

Fast Food Industry Award 2010

This Fair Work Commission consolidated modern award incorporates all amendments up to and including 16 November 2015 ([PR573679](#)).

Clause(s) affected by the most recent variation:

Schedule E—2014 Part-day public holidays

Current review matter(s): [AM2014/47](#); [AM2014/190](#); [AM2014/196](#); [AM2014/197](#); [AM2014/267](#); [AM2014/300](#); [AM2014/301](#); [AM2014/305](#); [AM2014/306](#); [AM2015/1](#); [AM2015/2](#)

Long service leave – an order [[PR506544](#)] has been issued to preserve long service leave entitlements under the Division 2B State award titled *Broken Hill Commerce and Industry Consent Award 2008* [[RA120088](#)].

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[Varied by [PR988389](#), [PR994446](#), [PR532632](#), [PR544262](#), [PR546288](#), [PR558851](#), [PR573679](#)]

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Part 1—Application and Operation

1. Title

This award is the *Fast Food Industry Award 2010*.

2. Commencement and transitional

[Varied by [PR988389](#), [PR542123](#)]

2.1 This award commences on 1 January 2010.

2.2 The monetary obligations imposed on employers by this award may be absorbed into overaward payments. Nothing in this award requires an employer to maintain or increase any overaward payment.

2.3 This award contains transitional arrangements which specify when particular parts of the award come into effect. Some of the transitional arrangements are in clauses in the main part of the award. There are also transitional arrangements in Schedule A. The arrangements in Schedule A deal with:

- minimum wages and piecework rates
- casual or part-time loadings
- Saturday, Sunday, public holiday, evening or other penalties
- shift allowances/penalties.

[2.4 varied by [PR542123](#) ppc 04Dec13]

2.4 Neither the making of this award nor the operation of any transitional arrangements is intended to result in a reduction in the take-home pay of employees covered by the award. On application by or on behalf of an employee who suffers a reduction in take-home pay as a result of the making of this award or the operation of any transitional arrangements, the Fair Work Commission may make any order it considers appropriate to remedy the situation.

[2.5 varied by [PR542123](#) ppc 04Dec13]

2.5 The Fair Work Commission may review the transitional arrangements in this award and make a determination varying the award.

[2.6 varied by [PR542123](#) ppc 04Dec13]

2.6 The Fair Work Commission may review the transitional arrangements:

- (a) on its own initiative; or
- (b) on application by an employer, employee, organisation or outworker entity covered by the modern award; or

- (c) on application by an organisation that is entitled to represent the industrial interests of one or more employers or employees that are covered by the modern award; or
- (d) in relation to outworker arrangements, on application by an organisation that is entitled to represent the industrial interests of one or more outworkers to whom the arrangements relate.

3. Definitions and interpretation

[Varied by [PR994446](#), [PR997772](#), [PR503606](#), [PR545958](#)]

3.1 In this award, unless the contrary intention appears:

[Definition of **Act** substituted by [PR994446](#) from 01Jan10]

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

[Definition of **agreement-based transitional instrument** inserted by [PR994446](#) from 01Jan10]

agreement-based transitional instrument has the meaning in the *Fair Work (Transitional Provisions and Consequential Amendments) Act 2009* (Cth)

[Definition of **award-based transitional instrument** inserted by [PR994446](#) from 01Jan10]

award-based transitional instrument has the meaning in the *Fair Work (Transitional Provisions and Consequential Amendments) Act 2009* (Cth)

[Definition of **Commission** deleted by [PR994446](#) from 01Jan10]

[Definition of **default fund employee** inserted by [PR545958](#) ppc 01Jan14]

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

[Definition of **defined benefit member** inserted by [PR545958](#) ppc 01Jan14]

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

[Definition of **Division 2B State award** inserted by [PR503606](#) ppc 01Jan11]

Division 2B State award has the meaning in Schedule 3A of the *Fair Work (Transitional Provisions and Consequential Amendments) Act 2009* (Cth)

[Definition of **Division 2B State employment agreement** inserted by [PR503606](#) ppc 01Jan11]

Division 2B State employment agreement has the meaning in Schedule 3A of the *Fair Work (Transitional Provisions and Consequential Amendments) Act 2009* (Cth)

[Definition of **employee** substituted by [PR994446](#), [PR997772](#) from 01Jan10]

employee means national system employee within the meaning of the Act

[Definition of **employer** substituted by [PR994446](#), [PR997772](#) from 01Jan10]

employer means national system employer within the meaning of the Act

Fast Food Industry Award 2010

[Definition of **enterprise award** deleted by [PR994446](#) from 01Jan10]

[Definition of **enterprise award-based instrument** inserted by [PR994446](#) from 01Jan10]

enterprise award-based instrument has the meaning in the *Fair Work (Transitional Provisions and Consequential Amendments) Act 2009* (Cth)

[Definition of **exempt public sector superannuation scheme** inserted by [PR545958](#) ppc 01Jan14]

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

fast food industry means the industry of taking orders for and/or preparation and/or sale and/or delivery of:

- meals, snacks and/or beverages, which are sold to the public primarily to be consumed away from the point of sale;
- take away foods and beverages packaged, sold or served in such a manner as to allow their being taken from the point of sale to be consumed elsewhere should the customer so decide; and/or
- food and/or beverages in food courts and/or in shopping centres and/or in retail complexes, excluding coffee shops, cafes, bars and restaurants providing primarily a sit down service inside the catering establishment

[Definition of **MySuper product** inserted by [PR545958](#) ppc 01Jan14]

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

[Definition of **NAPSA** deleted by [PR994446](#) from 01Jan10]

[Definition of **NES** substituted by [PR994446](#) from 01Jan10]

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

[Definition of **on-hire** inserted by [PR994446](#) from 01Jan10]

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 Fast Food Employee Level 2 in clause 17—Minimum weekly wages. Where an allowance is provided for on an hourly basis, a reference to **standard rate** means 1/38th of the weekly wage referred to above.

[Definition of **transitional minimum wage instrument** inserted by [PR994446](#) from 01Jan10]

transitional minimum wage instrument has the meaning in the *Fair Work (Transitional Provisions and Consequential Amendments) Act 2009* (Cth)

- 3.2** Where this award refers to a condition of employment provided for in the NES, the NES definition applies.

4. Coverage

[Varied by [PR994446](#)]

4.1 This industry award covers employers throughout Australia in the fast food industry and their employees in the classifications listed in clause 17—Minimum weekly wages to the exclusion of any other modern award. The award does not cover employers in the following industries:

- the hospitality industry; or
- the general retail industry.

4.2 The award does not cover an employee excluded from award coverage by the Act.

[4.3 substituted by [PR994446](#) from 01Jan10]

4.3 The award does not cover 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.

[New 4.4 inserted by [PR994446](#) from 01Jan10]

4.4 The award does not cover 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.

[4.5 inserted by [PR994446](#) from 01Jan10]

4.5 This award covers any employer which supplies labour on an on-hire basis in the industry set out in clause 4.1 in respect of on-hire employees in classifications covered by this award, and those on-hire employees, while engaged in the performance of work for a business in that industry. This subclause operates subject to the exclusions from coverage in this award.

[4.6 inserted by [PR994446](#) from 01Jan10]

4.6 This award covers employers which provide group training services for trainees engaged in the industry and/or parts of industry set out at clause 4.1 and those trainees engaged by a group training service hosted by a company to perform work at a location where the activities described herein are being performed. This subclause operates subject to the exclusions from coverage in this award.

[4.4 renumbered as 4.7 by [PR994446](#) from 01Jan10]

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 employee are covered by an award with occupational coverage.

5. Access to the award and the National Employment Standards

The employer must ensure that copies of this award and the NES are available to all employees to whom they apply either on a noticeboard which is conveniently located at or near the workplace or through electronic means, whichever makes them more accessible.

