case of shiftworkers who rotate from one shift to another as if ~~eight~~ 8 hours were substituted for 10 hours when overtime is worked:

- (a) for the purpose of changing shift rosters; or
- (b) where a shiftworker does not report for duty.

20.6 Recall and stand-by

- (a) An employee recalled to work overtime after leaving the operation (whether notified before or after leaving the operation) must be paid for a minimum of ~~four-4~~ hours at the appropriate rate each time the employee is recalled. Where the employee is required to stand by, the employee must be paid for a minimum of ~~three-3~~ hours at the appropriate overtime rate.
- (b) Clause 20.6 will not apply in cases where it is customary for the employee to return to the operation to perform a specific job outside their ordinary working hours or where the overtime is continuous (subject to a reasonable meal break) with finishing or starting ordinary working time.
- (c) Overtime worked in the circumstances set out in clause 20.6(a), will not be regarded as overtime for the purposes of clause 20.8—~~Overtime breaks~~ when the actual time worked by the employee is less than ~~three-3~~ hours on each such recall.
- (d) If the employee is directed to hold themselves in readiness to work after their ordinary hours the employee must be paid stand-by time, at the ordinary hourly rate of pay, until released.

20.7 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 20.7
- (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) clause~~ 20.7(c)(iii) must be made in the next pay period following the request.

NOTE: An example of the type of agreement required by ~~this~~ clause 20.7 is set out at Schedule D—~~Agreement for Time Off Instead of Payment for Overtime—Agreement for Time Off Instead of Payment for Overtime~~. There is no requirement to use the form of agreement set out at Schedule D—~~Agreement for Time Off Instead of Payment for Overtime—Agreement for Time Off Instead of Payment for Overtime~~. An agreement under clause 20.7

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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 20.7 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 20.7 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)~~ clause 20.7(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 20.7 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 20.7 will apply, including the requirement for separate written agreements under ~~paragraph (b)~~ [clause 20.7\(b\)](#) 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 20.7 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 20.7.

20.8 Overtime breaks

If an employee is required to work overtime for ~~two~~ 2 hours after the employee's normal ceasing time the employee must be provided with a 30 minute break without loss of pay, and an additional break for each ~~four~~ 4 hours thereafter, provided that overtime work continues after any such break.

20.9 Weekend overtime breaks

Where overtime is worked on a Saturday or Sunday and it continues after 12 noon, the employee must be given a paid meal break of 30 minutes between 12 noon and 1.00 pm, provided that the work continues after the meal break.

21. Penalty rates

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

Ordinary hours worked:		Penalty rate	Casual penalty rate (includes casual loading)
		% of ordinary hourly rate	
Ordinary hours—no penalty rate	See clause 13.1.	100%	125%
Public holiday	All hours on a public holiday	250%	275%
Shiftworkers			
Afternoon	Any shift finishing after 6.00 pm and at or before midnight	115%	140%
Night	Any shift finishing after midnight and at or before 8.00 am	115%	140%
Permanent night shift		130%	155%
Public holiday	Any shift where all or part of the shift is on a public holiday	250%	275%

See Schedule A—~~Summary of Hourly Rates of Pay~~—~~Summary of Hourly Rates of Pay~~ for a summary of rates of pay including penalty rates.

21.2 Penalty rates are not payable for overtime hours worked by the employee.

Part 6—Leave and Public Holidays

22. Annual leave

22.1 Annual leave is provided for in the [NES](#).

22.2 Seven day shiftworkers

In addition to the leave provided for in the [NES](#), shiftworkers who are rostered to work regularly on Sundays and public holidays will be allowed an additional one week's leave;

22.3 **Payment for annual leave**

Annual leave loading remains outstanding with further decision to be issued – see [\[2019\] FWCFB 5409](#) at [153].

Before the start of an employee's annual leave the employer must pay the employee:

- (a) instead of the base rate of pay referred to in section 90(1) of the [Act](#), the amount the employee would have earned for working their normal hours, exclusive of overtime or other penalties or premiums, had they not been on leave; and
- (b) whichever is the greater of:
 - (i) a loading of 17.5% of the employee's minimum weekly rate prescribed in clause 16—~~Minimum rates~~ [Minimum rates](#); or
 - (ii) if the employee is a shiftworker prior to taking leave, their shift penalties.

