



DRAFT DETERMINATION

Fair Work Act 2009

s.156—4 yearly review of modern awards

4 yearly review of modern awards

(AM2014/233)

LEGAL SERVICES AWARD 2010

[MA000116]

Clerical industry

JUSTICE ROSS, PRESIDENT
DEPUTY PRESIDENT CLANCY
COMMISSIONER BISSETT

PLACE, XX MONTH YEAR

4 yearly review of modern awards – Legal Services Award 2010 – modern award varied.

A. Further to the decision [[YEAR] FWCFB XXXX] issued by the Full Bench of the Fair Work Commission on XX MONTH YEAR, the *Legal Services Award 2010* is varied as follows:

1. By deleting all clauses, schedules and appendices.
2. By inserting the clauses and schedules attached.

B: This determination comes into operation from [XX MONTH YEAR]. In accordance with s.165(3) of the *Fair Work Act 2009*, this determination does not take effect until the start of the first full pay period that starts on or after [XX MONTH YEAR].

PRESIDENT

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Legal Services Award 20XX

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Part 1—Application and Operation of this Award

1. Title and commencement

- 1.1 This award is the *Legal Services 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.

2. Definitions

In this award, unless the contrary intention appears:

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

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

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

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

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

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

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

law graduate an employee who has completed a qualification in law and is undertaking a period of training within a law firm in satisfaction of requirements prescribed under relevant legislation in order to be admitted to practice as an Australian Lawyer but shall not include a lawyer that is admitted to practice as an Australian Lawyer or in a foreign jurisdiction

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

legal services industry has the meaning given in clause 4.2

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

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

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

standard rate means the minimum weekly wage for a Level 2 employee in clause 15—Minimum rates

work experience clerk means a person, whether a student or not, who is employed for not more than 2 months in any consecutive period of 12 months for the purposes of gaining experience, but does not include law students or any person who is undertaking work experience according to the provisions of the relevant State or Territory legislation or secondary school student on a formal work program

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

4. Coverage

- 4.1 This industry award covers employers throughout Australia in the legal services industry and their employees in the classifications listed in clause 15—Minimum rates to the exclusion of any other modern award.
- 4.2 The **legal services industry** means employers engaged in the business of providing legal and legal support services.
- 4.3 The award does not cover employers in the following industries:
 - (a) community legal centres;
 - (b) aboriginal legal services; or
 - (c) an employer whose primary activity is not within the legal services industry
- 4.4 This award covers any employer which supplies labour on an on-hire basis in the legal services industry 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. 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 legal services industry and/or parts of that industry 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 4.1 are being performed. Clause 4.5 operates subject to the exclusions from coverage in this award.
- 4.6** This award does not cover:
- (a) employees 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
 - (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 31—Dispute resolution.

7. Facilitative Provisions

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 employer 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(c)(ii)	Spread of hours of work	The majority of employees
13.2(c)	Shiftworkers—roster system	The majority of employees
13.3(b)	Methods of arranging ordinary working hours	An individual
13.6	Make-up time	An individual
20.4(d)	Rest break	An individual
20.5	Time off instead of payment for overtime	An individual
20.6(c)	Rest period after overtime	An individual
21.2	Shiftwork—span of hours	An individual or the majority of employees

Clause	Provision	Agreement between an employer and:
21.4(c)(iv)	Shiftwork—rate for working on a public holiday	The majority of employees
22.6	Annual leave in advance	An individual
22.11	Cashing out of annual leave	An individual

Part 2—Types of Employment and Classifications

8. Types of employment

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

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

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

9. Full-time employees

9.1 A full-time employee is engaged to work 38 ordinary hours per week.

9.2 Any employee not specifically engaged as being a part-time or casual employee is for all purposes of this award a full-time employee.

10. Part-time employees

10.1 A part-time employee:

- (a) is engaged to work less than 38 ordinary hours per week on a reasonably predictable basis; and
- (b) receives, on a pro rata basis, pay and conditions equivalent to those of full-time employees.

10.2 A part-time employee must be paid the minimum hourly rate prescribed for the relevant classification in clause 15—Minimum rates for each ordinary hour worked.

10.3 Before starting part-time employment, the employer and the employee must agree in writing:

- (a) upon a regular pattern of work, specifying at least the numbers of hours worked each day, the days of the week upon which the employee will work and the starting and finishing times for the work; and

- (b) the classification applying to the work to be performed.

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

10.4 The minimum period of engagement applying to part-time employees is 3 hours.

10.5 A part-time employee who is required by the employer to work in excess of the hours agreed upon in accordance with clause 10.3 must be paid overtime in accordance with clause 20—Overtime.

11. Casual employees

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 minimum hourly rate; and
 - (ii) a loading of **25%** of the minimum hourly rate, for the classification in which they are employed.
- (b) This loading is to be paid instead of entitlements to leave and other matters from which casuals are excluded by the terms of this award and the [NES](#).

11.3 Minimum engagement

A casual employee must be paid for a minimum of 4 hours for each day that the casual employee is engaged.

11.4 Right to request casual conversion

- (a) A person engaged by a particular employer as a regular casual employee may request that their employment be converted to full-time or part-time employment.
- (b) A **regular casual employee** is a casual employee who has in the preceding period of 12 months worked a pattern of hours on an ongoing basis which, without significant adjustment, the employee could continue to perform as a full-time employee or part-time employee under the provisions of this award.
- (c) A regular casual employee who has worked equivalent full-time hours over the preceding period of 12 months' casual employment may request to have their employment converted to full-time employment.
- (d) A regular casual employee who has worked less than equivalent full-time hours over the preceding period of 12 months' casual employment may request to have their employment converted to part-time employment consistent with the pattern of hours previously worked.

- (e) Any request under clause 11.4 must be in writing and provided to the employer.
- (f) Where a regular casual employee seeks to convert to full-time or part-time employment, the employer may agree to or refuse the request, but the request may only be refused on reasonable grounds and after there has been consultation with the employee.
- (g) Reasonable grounds for refusal include that:
 - (i) it would require a significant adjustment to the casual employee's hours of work in order for the employee to be engaged as a full-time or part-time employee in accordance with the provisions of this award—that is, the casual employee is not truly a regular casual employee as defined in clause 11.4(b);
 - (ii) it is known or reasonably foreseeable that the regular casual employee's position will cease to exist within the next 12 months;
 - (iii) it is known or reasonably foreseeable that the hours of work which the regular casual employee is required to perform will be significantly reduced in the next 12 months; or
 - (iv) it is known or reasonably foreseeable that there will be a significant change in the days and/or times at which the employee's hours of work are required to be performed in the next 12 months which cannot be accommodated within the days and/or hours during which the employee is available to work.
- (h) For any ground of refusal to be reasonable, it must be based on facts which are known or reasonably foreseeable.
- (i) Where the employer refuses a regular casual employee's request to convert, the employer must provide the casual employee with the employer's reasons for refusal in writing within 21 days of the request being made.
- (j) If the employee does not accept the employer's refusal, this will constitute a dispute that will be dealt with under the dispute resolution procedure in clause 31—Dispute resolution. Under that procedure, the employee or the employer may refer the matter to the Fair Work Commission if the dispute cannot be resolved at the workplace level.
- (k) Where it is agreed that a casual employee will have their employment converted to full-time or part-time employment as provided for in clause 11.4, the employer and employee must discuss and record in writing:
 - (i) the form of employment to which the employee will convert—that is, full-time or part-time employment; and
 - (ii) if it is agreed that the employee will become a part-time employee, the matters referred to in clause 10.3.
- (l) The conversion will take effect from the start of the next pay cycle following such agreement being reached unless otherwise agreed.

