



Australian Government

# Fair Work

## OMBUDSMAN

### PAY AND CONDITIONS GUIDE

#### **Racing Industry Ground Maintenance Award 2010 [MA000014]**

('modern award')

replacing terms and conditions in or derived from

#### **Race Clubs Employees (State) Award [AN120450]** ('pre-modern award')

**(NSW)**

Effective from 01 July 2013.

Published 20 June 2013 

##### **Background**

This guide was developed by the Fair Work Ombudsman to assist employers and employees covered by this modern award, pre-modern award and pay scales derived from this pre-modern award to identify minimum wages, penalties, loadings and allowances.

##### **Transitional arrangements**

Modern awards commenced operation on 01 January 2010. However, minimum wage, loading and penalty entitlements commence from 01 July 2010. Almost all modern awards include provisions to 'transition' employers and employees from their pre-modern award to the modern award system.

This modern award includes transitional provisions that provide for the 'phasing in' of increases or decreases in minimum wages, penalties and loadings in the modern award in 5 increments over 4 years from 01 July 2010. All other terms and conditions in this modern award apply in full from 01 January 2010.

The rates in this guide are current from the first pay period on or after 01 July 2013. The rates set out in this guide will change from the first full period on or after 01 July each year to take account of Fair Work Australia's annual wage review and transitional arrangements. The rates may also change as a result of a Fair Work Australia decision to vary the modern award or pay and condition entitlements of the modern award from time to time.

##### **Transitional arrangements for Division 2B State awards**

Division 2B State awards (other than Division 2B enterprise awards) terminate at the end of 31 December 2010 and, from 1 January 2011, employers and employees are covered by the relevant modern award. However, most modern awards provide that all the terms of Division 2B State awards continue to apply until the end of the full pay period which started before 1 February 2011.

The employers affected include sole traders, partnerships, other unincorporated entities and non-trading corporations in New South Wales, Queensland, South Australia and Tasmania who are covered by a Division 2B State award.

From the first full pay period starting on or after 1 February 2011, an employer who was covered by a Division 2B State award, must comply with all of the terms and conditions contained in their relevant modern award, and any transitional arrangements that apply. Transitional arrangements in most modern awards for Division 2B State award employers provide that from the first full pay period starting on or after 1 February 2011, they must pay at least the same minimum wage rates, penalties and loadings as national system employers who are transitioning from the equivalent NAPSA. There are some exceptions and special transitional arrangements that apply in certain situations. If you require help determining whether these exceptions or special transitional arrangements apply to you, please contact the Fair Work Infoline on 13 13 94.

Note: Modern awards are not intended to reduce an employee's take-home pay. An employee or his/her union can apply to Fair Work Australia for a take-home pay order to remedy any reduction in his/her overall take-home pay.

### **Who should use the guide?**

Employees and employers who were entitled to terms and conditions in or derived from this pre-modern award and who are now covered by this modern award.

A guide that has an AP (Pre-reform award) code typically applies to employees employed by a constitutional corporation. Usually these are companies that engage in trading or financial activities. Private companies are often identified by the 'Pty Ltd' in their name. It applies to employers in those categories who were bound by the award immediately prior to 01 January 2010.

A guide that has an AN (Notional agreement preserving State awards) code also typically applies to employees employed by a constitutional corporation. However, unlike pre-reform awards these are notional federal agreements that were created on 27 March 2006. Generally, they preserved the terms and conditions of employment (not including wage rates) in state awards and/or state legislation that applied immediately before 27 March 2006 to employees of constitutional corporations in NSW, QLD, SA, WA and TAS where State award/laws applied to those employers prior to 27 March 2006.

A guide that has an AT code typically applies to employees employed by non-constitutional corporations immediately before 27 March 2007 where the employer was bound by a Federal award. These will be sole traders, partnerships, other unincorporated entities or non-trading/financial corporations.

The guide contains information from this modern award about:

- who the modern award covers;
- wage rates, including rates for casual employees, junior employees, trainees and apprentices;
- penalty rates for working at particular times or under particular arrangements;
- allowances; and
- other conditions of employment.

### **What if an agreement applies to employees covered by the modern award?**

Minimum wage entitlements in a modern award override lesser wage entitlements in an agreement or contract of employment at all times, including agreements and contracts that were made before the commencement of the *Fair Work Act 2009*. All employees covered by the modern award must not be paid less than the rate of pay in the modern award.

However, the penalty rates and allowances in the modern award do not apply to agreement-covered employees, unless the agreement is read in conjunction with the modern award (e.g. a pre-reform certified agreement (a type of collective agreement made before 27 March 2006)).

If you require assistance with any provisions of this guide please contact the **Fair Work Infoline** on **13 13 94**.

## **Coverage**

This industry award covers employers throughout Australia in the thoroughbred, harness, trotting and greyhound racing industries and their employees in the classifications in clause 13 of this award who are engaged in the maintenance of racing venues to the exclusion of any other modern award.

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

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.

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.

This award covers any employer which supplies labour on an on - hire basis in the industries set out in the first paragraph 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 those industries. This subclause operates subject to the exclusions from coverage in this award.

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

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 the employee are covered by an award with occupational coverage.

## **Wages**

This modern award includes transitional arrangements that apply to minimum wage entitlements from the first pay period on or after 01 July 2010 until the first pay period on or after 01 July 2014 (when modern award wages commence in full).

The following wage tables set out base rates of pay for classifications under the modern award.

It also sets out how the modern award classification matches up with pre-modern award classification. If there is no classification match the employee may be covered by another pre-modern award, or another modern award, such as a modern award that covers the employee's occupation rather than the industry.