NOTE: Where an employee is receiving over-award 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 sections 16 and 90 of the [Act](#)).

22.4 **Electronic funds transfer (EFT) payment of annual leave**

Despite anything else in clause 22, an employee paid by electronic funds transfer (EFT) may be paid in accordance with their usual pay cycle while on paid annual leave.

22.5 **Excessive leave accruals: general provision**

NOTE: Clauses 22.5 to 22.7 contain provisions, additional to the [NES](#), 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 [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 22.2).

- (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 22.6 sets out how an employer may direct an employee who has an excessive leave accrual to take paid annual leave.
- (d) Clause 22.7 sets out how an employee who has an excessive leave accrual may require an employer to grant paid annual leave requested by the employee.

22.6 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 22.5(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) clause~~ 22.6(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 22.5, 22.6 or 22.7 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) clause~~ 22.6(a) that is in effect.
- (d) An employee to whom a direction has been given under ~~paragraph (a) clause~~ 22.6(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) clause~~ 22.6(d) may result in the direction ceasing to have effect. See clause 22.6(b)(i).

NOTE 2: Under section 88(2) of the [Act](#), the employer must not unreasonably refuse to agree to a request by the employee to take paid annual leave.

22.7 Excessive leave accruals: request by employee for leave

- (a) If an employee has genuinely tried to reach agreement with an employer under clause 22.5(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.

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- (b) However, an employee may only give a notice to the employer under ~~paragraph (a) clause~~ 22.7(a) 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 22.6(a) that, when any other paid annual leave arrangements (whether made under clause 22.5, 22.6 or 22.7 or otherwise agreed by the employer and employee) are taken into account, would eliminate the employee's excessive leave accrual.
- (c) A notice given by an employee under ~~paragraph (a) clause~~ 22.7(a) 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 22.5, 22.6 or 22.7 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.
- (d) An employee is not entitled to request by a notice under ~~paragraph (a) clause~~ 22.7(a) more than 4 weeks' paid annual leave (or 5 weeks' paid annual leave for a shiftworker, as defined by clause 22.2) in any period of 12 months.
- (e) The employer must grant paid annual leave requested by a notice under ~~paragraph (a) clause~~ 22.7(a).

22.8 Close-down

Issue remains outstanding with further decision to be issued – see [\[2019\] FWCFB 5409](#) at [247].

- (a) Where an employer intends temporarily to close (or reduce to nucleus) for the purpose, amongst others, of allowing annual leave to the employees concerned or a majority of them, the employer may give those employees one month's notice in writing of an intention to apply the provisions of this clause.
- (b) In the case of any employee employed after notice has been given, notice must be given to that employee on the date they are offered employment.
- (c) Where an employee has been given notice pursuant to clauses 22.8(a) or 22.8(b) and the employee has:
 - (i) accrued sufficient annual leave to cover the full period of closing, the employee must take paid annual leave for the full period of closing;

- (ii) insufficient accrued annual leave to cover the full period of closing, the employee must take paid annual leave to the full amount accrued and leave without pay for the remaining period of the closing; or
 - (iii) no accrued annual leave, the employee must take leave without pay for the full period of closing.
- (d) Public holidays that fall within the period of close-down will be paid as provided for in this award and will not count as a day of annual leave or leave without pay.

22.9 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 22.9 is set out at Schedule E—~~Agreement to Take Annual Leave in Advance—Agreement to Take Annual Leave in Advance~~. There is no requirement to use the form of agreement set out at Schedule E—~~Agreement to Take Annual Leave in Advance—Agreement to Take Annual Leave in Advance~~.

- (c) The employer must keep a copy of any agreement under clause 22.9 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 22.9, 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.

