

PAY AND CONDITIONS GUIDE

Educational Services (Teachers) Award 2010 [MA000077]

('modern award')

replacing terms and conditions in or derived from

Teachers (Independent Schools Early Childhood Service Centres Other than Pre-Schools) (State) Award 2005 [AN120542] ('pre-modern award')

(NSW)

Effective from 01 July 2013.

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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 award, subject to the below, covers employers throughout Australia in the school education industry and their employees as defined to the exclusion of any other modern award.

This award covers any employer which supplies labour on an on-hire basis in the children's services and early childhood education industry, or the school education industry, in respect of on-hire employees in classifications covered by this award, and those on-hire employees, while engaged in the performance of work for a business in that industry.

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.

This award does not cover:

- a person engaged solely to instruct students on an individual basis for example, in the areas of music, language, dance and/or to instruct students in choir, band, string ensemble or other similar small group (but not including an employee teaching the school curriculum),
- a sports coach, assistant, or trainer (other than a member of the teaching staff of a school),
- a person employed as a teacher/integration aide, helper, classroom assistant, or director/supervisor in or in connection with childcare, preschool, long day care centres, childminding centres or outside of school hours care services (other than a university qualified early childhood teacher),
- a member of a recognised religious teaching order and/or Minister of Religion (other than a teacher who is not engaged in that capacity) or a person engaged for the purpose of religious instruction, supervision of prayers, or to undertake other religious duties of a non-teaching nature, or
- a principal or deputy principal, however named.

Where an employer is covered by more than one award, an employee of that employer is covered by the 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 Teacher

Modern award classification	Pre-modern award classification	Base rate of pay (hourly)
Level 1	Teacher, Step 1	\$22.08
Level 1	Director, 0-25 Children, Step 1	\$22.54
Level 1	Director, 26-50 Children, Step 1	\$22.64
Level 1	Director, 51-75 Children, Step 1	\$22.78
Level 1	Director, 76+ Children, Step 1	\$22.95
Level 2	Teacher, Step 2	\$22.86
Level 2	Director, 0-25 Children, Step 2	\$23.32

Modern award classification	Pre-modern award classification	Base rate of pay (hourly)
Level 2	Director, 26-50 Children, Step 2	\$23.42
Level 2	Director, 51-75 Children, Step 2	\$23.56
Level 3	Teacher, Step 3	\$23.53
Level 3	Director, 0-25 Children, Step 3	\$23.99
Level 3	Director, 26-50 Children, Step 3	\$24.09
Level 3	Director, 51-75 Children, Step 3	\$24.23
Level 3	Director, 76+ Children, Step 3	\$24.40
Level 4	Teacher, Step 4	\$24.43
Level 4	Director, 0-25 Children, Step 4	\$24.89
Level 4	Director, 26-50 Children, Step 4	\$24.99
Level 4	Director, 51-75 Children, Step 4	\$25.13
Level 4	Director, 76+ Children, Step 4	\$25.30
Level 5	Teacher, Step 5	\$25.21
Level 5	Director, 0-25 Children, Step 5	\$25.66
Level 5	Director, 26-50 Children, Step 5	\$25.77
Level 5	Director, 51-75 Children, Step 5	\$25.90
Level 5	Director, 76+ Children, Step 5	\$26.08
Level 6	Teacher, Step 6	\$26.08
Level 6	Director, 0-25 Children, Step 6	\$26.54
Level 6	Director, 26-50 Children, Step 6	\$26.64
Level 6	Director, 51-75 Children, Step 6	\$26.78
Level 6	Director, 76+ Children, Step 6	\$26.95
Level 7	Teacher, Step 7	\$26.99
Level 7	Director, 26-50 Children, Step 7	\$27.55
Level 7	Director, 51-75 Children, Step 7	\$27.69
Level 7	Director, 76+ Children, Step 7	\$27.86
Level 8	Teacher, Step 8	\$27.98
Level 8	Director, 0-25 Children, Step 8	\$28.44
Level 8	Director, 26-50 Children, Step 8	\$28.54

