


PAY AND CONDITIONS GUIDE

Seafood Processing Award 2010 [MA000068] ('modern award')
replacing terms and conditions in or derived from

**Fish and Fish Marketing (State) Consolidated Award
[AN120208]** ('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 seafood processing industry and their employees who are covered by the classifications in this award to the exclusion of any other modern award.

The award **does not** cover:

- an employee excluded from award coverage by the Act; or
- employees who are covered by a modern enterprise award, or an enterprise instrument (within the meaning of the Fair Work (Transitional Provisions and Consequential Amendments) Act 2009 (Cth)), or employers in relation to those employees; or
- employers and employees covered by the Fast Food Industry Award 2010; or
- employers and employees covered by the Food, Beverage and Tobacco Manufacturing Award 2010; or
- employers and employees covered by the General Retail Industry Award 2010; or
- employers and employees covered by the Hospitality Industry (General) Award 2010; or
- employers and employees covered by the Meat Industry Award 2010; or
- employers and employees covered by the Poultry Processing Award 2010; or
- an employee employed on an oyster farm.

This award covers any employer which supplies labour on an on - hire basis in the industry set out in this award 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.

This award covers employers which provide group training services for trainees engaged in the industry and/or parts of industry set out in this award 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.

Where an employer is covered by more than one award, an employee of that employer is covered by the award classification which is most appropriate to the work performed by the employee and to the environment in which the employee normally performs the work.

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

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

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 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 Process attendant

Modern award classification	Pre-modern award classification	Base rate of pay (hourly)
Level 1	Hands unloading from boats	\$16.72
Level 1	Fork lift operator	\$16.67
Level 1	Recorder	\$16.62
Level 1	General hand	\$16.56
Level 1	Process worker	\$16.37
Level 2	Recorder	\$16.81
Level 2	General hand	\$16.75
Level 2	Process worker	\$16.61
Level 3	Hands unloading from boats	\$18.17
Level 3	Fork lift operator	\$18.14
Level 3	Recorder	\$18.08
Level 4	Working depot foreperson 10+	\$19.07
Level 4	Working depot foreperson - other	\$19.02

Casual Process attendant

Modern award classification	Pre-modern award classification	Base rate of pay (hourly)	Post 26 March 2006 employer*
Level 1	Hands unloading from boats	\$20.84 (24.67%)	\$20.56 (23%)
Level 1	Fork lift operator	\$20.78 (24.67%)	\$20.51 (23%)
Level 1	Recorder	\$20.71 (24.67%)	\$20.44 (23%)
Level 1	General hand	\$20.65 (24.67%)	\$20.37 (23%)
Level 1	Process worker	\$20.41 (24.67%)	\$20.14 (23%)
Level 2	Recorder	\$20.95 (24.67%)	\$20.67 (23%)
Level 2	General hand	\$20.88 (24.67%)	\$20.61 (23%)
Level 2	Process worker	\$20.70 (24.67%)	\$20.43 (23%)
Level 3	Hands unloading from boats	\$22.65 (24.67%)	\$22.35 (23%)
Level 3	Fork lift operator	\$22.61 (24.67%)	\$22.31 (23%)
Level 3	Recorder	\$22.54 (24.67%)	\$22.24 (23%)
Level 4	Working depot foreperson 10+	\$23.77 (24.67%)	\$23.45 (23%)
Level 4	Working depot foreperson - other	\$23.71 (24.67%)	\$23.40 (23%)

Junior

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

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 18 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	1/07/2014	1/07/2010
Pre-modern award penalty	Modern award penalty	Penalty rate (phased)
25%	50%	30%
50%	75%	55%
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.

1/01/2010	1/07/2014	1/07/2010
Pre-modern award penalty	Modern award penalty	Penalty rate (phased)
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:

First full pay period on or after	Percent of modern award loading/penalty
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:

First full pay period on or after	Percent of pre-modern award loading/penalty
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.

1/01/2014	1/07/2010
Modern award penalty	Penalty rate (phased)
	(20.00%)
10.00%	2.00%
20.00%	4.00%
25.00%	5.00%
50.00%	10.00%
75.00%	15.00%
100.00%	20.00%
120.00%	24.00%
125.00%	25.00%
130.00%	26.00%
150.00%	30.00%

1/01/2010	1/07/2010
Pre-modern award penalty	Penalty rate (phased)
	(80.00%)
10.00%	8.00%
20.00%	16.00%
25.00%	20.00%
50.00%	40.00%
75.00%	60.00%
100.00%	80.00%
120.00%	96.00%
125.00%	100.00%
130.00%	104.00%
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:

First full pay period on or after	Percent of modern award loading/penalty
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.