The base rates of pay in this guide include any applicable industry allowance. The base rates of pay also include any increase from Fair Work Australia's annual wage review. For more information about transitional arrangements for minimum wage entitlements, please visit [www.fairwork.gov.au](http://www.fairwork.gov.au)

### **Casual employees**

The rates for casual employees set in the table below are minimum rates for **ordinary hours** only.

Please visit [www.fairwork.gov.au](http://www.fairwork.gov.au) for information about penalty entitlements for casual employees.

#### \*Post 26 March 2006 employer

Wage rates for casual employees of employers that became part of the national system after 26 March 2006 do not include annual leave loading because those employees did not have a pre-modern award entitlement to annual leave loading.

### **Adult**

The rates in this guide are current from the first pay period on or after 01 July 2013 until the final pay period before 01 July 2014 only.

### **Full & Part Time**

<b>Modern award classification</b>	<b>Pre-modern award classification</b>	<b>Base rate of pay (hourly)</b>
Introductory level	Race club employee, Level 7, Employee undertaking up to 3 months on the job training	\$16.37
Maintenance and horticultural employee level 1	Race club employee, Level 4, Track crossing attendant	\$17.05
Maintenance and horticultural employee level 1	Race club employee, Level 4, Propagator	\$17.05
Maintenance and horticultural employee level 1	Race club employee, Level 5, Gardener - less than 2 years' service with the one employer	\$17.05
Maintenance and horticultural employee level 1	Race club employee, Level 5, Fetter	\$17.05
Maintenance and horticultural employee level 1	Race club employee, Level 5, General track or maintenance hand	\$17.05

<b>Modern award classification</b>	<b>Pre-modern award classification</b>	<b>Base rate of pay (hourly)</b>
Maintenance and horticultural employee level 1	Race club employee, Level 6, General maintenance labourer and cleaner	\$17.02
Maintenance and horticultural employee level 1	Plant operator, Level 1, Plant operator	\$17.24
Maintenance and horticultural employee level 1	Plant operator, Level 2, Plant operator	\$17.05
Maintenance and horticultural employee level 2	Race club employee, Level 3, Leading hand (track and maintenance)	\$18.34
Maintenance and horticultural employee level 2	Race club employee, Level 3, Leading hand (gardener)	\$18.34
Maintenance and horticultural employee level 2	Race club employee, Level 4, Track crossing attendant	\$18.27
Maintenance and horticultural employee level 2	Race club employee, Level 4, Propagator	\$18.27
Maintenance and horticultural employee level 2	Race club employee, Level 5, Gardener - less than 2 years' service with the one employer	\$18.20
Maintenance and horticultural employee level 2	Race club employee, Level 5, Fettler	\$18.20
Maintenance and horticultural employee level 2	Race club employee, Level 5, General track or maintenance hand	\$18.20
Maintenance and horticultural employee level 2	Race club employee, Level 6, General maintenance labourer and cleaner	\$18.11
Maintenance and horticultural employee level 2	Plant operator, Level 1, Plant operator	\$18.34
Maintenance and horticultural employee level 2	Plant operator, Level 2, Plant operator	\$18.23
Tradesperson	Race club employee, Level 2, Tradesman	\$19.07
Tradesperson	Plant operator, Level 1, Plant operator	\$18.89
Tradesperson	Plant operator, Level 2, Plant operator	\$18.78
Trackwork and pool supervisor	Race club employee, Level 1, Track foreman	\$20.51
Management employee level 1	Race club employee, Level 1, Track foreman	\$21.73
Management employee level 1	Race club employee, Level 1, Foreman gardener	\$21.73

<b>Modern award classification</b>	<b>Pre-modern award classification</b>	<b>Base rate of pay (hourly)</b>
Management employee level 2	Race club employee, Level 1, Track foreman	\$23.60
Management employee level 2	Race club employee, Level 1, Foreman gardener	\$23.60

### Casual

<b>Modern award classification</b>	<b>Pre-modern award classification</b>	<b>Base rate of pay (hourly)</b>	<b>Post 26 March 2006 employer*</b>
Introductory level	Race club employee, Level 7, Employee undertaking up to 3 months on the job training	\$20.45 (24.92%)	\$20.14 (23%)
Maintenance and horticultural employee level 1	Race club employee, Level 4, Track crossing attendant	\$21.30 (24.92%)	\$20.97 (23%)
Maintenance and horticultural employee level 1	Race club employee, Level 4, Propagator	\$21.30 (24.92%)	\$20.97 (23%)
Maintenance and horticultural employee level 1	Race club employee, Level 5, Gardener - less than 2 years' service with the one employer	\$21.30 (24.92%)	\$20.97 (23%)
Maintenance and horticultural employee level 1	Race club employee, Level 5, Fettler	\$21.30 (24.92%)	\$20.97 (23%)
Maintenance and horticultural employee level 1	Race club employee, Level 5, General track or maintenance hand	\$21.30 (24.92%)	\$20.97 (23%)
Maintenance and horticultural employee level 1	Race club employee, Level 6, General maintenance labourer and cleaner	\$21.25 (24.92%)	\$20.93 (23%)
Maintenance and horticultural employee level 1	Plant operator, Level 1, Plant operator	\$21.54 (24.92%)	\$21.21 (23%)
Maintenance and horticultural employee level 1	Plant operator, Level 2, Plant operator	\$21.30 (24.92%)	\$20.97 (23%)
Maintenance and horticultural employee level 2	Race club employee, Level 3, Leading hand (track and maintenance)	\$22.91 (24.92%)	\$22.56 (23%)
Maintenance and horticultural employee level 2	Race club employee, Level 3, Leading hand (gardener)	\$22.91 (24.92%)	\$22.56 (23%)
Maintenance and horticultural employee level 2	Race club employee, Level 4, Track crossing attendant	\$22.82 (24.92%)	\$22.47 (23%)