6. The National Employment Standards and this award

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

7. Award flexibility

[Varied by [PR994446](#), [PR542123](#)]

7.1 Notwithstanding any other provision of this award, an employer and an individual employee may agree to vary the application of certain terms of this award to meet the genuine individual needs of the employer and the individual employee. The terms the employer and the individual employee may agree to vary the application of are those concerning:

- (a) arrangements for when work is performed;
- (b) overtime rates;
- (c) penalty rates;
- (d) allowances; and
- (e) leave loading.

[7.2 varied by [PR542123](#) ppc 04Dec13]

7.2 The employer and the individual employee must have genuinely made the agreement without coercion or duress. An agreement under this clause can only be entered into after the individual employee has commenced employment with the employer.

7.3 The agreement between the employer and the individual employee must:

- (a) be confined to a variation in the application of one or more of the terms listed in clause 7.1; and

[7.3(b) substituted by [PR994446](#) from 01Jan10; varied by [PR542123](#) ppc 04Dec13]

- (b) result in the employee being better off overall at the time the agreement is made than the employee would have been if no individual flexibility agreement had been agreed to.

[7.4 substituted by [PR994446](#) from 01Jan10]

7.4 The agreement between the employer and the individual employee must also:

- (a) be in writing, name the parties to the agreement and be signed by the employer and the individual employee and, if the employee is under 18 years of age, the employee's parent or guardian;
- (b) state each term of this award that the employer and the individual employee have agreed to vary;
- (c) detail how the application of each term has been varied by agreement between the employer and the individual employee;
- (d) detail how the agreement results in the individual employee being better off overall in relation to the individual employee's terms and conditions of employment; and
- (e) state the date the agreement commences to operate.

[7.5 deleted by [PR994446](#) from 01Jan10]

[7.6 renumbered as 7.5 by [PR994446](#) from 01Jan10]

7.5 The employer must give the individual employee a copy of the agreement and keep the agreement as a time and wages record.

[New 7.6 inserted by [PR994446](#) from 01Jan10]

7.6 Except as provided in clause 7.4(a) the agreement must not require the approval or consent of a person other than the employer and the individual employee.

7.7 An employer seeking to enter into an agreement must provide a written proposal to the employee. Where the employee's understanding of written English is limited the employer must take measures, including translation into an appropriate language, to ensure the employee understands the proposal.

7.8 The agreement may be terminated:

[7.8(a) varied by [PR542123](#) ppc 04Dec13]

- (a) by the employer or the individual employee giving 13 weeks' notice of termination, in writing, to the other party and the agreement ceasing to operate at the end of the notice period; or
- (b) at any time, by written agreement between the employer and the individual employee.

[Note inserted by [PR542123](#) ppc 04Dec13]

Note: If any of the requirements of s.144(4), which are reflected in the requirements of this clause, are not met then the agreement may be terminated by either the employee or the employer, giving written notice of not more than 28 days (see s.145 of the *Fair Work Act 2009* (Cth)).

[New 7.9 inserted by [PR542123](#) ppc 04Dec13]

7.9 The notice provisions in clause 7.8(a) only apply to an agreement entered into from the first full pay period commencing on or after 4 December 2013. An agreement

entered into before that date may be terminated in accordance with clause 7.8(a), subject to four weeks' notice of termination.

[7.9 renumbered as 7.10 by [PR542123](#) ppc 04Dec13]

- 7.10** The right to make an agreement pursuant to this clause is in addition to, and is not intended to otherwise affect, any provision for an agreement between an employer and an individual employee contained in any other term of this award.

Part 2—Consultation and Dispute Resolution

8. Consultation

[8—Consultation regarding major workplace change renamed and substituted by [PR546288](#) ppc 01Jan14]

8.1 Consultation regarding major workplace change

(a) Employer to notify

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

(b) Employer to discuss change

- (i)** The employer must discuss with the employees affected and their representatives, if any, the introduction of the changes referred to in clause 8.1(a), the effects the changes are likely to have on employees and measures to avert or mitigate the adverse effects of such changes on employees and must give prompt consideration to matters raised by the employees and/or their representatives in relation to the changes.
- (ii)** The discussions must commence as early as practicable after a definite decision has been made by the employer to make the changes referred to in clause 8.1(a).
- (iii)** For the purposes of such discussion, the employer must provide in writing to the employees concerned and their representatives, if any, all relevant information about the changes including the nature of the changes proposed, the expected effects of the changes on employees and

any other matters likely to affect employees provided that no employer is required to disclose confidential information the disclosure of which would be contrary to the employer's interests.

8.2 Consultation about changes to rosters or hours of work

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

9. Dispute resolution

[Varied by [PR994446](#), [PR542123](#)]

- 9.1** In the event of a dispute about a matter under this award, or a dispute in relation to the NES, in the first instance the parties must attempt to resolve the matter at the workplace by discussions between the employee or employees concerned and the relevant supervisor. If such discussions do not resolve the dispute, the parties will endeavour to resolve the dispute in a timely manner by discussions between the employee or employees concerned and more senior levels of management as appropriate.

[9.2 varied by [PR994446](#), [PR542123](#) ppc 04Dec13]

- 9.2** If a dispute about a matter arising under this award or a dispute in relation to the NES is unable to be resolved at the workplace, and all appropriate steps under clause 9.1 have been taken, a party to the dispute may refer the dispute to the Fair Work Commission.

[9.3 varied by [PR994446](#), [PR542123](#) ppc 04Dec13]

9.3 The parties may agree on the process to be utilised by the Fair Work Commission including mediation, conciliation and consent arbitration.

[9.4 varied by [PR994446](#), [PR542123](#) ppc 04Dec13]

9.4 Where the matter in dispute remains unresolved, the Fair Work Commission may exercise any method of dispute resolution permitted by the Act that it considers appropriate to ensure the settlement of the dispute.

9.5 An employer or employee may appoint another person, organisation or association to accompany and/or represent them for the purposes of this clause.

9.6 While the dispute resolution procedure is being conducted, work must continue in accordance with this award and the Act. Subject to applicable occupational health and safety legislation, an employee must not unreasonably fail to comply with a direction by the employer to perform work, whether at the same or another workplace that is safe and appropriate for the employee to perform.

Part 3—Types of Employment and Termination of Employment

10. Employment categories

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

- full-time employees;
- part-time employees; or
- casual employees.

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

11. Full-time employees

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

12. Part-time employees

[Varied by [PR992813](#)]

12.1 A part-time employee is an employee who:

- (a) works less than 38 hours per week; and
- (b) has reasonably predictable hours of work.

- 12.2** At the time of first being employed, the employer and the part-time employee will agree, in writing, on a regular pattern of work, specifying at least:
- the number of hours worked each day;
 - which days of the week the employee will work;
 - the actual starting and finishing times of each day;
 - that any variation will be in writing;
 - that the minimum daily engagement is three hours; and
 - the times of taking and the duration of meal breaks.
- 12.3** Any agreement to vary the regular pattern of work will be made in writing before the variation occurs.
- 12.4** The agreement and any variation to it will be retained by the employer and a copy given by the employer to the employee.
- 12.5** An employer is required to roster a part-time employee for a minimum of three consecutive hours on any shift.
- 12.6** An employee who does not meet the definition of a part-time employee and who is not a full-time employee will be paid as a casual employee in accordance with clause 13—Casual employment.

[12.7 varied by [PR992813](#) ppc 29Jan10]

- 12.7** A part-time employee employed under the provisions of this clause will be paid for ordinary hours worked at the rate of 1/38th of the weekly rate prescribed for the class of work performed. All time worked in excess of the hours as agreed under clause 12.2 or varied under clause 12.3 will be overtime and paid for at the rates prescribed in clause 26.2—Overtime and penalty rates.