Modern award classification	Pre-modern award classification	Base rate of pay (hourly)
Level 8	Director, 51-75 Children, Step 8	\$28.68
Level 8	Director, 76+ Children, Step 8	\$28.85
Level 9	Teacher, Step 9	\$28.94
Level 9	Director, 0-25 Children, Step 9	\$29.40
Level 9	Director, 26-50 Children, Step 9	\$29.50
Level 9	Director, 51-75 Children, Step 9	\$29.64
Level 9	Director, 76+ Children, Step 9	\$29.82
Level 10	Teacher, Step 10	\$29.86
Level 10	Director, 0-25 Children, Step 10	\$30.32
Level 10	Director, 26-50 Children, Step 10	\$30.42
Level 10	Director, 51-75 Children, Step 10	\$30.56
Level 10	Director, 76+ Children, Step 10	\$30.74
Level 11	Director, 0-25 Children, Step 11	\$31.25
Level 11	Director, 26-50 Children, Step 11	\$31.35
Level 11	Director, 51-75 Children, Step 11	\$31.49
Level 11	Director, 76+ Children, Step 11	\$31.66
Level 12	Teacher, Step 12	\$31.74
Level 12	Teacher, Step 13	\$32.01
Level 12	Director, 0-25 Children, Step 12	\$32.20
Level 12	Director, 0-25 Children, Step 13	\$32.46
Level 12	Director, 26-50 Children, Step 12	\$32.30
Level 12	Director, 26-50 Children, Step 13	\$32.56
Level 12	Director, 51-75 Children, Step 12	\$32.44
Level 12	Director, 51-75 Children, Step 13	\$32.70
Level 12	Director, 76+ Children, Step 12	\$32.61
Level 12	Director, 76+ Children, Step 13	\$32.88

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

Trainee provisions are not covered in this Modern Award.

Supported Wage

Supported Wage rates of pay are not covered by this summary.

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%
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 Pre-modern award penalty	1/07/2014 Modern award penalty	1/07/2010 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 Modern award penalty	1/07/2010 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 Pre-modern award penalty	1/07/2010 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%

First full pay period on or after	Percent of modern award loading/penalty
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
15.4(a)(i)	Vehicle allowance	An employee required by the employer to use their own motor vehicle in the performance of duties must be paid the following allowance - Motor car	1/07/2013	\$0.7600 per kilometre, with a maximum payment for 400 kilometres per week
15.4(a)(ii)	Vehicle allowance	An employee required by the employer to use their own motor vehicle in the performance of duties must be paid the following allowance - Motorcycle	1/01/2010	\$0.2500 per kilometre, with a maximum payment for 400 kilometres per week

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)	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: - arrangements for when work is performed - overtime rates - penalty rates - allowances - leave loading. Other conditions concerning award flexibility are contained within the Fair Work Act 2009.
8	Consultation (Instrument)	The award contains information on the employer's responsibility to consult regarding major workplace change including the: - duty to notify, and - duty to discuss change.
9	Dispute resolution (Instrument)	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).
10.2	Other	Terms of engagement