<b>Modern award classification</b>	<b>Pre-modern award classification</b>	<b>Base rate of pay (hourly)</b>	<b>Post 26 March 2006 employer*</b>
Maintenance and horticultural employee level 2	Race club employee, Level 4, Propagator	\$22.82 (24.92%)	\$22.47 (23%)
Maintenance and horticultural employee level 2	Race club employee, Level 5, Gardener - less than 2 years' service with the one employer	\$22.73 (24.92%)	\$22.39 (23%)
Maintenance and horticultural employee level 2	Race club employee, Level 5, Fetter	\$22.73 (24.92%)	\$22.39 (23%)
Maintenance and horticultural employee level 2	Race club employee, Level 5, General track or maintenance hand	\$22.73 (24.92%)	\$22.39 (23%)
Maintenance and horticultural employee level 2	Race club employee, Level 6, General maintenance labourer and cleaner	\$22.62 (24.92%)	\$22.28 (23%)
Maintenance and horticultural employee level 2	Plant operator, Level 1, Plant operator	\$22.91 (24.92%)	\$22.56 (23%)
Maintenance and horticultural employee level 2	Plant operator, Level 2, Plant operator	\$22.77 (24.92%)	\$22.42 (23%)
Tradesperson	Race club employee, Level 2, Tradesman	\$23.82 (24.92%)	\$23.45 (23%)
Tradesperson	Plant operator, Level 1, Plant operator	\$23.59 (24.92%)	\$23.23 (23%)
Tradesperson	Plant operator, Level 2, Plant operator	\$23.46 (24.92%)	\$23.10 (23%)
Trackwork and pool supervisor	Race club employee, Level 1, Track foreman	\$25.62 (24.92%)	\$25.23 (23%)
Management employee level 1	Race club employee, Level 1, Track foreman	\$27.14 (24.92%)	\$26.73 (23%)
Management employee level 1	Race club employee, Level 1, Foreman gardener	\$27.14 (24.92%)	\$26.73 (23%)
Management employee level 2	Race club employee, Level 1, Track foreman	\$29.48 (24.92%)	\$29.03 (23%)
Management employee level 2	Race club employee, Level 1, Foreman gardener	\$29.48 (24.92%)	\$29.03 (23%)

### **Junior**

The rates in this guide are current from the first pay period on or after 01 July 2013 until the final pay period before 01 July 2014 only.

## Full & Part Time

<b>Modern award classification</b>	<b>Pre-modern award classification</b>	<b>Base rate of pay (hourly)</b>
18 years of age and under	Race club employee, Level 1, Track foreman	\$14.12
18 years of age and under	Race club employee, Level 1, Foreman gardener	\$14.12
18 years of age and under	Race club employee, Level 2, Tradesman	\$13.90
18 years of age and under	Race club employee, Level 3, Leading hand (track and maintenance)	\$13.73
18 years of age and under	Race club employee, Level 3, Leading hand (gardener)	\$13.73
18 years of age and under	Race club employee, Level 4, Track crossing attendant	\$13.65
18 years of age and under	Race club employee, Level 4, Propagator	\$13.65
18 years of age and under	Race club employee, Level 5, Gardener - less than 2 years' service with the one employer	\$13.59
18 years of age and under	Race club employee, Level 5, Fettler	\$13.59
18 years of age and under	Race club employee, Level 5, General track or maintenance hand	\$13.59
18 years of age and under	Race club employee, Level 6, General maintenance labourer and cleaner	\$13.50
18 years of age and under	Race club employee, Level 6, Employee not else where classified	\$13.50
18 years of age and under	Race club employee, Level 7, Employee undertaking up to 3 months on the job training	\$13.41
18 years of age and under	Plant operator, Level 1, Plant operator	\$13.73
18 years of age and under	Plant operator, Level 2, Plant operator	\$13.62
19 years of age and over	Race club employee, Level 1, Track foreman	\$17.64
19 years of age and over	Race club employee, Level 1, Foreman gardener	\$17.64
19 years of age and over	Race club employee, Level 2, Tradesman	\$17.42
19 years of age and over	Race club employee, Level 3, Leading hand (track and maintenance)	\$17.24
19 years of age and over	Race club employee, Level 3, Leading hand (gardener)	\$17.24

<b>Modern award classification</b>	<b>Pre-modern award classification</b>	<b>Base rate of pay (hourly)</b>
19 years of age and over	Race club employee, Level 4, Track crossing attendant	\$17.05
19 years of age and over	Race club employee, Level 4, Propagator	\$17.05
19 years of age and over	Race club employee, Level 5, Gardener - less than 2 years' service with the one employer	\$17.05
19 years of age and over	Race club employee, Level 5, Fettler	\$17.05
19 years of age and over	Race club employee, Level 5, General track or maintenance hand	\$17.05
19 years of age and over	Race club employee, Level 6, General maintenance labourer and cleaner	\$17.02
19 years of age and over	Race club employee, Level 6, Employee not else where classified	\$17.02
19 years of age and over	Race club employee, Level 7, Employee undertaking up to 3 months on the job training	\$16.93
19 years of age and over	Plant operator, Level 1, Plant operator	\$17.24
19 years of age and over	Plant operator, Level 2, Plant operator	\$17.05

### Casual

<b>Modern award classification</b>	<b>Pre-modern award classification</b>	<b>Base rate of pay (hourly)</b>	<b>Post 26 March 2006 employer*</b>
18 years of age and under	Race club employee, Level 1, Track foreman	\$17.64 (24.92%)	\$17.37 (23%)
18 years of age and under	Race club employee, Level 1, Foreman gardener	\$17.64 (24.92%)	\$17.37 (23%)
18 years of age and under	Race club employee, Level 2, Tradesman	\$17.37 (24.92%)	\$17.10 (23%)
18 years of age and under	Race club employee, Level 3, Leading hand (track and maintenance)	\$17.15 (24.92%)	\$16.88 (23%)
18 years of age and under	Race club employee, Level 3, Leading hand (gardener)	\$17.15 (24.92%)	\$16.88 (23%)
18 years of age and under	Race club employee, Level 4, Track crossing attendant	\$17.05 (24.92%)	\$16.79 (23%)