13. Casual employment

[Varied by [PR992813](#)]

- 13.1** A casual employee is an employee engaged as such.

[13.2 varied by [PR992813](#) ppc 29Jan10]

- 13.2** A casual will be paid both the ordinary hourly rate paid to a full-time employee and an additional 25% of the ordinary hourly rate for a full-time employee.
- 13.3** Casual employees will be paid at the termination of each engagement, or weekly or fortnightly in accordance with pay arrangements for full-time employees.

[13.4 inserted by [PR992813](#) ppc 29Jan10]

- 13.4** The minimum daily engagement of a casual is three hours.

14. Termination of employment

14.1 Notice of termination is provided for in the NES.

14.2 Notice of termination by an employee

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

14.3 Job search entitlement

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

15. Redundancy

[Varied by [PR994446](#), [PR503606](#); [PR561478](#)]

15.1 Redundancy pay is provided for in the NES.

15.2 Transfer to lower paid duties

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

15.3 Employees leaving during notice period

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

15.4 Job search entitlement

- (a) An employee given notice of termination in circumstances of redundancy must be allowed up to one day's time off without loss of pay during each week of notice for the purpose of seeking other employment.
- (b) If the employee has been allowed paid leave for more than one day during the notice period for the purpose of seeking other employment, the employee must,

at the request of the employer, produce proof of attendance at an interview or they will not be entitled to payment for the time absent. For this purpose a statutory declaration is sufficient.

(c) This entitlement applies instead of clause 14.3.

15.5 Transitional provisions – NAPSA employees

[15.5 substituted by [PR994446](#); renamed by [PR503606](#); deleted by [PR561478](#) ppc 05Mar15]

15.6 Transitional provisions – Division 2B State employees

[15.6 inserted by [PR503606](#); deleted by [PR561478](#) ppc 05Mar15]

Part 4—Classifications and Wage Rates

16. Classifications

[Varied by [PR988389](#)]

16.1 All employees covered by this award must be classified according to the structure set out in Schedule B—Classifications. Employers must advise their employees in writing of their classification and of any changes to their classification.

16.2 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.

17. Minimum weekly wages

[17 varied by [PR997880](#), [PR509034](#), [PR522865](#), [PR536668](#), [PR551591](#), [PR566668](#) ppc 01Jul15]

Classifications	Per week
	\$
Level 1	721.50
Level 2	764.90
Level 3—In charge of one or no persons	776.70
—In charge of two or more persons	786.10

18. Junior rates

Junior employees will be paid the following percentage of the appropriate wage rate in clause 17—Minimum weekly wages:

Age	% of weekly wage
Under 16 years of age	40
16 years of age	50
17 years of age	60
18 years of age	70
19 years of age	80
20 years of age	90

19. Allowances

To view the current monetary amounts of work-related allowances refer to the [Allowances Sheet](#).

[Varied by [PR992813](#), [PR994446](#), [PR998032](#), [PR509157](#), [PR522987](#), [PR536790](#), [PR539921](#), [PR548428](#), [PR551713](#), [PR561203](#), [PR566812](#)]

19.1 Meal allowance

[19.1(a) varied by [PR998032](#), [PR509157](#), [PR522987](#), [PR536790](#), [PR551713](#), [PR566812](#) ppc 01Jul15]

- (a) An employee required to work more than one hour of overtime after the employee's ordinary time of ending work, without being given 24 hours' notice, will be either provided with a meal or paid a meal allowance of \$12.24. Where such overtime work exceeds four hours a further meal allowance of \$11.05 will be paid.
- (b) No meal allowance will be payable where an employee could reasonably return home for a meal within the period allowed.

19.2 Special clothing

- (a) Where the employer requires an employee to wear any protective or special clothing such as a uniform, dress or other clothing, the employer will reimburse the employee for any cost of purchasing such clothing and the cost of replacement items when replacement is due to normal wear and tear. This provision will not apply where the special clothing is supplied and/or paid for by the employer.

[19.2(b) substituted by [PR992813](#) ppc 29Jan10]

- (b) Where an employee is required to launder any special uniform, dress or other clothing, the employee will be paid the following applicable allowance:
 - (i) For a full-time employee—\$6.25 per week;
 - (ii) For a part-time or casual employee—\$1.25 per shift.

19.3 Excess travelling costs

Where an employee is required by their employer to move temporarily from one branch or shop to another for a period not exceeding three weeks, all additional transport costs so incurred will be reimbursed by the employer.

19.4 Travelling time reimbursement

- (a) An employee who on any day is required to work at a place away from their usual place of employment, for all time reasonably spent in reaching and returning from such place (in excess of the time normally spent in travelling from their home to their usual place of employment and returning), will be paid travelling time and also any fares reasonably incurred in excess of those normally incurred in travelling between their home and their usual place of employment.
- (b) Where the employer provides transport from a pick up point, an employee will be paid travelling time for all time spent travelling from such pick up point and return thereto.
- (c) The rate of pay for travelling time will be the ordinary time rate except on Sundays and public holidays when it will be time and a half.

19.5 Transfer of employee reimbursement

Where any employer transfers an employee from one township to another, the employer will be responsible for and will pay the whole of the moving expenses, including fares and transport charges, for the employee and their family.

19.6 Transport allowance

[19.6 varied by [PR522987](#), [PR536790](#); substituted by [PR548428](#) ppc 17Mar14]

[19.6(a) varied by [PR551713](#) ppc 01Jul14]

- (a) Other than as provided in clause 19.6(b), where an employer requests an employee to use their own motor vehicle in the performance of their duties such employee will be paid an allowance of \$0.78 per kilometre.

[19.6(b) varied by [PR551713](#) ppc 01Jul14]

- (b) Where an employee is engaged primarily to perform delivery duties of the employer's products to customers using their own motor vehicle, such employee will be paid an allowance of \$0.41 per kilometre.

19.7 Transport of employee reimbursement

- (a) Where an employee commences and/or ceases work after 10.00 pm on any day or prior to 7.00 am on any day and the employee's regular means of transport is not available and the employee is unable to arrange their own alternative transport, the employer will reimburse the employee for the cost of a taxi fare from the place of employment to the employee's usual place of residence. This will not apply if the employer provides or arranges proper transportation to

and/or from the employee's usual place of residence, at no cost to the employee.

- (b) Provided always that an employee may elect to provide their own transport.

[19.7(c) varied by [PR994446](#) from 01Jan10; deleted by [PR539921](#) ppc 01Oct13]

19.8 Cold work disability allowance

- (a) Employees principally employed on any day to enter cold chambers and/or to stock and refill refrigerated storages such as dairy cases or freezer cabinets will be paid an allowance per hour, while so employed, of 1.3% of the [standard rate](#).

[19.8(b) substituted by [PR992813](#) ppc 29Jan10]

- (b) An employee required to work in a cold chamber where the temperature is below 0°C will in addition to the allowance in clause 19.8(a) also be paid an additional allowance per hour, while so employed, of 2% of the [standard rate](#).

19.9 Broken Hill

[19.9 varied by [PR992813](#), [PR994446](#); renamed and substituted by [PR561203](#) ppc 07May15]

An employee in the County of Yancowinna in New South Wales (Broken Hill) will in addition to all other payments be paid an allowance for the exigencies of working in Broken Hill of 4.28% of the [standard rate](#).

19.10 Adjustment of expense related allowances

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

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

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

20. Accident pay

[Varied by [PR994446](#), [PR503606](#); deleted by [PR561478](#) ppc 05Mar15; new 20 inserted by [PR571822](#) ppc 15Oct15]

An employee in receipt of weekly payments under the provisions of applicable workers' compensation legislation will be entitled to receive accident pay from the employer subject to the following conditions and limitations:

20.1 Definitions

- (a) **Accident pay** means a weekly payment made to an employee by the employer that is the difference between the weekly amount of compensation the employee is entitled to receive pursuant to the applicable workers' compensation legislation and the employee's weekly wage payable under this Award for the classification of work if the employee had been performing their normal duties (not including over award payments, shift loadings, overtime, attendance bonus payments, special rates, fares and travelling allowance or other similar payments).
- (b) **Injury** will be given the same meaning and application as applying under the applicable workers' compensation legislation covering the employer.