- (m) Once a casual employee has converted to full-time or part-time employment, the employee may only revert to casual employment with the written agreement of the employer.
- (n) A casual employee must not be engaged and re-engaged (which includes a refusal to re-engage), or have their hours reduced or varied, in order to avoid any right or obligation under clause 11.4.
- (o) Nothing in clause 11.4 obliges a regular casual employee to convert to full-time or part-time employment, nor permits an employer to require a regular casual employee to so convert.
- (p) Nothing in clause 11.4 requires an employer to increase the hours of a regular casual employee seeking conversion to full-time or part-time employment.
- (q) An employer must provide a casual employee, whether a regular casual employee or not, with a copy of the provisions of clause 11.4 within the first 12 months of the employee's first engagement to perform work. In respect of casual employees already employed as at 1 October 2018, an employer must provide such employees with a copy of the provisions of clause 11.4 by 1 January 2019.
- (r) A casual employee's right to request to convert is not affected if the employer fails to comply with the notice requirements in clause 11.4(q).

12. Classifications

- 12.1** Employees covered by this award must be classified according to the structure set out in Schedule A—Classifications.
- 12.2** Employees must be paid the minimum rate for the classification in clause 15—Minimum rates.
- 12.3** Employers must advise their employees in writing of their classification and of any changes to their classification.
- 12.4** The classification by the employer must be according to the skill level or levels required to be exercised by the employee in order to carry out the principal functions of the employment as determined by the employer.

Part 3—Hours of Work

13. Ordinary hours of work and rostering

13.1 Ordinary hours and roster cycles—day workers

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

(c) **Span of Hours**

- (i) The ordinary hours of work are to be worked continuously, except for meal breaks, at the discretion of the employer between 7.00 am and 6.30 pm, Monday to Friday.
- (ii) The spread of hours may be altered by up to one hour at either end of the spread, by agreement between the employer and the majority of employees concerned.
- (iii) Subject to clause 13.1(c)(iv) any authorised work that is required or requested by an employer to be performed outside the spread of hours is to be paid for at overtime rates as prescribed in clause 20—Overtime.
- (iv) Any work performed by an employee prior to the spread of hours which is continuous with ordinary hours for the purpose, for example, of getting the workplace in a state of readiness for other employees to start work is to be regarded as part of the 38 ordinary hours of work.

(d) **Rostered days off**

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

13.2 Ordinary hours and roster cycles—shiftworkers

(a) **Continuous shiftworker**

- (i) **Continuous shiftwork** means work carried on with consecutive shifts of employees throughout the 24 hours of each of at least 6 consecutive days without interruption except for breakdowns or meal breaks or due to unavoidable causes beyond the control of an employer.
- (ii) The ordinary hours of continuous shiftworkers are, at the discretion of the employer, to average 38 hours per week inclusive of meal breaks and must not exceed 152 hours in 28 consecutive days.
- (iii) Continuous shiftworkers are entitled to a 12 minute meal break on each shift which will be counted as time worked.

(b) **Non-continuous shiftworker**

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

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

13.3 Methods of arranging ordinary working hours

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

13.4 Rosters

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

13.5 Daylight saving

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

13.6 Make-up time

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

14. Breaks

14.1 Unpaid meal breaks

- (a) A meal break of between 30 and 60 minutes must be taken not later than 5 hours after the employee starts work or after resuming work after a previous meal break.
- (b) An employee directed by an employer to work in excess of 5 hours without a meal break must be:
 - (i) paid at the rate of 150% of the minimum hourly rate for the meal break; and
 - (ii) be permitted to have their usual meal break without deduction from their wage as soon as possible after the prescribed meal break.
- (c) Clause 14.1 will not operate outside an employee's ordinary working hours. Meal breaks during overtime are prescribed in clause 20—Overtime.

14.2 Paid rest breaks

- (a) All employees will be allowed 2 paid rest breaks on each day. Each rest break should be taken at a time suitable to the employer, taking into account the reasonable business needs of the practice. If suitable to the reasonable business needs of the practice:
 - (i) the first of 10 minutes to be allowed between the time of starting work and the usual meal break; and
 - (ii) the second of 10 minutes to be allowed between the usual meal break and the time of finishing work for the day.
- (b) All employees who work more than 4 hours on a Saturday before 12 noon must be allowed a paid rest break of 10 minutes between the times of starting work and finishing work.
- (c) Rest breaks are to be counted as part of time worked.

Part 4—Wages and Allowances

15. Minimum rates

15.1 An employer must pay adult employees the following minimum rates for ordinary hours worked by the employee:

Employee classification	Minimum weekly rate (full-time employees)	Minimum hourly rate
	\$	\$
Level 1—Legal clerical and administrative employee	826.60	21.75
Level 2—Legal clerical and administrative employee	862.50	22.70
Level 3—Legal clerical and administrative employee	911.00	23.97
Level 4—Legal clerical and administrative employee	956.70	25.18
Level 5—Legal clerical and administrative employee	995.50	26.20
Level 5—Law graduate	995.50	26.20
Level 6—Law clerk	1055.20	27.77

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

15.2 Junior employee rates

Junior employees must be paid the following percentage of the appropriate wage rate in clause 15—Minimum rates:

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

15.3 Higher duties

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

15.4 Supported wage system

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

15.5 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 2019. Provided that any reference to “this award” in Schedule E to the *Miscellaneous Award 2010* is to be read as referring to the *Legal Services Award 2010* and not the *Miscellaneous Award 2010*.

16. 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.

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

17. Annualised salary

17.1 Annual salary instead of award provisions

- (a) An employer may pay an employee an annual salary in satisfaction of any or all of the following provisions of the award:
 - clause 15.1—Minimum rates;
 - clause 18—Allowances;
 - clause 20—Overtime; and
 - clause 22.5—Annual leave loading.
- (b) Where an annual salary is paid the employer must advise the employee in writing of the annual salary that is payable and which of the provisions of this award are incorporated in the annual salary.

17.2 Annual salary not to disadvantage employees

- (a) The annual salary must be no less than the amount the employee would have received under this award for the work performed over the year for which the salary is paid (or if the employment ceases earlier over the period worked).

(b) The annual salary of the employee must be reviewed by the employer at least annually to ensure that the compensation is appropriate having regard to the award provisions which are incorporated in the annual salary.

(c) **Base rate of pay for employees on annual salary arrangements**

For the purposes of the [NES](#), the base rate of pay of an employee receiving an annual salary under clause 17 comprises the portion of the annual salary equivalent to the relevant minimum rate of pay in clause 15.1 and excludes any incentive-based payments, bonuses, loadings, monetary allowances, overtime and penalties.

18. Allowances

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

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

18.2 Meal allowance

(a) An employee must be supplied with an adequate meal where an employer has their own cooking and dining facilities or be paid a meal allowance in addition to any overtime payment as follows:

(i) a meal allowance of **\$15.94** when required to work one hour or more of overtime (Monday to Friday inclusive) and the overtime finishes one and a half hours after the normal finishing time or 5 hours after the preceding meal break, whichever first occurs, or in the case of a shiftworker when the overtime work on any shift exceeds one hour. Provided that where the overtime exceeds 4 hours a further meal allowance of **\$12.71** must be paid;

(ii) a meal allowance of **\$15.94** when required to work more than 5 hours overtime on a Saturday or a Sunday, or more than 5 hours by a shiftworker on their rostered day off. A further meal allowance of **\$12.71** when required to work more than 9 hours on such day. The provisions of clause 18.2 will not apply where an employee could reasonably return home for a meal within the period allowed.