<b>Modern award classification</b>	<b>Pre-modern award classification</b>	<b>Base rate of pay (hourly)</b>	<b>Post 26 March 2006 employer*</b>
18 years of age and under	Race club employee, Level 4, Propagator	\$17.05 (24.92%)	\$16.79 (23%)
18 years of age and under	Race club employee, Level 5, Gardener - less than 2 years' service with the one employer	\$16.97 (24.92%)	\$16.71 (23%)
18 years of age and under	Race club employee, Level 5, Fettle	\$16.97 (24.92%)	\$16.71 (23%)
18 years of age and under	Race club employee, Level 5, General track or maintenance hand	\$16.97 (24.92%)	\$16.71 (23%)
18 years of age and under	Race club employee, Level 6, General maintenance labourer and cleaner	\$16.86 (24.92%)	\$16.60 (23%)
18 years of age and under	Race club employee, Level 6, Employee not else where classified	\$16.86 (24.92%)	\$16.60 (23%)
18 years of age and under	Race club employee, Level 7, Employee undertaking up to 3 months on the job training	\$16.75 (24.92%)	\$16.50 (23%)
18 years of age and under	Plant operator, Level 1, Plant operator	\$17.15 (24.92%)	\$16.88 (23%)
18 years of age and under	Plant operator, Level 2, Plant operator	\$17.01 (24.92%)	\$16.75 (23%)
19 years of age and over	Race club employee, Level 1, Track foreman	\$22.04 (24.92%)	\$21.70 (23%)
19 years of age and over	Race club employee, Level 1, Foreman gardener	\$22.04 (24.92%)	\$21.70 (23%)
19 years of age and over	Race club employee, Level 2, Tradesman	\$21.76 (24.92%)	\$21.43 (23%)
19 years of age and over	Race club employee, Level 3, Leading hand (track and maintenance)	\$21.54 (24.92%)	\$21.21 (23%)
19 years of age and over	Race club employee, Level 3, Leading hand (gardener)	\$21.54 (24.92%)	\$21.21 (23%)
19 years of age and over	Race club employee, Level 4, Track crossing attendant	\$21.30 (24.92%)	\$20.97 (23%)
19 years of age and over	Race club employee, Level 4, Propagator	\$21.30 (24.92%)	\$20.97 (23%)
19 years of age and over	Race club employee, Level 5, Gardener -	\$21.30 (24.92%)	\$20.97 (23%)

<b>Modern award classification</b>	<b>Pre-modern award classification</b>	<b>Base rate of pay (hourly)</b>	<b>Post 26 March 2006 employer*</b>
	less than 2 years' service with the one employer		
19 years of age and over	Race club employee, Level 5, Fettle	\$21.30 (24.92%)	\$20.97 (23%)
19 years of age and over	Race club employee, Level 5, General track or maintenance hand	\$21.30 (24.92%)	\$20.97 (23%)
19 years of age and over	Race club employee, Level 6, General maintenance labourer and cleaner	\$21.25 (24.92%)	\$20.93 (23%)
19 years of age and over	Race club employee, Level 6, Employee not else where classified	\$21.25 (24.92%)	\$20.93 (23%)
19 years of age and over	Race club employee, Level 7, Employee undertaking up to 3 months on the job training	\$21.14 (24.92%)	\$20.82 (23%)
19 years of age and over	Plant operator, Level 1, Plant operator	\$21.54 (24.92%)	\$21.21 (23%)
19 years of age and over	Plant operator, Level 2, Plant operator	\$21.30 (24.92%)	\$20.97 (23%)

### **Apprentice**

Apprentice employees are not covered by this guide for the modern award and pre-modern award.

### **Trainee**

This modern award incorporates trainee rates derived from the National Training Wage Schedule (NTW Sch.), as adjusted from time to time.

### **Supported Wage**

Please refer to clause 14.4 of the modern award.

For detail of the supported wage provisions see the full version of the modern award.

### **Penalties and Loadings (other than casual or part-time loadings for ordinary hours)**

Where an employee had an entitlement to a loading/penalty rate before 01 January 2010 that is exactly the same as the modern award loading/penalty entitlement the modern award loading/penalty applies in full from 01 January 2010.

### **Transitional arrangements**

This modern award includes transitional arrangements that apply to loading/penalty entitlements where there is a difference in modern award and pre-modern award loading/

penalty entitlements. Transitional arrangements apply from the first pay period on or after 01 July 2010 until the first pay period on or after 01 July 2014 (when modern award loadings/penalties apply in full).

Different arrangements apply depending on whether the entitlements are “equivalent” or not.

- A pre-modern award loading/penalty will be “equivalent” to a modern award entitlement where the loading/penalty applies:
  - for the same purpose (e.g. Saturday penalty);
  - for the same time periods; and
  - in the same way#.
    - #A pre-modern award and modern award loading/penalty applies in the same way if the entitlements are both:
      - paid at the same frequency, such as per hour or per shift; and
      - paid as a percentage of the same amount (e.g. both penalties are paid as a percentage of the employee’s classification rate, rather than as a percentage of a different amount or paid as a flat dollar amount).

Casual loadings and penalties also need to interact with each other in the same way in the pre-modern award and modern award to be equivalent (e.g. the loading and penalty rate are calculated on the base hourly rate in both instruments).