20.2 Entitlement to accident pay

- (a) The employer must pay accident pay where an employee suffers an injury and weekly payments of compensation are paid to the employee under the applicable workers' compensation legislation. The maximum period of accident pay is 26 weeks.
- (b) Accident pay shall not apply:
 - (i) In respect of an injury during the first seven consecutive days (including non-working days) of incapacity.
 - (ii) To any incapacity occurring during the first two weeks of employment unless such incapacity continues beyond the first two weeks.

20.3 Calculation of the period

- (a) The 26 week period commences from the first day of incapacity for work, which may be subsequent to the date of injury. In the event of more than one absence arising from one injury, such absences are to be cumulative in the assessment of the 26 week period.
- (b) The entitlement to accident pay continues on termination of an employee's employment where such termination:
 - (i) is by the employer other than for reasons of the employee's serious and/or wilful misconduct; or
 - (ii) arises from a declaration of bankruptcy or liquidation of the employer, in which case the employee's entitlement will be referred to the Fair Work Commission to determine.

- (c) For a period of less than one week, accident pay (as defined) will be calculated on a pro rata basis.

20.4 When not entitled to payment

An employee will not be entitled to any payment under this clause in respect of any period of paid annual leave or long service leave, or for any paid public holiday.

20.5 Return to work

If an employee entitled to accident pay under this clause returns to work on reduced hours or modified duties, the amount of accident pay due will be reduced by any amounts paid for the performance of such work.

20.6 Redemptions

In the event that an employee receives a lump sum payment in lieu of weekly payments under the applicable workers' compensation legislation, the liability of the employer to pay accident pay will cease from the date the employee receives that payment.

20.7 Damages independent of the Acts

Where the employee recovers damages from the employer or from a third party in respect of the said injury independently of the applicable workers' compensation legislation, such employee will be liable to repay to the employer the amount of accident pay which the employer has paid under this clause and the employee will not be entitled to any further accident pay thereafter.

20.8 Casual employees

For a casual employee, the weekly payment referred to in clause 20.1(a) will be calculated using the employee's average weekly ordinary hours with the employer over the previous 12 months or, if the employee has been employed for less than 12 months by the employer, the employee's average weekly ordinary hours over the period of employment with the employer. The weekly payment will include casual loading but will not include over award payments, shift loadings, overtime, attendance bonus payments, special rates, fares and travelling allowance or other similar payments.

21. Superannuation

[Varied by [PR992746](#), [PR994446](#), [PR530448](#), [PR545958](#)]

21.1 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.

21.2 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.

21.3 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 21.2.
- (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 21.3(a) or (b) no later than 28 days after the end of the month in which the deduction authorised under clauses 21.3(a) or (b) was made.

21.4 Superannuation fund

[21.4 varied by [PR994446](#) from 01Jan10]

Unless, to comply with superannuation legislation, the employer is required to make the superannuation contributions provided for in clause 21.2 to another superannuation fund that is chosen by the employee, the employer must make the superannuation contributions provided for in clause 21.2 and pay the amount authorised under clauses 21.3(a) or (b) to one of the following superannuation funds or its successor:

- (a) Retail Employees Superannuation Trust (REST);

[21.4(b) inserted by [PR992746](#) from 25Jan10; varied by [PR530448](#) from 01Jan10]

- (b) Sunsuper;

[New 21.4(c) inserted by [PR530448](#) from 01Jan10]

- (c) Intrust Super;

[21.4(b) renumbered as 21.4(c) by [PR992746](#) from 25Jan10, renumbered as 21.4(d) by [PR530448](#); varied by [PR545958](#) ppc 01Jan14]

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

[21.4(e) inserted by [PR545958](#) ppc 01Jan14]

- (e) a superannuation fund or scheme which the employee is a defined benefit member of.

21.5 Absence from work

Subject to the governing rules of the relevant superannuation fund, the employer must also make the superannuation contributions provided for in clause 21.2 and pay the amount authorised under clauses 21.3(a) or (b):

- (a) **Paid leave**—while the employee is on any paid leave.
- (b) **Work-related injury or illness**—For the period of absence from work (subject to a maximum of 52 weeks) of the employee due to work-related injury or work-related illness provided that:
 - (i) the employee is receiving workers compensation payments or is receiving regular payments directly from the employer in accordance with statutory requirements; and
 - (ii) the employee remains employed by the employer.

22. Payment of wages

[Varied by [PR992813](#)]

Wages will be paid weekly or fortnightly according to the actual hours worked for each week or fortnight or may be averaged over a period of a fortnight.

23. Supported wage

[Varied by [PR988389](#)]

See Schedule C

24. National training wage

[Varied by [PR988389](#)]

See Schedule D

Part 5—Ordinary Hours of Work

25. Hours of work

[Varied by [PR516760](#), [PR517415](#), [PR539921](#)]

25.1 This clause does not operate to limit or increase or in any way alter the trading hours of any employer as determined by the relevant State or Territory legislation.

25.2 Ordinary hours

[25.2(a) varied by [PR517415](#) ppc 01Dec11]

- (a) The ordinary hours of work are an average of 38 per week over a period of no more than four weeks.
- (b) Hours of work on any day will be continuous, except for rest pauses and meal breaks.

25.3 Maximum hours on a day

[25.3 varied by [PR516760](#) ppc 01Dec11]

An employee may be rostered to work up to a maximum of 11 ordinary hours on any day.

25.4 38 hour week rosters

A full-time employee will be rostered for an average of 38 hours per week, worked in any of the following forms:

- (a) 38 hours in one week;
- (b) 76 hours in two consecutive weeks;
- (c) 114 hours in three consecutive weeks; or
- (d) 152 hours in four consecutive weeks.

25.5 Penalty rates

[26.5 renumbered as 25.5 by [PR539921](#) ppc 01Oct13]

(a) Evening work Monday to Friday

[26.5(a) clause heading substituted by [PR539921](#) ppc 01Oct13]

- (i) A loading of 10% will apply for ordinary hours of work within the span of hours between 9.00 pm and midnight, and for casual employees this loading will apply in addition to their 25% casual loading.
- (ii) A loading of 15% will apply for ordinary hours of work after midnight, and for casual employees this loading will apply in addition to their 25% casual loading.

(b) Saturday work

[26.5(b) clause heading substituted by [PR539921](#) ppc 01Oct13]

A loading of 25% will apply for ordinary hours of work within the span of hours on a Saturday, and for casual employees an additional 25% on top of the casual rate.

(c) Sunday work

- (i)** A 50% loading will apply for all hours of work on a Sunday for full-time and part-time employees.
- (ii)** A 75% loading will apply for all hours of work on a Sunday for casual employees, inclusive of the casual loading.

26. Overtime

[Varied by [PR992813](#); substituted by [PR516760](#) ppc 01Dec11; varied by [PR539921](#)]

The rate of overtime shall be time and a half for the first two hours on any one day and at the rate of double time thereafter, except on a Sunday which shall be paid for at the rate of double time and on a Public Holiday which shall be paid for at the rate of double time and a half. Casual employees shall be paid 275% on a Public Holiday.