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

For more information about transitional arrangements for loading/penalty entitlements please visit 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

Clause	Allowance Type	Description	Effective Date	Rate
19.1(a)	First aid allowance	An employee trained to render first aid, holding a current first aid certificate from St John Ambulance or a similar body, if appointed by the employer to perform first aid duty. (75.6% / 38 = 1.989474%).	1/07/2013	\$0.3793 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). (1.99%)
19.2	Cold work disability allowance	An employee working more than 1 hour in places where the temperature is reduced artificially below zero degrees Celsius	1/07/2013	\$0.5338 per hour (2.80%)
26.8(a)	Meal allowance	Where overtime commences immediately after ordinary hours and continues for at least 1.5 hours, or 4 hours of overtime is worked. This will not apply where an employee is notified the previous day or shift of the overtime, where an employee lives in the same locality and can reasonably return home for meals, or where the employer provides an adequate meal. The allowance is also payable where an employee has provided a meal after being notified of the requirement to work overtime,	1/07/2013	\$12.9800 per occasion

Clause	Allowance Type	Description	Effective Date	Rate
		and the overtime is then not worked or a lesser amount of overtime is worked.		

The above district allowances apply to W.A. The allowances outlined within the table titled "All other states covered by this instrument" also apply in WA.

District Allowances

* The award preserves an employee's previous entitlement to a district allowance in Western Australia or the Northern Territory where they meet the criteria listed below.

Western Australia

An employee in Western Australia is entitled to payment of a district allowance in accordance with the terms of a NAPSA or an award made under the Workplace Relations Act 1996 (Cth):

- (a) 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 made under the Workplace Relations Act 1996 (Cth) had applied to the employee; and
- (b) that would have entitled the employee to payment of a district allowance.

Northern Territory

An employee in the Northern Territory is entitled to payment of a district allowance in accordance with the terms of an award made under the Workplace Relations Act 1996 (Cth):

- (a) 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 made under the Workplace Relations Act 1996 (Cth) had applied to the employee; and
- (b) that would have entitled the employee to payment of a district allowance.

These district allowance provisions cease to operate on 31 December 2014.

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

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">- arrangements for when work is performed- overtime rates- penalty rates- allowances- leave loading. <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">- duty to notify, and- duty to discuss change.
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>

Clause	Conditions Type	Description
11	Part-time conditions (Instrument)	<p>A part-time employee works a regular pattern of hours which average less than 38 ordinary hours per week.</p> <p>A part-time employee must be engaged for a minimum of 3 consecutive hours a shift. In order to meet their personal circumstances, a part-time employee may request and the employer may agree to an engagement for less than the minimum of 3 hours.</p> <p>Before commencing part-time employment, the employee and the employer must agree in writing:</p> <ul style="list-style-type: none"> - on the hours to be worked - the days on which they will be worked - the commencing and finishing times for the work, and - the classification level applying to the work. <p>This agreement may be varied by consent in writing. Any agreement or variation must be retained by the employer and a copy of this agreement or variation must be provided to the employee.</p> <p>A part-time employee who is required to work in excess of the agreed hours must be paid at overtime rates.</p> <p>Where the part-time employee's normal paid hours fall on a public holiday and work is not performed, they must not lose pay for the day.</p>
12	Casual conditions (Instrument)	<p>On each occasion a casual employee is required to attend work the employee must be paid for a minimum of 3 hours' work. In order to meet their personal circumstances a casual employee may request and the employer may agree to an engagement for less than 3 hours.</p> <p>On engagement a casual must be informed by the employer that they are employed as a casual, who they are employed by, the classification level, rate of pay and the likely number of hours required.</p>
13.2	Termination of employment - notice of termination by an employee (Instrument)	<p>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.</p>

Clause	Conditions Type	Description
13.3	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.
14.2	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.
14.3	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.
14.4	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.
14.5	Redundancy - transitional provisions (Instrument)	An employee is entitled to redundancy pay in accordance with the NAPSA that would have applied immediately prior to 1 January 2010 and that would have entitled the employee to redundancy pay in excess of the employee's entitlement under the NES. This includes employees engaged after 1 January 2010. The entitlement to redundancy pay under the NAPSA is limited to the amount which exceeds the entitlement under the NES. This clause does not reduce an employee's entitlement to redundancy pay under any other instrument and ceases to operate on 31 December 2014.
15.2	Higher duties (Instrument)	An employee engaged for more than 2 hours on higher duties must be paid the higher wage for the day or shift. If the employee is engaged for 2 hours or less, they must be paid the higher wage for the time so worked.