~~Payment for annual leave~~

- ~~(e) Before the start of an employee's annual leave the employer must pay the employee:~~
 - ~~(i) instead of the base rate of pay referred to in section 90(1) of the Act, the amount the employee would have earned for working their normal hours, exclusive of overtime or other penalties or premiums, had they not been on leave; and~~
 - ~~(ii) whichever is the greater of:~~
 - ~~• a loading of 17.5% of the employee's minimum weekly rate prescribed in clause 16; or~~

- ~~• if the employee is a shiftworker prior to taking leave, their shift penalties.~~

~~NOTE: Where an employee is receiving over-award 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 sections 16 and 90 of the Act).~~

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.~~

22.10 Cashing out of annual leave

- (a) Paid annual leave must not be cashed out except in accordance with an agreement under clause 22.10.
- (b) Each cashing out of a particular amount of paid annual leave must be the subject of a separate agreement under clause 22.10.
- (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 22.10 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 22.10 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 22.10 as an employee record.

NOTE 1: Under section 344 of the Act, an employer must not exert undue influence or undue pressure on an employee to make, or not make, an agreement under clause 22.10.

NOTE 2: 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 22.10.

NOTE 3: An example of the type of agreement required by clause 22.10 is set out at Schedule F—Agreement to Cash Out Annual Leave. There is no requirement to use the form of agreement set out at Schedule F—Agreement to Cash Out Annual Leave.

23. Personal/carer's leave and compassionate leave

Personal/carer's leave and compassionate leave are provided for in the [NES](#).

24. Parental leave and related entitlements

Parental leave and related entitlements are provided for in the [NES](#).

25. Community service leave

Community service leave is provided for in the [NES](#).

26. Unpaid family and domestic violence leave

Clause 26 inserted in accordance with [\[2019\] FWCFB 5144](#) at [13].

Unpaid family and domestic violence leave is provided for in the NES.

NOTE 1: Information concerning an employee's experience of family and domestic violence is sensitive and if mishandled can have adverse consequences for the employee. Employers should consult with such employees regarding the handling of this information.

NOTE 2: Depending upon the circumstances, evidence that would satisfy a reasonable person of the employee's need to take family and domestic violence leave may include a document issued by the police service, a court or family violence support service, or a statutory declaration.

27. Public holidays

Clause 27 amended in accordance with [\[2019\] FWCFB 5145](#) at [50] ([determination](#) in draft form).

27.1 Public holidays are provided for in the [NES](#).

27.2 Where an employee works on a public holiday they will be paid in accordance with clause 21.1.

27.3 Substitution of public holidays by agreement

(a) An employer and employee may agree to substitute another day for a day that would otherwise be a public holiday under the NES.

(b) An employer and employee may agree to substitute another part-day for a part-day that would otherwise be a part-day public holiday under the NES.

27.4 Part-day public holidays

For provisions relating to part-day public holidays see Schedule G—~~Part-day Public Holidays—Part day Public Holidays~~.

Part 7—Consultation and Dispute Resolution

28. Consultation about major workplace change

28.1 If an employer makes a definite decision to make major changes in production, program, organisation, structure or technology that are likely to have significant effects on employees, the employer must:

- (a) give notice of the changes to all employees who may be affected by them and their representatives (if any); and
- (b) discuss with affected employees and their representatives (if any):
 - (i) the introduction of the changes; and
 - (ii) their likely effect on employees; and
 - (iii) measures to avoid or reduce the adverse effects of the changes on employees; and
- (c) commence discussions as soon as practicable after a definite decision has been made.

28.2 For the purposes of the discussion under clause 28.1(b), the employer must give in writing to the affected employees and their representatives (if any) all relevant information about the changes including:

- (a) their nature; and
- (b) their expected effect on employees; and
- (c) any other matters likely to affect employees.

28.3 Clause 28.2 does not require an employer to disclose any confidential information if its disclosure would be contrary to the employer's interests.

28.4 The employer must promptly consider any matters raised by the employees or their representatives about the changes in the course of the discussion under clause 28.1(b).