26.1 An employee shall be paid overtime for all work as follows:

- (a)** In excess of:
 - (i)** 38 hours per week or an average of 38 hours per week averaged over a four week period; or
 - (ii)** five days per week (or six days in one week if in the following week ordinary hours are worked on not more than four days); or
 - (iii)** eleven hours on any one day; or

[26.1(b) substituted by [PR539921](#) ppc 01Oct13]

- (b)** Before an employee's rostered commencing time on any one day; or

[26.1(c) substituted by [PR539921](#) ppc 01Oct13]

- (c)** After an employee's rostered ceasing time on any one day; or
- (d)** Outside the ordinary hours of work; or
- (e)** Hours worked by part-time employees in excess of the agreed hours in clause 12.2 or as varied under clause 12.3.

26.2 Where an employee works overtime on a Sunday and that work is not immediately preceding or immediately following ordinary hours, then that employee must be paid double time with a minimum payment of four hours at such rate.

26.3 Time off instead of payment

By mutual agreement the rate for overtime may be time off in lieu of overtime provided that:

- (a) Time off shall be calculated at the penalty equivalent;
- (b) The employee is entitled to a fresh choice of payment or time off on each occasion overtime is worked;
- (c) Time off must be taken within one calendar month of the working of the overtime, or it shall be paid out.

26.4 Reasonable overtime

- (a) An employer may require an employee other than a casual to work reasonable overtime in accordance with the provisions of this clause.
- (b) An employee may refuse to work overtime in circumstances where the working of such overtime would result in the employee working hours which are unreasonable having regard to:
 - (i) any risk to employee health and safety;
 - (ii) the employee's personal circumstances including any family responsibilities;
 - (iii) the needs of the workplace or enterprise;
 - (iv) the notice (if any) given by the employer of the overtime and by the employee of his or her intention to refuse it; and
 - (v) any other relevant matter.

27. Breaks

[Varied by [PR539921](#)]

27.1 Breaks during work periods

- (a) Breaks will be given as follows:

Hours worked	Rest break	Meal break
Less than 4 hours	No rest break	No meal break
4 hours but less than 5 hours	One 10 minute rest break	No meal break
5 hours but less than 9 hours	One 10 minute rest break	One meal break of at least 30 minutes but not more than 60 minutes

Hours worked	Rest break	Meal break
9 hours or more	One or two 10 minute rest breaks, with one taken in the first half of the work hours and the second taken in the second half of the work hours, two rest breaks will be given unless a second meal break is provided	One or two meal breaks of at least 30 minutes but not more than 60 minutes

- (b) The timing of the taking of a rest break or meal break is intended to provide a meaningful break for the employee during work hours.
- (c) An employee cannot be required to take a rest break or meal break within one hour of commencing or ceasing work. An employee cannot be required to take a rest break(s) combined with a meal break.
- (d) The time of taking rest and meal breaks and the duration of meal breaks form part of the roster and are subject to the roster provisions of this award.

[27.1(e) varied by [PR539921](#) ppc 01Oct13]

- (e) Rest breaks are paid breaks and meal breaks are unpaid breaks.
- (f) An employee cannot work more than five hours without a meal break.

Part 6—Leave and Public Holidays

28. Annual leave

28.1 Annual leave is provided for in the NES.

28.2 Definition of shiftworker

For the purpose of the additional week of annual leave provided for in the NES, a shiftworker is a seven day shiftworker who is regularly rostered to work on Sundays and public holidays in a business in which shifts are continuously rostered 24 hours a day for seven days a week.

28.3 Annual leave loading

- (a) During a period of annual leave an employee will receive a loading calculated on the wage rate prescribed in clause 17—Minimum weekly wages. Annual leave loading is payable on leave accrued.
- (b) The loading will be as follows:

(i) Day work

Employees who would have worked on day work only had they not been on leave—17.5% or the relevant weekend penalty rates, whichever is the greater but not both.

(ii) Shiftwork

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

28.4 Paid leave in advance of accrued entitlement

An employer may allow an employee to take annual leave either wholly or partly in advance before the leave has accrued. Where paid leave has been granted to an employee in excess of the employee's accrued entitlement, and the employee subsequently leaves or is discharged from the service of the employer before completing the required amount of service to account for the leave provided in advance, the employer is entitled to deduct the amount of leave in advance still owing from any remuneration payable to the employee upon termination of employment.

29. Personal/carer's leave and compassionate leave

29.1 Personal/carer's leave and compassionate leave are provided for in the NES.

29.2 Casual employees

(a) Casual employees are entitled to be not available for work or to leave work to care for a person who is sick and requires care and support or who requires care due to an emergency.

(b) Such leave is unpaid. A maximum of 48 hours' absence is allowed by right with additional absence by agreement.

29.3 An employer must not fail to re-engage a casual employee because the employee has accessed the entitlement under this clause.

30. Public holidays

[Varied by [PR539921](#) ([PR539921](#) quashed in part by [PR549301](#))]

30.1 Public holidays are provided for in the NES.

30.2 An employer and a majority of employees may agree to substitute another day for a public holiday. If an employee works on either the public holiday or the substitute day public holiday penalties apply. If both days are worked, the public holiday penalties must be paid on one day chosen by the employee.

[30.3 substituted by ([PR539921](#) quashed in part by [PR549301](#))]

30.3 Work on a public holiday must be compensated by payment at the rate of 250% (275% for casual employees).

31. Community service leave

Community service leave is provided for in the NES.

Schedule A—Transitional Provisions

[Varied by [PR988389](#), [PR994446](#), [PR503606](#)]

A.1 General

A.1.1 The provisions of this schedule deal with minimum obligations only.

[A.1.2 substituted by [PR994446](#) from 01Jan10]

A.1.2 The provisions of this schedule are to be applied:

- (a) when there is a difference, in money or percentage terms, between a provision in a relevant transitional minimum wage instrument (including the transitional default casual loading) or award-based transitional instrument on the one hand and an equivalent provision in this award on the other;
- (b) when a loading or penalty in a relevant transitional minimum wage instrument or award-based transitional instrument has no equivalent provision in this award;
- (c) when a loading or penalty in this award has no equivalent provision in a relevant transitional minimum wage instrument or award-based transitional instrument; or
- (d) when there is a loading or penalty in this award but there is no relevant transitional minimum wage instrument or award-based transitional instrument.

A.2 Minimum wages – existing minimum wage lower

A.2.1 The following transitional arrangements apply to an employer which, immediately prior to 1 January 2010:

- (a) was obliged,

[A.2.1(b) substituted by [PR994446](#) from 01Jan10]

- (b) but for the operation of an agreement-based transitional instrument or an enterprise agreement would have been obliged, or
- (c) if it had been an employer in the industry or of the occupations covered by this award would have been obliged

by a transitional minimum wage instrument and/or an award-based transitional instrument to pay a minimum wage lower than that in this award for any classification of employee.

A.2.2 In this clause minimum wage includes:

- (a) a minimum wage for a junior employee, an employee to whom training arrangements apply and an employee with a disability;
- (b) a piecework rate; and
- (c) any applicable industry allowance.

A.2.3 Prior to the first full pay period on or after 1 July 2010 the employer must pay no less than the minimum wage in the relevant transitional minimum wage instrument and/or award-based transitional instrument for the classification concerned.

A.2.4 The difference between the minimum wage for the classification in this award and the minimum wage in clause A.2.3 is referred to as the transitional amount.

A.2.5 From the following dates the employer must pay no less than the minimum wage for the classification in this award minus the specified proportion of the transitional amount:

First full pay period on or after

1 July 2010	80%
1 July 2011	60%
1 July 2012	40%
1 July 2013	20%

A.2.6 The employer must apply any increase in minimum wages in this award resulting from an annual wage review.

A.2.7 These provisions cease to operate from the beginning of the first full pay period on or after 1 July 2014.