Clause	Conditions Type	Description
19.1	Damage to clothing, tools and other items (Instrument)	An employer must replace, repair or clean the clothing or other personal equipment of an employee where they suffer any damage or soiling, as a result of the negligence of the employer. Personal equipment includes spectacles and hearing aids.
19.1	Clothing, footwear and/or equipment (Instrument)	Where an employee is required to wear protective clothing and equipment by a State or Territory law, the employee must be reimbursed for purchasing such protective clothing and equipment, unless the protective clothing and equipment is supplied by the employer.
19.2	Breaks - rest (Instrument)	After each 2 hour period where an employee is required to work in a place where the temperature is reduced by artificial means below zero degrees they are entitled to a 20 minute rest without loss of pay.
19.3	District allowance (Instrument)	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, providing that employee was not bound by an agreement under that Act. This clause ceases to operate on 31 December 2014.
19.4	Accident pay (Instrument)	An employee is entitled to accident pay in accordance with the terms of: - 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 made under the Workplace Relations Act 1996 (Cth) had applied to the employee, and - 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. The employee's entitlement to accident pay under the NAPSA or award is limited to the amount of accident pay which exceeds the employee's entitlement to accident pay, if any, under any other instrument. This clause does not reduce an employee's entitlement to accident pay under any other instrument and ceases to operate on 31 December 2014.

Clause	Conditions Type	Description
21	Method of payment (Instrument)	<p>Wages must be paid by cash, cheque or electronic funds transfer into the employee's bank or other recognised financial institution account.</p> <p><u>Payment of wages on termination</u></p> <p>On termination of employment, wages due to an employee must be paid on the day of termination or forwarded to the employee within 48 hours.</p> <p><u>Day off coinciding with pay day</u></p> <p>Where an employee is paid wages by cash or cheque and the employee is, by virtue of the arrangement of their ordinary hours, to take a day off on a day which coincides with pay day, such employee must be paid no later than the working day immediately following pay day. However, if the employer is able to make suitable arrangements, wages may be paid on the working day preceding pay day.</p> <p><u>Wages to be paid during working hours</u></p> <p>Where an employee is paid wages by cash or cheque, they must be paid during ordinary working hours. If an employee is paid wages by cash and is kept waiting for their wages on pay day after the usual finishing time, the employee must be paid at overtime rates for the time they are kept waiting.</p> <p><u>Absences from duty under an averaging system</u></p> <p>Where an employee's ordinary hours in a week are greater or less than 38 hours and such employee's pay is averaged to avoid fluctuating wage payments, the following will apply:</p> <ul style="list-style-type: none"> - the employee accrues a credit for each day they work ordinary hours in excess of the daily average - the employee does not accrue a credit for each day of absence from duty, other than on annual leave, long service leave, public holidays, paid personal/carer's leave, workers compensation, paid compassionate leave, paid training leave or jury service, and - an employee absent for part of a day, other than on annual leave, long service leave, public holidays, paid personal/carer's leave, workers compensation, paid compassionate leave, paid training leave or jury service, accrues a proportion of the credit for the day, based on the proportion of the working day that the employee was in attendance.