### Equivalent entitlements

If the pre-modern award loading/penalty rate is “equivalent” to the modern award loading/penalty rate the penalty rate is calculated as follows:

1. The difference between the two loading/penalty rates is referred to as a “transitional percentage”. The transitional percentage stays the same every year.
2. A proportion of the transitional percentage is calculated each year as follows:

First full pay period on or after	Proportion of transitional percentage
01 July 2010	80%
01 July 2011	60%
01 July 2012	40%
01 July 2013	20%
01 July 2014	0%

3. Where the modern award loading/penalty is higher, the penalty rate is obtained by subtracting the proportion of the transitional percentage.

*Example:*

The table below shows the percentage penalty rates that apply from the first full pay period on or after 01 July 2010 until the last full pay period before 01 July 2011 for common penalty rates.

Please note the below table is a guide **only** and can only be used when the entitlements are equivalent and the modern award penalty is higher.

1/01/2010 Pre-modern award penalty	1/07/2014 Modern award penalty	1/07/2010 Penalty rate (phased)
25%	50%	30%
50%	75%	55%

<b>1/01/2010</b>	<b>1/07/2014</b>	<b>1/07/2010</b>
<b>Pre-modern award penalty</b>	<b>Modern award penalty</b>	<b>Penalty rate (phased)</b>
50%	100%	60%
75%	100%	80%

4. Where the modern award loading/penalty is lower, the penalty rate is obtained by adding the proportion of the transitional percentage.

*Example:*

The table below shows the percentage penalty rates that apply from the first full pay period on or after 01 July 2010 until the last full pay period before 01 July 2011 for common penalty rates.

Please note the below table is a guide **only** and can only be used when the entitlements are equivalent and the modern award penalty is lower.

<b>1/01/2010</b>	<b>1/07/2014</b>	<b>1/07/2010</b>
<b>Pre-modern award penalty</b>	<b>Modern award penalty</b>	<b>Penalty rate (phased)</b>
50%	25%	45%
75%	50%	70%
100%	50%	90%
100%	75%	95%

### **Entitlements that are not equivalent**

If pre-modern award and modern award penalty rates are not "equivalent", the following approach applies:

1. Loadings/penalty rates from a modern award are phased in from zero in five instalments of 20% by multiplying the penalty rate by the following percentage:

<b>First full pay period on or after</b>	<b>Percent of modern award loading/penalty</b>
01 July 2010	20%
01 July 2011	40%
01 July 2012	60%
01 July 2013	80%
01 July 2014	100%

2. Pre-modern award loadings/penalty rates are phased out to zero in five instalments of 20% by multiplying the penalty rate by the following percentage:

<b>First full pay period on or after</b>	<b>Percent of pre-modern award loading/penalty</b>
01 July 2010	80%
01 July 2011	60%
01 July 2012	40%
01 July 2013	20%
01 July 2014	0%

Please note that a pre-modern award penalty rate can be 'phased out' at the same time that a modern award penalty is 'phasing in' (i.e. where different entitlements apply in the same time period). This means that two different rates may apply for the same time period.

*Example:*

The table below shows the percentage penalty rates that apply from the first full pay period on or after 01 July 2010 until the last full pay period before 01 July 2011 for common penalty rates.

Please note the below table is a guide **only** and can only be used when the entitlements are not equivalent.

<b>1/01/2014</b>	<b>1/07/2010</b>	<b>1/01/2010</b>	<b>1/07/2010</b>
<b>Modern award penalty</b>	<b>Penalty rate (phased)</b>	<b>Pre-modern award penalty</b>	<b>Penalty rate (phased)</b>
	<b>(20.00%)</b>		<b>(80.00%)</b>
10.00%	2.00%	10.00%	8.00%
20.00%	4.00%	20.00%	16.00%
25.00%	5.00%	25.00%	20.00%
50.00%	10.00%	50.00%	40.00%
75.00%	15.00%	75.00%	60.00%
100.00%	20.00%	100.00%	80.00%
120.00%	24.00%	120.00%	96.00%
125.00%	25.00%	125.00%	100.00%
130.00%	26.00%	130.00%	104.00%
150.00%	30.00%	150.00%	120.00%

### **New entitlements**

Where an employee did not have a particular loading/penalty entitlement before 01 January 2010, the modern award loading/penalty is phased in from zero as a new entitlement from the first pay period on or after 01 July 2010 by multiplying the penalty rate by the following percentage:

<b>First full pay period on or after</b>	<b>Percent of modern award loading/penalty</b>
01 July 2010	20%
01 July 2011	40%
01 July 2012	60%
01 July 2013	80%
01 July 2014	100%

### *Example:*

The table below shows the percentage penalty rates that apply from the first full pay period on or after 01 July 2010 until the last full pay period before 01 July 2011 for common penalty rates.

Please note the below table is a guide **only** and can only be used when the entitlements in the modern award are new.

<b>1/07/2014</b>	<b>1/07/2010</b>
<b>Modern award penalty</b>	<b>Penalty rate (phased)</b>
25%	5%
50%	10%
75%	15%
100%	20%

For more information about transitional arrangements for loading/penalty entitlements please visit [www.fairwork.gov.au](http://www.fairwork.gov.au) and/or contact the **Fair Work Infoline** on **13 13 94** for advice and assistance.

## **Allowances**

Allowances in modern awards apply in full from 01 January 2010 (although the rates may change from time to time).