(b) Where an employee is paid a meal allowance under clause 18.2, on request, the meal allowance must be paid on the same day as overtime is worked.

18.3 Uniform allowance

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

18.4 Vehicle allowance

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

18.5 Transport of employees—overtime

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

18.6 Living away from home allowance

- (a) An employee, required by the employer to work temporarily for the employer away from the employee's usual place of employment, and who is required to sleep away from their usual place of residence, will be entitled to the following:
 - (i) the payment of an allowance to cover all fares to and from the place at which the employer requires the employee to work; and
 - (ii) the payment of an allowance to cover all reasonable expenses incurred for board and lodging.
- (b) The allowances referred to in clause 18.6(a) will not be paid where the fares and the board and lodging are provided by the employer.
- (c) In addition to the above, the employee must receive payment at ordinary rates of pay for all time spent in travelling between the employee's usual place of employment and the temporary location, with a maximum payment of 8 hours in 24 hours.

18.7 Protective clothing

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

See Schedule C—Summary of Monetary Allowances for a summary of monetary allowances.

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) Legalsuper;
- (b) AustralianSuper;
- (c) Tasplan;

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

Part 5—Overtime and Penalty Rates

20. Overtime

20.1 Definition of overtime

Overtime is any time worked:

- (a) outside ordinary hours on any day or shift; or
- (b) in excess of an average of 38 hours per week.

20.2 Overtime rates

(a) Day workers and non-continuous shiftworkers

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

(b) Continuous shiftworkers

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

20.3 Calculating overtime

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

20.4 Rest break

- (a) An employee working overtime must be allowed a paid rest break of 20 minutes without deduction of pay after each 4 hours of overtime worked if the employee is to continue work after the rest break.
- (b) Where an employee is required to work overtime on a Saturday, Sunday or public holiday or on a rostered day off, the first rest break will be paid at the employee's ordinary rate of pay.
- (c) Where overtime is to be worked immediately after the completion of ordinary work on a day or shift and the period of overtime is to be more than one and a half hours, an employee, before starting the overtime, is entitled to a rest break of 20 minutes to be paid at the employee's ordinary rate of pay.
- (d) An employer and employee may agree to any variation of clause 20.4 to meet the circumstances of the work in hand provided that the employer is not required to make any payment in excess of or less than what would otherwise be required under clause 20.4.

20.5 Time off instead of payment for overtime

- (a) An employee and employer may agree in writing to the employee taking time off instead of being paid for a particular amount of overtime that has been worked by the employee.
- (b) Any amount of overtime that has been worked by an employee in a particular pay period and that is to be taken as time off instead of the employee being paid for it must be the subject of a separate agreement under clause 20.5.
- (c) An agreement must state each of the following:
 - (i) the number of overtime hours to which it applies and when those hours were worked;
 - (ii) that the employer and employee agree that the employee may take time off instead of being paid for the overtime;
 - (iii) that, if the employee requests at any time, the employer must pay the employee, for overtime covered by the agreement but not taken as time off, at the overtime rate applicable to the overtime when worked;

- (iv) that any payment mentioned in clause 20.5(c)(iii) must be made in the next pay period following the request.

NOTE: An example of the type of agreement required by clause 20.5 is set out at Schedule E—Agreement for Time Off Instead of Payment for Overtime. There is no requirement to use the form of agreement set out at Schedule E—Agreement for Time Off Instead of Payment for Overtime. An agreement under clause 20.5 can also be made by an exchange of emails between the employee and employer, or by other electronic means.

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

EXAMPLE: By making an agreement under clause 20.5 an employee who worked 2 overtime hours is entitled to 2 hours' time off.

- (e) Time off must be taken:
 - (i) within the period of 6 months after the overtime is worked; and
 - (ii) at a time or times within that period of 6 months agreed by the employee and employer.
- (f) If the employee requests at any time, to be paid for overtime covered by an agreement under clause 20.5 but not taken as time off, the employer must pay the employee for the overtime, in the next pay period following the request, at the overtime rate applicable to the overtime when worked.
- (g) If time off for overtime that has been worked is not taken within the period of 6 months mentioned in clause 20.5(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 20.5 as an employee record.
- (i) An employer must not exert undue influence or undue pressure on an employee in relation to a decision by the employee to make, or not make, an agreement to take time off instead of payment for overtime.
- (j) An employee may, under section 65 of the [Act](#), request to take time off, at a time or times specified in the request or to be subsequently agreed by the employer and the employee, instead of being paid for overtime worked by the employee. If the employer agrees to the request then clause 20.5 will apply, including the requirement for separate written agreements under clause 20.5(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 20.5 applies has not been taken, the

employer must pay the employee for the overtime at the overtime rate applicable to the overtime when worked.

NOTE: Under section 345(1) of the [Act](#), a person must not knowingly or recklessly make a false or misleading representation about the workplace rights of another person under clause 20.5.

20.6 Rest period after overtime

(a) Length of the rest period

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

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

(i) The following conditions apply to an employee (other than a casual employee) who works so much overtime that the employee has not had at least 10 consecutive hours off duty between the end of work on one day and the start of the employee's ordinary hours of work on the next day:

- the employee must be released from duty after that overtime is finished until the employee has had 10 consecutive hours off duty, and
- there will be no loss of pay for ordinary hours of work time which occur during this absence.

(ii) The following conditions apply to an employee who, on the instructions of the employer, resumes or continues work without having had 10 consecutive hours off duty in accordance with clause 20.6(a):

- the employee must be paid at 200% of the minimum hourly rate until the employee is released from duty;
- the employee is then entitled to be absent for 10 consecutive hours; and
- there will be no loss of pay for ordinary hours of work time which occur during this absence.

(c) By agreement between an employer and individual employee, the 10 hour break provided for in clause 20.6(b) may be reduced to a period no less than 8 hours.

(d) The provisions of clause 20.6 will apply in the case of shiftworkers as if 8 hours were substituted for 10 hours when overtime is worked:

- (i) for the purpose of changing shift rosters;
- (ii) where a shiftworker does not report for duty and a day worker or a shiftworker is required to replace the shiftworker; or
- (iii) where a shift is worked by arrangement between the employees themselves.

20.7 Call-back

- (a) An employee recalled to work overtime after leaving the employer's place of work (whether notified before or after leaving the place of work) is to be paid for a minimum of 4 hours' work as follows:
- (i) **Employees other than continuous shiftworkers**
 - 150% of the minimum hourly rate for the first 3 hours; and
 - 200% of the minimum hourly rate after 3 hours.
 - (ii) **Continuous shiftworkers**
 - 200% of the minimum hourly rate.
- (b) Where an employee is required to regularly hold themselves in readiness for a call-back they will be paid for a minimum of 3 hours' work at the appropriate overtime rate. This is subject to clause 20.8.
- (c) If the employee is recalled on more than one occasion between the end of their ordinary work on one day and the start of their ordinary work on the next ordinary working day they will be entitled to the 3 or 4 hour minimum overtime payment provided for in clause 20.7 for each call-back. However, in such circumstances, it is only the time which is actually worked during the previous call or calls which is to be taken into account when determining the overtime rate for subsequent calls.
- (d) Except in the case of unforeseen circumstances arising, an employee will not be required to work the full 3 or 4 hours as the case may be if the job they were recalled to perform is completed within a shorter period.
- (e) Clause 20.7 does not apply in cases where it is customary for an employee to return to the employer's enterprise to perform a specific job outside the employee's ordinary working hours or where the overtime is continuous (subject to a meal break) with the commencement or completion of ordinary working time.
- (f) Overtime worked in the circumstances specified in clause 20.7 is not to be regarded as overtime for the purpose of clause 20.1 when the actual time worked is less than 3 hours on the call-back or on each call-back.