28.5 In clause 28 **significant effects**, on employees, includes any of the following:

- (a) termination of employment; or
- (b) major changes in the composition, operation or size of the employer's workforce or in the skills required; or
- (c) loss of, or reduction in, job or promotion opportunities; or

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- (d) loss of, or reduction in, job tenure; or
- (e) alteration of hours of work; or
- (f) the need for employees to be retrained or transferred to other work or locations; or
- (g) job restructuring.

28.6 Where this award makes provision for alteration of any of the matters defined at clause 28.5, such alteration is taken not to have significant effect.

29. Consultation about changes to rosters or hours of work

29.1 Clause 29 applies if an employer proposes to change the regular roster or ordinary hours of work of an employee, other than an employee whose working hours are irregular, sporadic or unpredictable.

29.2 The employer must consult with any employees affected by the proposed change and their representatives (if any).

29.3 For the purpose of the consultation, the employer must:

- (a) provide to the employees and representatives mentioned in clause 29.2 information about the proposed change (for example, information about the nature of the change and when it is to begin); and
- (b) invite the employees to give their views about the impact of the proposed change on them (including any impact on their family or caring responsibilities) and also invite their representative (if any) to give their views about that impact.

29.4 The employer must consider any views given under clause 29.3(b).

29.5 Clause 29 is to be read in conjunction with any other provisions of this award concerning the scheduling of work or the giving of notice.

30. Dispute resolution

30.1 Clause 30 sets out the procedures to be followed if a dispute arises about a matter under this award or in relation to the [NES](#).

30.2 The parties to the dispute must first try to resolve the dispute at the workplace through discussion between the employee or employees concerned and the relevant supervisor.

30.3 If the dispute is not resolved through discussion as mentioned in clause 30.2, the parties to the dispute must then try to resolve it in a timely manner at the workplace through discussion between the employee or employees concerned and more senior levels of management, as appropriate.

- 30.4** If the dispute is unable to be resolved at the workplace and all appropriate steps have been taken under clauses 30.2 and 30.3, a party to the dispute may refer it to the Fair Work Commission.
- 30.5** The parties may agree on the process to be followed by the Fair Work Commission in dealing with the dispute, including mediation, conciliation and consent arbitration.
- 30.6** If the dispute remains unresolved, the Fair Work Commission may use any method of dispute resolution that it is permitted by the [Act](#) to use and that it considers appropriate for resolving the dispute.
- 30.7** A party to the dispute may appoint a person, organisation or association to support and/or represent them in any discussion or process under clause 30.
- 30.8** While procedures are being followed under clause 30 in relation to a dispute:
- (a) work must continue in accordance with this award and the [Act](#); and
 - (b) an employee must not unreasonably fail to comply with any direction given by the employer about performing work, whether at the same or another workplace, that is safe and appropriate for the employee to perform.
- 30.9** Clause 30.8 is subject to any applicable work health and safety legislation.

Part 8—Termination of Employment and Redundancy

31. Termination of employment

NOTE: The [NES](#) sets out requirements for notice of termination by an employer. See sections 117 and 123 of the [Act](#).

31.1 Notice of termination by an employee

- (a) Clause 31.1 applies to all employees except those identified in sections 123(1) and 123(3) of the [Act](#).
- (b) An employee must give the employer notice of termination in accordance with **Table 1—Period of notice** of at least the period specified in column 2 according to the period of continuous service of the employee specified in column 1.

Table 1—Period of notice

Column 1 Employee’s period of continuous service with the employer at the end of the day the notice is given	Column 2 Period of notice
Not more than 1 year	1 week
More than 1 year but not more than 3 years	2 weeks
More than 3 years but not more than 5 years	3 weeks
More than 5 years	4 weeks

NOTE: The notice of termination required to be given by an employee is the same as that required of an employer except that the employee does not have to give additional notice based on the age of the employee.

- (c) In clause 31.1(b) **continuous service** has the same meaning as in section 117 of the [Act](#).
- (d) If an employee who is at least 18 years old does not give the period of notice required under 31.1(b), then the employer may deduct from wages due to the employee under this award an amount that is no more than one week's wages for the employee.
- (e) If the employer has agreed to a shorter period of notice than that required under 31.1(b), then no deduction can be made under clause 31.1(d).
- (f) Any deduction made under clause 31.1(d) must not be unreasonable in the circumstances.