### **All states covered by this instrument Full Time, Part Time, Casual**

<b>Clause</b>	<b>Allowance Type</b>	<b>Description</b>	<b>Effective Date</b>	<b>Rate</b>
15.1(a)	Leading hand allowance	A leading hand must be paid a weekly allowance as follows - in charge of fewer than three other employees.  This allowance does not apply to employees classified as Management Employee Level 2.  (2% per week x 38 = 76% per hour)	1/07/2013	\$0.3813 per hour. This weekly allowance has been converted to an hourly amount. It should be applied to all ordinary hours of work (up to a maximum of 38 hours per week). (2.00%)
15.1(a)	Leading hand allowance	In charge of three but not more than six other employees.  (4% per week x 38 = 152% per hour)	1/07/2013	\$0.7626 per hour. This weekly allowance has been converted to an hourly amount. It should be applied to all ordinary hours of work (up to a maximum of 38 hours per week). (4.00%)
15.1(a)	Leading hand allowance	In charge of more than six other employees.  (5% per week x 38 = 190% per hour)	1/07/2013	\$0.9533 per hour. This weekly allowance has been converted to an hourly amount. It

Clause	Allowance Type	Description	Effective Date	Rate
				should be applied to all ordinary hours of work (up to a maximum of 38 hours per week). (5.00%)
15.2	In charge of plant	An employee in charge of tractor plant will receive an additional weekly payment.  (3% per week x 38 = 114% per hour)	1/07/2013	\$0.5720 per hour. This weekly allowance has been converted to an hourly amount. It should be applied to all ordinary hours of work (up to a maximum of 38 hours per week). (3.00%)
15.3(a)	Tool allowance	All purpose allowance expressed as per week.  Tradespersons must be paid a weekly tool allowance for all purposes of the award as follows - tradesperson (other than carpenter).  This allowance does not apply where the employer provides all the required tools to the tradesperson.	1/07/2010	\$0.3418 per hour. This weekly allowance has been converted to an hourly amount. It should be applied to all ordinary hours of work (up to a maximum of 38 hours per week).
15.3(a)	Tool allowance	All purpose allowance expressed as per week.  Tradespersons must be paid a weekly tool allowance for all purposes of the award as follows - carpenter.	1/07/2010	\$0.6666 per hour. This weekly allowance has been converted to an hourly amount. It should be applied to all ordinary

Clause	Allowance Type	Description	Effective Date	Rate
		This allowance does not apply where the employer provides all the required tools to the tradesperson.		hours of work (up to a maximum of 38 hours per week).
15.5	Clothing allowance	An employer must reimburse an employee if the employee's clothing is destroyed by fire in an employer's changing house or other shelter.  (95% weekly basis x 38 = 3610% hourly basis)	1/07/2013	\$688.2750 maximum payment per claim (3,610.00%)
15.7	Meal allowance	An employee who is required to work overtime for one and a half hours or more immediately after the completion of their ordinary hours of work or immediately after the completion of eight hours of work on a Saturday, Sunday or public holiday must be paid a meal allowance.	1/07/2013	\$10.3200 per occasion
15.8	First aid allowance	An employee who is required to work overtime for one and a half hours or more immediately after the completion of their ordinary hours of work or immediately after the completion of eight hours of work on a Saturday, Sunday or public holiday must be paid a meal allowance.  (2% per week x 38 = 76% per hours)	1/07/2013	\$0.3813 per hour. This weekly allowance has been converted to an hourly amount. It should be applied to all ordinary hours of work (up to a maximum of 38 hours per week). (2.00%)
19.3	Waiting time	<b>Late payment of wages</b>  An employee not paid within the required time through circumstances beyond the reasonable control of the employer is entitled to a payment of 3.9% of the standard rate per day until the wages are paid.	1/07/2013	\$28.2555 per day (148.20%)

Clause	Allowance Type	Description	Effective Date	Rate
		3.9% x 38 = 148.20%		
19.3	Waiting time	<p><b>Late payment of wages</b></p> <p>An employee not paid within the required time through circumstances beyond the reasonable control of the employer is entitled to a payment of 3.9% of the standard rate per day until the wages are paid.</p> <p>(3.9% x 38 = 148.20%)</p>	1/07/2013	\$28.2555 per day (148.20%)

## **Other Conditions**

The following conditions in the modern award apply in full from 1 January 2010. Please note that the below table is a summary of commonly applicable entitlements in the modern award, there may be other entitlements in the modern award that are relevant to particular employers or employees. Please refer to the modern award for full details.

**Note:** The National Employment Standards (**NES**) operate together with modern awards to provide minimum conditions of employment for employers and employees in the national system. The NES sets out ten minimum statutory entitlements that apply to all employees, including leave and termination of employment entitlements.

For more information about the NES, please visit [www.fairwork.gov.au](http://www.fairwork.gov.au)

## **All states covered by this instrument**

Clause	Conditions Type	Description
7	Award flexibility (Instrument)	<p>An employer and an individual employee may agree to vary the following terms of this award to meet the genuine needs of the employer and the individual employee with respect to:</p> <ul style="list-style-type: none"> <li>- arrangements for when work is performed</li> <li>- overtime rates</li> <li>- penalty rates</li> </ul>

Clause	Conditions Type	Description
		<ul style="list-style-type: none"> <li>- allowances</li> <li>- leave loading.</li> </ul> <p>Other conditions concerning award flexibility are contained within the Fair Work Act 2009.</p>
8	Consultation (Instrument)	<p>The award contains information on the employer's responsibility to consult regarding major workplace change including the:</p> <ul style="list-style-type: none"> <li>- duty to notify, and</li> <li>- duty to discuss change.</li> </ul>
9	Dispute resolution (Instrument)	<p>The award sets out a dispute resolution procedure for dealing with disputes in relation to a matter under the award or the National Employment Standards (NES).</p>
10.2	Part-time conditions (Instrument)	<p>A part-time employee:</p> <ul style="list-style-type: none"> <li>- works less than full 38 hours per week</li> <li>- has predictable hours of work</li> <li>- receives, on a pro rata basis, equivalent pay and conditions to those of full-time employees who do the same kind of work.</li> </ul> <p>At the time of engagement the employer and the part-time employee must agree in writing on a regular pattern of work including the hours to be worked and the starting and finishing times on each day. Once fixed these hours can only be varied by mutual agreement.</p> <p>Any agreed variation to the regular pattern of work must be recorded in writing. An employer must roster a part-time employee for a minimum of three consecutive hours on any shift. All time worked in excess of the agreed hours is overtime and the employee must be paid the appropriate overtime or penalty rate.</p> <p>An employee who does not meet the definition of a part-time employee and who is not a full-time employee must be paid as a casual employee.</p> <p>Part-time employees must receive a minimum of eight full days off for each four week period.</p>