20.8 Standing by

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

21. Shiftwork

21.1 Definitions

(a) For the purposes of this award:

- (i) **rostered shift** means any shift of which the employee concerned has had at least 48 hours' notice;
- (ii) **afternoon shift** means any shift finishing after 6.00 pm and at or before midnight;
- (iii) **night shift** means any shift finishing after midnight and at or before 8.00 am;
- (iv) **early morning shift** applies to an employee whose ordinary hours on a regular shift commence between 5.00 am and 6.00 am, except where such a shift is part of a shift system and precedes an afternoon shift finishing at 11.00 pm;
- (v) **seven day shiftworker** means an employee who is rostered to work regularly on Sundays and public holidays;
- (vi) **non-continuous afternoon or night shift** applies to an employee who works on an afternoon or night shift which does not continue:
 - for at least 5 successive afternoon or night shifts or 6 successive afternoon or night shifts in a 6 day workplace (where no more than 8 ordinary hours are worked on each shift); or
 - for at least 38 ordinary hours (where more than 8 ordinary hours are worked on each shift); and
- (vii) **permanent night shift** applies to an employee who:
 - during a period of engagement on shift, works night shift only;
 - remains on night shift for a longer period than 4 consecutive weeks; or
 - works on a night shift which does not rotate or alternate with another shift or with day work so as to give the employee at least one third of their working time off night shift in each shift cycle.

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

21.3 Early morning, afternoon and night shift penalties

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

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

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

- (a) **Saturday shifts**

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

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

- (i) **Continuous shiftworkers**

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

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

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

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

- (c) **Calculating shift penalties**

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

- (ii) Where a shift starts before midnight on the day before a Sunday or public holiday and extends into the Sunday or public holiday, the employee will be entitled to the Sunday or public holiday rate for the shift.
- (iii) Where shifts fall partly on a public holiday, the shift which has the major portion falling on the public holiday will be regarded as the public holiday shift.
- (iv) By agreement between an employer and the majority of employees concerned, the shift which has the minor portion falling on the public holiday may be regarded as the public holiday shift instead of the above.

21.5 Work on a rostered day off

- (a) Where an employee is required to work on a rostered day off, the employee is to be paid for all time worked on the rostered day off as follows:
 - (i) Monday to Saturday—at the overtime rates prescribed in clause 20.2;
 - (ii) Sunday—**200%** of the minimum hourly rate with a minimum payment of 4 hours; and
 - (iii) public holiday—**250%** of the minimum hourly rate with a minimum payment of 4 hours.
- (b) When not less than 7 hours 36 minutes' notice has been given to an employer by a relief shiftworker that they will be absent from work and the shiftworker whom that person should relieve is not relieved and is required to continue work on their rostered day off, the unrelieved employee will be paid **200%** of the minimum hourly rate.
- (c) A shiftworker whose rostered day off coincides with a public holiday must be paid a day's pay additional to their weekly wage, or have a day added to their annual leave.

21.6 Extra rates not cumulative

The extra rates in clauses 21.4 and 21.5 are in substitution for and not cumulative upon the shift penalties prescribed in clause 21.3.

Part 6—Leave and Public Holidays

22. Annual leave

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

22.2 Definition of shiftworker

For the purposes of the additional week of annual leave provided for in the [NES](#), a **shiftworker** is a 7 day shiftworker who is rostered to work regularly on Sundays and public holidays.

22.3 Payment for period of annual leave

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

NOTE: Where an employee is receiving 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 Annual leave loading

- (a) During a period of annual leave an employee must also receive a loading calculated on the wages prescribed in clause 15—Minimum rates of this award. Annual leave loading payment is payable on leave accrued.
- (b) The loading must be as follows:
 - (i) **Day work**

Employees who would have worked on day work only had they not been on leave—**17.5%**;
 - (ii) **Shiftwork**

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

22.6 Annual leave in advance

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

NOTE: An example of the type of agreement required by clause 22.6 is set out at Schedule G—Agreement to Cash Out Annual Leave. There is no requirement to use the form of agreement set out at Schedule G—Agreement to Cash Out Annual Leave.

- (c) The employer must keep a copy of any agreement under clause 22.6 as an employee record.

- (d) If, on the termination of the employee's employment, the employee has not accrued an entitlement to all of a period of paid annual leave already taken in accordance with an agreement under clause 22.6, the employer may deduct from any money due to the employee on termination an amount equal to the amount that was paid to the employee in respect of any part of the period of annual leave taken in advance to which an entitlement has not been accrued.

22.7 Close-down

Annual leave is to be taken at a time agreed between the employer and employee. However, an employer may require an employee to take annual leave as part of a close down of its operations, or part of its operations, where the request is reasonable, by giving at least 4 weeks' notice.

22.8 Excessive leave accruals: general provision

NOTE: Clauses 22.8 to 22.10 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 22.9 sets out how an employer may direct an employee who has an excessive leave accrual to take paid annual leave.
- (d) Clause 22.10 sets out how an employee who has an excessive leave accrual may require an employer to grant paid annual leave requested by the employee.

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

- (a) If an employer has genuinely tried to reach agreement with an employee under clause 22.8(b) but agreement is not reached (including because the employee refuses to confer), the employer may direct the employee in writing to take one or more periods of paid annual leave.
- (b) However, a direction by the employer under clause 22.9(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 22.8, 22.9 or 22.10 or otherwise agreed by the employer and employee) are taken into account; and
 - (ii) must not require the employee to take any period of paid annual leave of less than one week; and

- (iii) must not require the employee to take a period of paid annual leave beginning less than 8 weeks, or more than 12 months, after the direction is given; and
 - (iv) must not be inconsistent with any leave arrangement agreed by the employer and employee.
- (c) The employee must take paid annual leave in accordance with a direction under clause 22.9(a) that is in effect.
- (d) An employee to whom a direction has been given under clause 22.9(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 clause 22.9(d) may result in the direction ceasing to have effect. See clause 22.9(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.

22.10 Excessive leave accruals: request by employee for leave

- (a) If an employee has genuinely tried to reach agreement with an employer under clause 22.8(b) but agreement is not reached (including because the employer refuses to confer), the employee may give a written notice to the employer requesting to take one or more periods of paid annual leave.
- (b) However, an employee may only give a notice to the employer under clause 22.9(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 22.9(a) that, when any other paid annual leave arrangements (whether made under clause 22.8, 22.9 or 22.10 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 clause 22.9(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 22.8, 22.9 or 22.10 or otherwise agreed by the employer and employee) are taken into account; or
 - (ii) provide for the employee to take any period of paid annual leave of less than one week; or
 - (iii) provide for the employee to take a period of paid annual leave beginning less than 8 weeks, or more than 12 months, after the notice is given; or

- (iv) be inconsistent with any leave arrangement agreed by the employer and employee.
- (d) An employee is not entitled to request by a notice under clause 22.10(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 clause 22.10(a).

22.11 Cashing out of annual leave

- (a) Paid annual leave must not be cashed out except in accordance with an agreement under clause 22.11.
- (b) Each cashing out of a particular amount of paid annual leave must be the subject of a separate agreement under clause 22.11.
- (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 22.11 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 22.11 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 22.11 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 22.11.