A.3 Minimum wages – existing minimum wage higher

A.3.1 The following transitional arrangements apply to an employer which, immediately prior to 1 January 2010:

(a) was obliged,

[A.3.1(b) substituted by [PR994446](#) from 01Jan10]

(b) but for the operation of an agreement-based transitional instrument or an enterprise agreement would have been obliged, or

(c) if it had been an employer in the industry or of the occupations covered by this award would have been obliged

by a transitional minimum wage instrument and/or an award-based transitional instrument to pay a minimum wage higher than that in this award for any classification of employee.

A.3.2 In this clause minimum wage includes:

(a) a minimum wage for a junior employee, an employee to whom training arrangements apply and an employee with a disability;

(b) a piecework rate; and

(c) any applicable industry allowance.

A.3.3 Prior to the first full pay period on or after 1 July 2010 the employer must pay no less than the minimum wage in the relevant transitional minimum wage instrument and/or award-based transitional instrument for the classification concerned.

A.3.4 The difference between the minimum wage for the classification in this award and the minimum wage in clause A.3.3 is referred to as the transitional amount.

A.3.5 From the following dates the employer must pay no less than the minimum wage for the classification in this award plus the specified proportion of the transitional amount:

First full pay period on or after

1 July 2010	80%
1 July 2011	60%
1 July 2012	40%
1 July 2013	20%

A.3.6 The employer must apply any increase in minimum wages in this award resulting from an annual wage review. If the transitional amount is equal to or less than any increase in minimum wages resulting from the 2010 annual wage review the transitional amount is to be set off against the increase and the other provisions of this clause will not apply.

A.3.7 These provisions cease to operate from the beginning of the first full pay period on or after 1 July 2014.

A.4 Loadings and penalty rates

For the purposes of this schedule loading or penalty means a:

- casual or part-time loading;
- Saturday, Sunday, public holiday, evening or other penalty;
- shift allowance/penalty.

A.5 Loadings and penalty rates – existing loading or penalty rate lower

[A.5.1 substituted by [PR994446](#) from 01Jan10]

A.5.1 The following transitional arrangements apply to an employer which, immediately prior to 1 January 2010:

- (a) was obliged,
- (b) but for the operation of an agreement-based transitional instrument or an enterprise agreement would have been obliged, or
- (c) if it had been an employer in the industry or of the occupations covered by this award would have been obliged

by the terms of a transitional minimum wage instrument or an award-based transitional instrument to pay a particular loading or penalty at a lower rate than the equivalent loading or penalty in this award for any classification of employee.

[A.5.2 substituted by [PR994446](#) from 01Jan10]

A.5.2 Prior to the first full pay period on or after 1 July 2010 the employer must pay no less than the loading or penalty in the relevant transitional minimum wage instrument or award-based transitional instrument for the classification concerned.

A.5.3 The difference between the loading or penalty in this award and the rate in clause A.5.2 is referred to as the transitional percentage.

A.5.4 From the following dates the employer must pay no less than the loading or penalty in this award minus the specified proportion of the transitional percentage:

First full pay period on or after

1 July 2010	80%
1 July 2011	60%
1 July 2012	40%
1 July 2013	20%

A.5.5 These provisions cease to operate from the beginning of the first full pay period on or after 1 July 2014.

A.6 Loadings and penalty rates – existing loading or penalty rate higher

[A.6.1 substituted by [PR994446](#) from 01Jan10]

A.6.1 The following transitional arrangements apply to an employer which, immediately prior to 1 January 2010:

- (a) was obliged,
- (b) but for the operation of an agreement-based transitional instrument or an enterprise agreement would have been obliged, or
- (c) if it had been an employer in the industry or of the occupations covered by this award would have been obliged

by the terms of a transitional minimum wage instrument or an award-based transitional instrument to pay a particular loading or penalty at a higher rate than the equivalent loading or penalty in this award, or to pay a particular loading or penalty and there is no equivalent loading or penalty in this award, for any classification of employee.

[A.6.2 substituted by [PR994446](#) from 01Jan10]

A.6.2 Prior to the first full pay period on or after 1 July 2010 the employer must pay no less than the loading or penalty in the relevant transitional minimum wage instrument or award-based transitional instrument.

[A.6.3 substituted by [PR994446](#) from 01Jan10]

A.6.3 The difference between the loading or penalty in this award and the rate in clause A.6.2 is referred to as the transitional percentage. Where there is no equivalent loading or penalty in this award, the transitional percentage is the rate in A.6.2.

A.6.4 From the following dates the employer must pay no less than the loading or penalty in this award plus the specified proportion of the transitional percentage:

First full pay period on or after

1 July 2010	80%
1 July 2011	60%
1 July 2012	40%
1 July 2013	20%

A.6.5 These provisions cease to operate from the beginning of the first full pay period on or after 1 July 2014.

A.7 Loadings and penalty rates – no existing loading or penalty rate

[A.7.1 substituted by [PR994446](#) from 01Jan10]

A.7.1 The following transitional arrangements apply to an employer not covered by clause A.5 or A.6 in relation to a particular loading or penalty in this award.

A.7.2 Prior to the first full pay period on or after 1 July 2010 the employer need not pay the loading or penalty in this award.

[A.7.3 substituted by [PR994446](#) from 01Jan10]

A.7.3 From the following dates the employer must pay no less than the following percentage of the loading or penalty in this award:

First full pay period on or after

1 July 2010	20%
1 July 2011	40%
1 July 2012	60%
1 July 2013	80%

A.7.4 These provisions cease to operate from the beginning of the first full pay period on or after 1 July 2014.

A.8 Former Division 2B employers

[A.8 inserted by [PR503606](#) ppc 01Jan11]

A.8.1 This clause applies to an employer which, immediately prior to 1 January 2011, was covered by a Division 2B State award.

- A.8.2** All of the terms of a Division 2B State award applying to a Division 2B employer are continued in effect until the end of the full pay period commencing before 1 February 2011.
- A.8.3** Subject to this clause, from the first full pay period commencing on or after 1 February 2011 a Division 2B employer must pay no less than the minimum wages, loadings and penalty rates which it would be required to pay under this Schedule if it had been a national system employer immediately prior to 1 January 2010.
- A.8.4** Despite clause A.8.3, where a minimum wage, loading or penalty rate in a Division 2B State award immediately prior to 1 February 2011 was lower than the corresponding minimum wage, loading or penalty rate in this award, nothing in this Schedule requires a Division 2B employer to pay more than the minimum wage, loading or penalty rate in this award.
- A.8.5** Despite clause A.8.3, where a minimum wage, loading or penalty rate in a Division 2B State award immediately prior to 1 February 2011 was higher than the corresponding minimum wage, loading or penalty rate in this award, nothing in this Schedule requires a Division 2B employer to pay less than the minimum wage, loading or penalty rate in this award.
- A.8.6** In relation to a Division 2B employer this Schedule commences to operate from the beginning of the first full pay period on or after 1 January 2011 and ceases to operate from the beginning of the first full pay period on or after 1 July 2014.

Schedule B—Classifications

[Varied by [PR988389](#)]

B.1 Fast Food Employee Level 1

B.1.1 An employee engaged in the preparation, the receipt of orders, cooking, sale, serving or delivery of meals, snacks and/or beverages which are sold to the public primarily to take away or in food courts in shopping centres.

B.1.2 A Fast Food Employee Level 1 will undertake duties as directed within the limits of their competence, skills and training including incidental cleaning and cleaning of toilets.

B.2 Fast Food Employee Level 2

An employee who has the major responsibility on a day to day basis for supervising Fast Food employees Level 1 and/or training new employees or an employee required to exercise trade skills.

B.3 Fast Food Employee Level 3

An employee appointed by the employer to be in charge of a shop, food outlet, or delivery outlet.