Clause	Conditions Type	Description
	(Instrument)	<p>On appointment, the employer will provide the employee (other than a casual employee) with a letter of appointment stating the classification and rate of salary applicable on commencement, the employee's face-to-face teaching load and details of their extra curricular commitment.</p> <p>In the case of a part-time employee, the letter of appointment will include the employee's teaching load expressed as a percentage of a full-time load in the school and that their extra curricular commitment will generally be, on balance, in the same proportion to their teaching load as that of a full-time teacher.</p> <p>Where the employer engages the employee on a fixed term basis, the letter of appointment will inform the employee of the reason the employment is fixed term, the date of commencement and the period of the employment.</p>
10.4	Part-time conditions (Instrument)	<p>A part-time employee is an employee who is engaged to work on a regular basis for less than, but not more than 90% of, the hours of a full-time employee in the school. If the hours of a part-time employee rise above 90%, the employee will be considered to be full-time.</p> <p>A part-time employee is entitled to the benefits under this award on a pro rata basis. The pro rata basis will be calculated by dividing the number of face-to-face teaching hours prescribed for the part-time employee by the usual number of face-to-face teaching hours prescribed for a full-time employee in the school.</p> <p>An employee (full-time or part-time) who requests to work above 90% of full-time hours, but less than full-time, will not be considered to be full-time and will be remunerated for the actual hours worked.</p> <p>An employer cannot vary a part-time employee's teaching load or days of attendance unless:</p> <ul style="list-style-type: none"> - the employee consents, or - where such a variation is required as a result of a change in funding, enrolment or curriculum, the employer provides seven weeks' notice in writing, or where the change would result in a reduction in salary, the salary of the teacher is maintained for a period of seven weeks.
10.5	Casual conditions (Instrument)	Casual employment means employment on a day-to-day basis for a period of not more than four consecutive term weeks.

Clause	Conditions Type	Description
		A casual engagement may be extended by agreement between the teacher and the employer provided the total period of the engagement does not exceed one school term.
10.6	Other (Instrument)	<p>Fixed term employment</p> <p>An employee may be employed for a fixed period of time for a period of at least four weeks but no more than 12 months on either a full-time or part-time basis to:</p> <ul style="list-style-type: none"> - undertake a specified project for which funding has been made available - undertake a specified task which has a limited period of operation or - replace an employee who is on leave, performing other duties temporarily or whose employment has terminated after the commencement of the school year. Provided that where the replacement arrangement extends beyond 12 months, the fixed term employment may be extended for up to a further 12 months.
11.2	Termination of employment (Instrument)	<p>Notice of termination by an employer</p> <p>The employment of an employee (other than a casual employee) will not be terminated without at least seven term weeks' notice (inclusive of the notice required under the NES), the payment of seven weeks' salary instead of notice, or part notice and part payment instead of notice.</p>
11.4	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.
11.6	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.
11.6	Termination of employment (Instrument)	<p>Exclusions</p> <p>Employees who are excluded from coverage of the notice of termination provisions the NES are also excluded from coverage of the notice of termination provisions in this award.</p>

Clause	Conditions Type	Description
11.7	Termination of employment (Instrument)	<p>Statement of service</p> <p>Upon the termination of employment of an employee (other than a casual employee), if the employee requests, the employer will provide a statement of service setting out the commencement and cessation dates of employment.</p>
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)	<p>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.</p> <p>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.</p>
12.5	Redundancy (Instrument)	<p>Where the employee's employment is terminated on the grounds of redundancy, the employee will be entitled only to the greater of:</p> <ul style="list-style-type: none"> - notice of termination provided by this award, (that is greater than the NES), or - notice of termination and severance payments under the NES.
12.6	Redundancy (Instrument)	<p>Part-time employees</p> <p>If a part-time employee's hours are reduced without their consent, by more than 25% they will be entitled to the redundancy provisions.</p>

Clause	Conditions Type	Description
12.7	Redundancy - transitional provisions (Instrument)	<p>An employee is entitled to redundancy pay in accordance with the NAPSA that would have applied 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 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 NAPSA 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>
13	Other (Instrument)	<p>Classifications</p> <p>The award contains information on classifying employees under the award considering:</p> <ul style="list-style-type: none"> - the duties of the employee - recognition of previous service - evidence of qualifications and - progression through the levels. <p>Further information on these factors is outlined within the award.</p>
15.1(c)	Higher duties (Instrument)	<p>Directors allowance</p> <p>An employee required by the employer to act as a Director for at least 10 consecutive working days will be paid at the rate applicable to that position for the time they are in the position.</p>
15.2	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, providing that employee was not bound by an agreement under that Act.</p> <p>This clause ceases to operate on 31 December 2014.</p>