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 22.11.

NOTE 3: An example of the type of agreement required by clause 22.11 is set out at Schedule G—Agreement to Cash Out Annual Leave. There is no requirement to use the form of agreement set out at Schedule G—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

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

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

27.2 Part-day public holidays

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

28. Special conditions of employment—Law graduate

28.1 A law graduate is entitled to paid study leave not exceeding a total of 20 days in any 12-month period to attend a course of instruction, and prepare for and attend examinations that relate to the practical legal training required for their admission to practise as an Australian lawyer.

28.2 Paid study leave may be taken for a period or periods agreed between the employer and employee. The employer will not unreasonably refuse to agree to a request by the employee to take paid study leave in accordance with clause 28.

Part 7—Consultation and Dispute Resolution

29. Consultation about major workplace change

29.1 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.

29.2 For the purposes of the discussion under clause 29.1(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.

29.3 Clause 29.2 does not require an employer to disclose any confidential information if its disclosure would be contrary to the employer's interests.

29.4 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 29.1(b).

29.5 In clause 29 **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
- (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.

29.6 Where this award makes provision for alteration of any of the matters defined at clause 29.5, such alteration is taken not to have significant effect.

30. Consultation about changes to rosters or hours of work

30.1 Clause 30 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.

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

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

(a) provide to the employees and representatives mentioned in clause 30.2 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.

30.4 The employer must consider any views given under clause 30.3(b).

30.5 Clause 30 is to be read in conjunction with any other provisions of this award concerning the scheduling of work or the giving of notice.

31. Dispute resolution

31.1 Clause 31 sets out the procedures to be followed if a dispute arises about a matter under this award or in relation to the [NES](#).

31.2 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.

31.3 If the dispute is not resolved through discussion as mentioned in clause 31.2, 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.

31.4 If the dispute is unable to be resolved at the workplace and all appropriate steps have been taken under clauses 31.2 and 31.3, a party to the dispute may refer it to the Fair Work Commission.

31.5 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.

31.6 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.

- 31.7** 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 31.
- 31.8** While procedures are being followed under clause 31 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.
- 31.9** Clause 31.8 is subject to any applicable work health and safety legislation.

Part 8—Termination of Employment and Redundancy

32. Termination of employment

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

32.1 Notice of termination by an employee

- (a) Clause 32.1 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	Column 2
Employee’s period of continuous service with the employer at the end of the day the notice is given	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 32.1(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 clause 32.1(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 clause 32.1(b), then no deduction can be made under clause 32.1(d).
- (f) Any deduction made under clause 32.1(d) must not be unreasonable in the circumstances.

32.2 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 32.2 is to be taken at times that are convenient to the employee after consultation with the employer.

33. Redundancy

NOTE: Redundancy pay is provided for in the [NES](#). See sections 119 to 123 of the [Act](#).

33.1 Transfer to lower paid duties on redundancy

- (a) Clause 33.1 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 33.1(c).
- (c) If the employer acts as mentioned in clause 33.1(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.

33.2 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 33 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.

33.3 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 33.3(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 33.3(b).
- (d) An employee who fails to produce proof when required under clause 33.3(b) is not entitled to be paid for the time off.
- (e) This entitlement applies instead of clause 32.2.

Schedule A—Classifications

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

A.1.1 Characteristics

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

A.1.2 Generic skills

Indicative typical duties and skills at this level may include:

(a) **Problem solving**

Identify and resolve problems by being able to:

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

(b) **Literacy**

Read and write routine texts.

(c) **Numeracy**

Use numbers in the workplace by being able to:

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

A.1.3 Core skills

(a) **Information handling**

- (i) To handle mail to facilitate communication by being able to:

- receive and distribute incoming mail;
- receive and dispatch outgoing mail; and
- collate and dispatch documents for bulk mailing.

(ii) To handle information to maintain access to and security of records by being able to:

- file documents; and
- identify and retrieve documents.

(b) Communication

To process information to facilitate communication flow by being able to:

- receive and relay oral messages; and
- receive and relay written messages.

(c) Enterprise/industry

To apply knowledge of the enterprise/industry to complete routine administrative tasks, by being able to:

- identify key functions and personnel/departments; and
- apply office procedures.

(d) Technology

(i) To operate a range of office equipment to complete routine tasks by being able to:

- select equipment to be used for tasks;
- locate equipment to be used for tasks; and
- operate equipment.

(ii) To access and retrieve computer data using keyboard skills by being able to:

- open files;
- retrieve data;
- close files; and
- shut down equipment.

(e) Organisational

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

(f) Team

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

(g) Business/financial

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

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

(h) Legal

Not applicable at this level.

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

A.2.1 Characteristics

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

A.2.2 Generic skills

As per Level 1.

A.2.3 Core skills

As per Level 1, together with the following:

(a) Information handling

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

- update and modify existing organisational records; and
- remove inactive and dead files.

(b) Communication

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

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

(c) Enterprise/industry

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

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

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

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

(d) Technology

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

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

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

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

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

(e) Organisation

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

(f) Team

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

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

(g) Business/financial

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

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

(h) Legal

Not applicable at this level.

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

A.3.1 Characteristics

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

A.3.2 Generic skills

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

(a) Problem solving

Identify, clarify and resolve problems by being able to:

- identify non-routine problems;

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

(b) Literacy

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

(c) Numeracy

Use numbers in the workplace by being able to:

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

A.3.3 Core skills

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

(a) Information handling

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

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

(b) Communication

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

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

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

(c) Enterprise/industry

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

(d) Technology

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

(e) Organisational

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

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

(f) Team

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

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

(g) Business/financial

(i) Monitor records of income and expenditure for budgetary records by being able to:

- reconcile accounts to balance; and
- prepare bank reconciliations.

(ii) Monitor cash control accounting purposes by being able to:

- document and lodge takings at a bank;
- receive and document payments/takings;
- dispatch statements to debtors;
- follow up and record outstanding accounts; and
- dispatch payments to creditors.

(iii) Monitor stock levels for control purposes by being able to maintain stock control records.

(h) Legal

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

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

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

A.4.1 Characteristics

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

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

A.4.2 Generic skills

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

(a) Problem solving

Identify, clarify and resolve problems by being able to:

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

(b) Literacy

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

(c) Numeracy

Use numbers in the workplace by being able to:

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

A.4.3 Core skills

(a) Information handling

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

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

(b) Communication

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

(c) Enterprise/industry

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

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

(d) Technology

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

- set printers for document requirements; and
- maintain printers.

(e) Organisational

(i) Manage appointments to achieve identified goals by being able to:

- manage a diary on behalf of another/others; and
- assist with appointment preparation and follow up.

(ii) Plan business trips and associated itinerary for management/executive to ensure effective use of time management principles by being able to:

- organise business itinerary; and
- identify credit facilities.

(iii) Plan meetings to enable the stated objectives of the meeting to be met by being able to:

- prepare documentation for meetings;
- make meeting arrangements; and
- record minutes of meetings.

(f) Team

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

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

(g) Business/financial

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

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

(h) Legal

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

- acquire and apply a limited knowledge of professional legal functions under direct supervision as a clerk by being able to interview clients, draft (for checking) documents and instructing on standard legal matters; and
- exhibit a basic understanding of different areas of law as they are dealt with, within the firm or between firms or between the firm and legal institutions for means of referral.

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

A.5.1 Characteristics

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

A.5.2 Generic skills

As per Levels 1, 2, 3 and 4.