Schedule C—Supported Wage System

[Varied by [PR988389](#), [PR998748](#), [PR510670](#), [PR525068](#), [PR537893](#), [PR542123](#), [PR551831](#), [PR568050](#)]

[Sched C substituted by [PR994446](#) from 01Jan10]

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

[C.2 varied by [PR568050](#) ppc 01Jul15]

- C.2** In this schedule:

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

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

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

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

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

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

C.3 Eligibility criteria

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

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

C.4 Supported wage rates

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

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

[C.4.2 varied by [PR998748](#), [PR510670](#), [PR525068](#), [PR537893](#), [PR551831](#), [PR568050](#) ppc 01Jul15]

C.4.2 Provided that the minimum amount payable must be not less than \$81 per week.

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

C.5 Assessment of capacity

C.5.1 For the purpose of establishing the percentage of the relevant minimum wage, the productive capacity of the employee will be assessed in accordance with the Supported Wage System by an approved assessor, having consulted the employer and employee and, if the employee so desires, a union which the employee is eligible to join.

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

C.6 Lodgement of SWS wage assessment agreement

[C.6.1 varied by [PR542123](#) ppc 04Dec13]

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

[C.6.2 varied by [PR542123](#) ppc 04Dec13]

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

C.7 Review of assessment

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

C.8 Other terms and conditions of employment

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

C.9 Workplace adjustment

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

C.10 Trial period

C.10.1 In order for an adequate assessment of the employee's capacity to be made, an employer may employ a person under the provisions of this schedule for a trial period not exceeding 12 weeks, except that in some cases additional work adjustment time (not exceeding four weeks) may be needed.

C.10.2 During that trial period the assessment of capacity will be undertaken and the percentage of the relevant minimum wage for a continuing employment relationship will be determined.

[C.10.3 varied by [PR998748](#), [PR510670](#), [PR525068](#), [PR537893](#), [PR551831](#), [PR568050](#) ppc 01Jul15]

C.10.3 The minimum amount payable to the employee during the trial period must be no less than \$81 per week.

C.10.4 Work trials should include induction or training as appropriate to the job being trialled.

C.10.5 Where the employer and employee wish to establish a continuing employment relationship following the completion of the trial period, a further contract of employment will be entered into based on the outcome of assessment under clause C.5.

Schedule D—National Training Wage

[Varied by [PR988389](#), [PR994446](#), [PR997880](#), [PR509034](#), [PR522865](#), [PR536668](#), [PR545787](#), [PR551591](#), [PR566668](#)]

[Sched D substituted by [PR994446](#) from 01Jan10]

D.1 Title

This is the *National Training Wage Schedule*.

D.2 Definitions

In this schedule:

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

approved training means the training specified in the training contract

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

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

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

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

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

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

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

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

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

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

Tasmania: *Vocational Education and Training Act 1994*;

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

Western Australia: *Vocational Education and Training Act 1996*

trainee is an employee undertaking a traineeship under a training contract

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

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

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

year 10 includes any year before Year 10

D.3 Coverage

- D.3.1** Subject to clauses D.3.2 to D.3.6 of this schedule, this schedule applies in respect of an employee covered by this award who is undertaking a traineeship whose training package and AQF certificate level is allocated to a wage level by Appendix D1 to this schedule or by clause D.5.4 of this schedule.
- D.3.2** This schedule only applies to AQF Certificate Level IV traineeships for which a relevant AQF Certificate Level III traineeship is listed in Appendix D1 to this schedule.
- D.3.3** This schedule does not apply to the apprenticeship system or to any training program which applies to the same occupation and achieves essentially the same training outcome as an existing apprenticeship in an award as at 25 June 1997.
- D.3.4** This schedule does not apply to qualifications not identified in training packages or to qualifications in training packages which are not identified as appropriate for a traineeship.
- D.3.5** Where the terms and conditions of this schedule conflict with other terms and conditions of this award dealing with traineeships, the other terms and conditions of this award prevail.
- D.3.6** At the conclusion of the traineeship, this schedule ceases to apply to the employee.

D.4 Types of Traineeship

The following types of traineeship are available under this schedule:

D.4.1 a full-time traineeship based on 38 ordinary hours per week, with 20% of ordinary hours being approved training; and

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

D.5 Minimum Wages

[D.5 substituted by [PR997880](#); [PR509034](#), [PR522865](#), [PR536668](#), [PR551591](#), [PR566668](#) ppc 01Jul15]

D.5.1 Minimum wages for full-time traineeships

(a) Wage Level A

Subject to clause D.5.3 of this schedule, the minimum wages for a trainee undertaking a full-time AQF Certificate Level I–III traineeship whose training package and AQF certificate levels are allocated to Wage Level A by Appendix D1 are:

	Highest year of schooling completed		
	Year 10	Year 11	Year 12
	per week	per week	per week
	\$	\$	\$
School leaver	295.10	325.00	387.20
Plus 1 year out of school	325.00	387.20	450.60
Plus 2 years out of school	387.20	450.60	524.40
Plus 3 years out of school	450.60	524.40	600.40
Plus 4 years out of school	524.40	600.40	
Plus 5 or more years out of school	600.40		

(b) Wage Level B

Subject to clause D.5.3 of this schedule, the minimum wages for a trainee undertaking a full-time AQF Certificate Level I–III traineeship whose training package and AQF certificate levels are allocated to Wage Level B by Appendix D1 are:

	Highest year of schooling completed		
	Year 10	Year 11	Year 12
	per week	Per week	per week
	\$	\$	\$
School leaver	295.10	325.00	376.80
Plus 1 year out of school	325.00	376.80	433.40
Plus 2 years out of school	376.80	433.40	508.20
Plus 3 years out of school	433.40	508.20	579.70

	Highest year of schooling completed		
	Year 10	Year 11	Year 12
	per week	Per week	per week
	\$	\$	\$
Plus 4 years out of school	508.20	579.70	
Plus 5 or more years out of school	579.70		

(c) Wage Level C

Subject to clause D.5.3 of this schedule, the minimum wages for a trainee undertaking a full-time AQF Certificate Level I–III traineeship whose training package and AQF certificate levels are allocated to Wage Level C by Appendix D1 are:

	Highest year of schooling completed		
	Year 10	Year 11	Year 12
	per week	per week	per week
	\$	\$	\$
School leaver	295.10	325.00	376.80
Plus 1 year out of school	325.00	376.80	424.10
Plus 2 years out of school	376.80	424.10	473.80
Plus 3 years out of school	424.10	473.80	527.90
Plus 4 years out of school	473.80	527.90	
Plus 5 or more years out of school	527.90		

(d) AQF Certificate Level IV traineeships

- (i) Subject to clause D.5.3 of this schedule, the minimum wages for a trainee undertaking a full-time AQF Certificate Level IV traineeship are the minimum wages for the relevant full-time AQF Certificate Level III traineeship with the addition of 3.8% to those minimum wages.
- (ii) Subject to clause D.5.3 of this schedule, the minimum wages for an adult trainee undertaking a full-time AQF Certificate Level IV traineeship are as follows, provided that the relevant wage level is that for the relevant AQF Certificate Level III traineeship:

Wage level	First year of traineeship	Second and subsequent years of traineeship
	per week	per week
	\$	\$
Wage Level A	623.50	647.70
Wage Level B	601.60	624.70

Wage level	First year of traineeship per week \$	Second and subsequent years of traineeship per week \$
Wage Level C	547.50	568.20

D.5.2 Minimum wages for part-time traineeships

(a) Wage Level A

Subject to clauses D.5.2(f) and D.5.3 of this schedule, the minimum wages for a trainee undertaking a part-time AQF Certificate Level I–III traineeship whose training package and AQF certificate levels are allocated to Wage Level A by Appendix D1 are:

	Highest year of schooling completed		
	Year 10 per hour \$	Year 11 per hour \$	Year 12 per hour \$
School leaver	9.71	10.70	12.74
Plus 1 year out of school	10.70	12.74	14.83
Plus 2 years out of school	12.74	14.83	17.25
Plus 3 years out of school	14.83	17.25	19.74
Plus 4 years out of school	17.25	19.74	
Plus 5 or more years out of school	19.74		