<b>Clause</b>	<b>Conditions Type</b>	<b>Description</b>
10.3	Casual conditions (Instrument)	The casual loading is instead of all paid leave including annual leave, sick leave, long service leave, and public holidays not worked.  A casual employee is entitled to a minimum period of engagement of three hours.
11.2	Termination of employment - notice of termination by an employee (Instrument)	The notice of termination required to be given by an employee is the same as an employer except there is no requirement to give additional notice based on age. If an employee fails to give the required notice the employer may withhold from any monies due on termination, the difference between the amount of notice required and the amount of notice actually given.
11.3	Termination of employment - job search entitlement (Instrument)	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.
12.2	Redundancy - transfer to lower paid duties (Instrument)	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. Alternatively, the employer may choose to pay the employee the difference between the former ordinary time rate of pay and the new ordinary time rate of pay for the number of weeks of notice still owing.
12.3	Redundancy - employee leaving during notice period (Instrument)	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 had they remained in employment until the expiry of the notice, but is not entitled to payment instead of notice.
12.4	Redundancy - job search entitlement (Instrument)	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.  If the employee has been allowed paid leave for more than one day, the employee must, by request, 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.
12.5	Redundancy - transitional provisions (Instrument)	An employee is entitled to redundancy pay in accordance with the notional agreement preserving the state award that would have applied immediately prior to 1 January 2010, if the employee had at that time been in their current circumstances of employment and no agreement - based transitional instrument or enterprise agreement had applied to the employee and that would have entitled the employee to

Clause	Conditions Type	Description
		<p>redundancy pay in excess of the employee's entitlement under the NES. This includes employees engaged after 1 January 2010.</p> <p>The entitlement to redundancy pay under the notional agreement preserving the state award is limited to the amount which exceeds the entitlement under the NES.</p> <p>This clause does not reduce an employee's entitlement to redundancy pay under any other instrument and ceases to operate on 31 December 2014.</p>
15.4	Clothing, footwear and/or equipment (Instrument)	Where an employee is required to wear protective clothing (e.g. oilskins, gumboots, overalls, goggles, safety boots, bowling shoes, etc.), the employer must reimburse the employee for the cost of purchasing such special clothing and equipment. The provisions of this paragraph do not apply where the clothing and equipment is paid for by the employer.
15.6	Away from home/usual place of employment (Instrument)	Where an employee is required by the employer to live on the premises and is required to act as caretaker, the employee must be paid an allowance equal to the amount of the rental charged by the employer for the accommodation at the said premises.
16	District allowance (Instrument)	<p>An employee in the Northern Territory or Western Australia is entitled to payment of a district allowance in accordance with the provisions of an award or NAPSA under the Workplace Relations Act 1996 that would have applied to the employee immediately prior to 1 January 2010, if the employee had at that time been in their current circumstances of employment and no agreement - based transitional instrument or enterprise agreement had applied to the employee; and that would have entitled the employee to payment of a district allowance.</p> <p>This clause ceases to operate on 31 December 2014.</p>
17	Accident pay (Instrument)	<p>An employee is entitled to accident pay in accordance with the terms of:</p> <ul style="list-style-type: none"> <li>- a NAPSA that would have applied to the employee immediately prior to 1 January 2010 or an award made under the Workplace Relations Act 1996 (Cth) that would have applied to the employee immediately prior to 27 March 2006, if the employee had at that time been in their current circumstances of employment and no agreement - based transitional instrument or enterprise agreement had applied to the employee, and</li> </ul>

Clause	Conditions Type	Description
		<p>- that would have entitled the employee to accident pay in excess of the employee's entitlement to accident pay, if any, under any other instrument.</p> <p>The employee's entitlement to accident pay under the NAPSA or the award is limited to the amount of accident pay which exceeds the employee's entitlement to accident pay, if any, under any other instrument.</p> <p>This clause does not reduce an employee's entitlement to accident pay under any other instrument and ceases to operate on 31 December 2014.</p>
18	Higher duties (Instrument)	<p>An employee who is required to do work which attracts a higher rate than their ordinary rate will, if such work exceeds a total of four hours on any day, be paid for all work done on such day at the higher rate.</p> <p>In all other cases the employee will be paid the higher rate for the actual time worked.</p>
19	Method of payment (Instrument)	<p><b>Method of payment</b></p> <p>Where it is agreed between an employer and an employee, wages may be paid by cash, cheque or into a nominated bank or financial institution account.</p> <p>If payment is by cash or cheque, wages must be paid during ordinary working hours.</p>
20	Superannuation (Instrument)	<p>The award contains information on:</p> <ul style="list-style-type: none"> <li>- the employers responsibility to make superannuation contributions to a superannuation fund</li> <li>- the ability for an employee to authorise their employer to pay on their behalf contributions to a superannuation fund</li> <li>- the employers responsibility to make superannuation contributions to another superannuation fund that is chosen by the employee.</li> </ul>
21.1	Hours of work (Instrument)	<p>The ordinary working hours will be 38 per week, or an average of 38 hours per week over a four week period, to be worked between 6.30am and 6.30pm.</p> <p>Ordinary hours are to be rostered on a maximum of five days per week with a maximum of 10 hours per day and two consecutive days off per week.</p>