A.5.3 Core skills

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

(a) Information handling

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

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

Establish and maintain library resource collection by being able to:

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

(b) Communication

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

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

(c) Enterprise/industry

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

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

(d) Technology

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

- identify document requirements; and
- design document format.

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

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

(e) Organisational

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

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

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

- plan conferences;
- organise conferences;
- promote conferences; and
- co-ordinate conference proceedings.

(f) Team

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

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

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

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

(g) Business/financial

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

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

(h) Legal

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

- understand and participate in, under supervision, the processes of major legal institutions;

- display an understanding of areas of law and legal procedures for resolving matters referred to the employee, subject to general and procedural supervision; and
- initiate routine legal procedures and documentation.

A.6 Level 5—Law graduate

A.6.1 Characteristics

This position requires the completion of a course of study which is recognised as an academic qualification for admission and a formal offer by the employer to the law graduate, the acceptance of that offer and registration and approval of all documentation required by the relevant governing bodies.

A.7 Level 6—Law clerk

A.7.1 General

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

A.7.2 Legal

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

Schedule B—Summary of Hourly Rates of Pay

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

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

	Ordinary hours	Early morning	Afternoon & night	Non-continuous afternoon or night ¹		Permanent night
				First 3 hours	After 3 hours	
% of minimum hourly rate						
	100%	110%	115%	150%	200%	130%
	\$	\$	\$	\$	\$	\$
Level 1—Legal clerical and administrative employee	21.75	23.93	25.01	32.63	43.50	28.28
Level 2—Legal clerical and administrative employee	22.70	24.97	26.11	34.05	45.40	29.51
Level 3—Legal clerical and administrative employee	23.97	26.37	27.57	35.96	47.94	31.16
Level 4—Legal clerical and administrative employee	25.18	27.70	28.96	37.77	50.36	32.73
Level 5—Legal clerical and administrative employee	26.20	28.82	30.13	39.30	52.40	34.06
Level 5—Law graduate	26.20	28.82	30.13	39.30	52.40	34.06
Level 6—Law clerk	27.77	30.55	31.94	41.66	55.54	36.10

¹**Non-continuous afternoon or night shift** means work on any afternoon or night shift that does not continue for at least 5 successive afternoon or night shifts or 6 successive afternoon or night shifts in a 6 day workplace (where no more than 8 ordinary hours are worked on each shift); or for at least 38 ordinary hours (where more than 8 ordinary hours are worked on each shift).

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

	All shiftworkers	Shiftworkers other than continuous shiftworkers		Continuous shiftworkers only
	Saturday	Sunday	Public holidays	Sunday & public holidays
	% of minimum hourly rate			
	150%	200%	250%	200%
	\$	\$	\$	\$
Level 1—Legal clerical and administrative employee	32.63	43.50	54.38	43.50
Level 2—Legal clerical and administrative employee	34.05	45.40	56.75	45.40
Level 3—Legal clerical and administrative employee	35.96	47.94	59.93	47.94
Level 4—Legal clerical and administrative employee	37.77	50.36	62.95	50.36
Level 5—Legal clerical and administrative employee	39.30	52.40	65.50	52.40
Level 5—Law graduate	39.30	52.40	65.50	52.40
Level 6—Law clerk	41.66	55.54	69.43	55.54

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

	Shiftworkers other than continuous shiftworkers				Continuous shiftworkers only
	Monday to Friday & Saturday until 12.00 pm		Saturday after 12.00 pm & Sunday	Public holiday	Monday to Sunday & Public holidays
	First 3 hours	After 3 hours			
	% of minimum hourly rate				
	150%	200%	200%	250%	200%
	\$	\$	\$	\$	\$
Level 1—Legal clerical and administrative employee	32.63	43.50	43.50	54.38	43.50
Level 2—Legal clerical and administrative employee	34.05	45.40	45.40	56.75	45.40
Level 3—Legal clerical and administrative employee	35.96	47.94	47.94	59.93	47.94
Level 4—Legal clerical and administrative employee	37.77	50.36	50.36	62.95	50.36
Level 5—Legal clerical and administrative employee	39.30	52.40	52.40	65.50	52.40
Level 5—Law graduate	39.30	52.40	52.40	65.50	52.40
Level 6—Law clerk	41.66	55.54	55.54	69.43	55.54

B.2 Casual adult 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.

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

	Ordinary hours	Early morning	Afternoon & night	Non-continuous afternoon or night ¹		Permanent night
				First 3 hours	After 3 hours	
% of minimum hourly rate						
	125%	135%	140%	175%	225%	155%
	\$	\$	\$	\$	\$	\$
Level 1—Legal clerical and administrative employee	27.19	29.36	30.45	38.06	48.94	33.71
Level 2—Legal clerical and administrative employee	28.38	30.65	31.78	39.73	51.08	35.19
Level 3—Legal clerical and administrative employee	29.96	32.36	33.56	41.95	53.93	37.15
Level 4—Legal clerical and administrative employee	31.48	33.99	35.25	44.07	56.66	39.03
Level 5—Legal clerical and administrative employee	32.75	35.37	36.68	45.85	58.95	40.61
Level 5—Law graduate	32.75	35.37	36.68	45.85	58.95	40.61
Level 6—Law clerk	34.71	37.49	38.88	48.60	62.48	43.04

¹**Non-continuous afternoon or night shift** means work on any afternoon or night shift that does not continue for at least 5 successive afternoon or night shifts or 6 successive afternoon or night shifts in a 6 day workplace (where no more than 8 ordinary hours are worked on each shift); or for at least 38 ordinary hours (where more than 8 ordinary hours are worked on each shift).

B.2.2 Casual shiftworkers—weekend and public holiday rates

	All shiftworkers	Shiftworkers other than continuous shiftworkers		Continuous shiftworkers only
	Saturday	Sunday	Public holiday	Sunday & public holiday
	% of minimum hourly rate			
	175%	225%	275%	225%
	\$	\$	\$	\$
Level 1—Legal clerical and administrative employee	38.06	48.94	59.81	48.94
Level 2—Legal clerical and administrative employee	39.73	51.08	62.43	51.08
Level 3—Legal clerical and administrative employee	41.95	53.93	65.92	53.93
Level 4—Legal clerical and administrative employee	44.07	56.66	69.25	56.66
Level 5—Legal clerical and administrative employee	45.85	58.95	72.05	58.95
Level 5—Law graduate	45.85	58.95	72.05	58.95
Level 6—Law clerk	48.60	62.48	76.37	62.48

B.2.3 Casual shiftworkers—overtime rates

	Shiftworkers other than continuous shiftworkers				Continuous shiftworkers only
	Monday to Friday & Saturday until 12.00 pm		Saturday after 12.00 pm & Sunday	Public holiday	Monday to Sunday & Public holidays
	First 3 hours	After 3 hours			
	% of minimum hourly rate				
	175%	225%	225%	275%	225%
	\$	\$	\$	\$	\$
Level 1—Legal clerical and administrative employee	38.06	48.94	48.94	59.81	48.94
Level 2—Legal clerical and administrative employee	39.73	51.08	51.08	62.43	51.08
Level 3—Legal clerical and administrative employee	41.95	53.93	53.93	65.92	53.93
Level 4—Legal clerical and administrative employee	44.07	56.66	56.66	69.25	56.66
Level 5—Legal clerical and administrative employee	45.85	58.95	58.95	72.05	58.95
Level 5—Law graduate	45.85	58.95	58.95	72.05	58.95
Level 6—Law clerk	48.60	62.48	62.48	76.37	62.48

B.3 Junior employees

The **junior hourly rate** is based on a percentage of the appropriate adult rate in accordance with clause 15.2. Adult rates apply from 21 years of age.