Clause	Conditions Type	Description
22	Superannuation (Instrument)	<p>The award contains information on:</p> <ul style="list-style-type: none"> - the employers responsibility to make superannuation contributions to a superannuation fund - the ability for an employee to authorise their employer to pay on their behalf contributions to a superannuation fund - the employers responsibility to make superannuation contributions to another superannuation fund that is chosen by the employee.
23	Hours of work (Instrument)	<p>Ordinary hours of work - day workers</p> <p>The ordinary hours of work for a day worker are an average of 38 per week but not exceeding 152 hours in 28 days.</p> <p>The ordinary hours of work may be worked on any or all of the days of the week, Monday to Saturday, provided that a day worker must not be required to work more than five and a half days of ordinary hours in a week. The days ordinary hours are worked on may include Sunday where the employer and the majority of employees concerned, or an individual employee agree.</p> <p>The ordinary hours of work are to be worked continuously, except for meal breaks, 6.00 am to 6.00 pm. The spread of hours may be altered by up to one hour at either end, by agreement between an employer and the majority of employees concerned, or an individual employee.</p> <p>Any work performed prior to the spread of hours which is continuous with ordinary hours for the purpose, for example, of getting the plant in a state of readiness for production work is to be regarded as part of the 38 ordinary hours of work.</p> <p>Ordinary hours of work - continuous shiftworkers</p> <p>Continuous shiftwork means: work carried on with consecutive shifts of employees throughout the 24 hours of each of at least 6 consecutive days without interruption except for breakdowns or meal breaks or due to unavoidable causes beyond the control of the employer.</p>

Clause	Conditions Type	Description
		<p>The ordinary hours of work for a continuous shiftworker are to average 38 hours per week, inclusive of meal breaks, and must not exceed 152 hours in 28 consecutive days. A continuous shiftworker is entitled to a 20 minute meal break on each shift, counted as time worked.</p> <p>By agreement between the employer and the majority of employees concerned, a roster system may operate so the weekly average of 38 ordinary hours is achieved over a period which exceeds 28 consecutive days but not 12 months.</p> <p>Except at the regular changeover of shifts, an employee must not be required to work more than one shift in each 24 hours.</p> <p>Ordinary hours of work - non-continuous shiftworkers</p> <p>The ordinary hours of work for a non-continuous shiftworker are an average of 38 per week and must not exceed 152 hours in 28 consecutive days.</p> <p>By agreement between the employer and the majority of employees concerned, a roster system may operate so the weekly average of 38 ordinary hours is achieved over a period which exceeds 28 consecutive days but not 12 months.</p> <p>Except at changeover of shifts an employee must not be required to work more than one shift in each 24 hours.</p>
23.5	Hours of work (Instrument)	<p>Methods of arranging ordinary working hours</p> <p>The award allows certain hours of work provisions to be set by agreement between the employer and the majority of employees concerned.</p> <p>The matters on which agreement may be reached include:</p> <ul style="list-style-type: none"> - how hours are to be averaged within a work cycle - the duration of the work cycle for day workers provided it does not exceed 12 months - rosters which specify the start and finish times of working hours - a period of notice of a rostered day off which is less than 4 weeks - substitution of rostered days off

Clause	Conditions Type	Description
		<ul style="list-style-type: none"> - accumulation of rostered days off - arrangements which allow for flexibility in relation to the taking of rostered days off, and - any arrangements of ordinary hours which exceed 8 in any day but not exceeding 12 hours in a day or shift. <p>By agreement between an employer and the majority of employees concerned, 12 hour days or shifts may be introduced subject to:</p> <ul style="list-style-type: none"> - proper health monitoring procedures being introduced - suitable roster arrangements being made - proper supervision being provided - adequate breaks being provided, and - a trial or review process being jointly implemented by the employer and the employees or their representatives.
23.6	Daylight saving (Instrument)	Where State or Territory legislation prescribes summer time as being in advance of the standard time in that state, the length of any shift commencing before the time prescribed for the commencement of a summer time period or commencing on or before the time prescribed for the termination of a summer time period, is deemed to be the number of hours represented by the difference between the time recorded by the clock at the beginning of the shift and the time so recorded at the end of the shift. The time of the clock in each case is to be set to the time fixed by the relevant legislation.
23.7	Make-up time (Instrument)	<p>An employee may elect, with the employer's consent, to work make-up time under which the employee takes time off during ordinary hours, and works those hours at a later time, during the spread of ordinary hours.</p> <p>An employee on shiftwork may elect, with their employer's consent, to work make-up time under which the employee takes time off during ordinary hours and works those hours at a later time, at the rate which would have been applicable to the hours taken off.</p>
25	Breaks - meal (Instrument)	An employee must not be required to work for more than 5 hours without a break for a meal except as follows:

Clause	Conditions Type	Description
		<p>- in cases where canteen or other facilities are limited so that meal breaks must be staggered and as a result it is not practicable for all employees to take a meal break within 5 hours, an employee must not be required to work for more than 6 hours without a break for a meal, or</p> <p>- by agreement between an employer and an individual employee or the majority of employees in an enterprise or part of an enterprise concerned, an employee or employees may work more than 5 hours but not more than 6 hours at the ordinary time rate without a meal break.</p> <p>The meal break or rest break may be altered by an employer if it is necessary to do so in order to meet a requirement for continuity of operations. An employer may stagger the time of taking meal and rest breaks to meet operational requirements.</p>
25.6	Breaks - rest (Instrument)	Employees are allowed two 10 minute rest periods each day or shift, which will be counted as time worked. The employer may fix the start times for these periods.
26.1(c)	Overtime - other (Instrument)	<p>Payment for working overtime</p> <p>The hourly rate, when computing overtime, is determined by dividing the appropriate weekly rate by 38, even in cases when an employee works more than 38 ordinary hours in a week.</p>
26.1(d)	Overtime – time off in lieu (Instrument)	<p>An employee may elect, with the consent of the employer, to take time off instead of payment for overtime at a time or times agreed, provided that:</p> <ul style="list-style-type: none"> - overtime taken as time off during ordinary hours must be taken at the ordinary time rate, that is an hour for each hour worked, and - an employer must, if requested, provide payment at the overtime rate, for any overtime worked which has not been taken as time off instead of payment for overtime within four weeks of its accrual.
26.3	Break between work periods (Instrument)	<p>Rest period after overtime</p> <p>Wherever reasonably practicable, overtime should be arranged so that an employee has at least 10 consecutive hours off duty between the work of successive working days.</p> <p>A permanent employee, who works so much overtime that they have not had at least 10 consecutive hours off duty between shifts, shall be released after completion of the overtime until the employee has had 10 consecutive hours off duty without loss of pay for ordinary hours occurring during such absence.</p>

Clause	Conditions Type	Description
		<p>By agreement with an individual employee, the 10 hour break may be reduced to a period of no less than 8 hours.</p> <p>For shiftworkers 8 hours will be substituted for 10 when overtime is worked:</p> <ul style="list-style-type: none"> - for the purpose of changing shift rosters - where a shiftworker does not report for duty and a day worker or shiftworker is required to replace the shiftworker - where a shift is worked by arrangement between employees themselves.
26.7	Breaks - rest (Instrument)	<p>An employee working overtime must be allowed a paid rest break of 20 minutes after each 4 hours of overtime worked if the employee is to continue work after the break.</p> <p>Where a day worker is required to work overtime on a Saturday, Sunday or public holiday or work on a rostered day off, the first rest break must be paid at the employee's ordinary time rate.</p> <p>Where overtime is to be worked immediately after the completion of ordinary hours, and the period of overtime is to be more than one and a half hours, an employee, before starting the overtime, is entitled to a rest break of 20 minutes to be paid at their ordinary time rate.</p> <p>An employer and employee may agreement to vary these rest breaks to meet the circumstances of the work at hand. Provided that the employer is not required to make payment in excess of or less than what would have otherwise been required under this section.</p>
26.9	Transport of employees (Instrument)	<p>When an employee, after having worked overtime or a shift for which they have not been regularly rostered, finishes work at a time when reasonable means of transport are not available, the employer must provide the employee with transport home, or pay the employee at the overtime rate for the time reasonably occupied in reaching home.</p>
27.4	Annual leave - payment (Instrument)	<p>Instead of the base rate of pay referred to in the Fair Work Act 2009, before going on annual leave an employee must be paid the wages they would have received in respect of the ordinary hours the employee would have worked had the employee not been on leave during the relevant period.</p>