Clause	Conditions Type	Description
15.3	Other (Instrument)	<p>Leadership allowance</p> <p>Structure of leadership allowances</p> <p>Leadership allowances will be determined by student numbers and the level of responsibility undertaken, as follows:</p> <p>School size</p> <p>Category A School with more than 600 students Category B School with between 300–600 students Category C School with between 100–299 students</p> <p>Level of responsibility</p> <p>The level of additional responsibility can be categorised as either administrative, pastoral care or educational leadership, or a combination of these, as follows:</p> <p>Level 1 Positions of leadership such as responsibility for the management of a major department or a pastoral care or educational leadership position of equivalent status.</p> <p>Level 2 and 3 Positions of leadership such as small learning area department heads, additional responsibilities such as co-ordination of a school publication, sports co-ordinator or similar responsibilities.</p> <p>A school will apply these allowances to positions of responsibility which are appropriate to its structure.</p> <p>Positions of leadership will be available in both primary and secondary schools.</p> <p>A school with less than 100 students will determine positions of responsibility and allowances which are appropriate to its structure.</p> <p>Where a position of leadership is shared, the payments may also be shared.</p>

Clause	Conditions Type	Description
		Further information on the eligibility and notification requirements is outlined within the award.
15.4	Other (Instrument)	<p>Vehicle allowance</p> <p>The employer must pay all expenses including registration, running, and maintenance, where an employer provides a motor vehicle which is used by an employee in the performance of the employee's duties.</p>
16	Accident pay (Instrument)	<p>An employee is entitled to accident pay in accordance with the terms of:</p> <ul style="list-style-type: none"> - 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. <p>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.</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>
17	Method of payment (Instrument)	An employer may elect to pay wages and allowances by cash, cheque or direct transfer. Where monies are paid by direct transfer, the employee has the right to nominate the financial institution and the account.
18	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.

Clause	Conditions Type	Description
19	Hours of work (Instrument)	<p>The following provisions supplement the NES entitlements, and do not apply to teachers, including a teacher appointed as a Director, employed by a school in an early childhood service which operates for 48 or more weeks per year.</p> <p>Due to the operational requirements of employers in the industry, the ordinary hours of an employee under this award may be averaged over a 12 month period.</p> <p>The ordinary hours of work for an employee during term weeks are variable. In return, an employee is not generally required to attend for periods of time when the students are not present, subject to the needs of the employer with regard to professional development and other activities requiring the employee's attendance.</p> <p>The maximum number of days that the employee will be required to attend during term weeks and non-term weeks will be 205 in each school year.</p> <p>The award also contains information on:</p> <ul style="list-style-type: none"> - the calculation of the 205 employee attendance days - employees adhering to the calendar of a foreign country - an employers requirement to provide notice of the days an employee is required to attend work and - the payment of the annual salary and allowances on the basis of days worked. <p>Full details on these points are outlined in the award.</p>
20	Breaks - meal (Instrument)	<p>An employee will be entitled to an unpaid meal break of 30 minutes no later than five hours after commencing work. This provision does not apply to teachers employed in early childhood services operating for at least 48 weeks per year.</p>
21	Annual leave (Instrument)	<p>The following provisions supplement the entitlements of the NES.</p> <p>Annual leave must be taken during non-term weeks, and must generally be taken, for an employee whose employment will continue into the next school year, in the four-week period immediately following the final term week of the current school year, unless otherwise agreed with the employer.</p>