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

Age	Ordinary hours	Early morning	Afternoon & night	Non-continuous afternoon or night ¹		Permanent night
				First 3 hours	After 3 hours	
Legal, clerical and administrative employee	% of junior hourly rate					
	100%	110%	115%	150%	200%	130%
	\$	\$	\$	\$	\$	\$
Level 1						
Under 16 years	9.79	10.77	11.26	14.69	19.58	12.73
16 years	10.88	11.97	12.51	16.32	21.76	14.14
17 years	13.05	14.36	15.01	19.58	26.10	16.97
18 years	15.23	16.75	17.51	22.85	30.46	19.80
19 years	17.40	19.14	20.01	26.10	34.80	22.62
20 years	19.58	21.54	22.52	29.37	39.16	25.45
Level 2						
Under 16 years	10.22	11.24	11.75	15.33	20.44	13.29
16 years	11.35	12.49	13.05	17.03	22.70	14.76
17 years	13.62	14.98	15.66	20.43	27.24	17.71
18 years	15.89	17.48	18.27	23.84	31.78	20.66
19 years	18.16	19.98	20.88	27.24	36.32	23.61
20 years	20.43	22.47	23.49	30.65	40.86	26.56
Level 3						
Under 16 years	10.79	11.87	12.41	16.19	21.58	14.03
16 years	11.99	13.19	13.79	17.99	23.98	15.59
17 years	14.38	15.82	16.54	21.57	28.76	18.69
18 years	16.78	18.46	19.30	25.17	33.56	21.81
19 years	19.18	21.10	22.06	28.77	38.36	24.93
20 years	21.57	23.73	24.81	32.36	43.14	28.04

Age	Ordinary hours	Early morning	Afternoon & night	Non-continuous afternoon or night ¹		Permanent night
				First 3 hours	After 3 hours	
Legal, clerical and administrative employee	% of junior hourly rate					
	100%	110%	115%	150%	200%	130%
	\$	\$	\$	\$	\$	\$
Level 4						
Under 16 years	11.33	12.46	13.03	17.00	22.66	14.73
16 years	12.59	13.85	14.48	18.89	25.18	16.37
17 years	15.11	16.62	17.38	22.67	30.22	19.64
18 years	17.63	19.39	20.27	26.45	35.26	22.92
19 years	20.14	22.15	23.16	30.21	40.28	26.18
20 years	22.66	24.93	26.06	33.99	45.32	29.46

¹**Non-continuous afternoon or night shift** means work on any afternoon or night shift that does not continue for at least 5 successive afternoon or night shifts or 6 successive afternoon or night shifts in a 6 day workplace (where no more than 8 ordinary hours are worked on each shift); or for at least 38 ordinary hours (where more than 8 ordinary hours are worked on each shift).

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

Age	All shiftworkers	Shiftworkers other than continuous shiftworkers		Continuous shiftworkers only
	Saturday	Sunday	Public holidays	Sunday & public holidays
Legal, clerical and administrative employee	% of junior hourly rate			
	150%	200%	250%	200%
	\$	\$	\$	\$
Level 1				
Under 16 years	14.69	19.58	24.48	19.58
16 years	16.32	21.76	27.20	21.76
17 years	19.58	26.10	32.63	26.10
18 years	22.85	30.46	38.08	30.46
19 years	26.10	34.80	43.50	34.80
20 years	29.37	39.16	48.95	39.16

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Age	All shiftworkers	Shiftworkers other than continuous shiftworkers		Continuous shiftworkers only
	Saturday	Sunday	Public holidays	Sunday & public holidays
Legal, clerical and administrative employee	% of junior hourly rate			
	150%	200%	250%	200%
	\$	\$	\$	\$
Level 2				
Under 16 years	15.33	20.44	25.55	20.44
16 years	17.03	22.70	28.38	22.70
17 years	20.43	27.24	34.05	27.24
18 years	23.84	31.78	39.73	31.78
19 years	27.24	36.32	45.40	36.32
20 years	30.65	40.86	51.08	40.86
Level 3				
Under 16 years	16.19	21.58	26.98	21.58
16 years	17.99	23.98	29.98	23.98
17 years	21.57	28.76	35.95	28.76
18 years	25.17	33.56	41.95	33.56
19 years	28.77	38.36	47.95	38.36
20 years	32.36	43.14	53.93	43.14
Level 4				
Under 16 years	17.00	22.66	28.33	22.66
16 years	18.89	25.18	31.48	25.18
17 years	22.67	30.22	37.78	30.22
18 years	26.45	35.26	44.08	35.26
19 years	30.21	40.28	50.35	40.28
20 years	33.99	45.32	56.65	45.32

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

Age	Shiftworkers other than continuous shiftworkers				Continuous shiftworkers only
	Monday to Friday & Saturday until 12.00 pm		Saturday after 12.00 pm & Sunday	Public holiday	Monday to Sunday & Public holidays
	First 3 hours	After 3 hours			
Legal, clerical and administrative employee	% of junior hourly rate				
	150%	200%	200%	250%	200%
	\$	\$	\$	\$	\$
Level 1					
Under 16 years	14.69	19.58	19.58	24.48	19.58
16 years	16.32	21.76	21.76	27.20	21.76
17 years	19.58	26.10	26.10	32.63	26.10
18 years	22.85	30.46	30.46	38.08	30.46
19 years	26.10	34.80	34.80	43.50	34.80
20 years	29.37	39.16	39.16	48.95	39.16
Level 2					
Under 16 years	15.33	20.44	20.44	25.55	20.44
16 years	17.03	22.70	22.70	28.38	22.70
17 years	20.43	27.24	27.24	34.05	27.24
18 years	23.84	31.78	31.78	39.73	31.78
19 years	27.24	36.32	36.32	45.40	36.32
20 years	30.65	40.86	40.86	51.08	40.86
Level 3					
Under 16 years	16.19	21.58	21.58	26.98	21.58
16 years	17.99	23.98	23.98	29.98	23.98
17 years	21.57	28.76	28.76	35.95	28.76
18 years	25.17	33.56	33.56	41.95	33.56
19 years	28.77	38.36	38.36	47.95	38.36
20 years	32.36	43.14	43.14	53.93	43.14
Level 4					
Under 16 years	17.00	22.66	22.66	28.33	22.66
16 years	18.89	25.18	25.18	31.48	25.18
17 years	22.67	30.22	30.22	37.78	30.22

Age	Shiftworkers other than continuous shiftworkers				Continuous shiftworkers only
	Monday to Friday & Saturday until 12.00 pm		Saturday after 12.00 pm & Sunday	Public holiday	Monday to Sunday & Public holidays
	First 3 hours	After 3 hours			
Legal, clerical and administrative employee	% of junior hourly rate				
	150%	200%	200%	250%	200%
	\$	\$	\$	\$	\$
18 years	26.45	35.26	35.26	44.08	35.26
19 years	30.21	40.28	40.28	50.35	40.28
20 years	33.99	45.32	45.32	56.65	45.32