31.2 Job search entitlement

- (a) Where an employer has given notice of termination to an employee, the employee must be allowed time off without loss of pay of up to one day for the purpose of seeking other employment.
- (b) The time off under clause 31.2 is to be taken at times that are convenient to the employee after consultation with the employer.

32. Redundancy

Clause 32 amended in accordance with [\[2019\] FWCFB 2548](#) at [6] and [PR707013](#).

NOTE: Redundancy pay is provided for in the NES. See sections 119 to 123 of the Act.

32.1 Transfer to lower paid duties on redundancy

- (a) Clause 32.1 applies if, because of redundancy, an employee is transferred to new duties to which a lower ordinary rate of pay applies.
- (b) The employer may:
 - (i) give the employee notice of the transfer of at least the same length as the employee would be entitled to under section 117 of the Act as if it were a notice of termination given by the employer; or
 - (ii) transfer the employee to the new duties without giving notice of transfer or before the expiry of a notice of transfer, provided that the employer pays the employee as set out in clause 32.1(c).
- (c) If the employer acts as mentioned in clause 32.1(b)(ii), the employee is entitled to a payment of an amount equal to the difference between the ordinary rate of pay of the employee (inclusive of all-purpose allowances, shift rates and penalty rates applicable to ordinary hours) for the hours of work the employee would have worked in the first role, and the ordinary rate of pay (also inclusive of all-purpose allowances, shift rates and penalty rates applicable to ordinary

hours) of the employee in the second role for the period for which notice was not given.

32.2 Employee leaving during redundancy notice period

- (a) An employee given notice of termination in circumstances of redundancy may terminate their employment during the minimum period of notice prescribed by section 117(3) of the Act.
- (b) The employee is entitled to receive the benefits and payments they would have received under clause 32 or under sections 119 to 123 of the Act had they remained in employment until the expiry of the notice.
- (c) However, the employee is not entitled to be paid for any part of the period of notice remaining after the employee ceased to be employed.

32.3 Job search entitlement

- (a) Where an employer has given notice of termination to an employee in circumstances of redundancy, the employee must be allowed time off without loss of pay of up to one day each week of the minimum period of notice prescribed by section 117(3) of the Act for the purpose of seeking other employment.
- (b) If an employee is allowed time off without loss of pay of more than one day under clause 32.3(a), the employee must, at the request of the employer, produce proof of attendance at an interview.
- (c) A statutory declaration is sufficient for the purpose of clause 32.3(b).
- (d) An employee who fails to produce proof when required under clause 32.3(b) is not entitled to be paid for the time off.
- (e) This entitlement applies instead of clause 31.2.

Schedule A—Summary of Hourly Rates of Pay

Monetary amounts have been adjusted as a result of AWR 2019 – changes not tracked.

Clause A.1.2 amended in accordance with [2019] FWCFB 5409 at [248] to [254]

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

A.1 Full-time and part-time employees

A.1.1 Ordinary hourly rate includes the industry allowance (clause 18.2(b)) which is payable for all purposes.

A.1.2 Where an additional allowance is payable for all purposes in accordance with clause 18.2(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. Consistent with Clause A.1.1, all-purpose allowances need to be added to the rates in the table where they are applicable.

A.1.3 Full-time and part-time employees other than shiftworkers—ordinary and penalty rates

	Monday to Friday	Public holiday
	% of ordinary hourly rate ¹	
	100%	250%
	\$	\$
Level 1	20.70	51.75
Level 2	20.88	52.20
Level 3	21.60	54.00
Level 4	22.19	55.48
Level 5	23.35	58.38

Commented [FWC1]: (Weekly rate ÷ 38) in cl 16.1 + (all-purpose industry disability allowance ÷ 38) in cl 18.2(b) + (any additional all-purpose allowance payable to the employee under cl 18, ÷ 38).

Rates in table include the all-purpose industry disability allowance.