Clause	Conditions Type	Description
		An employee may take annual leave re-credited in accordance with the NES only during non-term weeks as directed by the employer.
22	Annual leave (Instrument)	<p>Pro rata payment of salary inclusive of annual leave</p> <p>The following provisions incorporate the NES entitlement with respect to annual leave, and do not apply to teachers employed in early childhood services operating for at least 48 weeks per year.</p> <p>These provisions will apply:</p> <ul style="list-style-type: none"> - in regard to calculating pro rata salary where an employee's employment ceases, or - in regard to calculating pro rata salary if: <ul style="list-style-type: none"> an employee commenced employment after the school service date an employee has taken leave without pay of more than two term weeks since the school service date, or the hours which an employee has worked at school have varied since the school service date. <p>Calculation of payments</p> $P = \frac{s \times c}{b} - d$ <p>P is the payment due s is the total salary paid in respect of term weeks, or part thereof, since the school service date or the date of employment in circumstances where the employee has been employed by the employer since the school service date. b is the number of term weeks, or part thereof in the school year c is the number of non-term weeks, or part thereof, in the school year d is the salary paid in respect of non-term weeks, or part thereof, that have occurred since the school service date or date of employment in circumstances where the employee has been employed by the employer since the school service date</p> <p>For the above purpose:</p>

Clause	Conditions Type	Description
		<p>school service date means the date of commencement of the school year in the employee's first year of service with the employer</p> <p>employee means an employee other than a casual employee.</p> <p>The above formula is intended to be used to calculate the pro rata salary inclusive of annual leave owing to an employee in respect of the school year in which the formula is applied.</p> <p>The award contains further information on:</p> <ul style="list-style-type: none"> - employees who commence employment after the commencement of the school year and - employees who take approved leave without pay. <p>Full details are outlined in the award.</p>
23	Annual leave loading (Instrument)	<p>An employee who has served throughout the school year is entitled to a leave loading of 17.5% on four weeks' annual leave. The loading will normally be paid:</p> <ul style="list-style-type: none"> - at the time that the employee is paid annual leave or - on the termination of employment by either party. <p>Leave loading is to be calculated using the following formula:</p> $\frac{[\text{Weekly salary} \times 4 \times 17.5\%] \times \text{term weeks worked by the employee in that school year}}{\text{Total term weeks in that school year}}$ <p>For example, in the case of an employee with a weekly salary of \$1000 on termination of employment (or at the end of the final term week in the school year) who was employed at the school for 20 of the 38 term weeks in that school year, the calculation will be as follows:</p> $\$1000 \times 4 \times 17.5\% = \700 $\$700 \times 20/38 = \368.42

Clause	Conditions Type	Description
		<p>The above calculation does not apply to teachers employed in early childhood services operating for at least 48 weeks per year.</p> <p>Instead of the above, an employer may pay annual leave loading to the employee with each salary payment throughout the school year by increasing the annual rate of pay as at the commencement of the school year, or as subsequently varied, by 1.346%. Where an employer elects to pay leave loading with each salary payment throughout the school year, the employer will advise the employee in their letter of appointment.</p>
26.2	Public holidays (Instrument)	<p>Substitution of public holidays</p> <p>An employer may substitute a public holiday or part holiday for another day or part day to be taken during term weeks in the school year.</p>
Schedule A.1	Hours of work (Instrument)	<p>Teachers employed in early childhood services operating for at least 48 weeks per year</p> <p>Subject to these provisions, a full-time employee's ordinary hours of work will be 38 per week.</p> <p>The ordinary hours of work may be averaged over a period of four weeks.</p> <p>The ordinary hours of work will be worked between the hours of 6.30am and 6.30pm on any five days between Monday to Saturday and will not exceed eight hours in duration.</p>
Schedule A.1	Break between work periods (Instrument)	<p>Teachers employed in early childhood services operating for at least 48 weeks per year</p> <p>An employee will be entitled to a minimum break of 10 consecutive hours between the end of one period of duty and the beginning of the next. This applies in relation to both ordinary hours and where overtime is worked.</p>
Schedule A.2	Other (Instrument)	<p>Teachers employed in early childhood services operating for at least 48 weeks per year</p> <p>Rostered days off</p> <p>An employer and employee may agree that the ordinary hours of work will be worked over 19 days in each four week period, in which case the following provisions will apply.</p>