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

Age	Ordinary hours	Early morning	Afternoon & night	Non-continuous afternoon or night ¹		Permanent night
				First 3 hours	After 3 hours	
Legal, clerical and administrative employee	% of junior hourly rate					
	125%	135%	140%	175%	225%	155%
	\$	\$	\$	\$	\$	\$
Level 1						
Under 16 years	12.24	13.22	13.71	17.13	22.03	15.17
16 years	13.60	14.69	15.23	19.04	24.48	16.86
17 years	16.31	17.62	18.27	22.84	29.36	20.23
18 years	19.04	20.56	21.32	26.65	34.27	23.61
19 years	21.75	23.49	24.36	30.45	39.15	26.97
20 years	24.48	26.43	27.41	34.27	44.06	30.35
Level 2						
Under 16 years	12.78	13.80	14.31	17.89	23.00	15.84
16 years	14.19	15.32	15.89	19.86	25.54	17.59
17 years	17.03	18.39	19.07	23.84	30.65	21.11
18 years	19.86	21.45	22.25	27.81	35.75	24.63
19 years	22.70	24.52	25.42	31.78	40.86	28.15
20 years	25.54	27.58	28.60	35.75	45.97	31.67

Age	Ordinary hours	Early morning	Afternoon & night	Non-continuous afternoon or night ¹		Permanent night
				First 3 hours	After 3 hours	
Legal, clerical and administrative employee	% of junior hourly rate					
	125%	135%	140%	175%	225%	155%
	\$	\$	\$	\$	\$	\$
Level 3						
Under 16 years	13.49	14.57	15.11	18.88	24.28	16.72
16 years	14.99	16.19	16.79	20.98	26.98	18.58
17 years	17.98	19.41	20.13	25.17	32.36	22.29
18 years	20.98	22.65	23.49	29.37	37.76	26.01
19 years	23.98	25.89	26.85	33.57	43.16	29.73
20 years	26.96	29.12	30.20	37.75	48.53	33.43
Level 4						
Under 16 years	14.16	15.30	15.86	19.83	25.49	17.56
16 years	15.74	17.00	17.63	22.03	28.33	19.51
17 years	18.89	20.40	21.15	26.44	34.00	23.42
18 years	22.04	23.80	24.68	30.85	39.67	27.33
19 years	25.18	27.19	28.20	35.25	45.32	31.22
20 years	28.33	30.59	31.72	39.66	50.99	35.12

¹**Non-continuous afternoon or night shift** means work on any afternoon or night shift that does not continue for at least 5 successive afternoon or night shifts or 6 successive afternoon or night shifts in a 6 day workplace (where no more than 8 ordinary hours are worked on each shift); or for at least 38 ordinary hours (where more than 8 ordinary hours are worked on each shift).

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

Age	All shiftworkers	Shiftworkers other than continuous shiftworkers		Continuous shiftworkers only
	Saturday	Sunday	Public holidays	Sunday & public holidays
Legal, clerical and administrative employee	% of junior hourly rate			
	175%	225%	275%	225%
	\$	\$	\$	\$
Level 1				
Under 16 years	17.13	22.03	26.92	22.03
16 years	19.04	24.48	29.92	24.48
17 years	22.84	29.36	35.89	29.36

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Age	All shiftworkers	Shiftworkers other than continuous shiftworkers		Continuous shiftworkers only
	Saturday	Sunday	Public holidays	Sunday & public holidays
Legal, clerical and administrative employee	% of junior hourly rate			
	175%	225%	275%	225%
	\$	\$	\$	\$
18 years	26.65	34.27	41.88	34.27
19 years	30.45	39.15	47.85	39.15
20 years	34.27	44.06	53.85	44.06
Level 2				
Under 16 years	17.89	23.00	28.11	23.00
16 years	19.86	25.54	31.21	25.54
17 years	23.84	30.65	37.46	30.65
18 years	27.81	35.75	43.70	35.75
19 years	31.78	40.86	49.94	40.86
20 years	35.75	45.97	56.18	45.97
Level 3				
Under 16 years	18.88	24.28	29.67	24.28
16 years	20.98	26.98	32.97	26.98
17 years	25.17	32.36	39.55	32.36
18 years	29.37	37.76	46.15	37.76
19 years	33.57	43.16	52.75	43.16
20 years	37.75	48.53	59.32	48.53
Level 4				
Under 16 years	19.83	25.49	31.16	25.49
16 years	22.03	28.33	34.62	28.33
17 years	26.44	34.00	41.55	34.00
18 years	30.85	39.67	48.48	39.67
19 years	35.25	45.32	55.39	45.32
20 years	39.66	50.99	62.32	50.99

Schedule C—Summary of Monetary Allowances

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

C.1 Expense-related allowances

C.1.1 The following allowances will be payable to employees in accordance with clause 18—Allowances:

Allowance	Clause	\$	Payable
Meal allowances—overtime:			
Monday to Friday	18.2(a)(i)	15.94	per occasion
Monday to Friday—further allowance	18.2(a)(i)	12.71	per occasion
Saturday or Sunday	18.2(a)(ii)	15.94	per occasion
Saturday or Sunday —further allowance	18.2(a)(ii)	12.71	per occasion
Uniform allowance	18.3	3.65	per week
Vehicle allowances:			
Motor car	18.4(a)(i)	0.78	per km
Motorcycle	18.4(a)(ii)	0.26	per km

C.1.2 Adjustment of expense-related allowances

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

Allowance	Applicable Consumer Price Index figure
Meal allowance	Take away and fast foods sub-group
Uniform allowance	Clothing and footwear group
Vehicle allowance	Private motoring sub-group

Schedule D—Supported Wage System

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

D.2 In this schedule:

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

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

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

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

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

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

D.3 Eligibility criteria

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

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

D.4 Supported wage rates

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

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

D.4.2 Provided that the minimum amount payable must be not less than **\$87** per week.

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

D.5 Assessment of capacity

D.5.1 For the purpose of establishing the percentage of the relevant minimum wage, the productive capacity of the employee will be assessed in accordance with the 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.

D.5.2 All assessments made under this schedule must be documented in an SWS wage assessment agreement, and retained by the employer as a time and wages record in accordance with the [Act](#).

D.6 Lodgement of SWS wage assessment agreement

D.6.1 All SWS wage assessment agreements under the conditions of this schedule, including the appropriate percentage of the relevant minimum wage to be paid to the employee, must be lodged by the employer with the Fair Work Commission.

D.6.2 All SWS wage assessment agreements must be agreed and signed by the employee and employer parties to the assessment. Where a union which has an interest in the award is not a party to the assessment, the assessment will be referred by the Fair Work Commission to the union by certified mail and the agreement will take effect unless an objection is notified to the Fair Work Commission within 10 working days.

D.7 Review of assessment

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

D.8 Other terms and conditions of employment

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

D.9 Workplace adjustment

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

D.10 Trial period

- D.10.1** In order for an adequate assessment of the employee's capacity to be made, an employer may employ a person under the provisions of this schedule for a trial period not exceeding 12 weeks, except that in some cases additional work adjustment time (not exceeding 4 weeks) may be needed.
- D.10.2** During that trial period the assessment of capacity will be undertaken and the percentage of the relevant minimum wage for a continuing employment relationship will be determined.
- D.10.3** The minimum amount payable to the employee during the trial period must be no less than **\$87** per week.
- D.10.4** Work trials should include induction or training as appropriate to the job being trialled.
- D.10.5** Where the employer and employee wish to establish a continuing employment relationship following the completion of the trial period, a further contract of employment will be entered into based on the outcome of assessment under clause D.5.

Schedule E—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 F—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 G—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 H—Part-day Public Holidays

- H.1** This schedule operates where this award otherwise contains provisions dealing with public holidays that supplement the NES.
- H.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 H.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 H.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.
- H.3** This schedule is not intended to detract from or supplement the NES.