Clause	Conditions Type	Description
		<p>Ordinary hours for track crossing attendants and other employees required to open the racecourse in preparation for early morning trackwork, or for related duties, are between 4.00am and 4.00pm.</p> <p>Ordinary hours may be extended to 11.00pm where the employer conducts a greyhound or harness racing meeting which is open to the public.</p> <p>Ordinary hours may be worked on a Saturday or Sunday where the employer conducts an event which is open to the public.</p> <p>The commencing and finishing times of ordinary work when once fixed are not to be altered except by agreement or by the employer on 14 days notice.</p>
21.2	Hours of work (Instrument)	<p><b>Water restrictions</b></p> <p>Where an employer is subjected to water restriction, the employer may require any employee to perform their ordinary hours of work at any time on any day other than a Saturday or a Sunday on the basis of 38 hours per week. The ordinary rates will apply for work performed on Mondays to Fridays from 6.30am to 6.30pm.</p> <p>Water restriction means restriction or rationing in the use of water in accordance with orders or regulations approved by the relevant authority.</p>
22.1	Breaks - meal (Instrument)	<p>A meal break of at least 30 minutes will be allowed not later than 5 hours after starting work. Track crossing attendants required to start work before 6.30am must be given a 30 minute break for breakfast paid at ordinary time.</p>
22.2	Breaks - rest (Instrument)	<p>A tea break of 10 minutes, counted as time worked, will be allowed during the morning and afternoon periods of each working day to each individual employee at a time to be arranged by the employer.</p> <p>The afternoon tea break will not be taken in any establishment where the majority of employees agree to leave work 10 minutes earlier each day instead of receiving the break.</p>
22.3	Breaks - rest (Instrument)	<p>An employee working overtime will be allowed a paid break of 20 minutes duration after each four hours of overtime worked if the employee continues work after such a break.</p>

Clause	Conditions Type	Description
		<p>Where the period of overtime is to be more than one and a half hours an employee will be allowed a paid meal break of 20 minutes after ordinary hours before starting overtime.</p> <p>An employer and employee may agree to any variation of these provisions to meet the circumstances of the work in hand, provided that the employer will not be required to make payment in respect of any time allowed in excess of 20 minutes.</p>
23.2	Overtime - other (Instrument)	<p><b>Rest period after overtime duty</b></p> <p>Overtime will be arranged so that employees have at least 10 consecutive hours off duty between shifts.</p> <p>Where an employee (other than a casual employee) works so much overtime that there is less than 10 hours between finishing overtime on one day and starting ordinary work the next day, the employee will be released until they have had at least 10 consecutive hours off without loss of pay.</p>
23.3	Overtime - other (Instrument)	<p><b>Transport after overtime work</b></p> <p>When an employee, after having worked overtime, finishes work at a time when reasonable means of transport are not available the employer will provide the employee with transportation to their home.</p>
24.2	Annual leave (Instrument)	<p>If the employer and employee agree, an employee can take annual leave in advance of the entitlement accruing. However, if leave is taken in advance and the employment terminates before the entitlement has accrued, the employer can deduct the entitlement from any money due to the employee on termination.</p> <p>Where an employer intends temporarily to close the place of employment or a section of it, the employer may give those employees one month's notice in writing of their intention. In the case of any employee engaged after notice has been given, notice must be given to that employee on their starting day.</p> <p>Any employee who has accrued annual leave at the date of closing must:</p> <ul style="list-style-type: none"> <li>- be given annual leave starting from the date of closing and</li> <li>- be paid one twelfth of their ordinary pay for any period of employment between accrual of the employee's right to the annual leave and the date of closing.</li> </ul>

Clause	Conditions Type	Description
		Any employee who has no accrued annual leave at the date of closing must: <ul style="list-style-type: none"> <li>- be given leave without pay from the date of closing and</li> <li>- be paid for any public holiday during such leave for which the employee is entitled to payment.</li> </ul>
24.3	Annual leave (Instrument)	Annual leave is to be taken within 18 months of the entitlement accruing. For the purpose of ensuring accrued annual leave is taken within that period, and in the absence of agreement, an employer may require an employee to take a period of annual leave from a particular date provided the employee is given at least 28 days notice.
24.4	Annual leave loading (Instrument)	Before the start of the employee's annual leave the employer must pay the employee: <ul style="list-style-type: none"> <li>- instead of the base rate of pay, the amount the employee would have earned for working their normal hours, exclusive of overtime, had they not been on leave and</li> <li>- an additional loading of 17.5% of the minimum rate outlined in this award.</li> </ul>
27.2	Public holidays (Instrument)	By agreement between the employer and the majority of employees in an enterprise another day may be substituted for a day provided for in the NES.

## **Frequency of Payment**

Where it is agreed between an employer and an employee, wages may be paid on a weekly, fortnightly or monthly basis.

Wages will be paid no later than Thursday of the agreed pay period, unless the employer and the majority of employees agree to later payment.

**IMPORTANT NOTE: Disclaimer**

The Fair Work Ombudsman (FWO) is committed to providing useful, reliable information to help you understand your rights and obligations under workplace laws. The Pay and Conditions Guides are provided for that purpose.

There are factors that may affect the information contained in these Guides. These include:

- changes to pay rates, allowances, penalties or modern award provisions; eg after FWA's annual wage review which takes effect on 1 July each year
- changes to the Fair Work Act or other relevant legislation
- decisions of courts or Fair Work Australia, in particular regarding the effect of provisions in modern awards and pre-modern awards where those differ from the approach taken by the FWO.

The FWO will consider these matters and where appropriate update the Guides.

It is your responsibility to comply with workplace laws and industrial instruments that apply to you.

The information contained in these Pay and Conditions Guides is:

- general in nature and may not deal with all aspects of the law that are relevant to your specific situation; and
- not legal advice.

Therefore you may wish to seek your own independent professional advice to ensure all the factors relevant to your circumstances are properly considered.