(b) Wage Level B

Subject to clauses D.5.2(f) and D.5.3 of this schedule, the minimum wages for a trainee undertaking a part-time AQF Certificate Level I–III traineeship whose training package and AQF certificate levels are allocated to Wage Level B by Appendix D1 are:

	Highest year of schooling completed		
	Year 10 per hour \$	Year 11 per hour \$	Year 12 per hour \$
School leaver	9.71	10.70	12.40
Plus 1 year out of school	10.70	12.40	14.26
Plus 2 years out of school	12.40	14.26	16.73
Plus 3 years out of school	14.26	16.73	19.08
Plus 4 years out of school	16.73	19.08	
Plus 5 or more years out of school	19.08		

(c) Wage Level C

Subject to clauses D.5.2(f) and D.5.3 of this schedule, the minimum wages for a trainee undertaking a part-time AQF Certificate Level I–III traineeship whose training package and AQF certificate levels are allocated to Wage Level C by Appendix D1 are:

	Highest year of schooling completed		
	Year 10	Year 11	Year 12
	per hour	per hour	per hour
	\$	\$	\$
School leaver	9.71	10.70	12.40
Plus 1 year out of school	10.70	12.40	13.95
Plus 2 years out of school	12.40	13.95	15.58
Plus 3 years out of school	13.95	15.58	17.36
Plus 4 years out of school	15.58	17.36	
Plus 5 or more years out of school	17.36		

(d) School-based traineeships

Subject to clauses D.5.2(f) and D.5.3 of this schedule, the minimum wages for a trainee undertaking a school-based AQF Certificate Level I–III traineeship whose training package and AQF certificate levels are allocated to Wage Levels A, B or C by Appendix D1 are as follows when the trainee works ordinary hours:

Year of schooling	
Year 11 or lower	Year 12
per hour	per hour
\$	\$
9.71	10.70

(e) AQF Certificate Level IV traineeships

- (i)** Subject to clauses D.5.2(f) and D.5.3 of this schedule, the minimum wages for a trainee undertaking a part-time AQF Certificate Level IV traineeship are the minimum wages for the relevant part-time AQF Certificate Level III traineeship with the addition of 3.8% to those minimum wages.
- (ii)** Subject to clauses D.5.2(f) and D.5.3 of this schedule, the minimum wages for an adult trainee undertaking a part-time AQF Certificate Level IV traineeship are as follows, provided that the relevant wage level is that for the relevant AQF Certificate Level III traineeship:

Wage level	First year of traineeship	Second and subsequent years of traineeship
	per hour	per hour
	\$	\$
Wage Level A	20.51	21.31
Wage Level B	19.77	20.54
Wage Level C	18.01	18.70

(f) Calculating the actual minimum wage

- (i) Where the full-time ordinary hours of work are not 38 or an average of 38 per week, the appropriate hourly minimum wage is obtained by multiplying the relevant minimum wage in clauses D.5.2(a)–(e) of this schedule by 38 and then dividing the figure obtained by the full-time ordinary hours of work per week.
- (ii) Where the approved training for a part-time traineeship is provided fully off-the-job by a registered training organisation, for example at school or at TAFE, the relevant minimum wage in clauses D.5.2(a)–(e) of this schedule applies to each ordinary hour worked by the trainee.
- (iii) Where the approved training for a part-time traineeship is undertaken solely on-the-job or partly on-the-job and partly off-the-job, the relevant minimum wage in clauses D.5.2(a)–(e) of this schedule minus 20% applies to each ordinary hour worked by the trainee.

D.5.3 Other minimum wage provisions

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

D.5.4 Default wage rate

The minimum wage for a trainee undertaking an AQF Certificate Level I–III traineeship whose training package and AQF certificate level are not allocated to a wage level by Appendix D1 is the relevant minimum wage under this schedule for a trainee undertaking an AQF Certificate to Level I–III traineeship whose training package and AQF certificate level are allocated to Wage Level B.

D.6 Employment conditions

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

[Note inserted by [PR545787](#) ppc 01Jan14]

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

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

Appendix D1: Allocation of Traineeships to Wage Levels

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

D1.1 Wage Level A

Training package	AQF certificate level
Aeroskills	II
Aviation	I II III
Beauty	III
Business Services	I II III
Chemical, Hydrocarbons and Refining	I II III
Civil Construction	III
Coal Training Package	II III
Community Services	II III
Construction, Plumbing and Services Integrated Framework	I II III
Correctional Services	II III
Drilling	II III
Electricity Supply Industry—Generation Sector	II III (in Western Australia only)
Electricity Supply Industry—Transmission, Distribution and Rail Sector	II
Electrotechnology	I II III (in Western Australia only)
Financial Services	I II III
Floristry	III

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Training package	AQF certificate level
Food Processing Industry	III
Gas Industry	III
Information and Communications Technology	I II III
Laboratory Operations	II III
Local Government (other than Operational Works Cert I and II)	I II III
Manufactured Mineral Products	III
Manufacturing	I II III
Maritime	I II III
Metal and Engineering (Technical)	II III
Metalliferous Mining	II III
Museum, Library and Library/Information Services	II III
Plastics, Rubber and Cablemaking	III
Public Safety	III
Public Sector	II III
Pulp and Paper Manufacturing Industries	III
Retail Services (including wholesale and Community pharmacy)	III
Telecommunications	II III
Textiles, Clothing and Footwear	III
Tourism, Hospitality and Events	I II III
Training and Assessment	III
Transport and Distribution	III
Water Industry (Utilities)	III

D1.2 Wage Level B

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

Fast Food Industry Award 2010

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

D1.3 Wage Level C

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

Schedule E—2014 Part-day public holidays

[Sched E inserted by [PR532632](#) ppc 23Nov12; renamed and varied by [PR544262](#), [PR558851](#), [PR573679](#) ppc 16Nov15]

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

[E.1 varied by [PR544262](#), [PR558851](#), [PR573679](#) ppc 16Nov15]

- E.1** Where a part-day public holiday is declared or prescribed between 7.00 pm and midnight on Christmas Eve (24 December 2015) or New Year's Eve (31 December 2015) the following will apply on Christmas Eve and New Year's Eve and will override any provision in this award relating to public holidays to the extent of the inconsistency:
- (a) All employees will have the right to refuse to work on the part-day public holiday if the request to work is not reasonable or the refusal is reasonable as provided for in the NES.
 - (b) Where a part-time or full-time employee is usually rostered to work ordinary hours between 7.00 pm and midnight but as a result of exercising their right under the NES does not work, they will be paid their ordinary rate of pay for such hours not worked.
 - (c) Where a part-time or full-time employee is usually rostered to work ordinary hours between 7.00 pm and midnight but as a result of being on annual leave does not work, they will be taken not to be on annual leave between those hours of 7.00 pm and midnight that they would have usually been rostered to work and will be paid their ordinary rate of pay for such hours.
 - (d) Where a part-time or full-time employee is usually rostered to work ordinary hours between 7.00 pm and midnight, but as a result of having a rostered day off (RDO) provided under this award, does not work, the employee will be taken to be on a public holiday for such hours and paid their ordinary rate of pay for those hours.
 - (e) Excluding annualised salaried employees to whom clause E.1(f) applies, where an employee works any hours between 7.00 pm and midnight they will be entitled to the appropriate public holiday penalty rate (if any) in this award for those hours worked.
 - (f) Where an employee is paid an annualised salary under the provisions of this award and is entitled under this award to time off in lieu or additional annual leave for work on a public holiday, they will be entitled to time off in lieu or pro-rata annual leave equivalent to the time worked between 7.00 pm and midnight.

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