Clause	Conditions Type	Description
		<p>The wages to be paid must be worked out on the basis of what the employee would have been paid under this award for working ordinary hours during the period of annual leave, including allowances, loadings and penalties paid for all purposes of the award, first aid allowance and any other wages payable under the employee's contract of employment including any overaward payment.</p> <p>The employee is not entitled to payments in respect of overtime, special rates or any other payment which might have been payable to the employee as a reimbursement for expenses incurred.</p>
27.5	Annual leave loading (Instrument)	<p>During a period of annual leave an employee must also be paid a loading calculated as follows:</p> <ul style="list-style-type: none"> - A day worker must be paid a loading equal to 17.5% of the wages outlined above, or the relevant weekend penalty rates, whichever is greater but not both. - A shiftworker employee must be paid a loading equal to 17.5% of the wages outlined above, or the shift loading including the relevant weekend penalties, whichever is greater but not both.
27.6	Annual leave - excessive leave (Instrument)	<p>If an employer has genuinely tried to reach agreement with an employee as to the timing of taking annual leave, the employer can require the employee to take annual leave by giving at least 4 weeks' notice of the time when leave is to be taken if:</p> <ul style="list-style-type: none"> - at the time the direction is given, the employee has at least 8 weeks of annual leave accrued, and - the amount of annual leave the employee is directed to take is less than or equal to a quarter of the amount of leave accrued.
27.7	Annual leave - paid leave in advance of accrued entitlement (Instrument)	<p>By agreement a period of annual leave may be taken in advance of it accruing. If leave is taken in advance and the employment terminates before it has accrued, the employer may make a corresponding deduction from any money due to the employee on termination.</p>
27.8	Annual leave - cashing out (Instrument)	<p>An employee and an employer can agree to cash out any accrued annual leave, provided that it does not result in the employee's remaining accrued annual leave being less than four weeks. The agreement must be recorded in writing. The employee must be paid at least the full agreed amount that would have been payable to the employee had the employee taken the leave that the employee has foregone.</p>
27.9	Annual leave - close-down (Instrument)	<p>An employer may close down an enterprise or part of it for the purpose of allowing annual leave to all or the majority of the employees in the enterprise or part concerned, provided that:</p>

Clause	Conditions Type	Description
		<ul style="list-style-type: none"> - the employer gives at least 4 weeks' notice of their intention to do so - an employee who has accrued sufficient leave to cover the period of the close-down, is allowed leave and also paid for that leave at the appropriate rate - an employee who has not accrued sufficient leave to cover part or all of the close-down, is allowed paid leave for the period for which they have accrued sufficient leave and given unpaid leave for the remainder of the close-down - any leave taken by an employee as a result of a close-down counts as service by the employee - the employer may only close down the enterprise or part of it for one or two separate periods in a year - if the employer closes down the enterprise or part of it in two separate periods, one of the periods must be for a period of at least 14 consecutive days (including non-working days) - the employer and the majority of employees concerned may agree to the enterprise or part of it being closed for three separate periods in a year provided that one of the periods is a period of at least 14 days including non-working days - the employer may close down the enterprise or part of it for a period of at least 14 days including non-working days and allow the balance of any annual leave to be taken in one continuous period in accordance with a roster.
27.10	Annual leave - transmission of business (Instrument)	Where a business is transferred from one employer to another, the period of continuous service that an employee had with the old employer must be deemed to be service with the new employer and taken into account when calculating annual leave. However an employee is not entitled to leave or payment instead for any period in respect of which leave has been taken or paid for.
30.2	Public holidays (Instrument)	<p>Substitution of certain public holidays by agreement at the enterprise</p> <p>By agreement between the employer and the majority of employees, an alternative day may be taken instead of any prescribed public holidays. An employer and an individual employee may also agree to take an alternate day as the public holiday.</p>
30.3	Public holidays (Instrument)	<p>Rostered day off falling on a public holiday</p> <p>Where a full-time employee's ordinary hours of work are structured to include a day off and the day off falls on a public holiday, the employee is entitled, at the employers discretion, to either:</p> <ul style="list-style-type: none"> - 7.6 hours of pay at the ordinary time rate - 7.6 hours of extra annual leave, or

Clause	Conditions Type	Description
		<p>- a substitute day off on an alternative week day.</p> <p>Where an employee's ordinary hours in a week are greater or less than 38 hours and their pay is averaged to avoid fluctuating wage payments specific provisions apply, see the award for full details.</p>

Frequency of Payment

Wages must be paid weekly or fortnightly, either:

- according to the actual ordinary hours worked each week or fortnight, or
- according to the average number of ordinary hours worked each week or fortnight.

By agreement between the employer and the majority of employees in the relevant enterprise, wages may be paid 3 weekly, 4 weekly or monthly. Agreement in this respect may also be reached between the employer and an individual employee.

Wages must be paid by cash, cheque or electronic funds transfer into the employee's bank or other recognised financial institution account.

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.