Clause	Conditions Type	Description
		<p>The employee will work 152 hours over 19 days in each four week period with one rostered day off on full pay in each such period.</p> <p>An employee will accrue 24 minutes for each eight hour day worked to give the employee an entitlement to take rostered days off.</p> <p>Each day of paid leave taken by an employee (but not including long service leave, or any period of stand-down, any public holiday or any period of absence for which workers compensation payments apply occurring during any cycle of four weeks) will be regarded as a day worked for the purpose of accruing an entitlement.</p> <p>Rostered days off will not be regarded as part of the employee's annual leave for any purpose.</p> <p>An employee will not be entitled to personal leave in respect of illness whilst on a rostered day off. In the event of a rostered day off falling on a public holiday, the employer and the employee will agree on a substitute day.</p> <p>An employee will not be entitled to more than 12 rostered days off in any 12 months of consecutive employment.</p> <p>An employee who is scheduled to take a rostered day off before having worked a complete four week cycle will be paid a pro rata amount for the time that the employee has accrued.</p> <p>An employee whose employment is terminated in the course of a four week cycle will be paid a pro rata amount for the time that the employee has accrued.</p> <p>Rostered days off will be determined by mutual agreement between the employer and the employee, having regards to the needs of the place of employment.</p> <p>An employee will be advised by the employer at least four weeks in advance of the day on which the employee is to be rostered off duty.</p> <p>Nothing in this clause will entitle an employee who works less than 38 hours per week to accumulate rostered days off pursuant to this clause.</p>

Clause	Conditions Type	Description
Schedule A.3.1	Breaks - meal (Instrument)	<p>Teachers employed in early childhood services operating for at least 48 weeks per year</p> <p>An employee will be entitled to a paid meal break of no more than 30 minutes, and no less than 20 minutes, no later than five hours after commencing work. An employee may, by agreement with the employer, leave the premises or elect not to be on call during the meal break. In that case the meal time will not count as time worked and nor will payment be made for such time.</p>
Schedule A.3.2	Other (Instrument)	<p>Teachers employed in early childhood services operating for at least 48 weeks per year</p> <p>Non-contact time</p> <p>An employee responsible for programming and planning for a group of children will be entitled to a minimum of two hours per week, during which the employee is not required to teach or supervise children or perform other duties directed by the employer, for the purpose of planning, preparing, researching and programming activities.</p>
Schedule A.4.1 (b)	Overtime - other (Instrument)	<p>Teachers employed in early childhood services operating for at least 48 weeks per year</p> <p>Part-time employees who agree to work in excess of their normal hours will be paid at ordinary time for up to eight hours, provided that the additional time worked is during the ordinary hours of operation of the early childhood service. No part-time employee may work in excess of eight hours in any day without the payment of overtime.</p>
Schedule A.4.2	Overtime – time off in lieu (Instrument)	<p>Teachers employed in early childhood services operating for at least 48 weeks per year</p> <p>An employee and an employer may agree that an employee will be provided with time off instead of being paid an overtime payment.</p> <p>Overtime taken as time off during ordinary time hours must be taken at the ordinary time rate, that is, an hour for each hour worked.</p> <p>Where an employee and an employer have agreed to time off instead of payment for overtime and such time has not been taken:</p> <p>- within four weeks of accrual or</p>

Clause	Conditions Type	Description
		<p>- during the non-term weeks agreed in writing between an employee and an employer</p> <p>an employer must, if requested by an employee, provide payment, at the rate provided for the payment of overtime in the award, for any overtime worked.</p>
Schedule A.4.3	Overtime - other (Instrument)	<p>Teachers employed in early childhood services operating for at least 48 weeks per year</p> <p>Make-up time</p> <p>An employee may elect, with the consent of the employer, to work make-up time under which the employee takes time off during ordinary hours, and works those hours at a later time, during the spread of ordinary hours provided in the award.</p>

Frequency of Payment

All monies payable will be paid:

once each fortnight, once every four weeks at the end of the first fortnight including payment for two weeks in arrears and two weeks in advance, or once every month with the payment being made as nearly as possible on the middle of each month including one half month in arrears and one half month in advance.

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.