Commented [FWC2]: Relevant percentage in clause 21.1

¹ **Ordinary hourly rate** includes the industry disability allowance payable to all employees for all purposes. Any applicable all-purpose allowance (the leading hand allowance (clause 18.2(c)) or first aid allowance (18.2(d)) will form part of the employee’s ordinary hourly rate and must be added prior to calculating penalties and overtime.

A.1.4 Full-time and part-time shiftworkers—ordinary and penalty rates

	Day work	Afternoon	Night	Permanent night shift	Public holiday
	% of ordinary hourly rate ¹				
	100%	115%	115%	130%	250%
	\$	\$	\$	\$	\$
Level 1	20.70	23.81	23.81	26.91	51.75
Level 2	20.88	24.01	24.01	27.14	52.20
Level 3	21.60	24.84	24.84	28.08	54.00

Commented [FWC3]: (Weekly rate ÷ 38) in cl 16.1 + (all-purpose industry disability allowance ÷ 38) in cl 18.2(b) + (any additional all-purpose allowance payable to the employee under cl 18, ÷ 38).

Rates in table include the all-purpose industry disability allowance.

Commented [FWC4]: Relevant percentage in cl 21.1

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	Day work	Afternoon	Night	Permanent night shift	Public holiday
	% of ordinary hourly rate ¹				
	100%	115%	115%	130%	250%
	\$	\$	\$	\$	\$
Level 4	22.19	25.52	25.52	28.85	55.48
Level 5	23.35	26.85	26.85	30.36	58.38

¹ Ordinary hourly rate includes the industry disability allowance payable to all employees for all purposes. Any applicable all-purpose allowance (the leading hand allowance (clause 18.2(c)) or first aid allowance (clause 18.2(d))) will form part of the employee's ordinary hourly rate and must be added prior to calculating penalties and overtime.

A.1.5 Full-time and part-time shiftworkers and non-shiftworkers—overtime rates

	Monday to Friday – first 2 hours	Monday to Friday – after 2 hours	Saturday – first 2 hours	Saturday – after 2 hours	Sunday
	% of ordinary hourly rate ¹				
	150%	200%	150%	200%	200%
	\$	\$	\$	\$	\$
Level 1	31.05	41.40	31.05	41.40	41.40
Level 2	31.32	41.76	31.32	41.76	41.76
Level 3	32.40	43.20	32.40	43.20	43.20
Level 4	33.29	44.38	33.29	44.38	44.38
Level 5	35.03	46.70	35.03	46.70	46.70

¹ Ordinary hourly rate includes the industry disability allowance payable to all employees for all purposes. Any applicable all-purpose allowance (the leading hand allowance (clause 18.2(c)) or first aid allowance (clause 18.2(d))) will form part of the employee's ordinary hourly rate and must be added prior to calculating penalties and overtime.

A.2 Casual employees

A Full Bench has been constituted in [AM2017/51](#) to deal with the issue of overtime for casuals. The rates in the tables below dealing with overtime for casuals will not become operative until a decision is made in that matter and only to the extent that they are consistent with the decision.

A.2.1 Casual employees other than shiftworkers—ordinary and penalty rates

	Day work	Public holiday
	% of ordinary hourly rate ¹	
	125%	275%
	\$	\$
Level 1	25.88	56.93
Level 2	26.10	57.42

Commented [FWC3]: (Weekly rate ÷ 38) in cl 16.1 + (all-purpose industry disability allowance ÷ 38) in cl 18.2(b) + (any additional all-purpose allowance payable to the employee under cl 18, ÷ 38).

Rates in table include the all-purpose industry disability allowance.

Commented [FWC4]: Relevant percentage in cl 21.1

Commented [FWC5]: (Weekly rate ÷ 38) in cl 16.1 + (all-purpose industry disability allowance ÷ 38) in cl 18.2(b) + (any additional all-purpose allowance payable to the employee under cl 18, ÷ 38).

Rates in table include the all-purpose industry disability allowance.

Commented [FWC6]: Relevant percentage in cl 20.2

Commented [FWC7]: (Weekly rate ÷ 38) in cl 16.1 + (all-purpose industry disability allowance ÷ 38) in cl 18.2(b) + (any additional all-purpose allowance payable to the employee under cl 18, ÷ 38).

Rates in table include the all-purpose industry disability allowance.

Commented [FWC8]: Ordinary hourly rate + 25% casual loading in cl 11.2

Commented [FWC9]: Relevant percentage in cl 21.1

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	Day work	Public holiday
	% of ordinary hourly rate ¹	
	125%	275%
	\$	\$
Level 3	27.00	59.40
Level 4	27.74	61.02
Level 5	29.19	64.21

Commented [FWC7]: (Weekly rate ÷ 38) in cl 16.1 + (all-purpose industry disability allowance ÷ 38) in cl 18.2(b) + (any additional all-purpose allowance payable to the employee under cl 18, ÷ 38).

Rates in table include the all-purpose industry disability allowance.

Commented [FWC8]: Ordinary hourly rate + 25% casual loading in cl 11.2

Commented [FWC9]: Relevant percentage in cl 21.1

¹ **Ordinary hourly rate** includes the industry disability allowance payable to all employees for all purposes. Any applicable all-purpose allowance (the leading hand allowance (clause 18.2(c)) or first aid allowance (clause 18.2(d))) will form part of the employee's ordinary hourly rate and must be added prior to calculating penalties and overtime.

A.2.2 Casual shiftworkers—ordinary and penalty rates

	Day work	Afternoon	Night	Permanent night shift	Public holiday
	% of ordinary hourly rate ¹				
	125%	140%	140%	155%	275%
	\$	\$	\$	\$	\$
Level 1	25.88	28.98	28.98	32.09	56.93
Level 2	26.10	29.23	29.23	32.36	57.42
Level 3	27.00	30.24	30.24	33.48	59.40
Level 4	27.74	31.07	31.07	34.39	61.02
Level 5	29.19	32.69	32.69	36.19	64.21

Commented [FWC10]: (Weekly rate ÷ 38) in cl 16.1 + (all-purpose industry disability allowance ÷ 38) in cl 18.2(b) + (any additional all-purpose allowance payable to the employee under cl 18, ÷ 38).

Rates in table include the all-purpose industry disability allowance.

Commented [FWC11]: Ordinary hourly rate + 25% casual loading in cl 11.2

Commented [FWC12]: Relevant percentage in cl 21.1

¹ **Ordinary hourly rate** includes the industry disability allowance payable to all employees for all purposes. Any applicable all-purpose allowance (the leading hand allowance (clause 18.2(c)) or first aid allowance (clause 18.2(d))) will form part of the employee's ordinary hourly rate and must be added prior to calculating penalties and overtime.

A.2.3 Casual shiftworkers and non-shiftworkers—overtime rates

	Monday to Friday – first 2 hours	Monday to Friday – after 2 hours	Saturday – first 2 hours	Saturday – after 2 hours	Sunday
	% of ordinary hourly rate ¹				
	175%	225%	175%	225%	225%
	\$	\$	\$	\$	\$
Level 1	36.23	46.58	36.23	46.58	46.58
Level 2	36.54	46.98	36.54	46.98	46.98
Level 3	37.80	48.60	37.80	48.60	48.60
Level 4	38.83	49.93	38.83	49.93	49.93
Level 5	40.86	52.54	40.86	52.54	52.54

Commented [FWC13]: (Weekly rate ÷ 38) in cl 16.1 + (all-purpose industry disability allowance ÷ 38) in cl 18.2(b) + (any additional all-purpose allowance payable to the employee under cl 18, ÷ 38).

Rates in table include the all-purpose industry disability allowance.

Commented [FWC14]: Relevant percentage in cl 20.2

¹ **Ordinary hourly rate** includes the industry disability allowance payable to all employees for all purposes. Any applicable all-purpose allowance (the leading hand allowance (clause 18.2(c)) or first aid allowance (clause 18.2(d))) will form part of the employee's ordinary hourly rate and must be added prior to calculating penalties and overtime.

Schedule B—Summary of Monetary Allowances

Monetary amounts adjusted as a result of AWR 2019 – changes not tracked.

See clause 18—Allowances for full details of allowances payable under this award.

B.1 Wage-related allowances:

B.1.1 The wage-related allowances in this award are based on the standard rate as defined in [clause 2](#)—Definitions as the minimum weekly wage for Level 3 in clause 16.1 = **\$796.00**

Allowance	Clause	% of standard rate (\$772.80)	\$ per week unless stated otherwise	<u>Payable</u>
Industry disability allowance ¹	18.2(b)	3.10	24.68	<u>per week</u>
Leading hand allowance¹:	18.2(c)			
3 to 5 employees and/or delivery vehicles		3.73	29.69	<u>per week</u>
6 to 10 employees and/or delivery vehicles		4.15	33.03	<u>per week</u>
More than 10 employees and/or delivery vehicles		5.64	44.89	<u>per week</u>
First aid allowance ¹	18.2(d)	1.95	15.52	<u>per week</u>

¹ This allowance applies for all purposes.

B.1.2 Adjustment of wage-related allowances

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

B.2 Expense-related allowances

Allowance	Clause	\$	<u>Payable</u>
Meal allowance—overtime	18.3(a)	15.75	<u>per occasion</u>
Vehicle allowance	18.3(b)	0.78 per km	<u>per km</u>
Travel, board and lodging:	18.3(d)(vi)		
Meals		15.75 per meal	<u>per meal</u>
Board and lodging—per week		543.24 per week of seven days	<u>per week of -7 days</u>
Board and lodging—per day		76.45 per day	<u>per day</u>

B.2.1 Adjustment of expense-related allowances

(a) At the time of any adjustment to the standard rate, each expense-related allowance will be increased by the relevant adjustment factor. The relevant

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adjustment factor for this purpose is the percentage movement in the applicable index figure most recently published by the Australian Bureau of Statistics since the allowance was last adjusted.

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

Allowance	Applicable Consumer Price Index figure
Meal allowance	Take away and fast foods sub-group
Vehicle allowance	Private motoring sub-group
Travel, board and lodging	Domestic holiday travel and accommodation sub-group

Schedule C—Supported Wage System

Monetary amounts in this clause adjusted as a result of AWR 2019 – changes not tracked.

C.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.

C.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

C.3 Eligibility criteria

C.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.

C.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.

C.4 Supported wage rates

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

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

- C.4.2** Provided that the minimum amount payable must be not less than **\$87** per week.
- C.4.3** Where an employee's assessed capacity is 10%, they must receive a high degree of assistance and support.

C.5 Assessment of capacity

- C.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 SWS 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.
- C.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](#).

C.6 Lodgement of SWS wage assessment agreement

- C.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.
- C.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.

C.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 SWS.

C.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.

C.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.

C.10 Trial period

- C.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~~4 weeks) may be needed.
- C.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.
- C.10.3** The minimum amount payable to the employee during the trial period must be no less than \$87 per week.
- C.10.4** Work trials should include induction or training as appropriate to the job being trialled.
- C.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 C.5.

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

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___

Schedule E—Agreement to Take Annual Leave in Advance

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 F—Agreement to Cash Out Annual Leave

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 G—Part-day Public Holidays

Schedule G amended in accordance with [\[2019\] FWCFB 5145](#) at [52] ([determination](#) in draft form).

- G.1** This schedule operates where this award otherwise contains provisions dealing with public holidays that supplement the [NES](#).
- G.2** Where a part-day public holiday is declared or prescribed between 7.00 pm and midnight on Christmas Eve (24 December in each year) or New Year’s Eve (31 December in each year) 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.2(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.2(a), will not be entitled to another day off, another day’s pay or another day of annual leave as a result of the part-day public holiday.

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

G.3 An employer and employee may agree to substitute another part-day for a part-day that would otherwise be a part-day public holiday under the NES.

G.3G.4 This schedule is not intended to detract from or supplement the [NES](#).

DRAFT