

PAY AND CONDITIONS GUIDE

Marine Tourism and Charter Vessels Award 2010 [MA000093]


('modern award')

replacing terms and conditions in or derived from

Marine Charter Vessels (State) Award [AN120330] ('pre-modern award')

(NSW)

Effective from 19 December 2013.

Published 23 July 2014 

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 19 December 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 NAPSAs. 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 **marine tourism and charter vessels industry** and their employees in the classifications listed in the award to the exclusion of any other modern award.

Marine tourism and charter vessel industry means the operation of vessels engaged on a day charter or for an overnight charter wholly or principally as a tourist, sightseeing, sailing or cruise vessel and/or as a place of or for entertainment, functions, restaurant/food and beverage purposes engaged in the provision of water orientated tourism, leisure and/or recreational activities but does not include the operation of ferries engaged in regular scheduled passenger and/or commuter transport.

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

The award does not cover employees who are covered by a modern enterprise award, or an enterprise instrument (within the meaning of the **Fair Work (Transitional Provisions and Consequential Amendments) Act 2009** (Cth)), or employers in relation to those employees.

The award does not cover employees who are covered by a State reference public sector modern award, or a State reference public sector transitional award (within the meaning of the Fair Work (Transitional Provisions and Consequential Amendments) Act 2009 (Cth)), or employers in relation to those employees.

This award covers any employer which supplies labour on an on-hire basis in the industry set out in the 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 the 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 19 December 2013.

Full & Part Time

Overnight charter employees (Day payment 7.6 hours, 1/2 day 50% of day payment)

Modern award classification	Pre-modern award classification	Base rate of pay (hourly)
Crew level 1	General - purpose hand	\$17.62
Crew level 2	General - purpose hand	\$18.51
Crew level 3	General - purpose hand	\$19.19
Dive master/dive instructor	General - purpose hand	\$19.19
Master V	Master, vessels 35m and over	\$25.85
Master V	Master, vessels 20m and over	\$25.50
Master V	Master, vessels under 20m but 18.25m and over	\$25.44

Modern award classification	Pre-modern award classification	Base rate of pay (hourly)
Master V	Master, vessels under 18.25m	\$25.43
Master IV	Master, vessels 35m and over	\$28.52
Master IV	Master, vessels 20m and over	\$28.17
Master IV	Master, vessels under 20m but 18.25m and over	\$28.11

Non-overnight charter employees

Modern award classification	Pre-modern award classification	Base rate of pay (hourly)
Crew level 1	General - purpose hand	\$16.63
Crew level 2	General - purpose hand	\$17.97
Engineer MED III	Engineer, vessels 35m and over	\$20.07
Engineer MED III	Engineer, vessels 20m and over	\$19.72
Engineer MED III	Engineer, vessels under 20m but 18.25m and over	\$19.66
Master V	Master, vessels 35m and over	\$20.07
Master V	Master, vessels 20m and over	\$19.72
Master V	Master, vessels under 20m but 18.25m and over	\$19.66
Master V	Master, vessels under 18.25m	\$19.64
Engineer MED II	Engineer, vessels 35m and over	\$20.36
Engineer MED II	Engineer, vessels 20m and over	\$20.01
Engineer MED II	Engineer, vessels under 20m but 18.25m and over	\$19.95
Master IV	Master, vessels 35m and over	\$20.36
Master IV	Master, vessels 20m and over	\$20.01
Master IV	Master, vessels under 20m but 18.25m and over	\$19.95
Engineer MED I	Engineer, vessels 35m and over	\$21.99
Engineer MED I	Engineer, vessels 20m and over	\$21.64
Engineer MED I	Engineer, vessels under 20m but 18.25m and over	\$21.58

Casual

Overnight charter employees (Day payment 7.6 hours, 1/2 day 50% of day payment)

Modern award classification	Pre-modern award classification	Base rate of pay (hourly)	Post 26 March 2006 employer*
Crew level 1	General - purpose hand	\$22.15 (25.67%)	\$21.85 (24%)
Crew level 2	General - purpose hand	\$23.26 (25.67%)	\$22.95 (24%)
Crew level 3	General - purpose hand	\$24.12 (25.67%)	\$23.80 (24%)
Dive master/dive instructor	General - purpose hand	\$24.12 (25.67%)	\$23.80 (24%)
Master V	Master, vessels 35m and over	\$32.49 (25.67%)	\$32.06 (24%)
Master V	Master, vessels 20m and over	\$32.05 (25.67%)	\$31.62 (24%)
Master V	Master, vessels under 20m but 18.25m and over	\$31.97 (25.67%)	\$31.55 (24%)
Master V	Master, vessels under 18.25m	\$31.95 (25.67%)	\$31.53 (24%)
Master IV	Master, vessels 35m and over	\$35.83 (25.67%)	\$35.36 (24%)
Master IV	Master, vessels 20m and over	\$35.39 (25.67%)	\$34.92 (24%)
Master IV	Master, vessels under 20m but 18.25m and over	\$35.32 (25.67%)	\$34.85 (24%)

Non-overnight charter employees

Modern award classification	Pre-modern award classification	Base rate of pay (hourly)	Post 26 March 2006 employer*
Crew level 1	General - purpose hand	\$20.90 (25.67%)	\$20.63 (24%)
Crew level 2	General - purpose hand	\$22.59 (25.67%)	\$22.29 (24%)
Engineer MED III	Engineer, vessels 35m and over	\$25.22 (25.67%)	\$24.88 (24%)
Engineer MED III	Engineer, vessels 20m and over	\$24.78 (25.67%)	\$24.45 (24%)
Engineer MED III	Engineer, vessels under 20m but 18.25m and over	\$24.70 (25.67%)	\$24.38 (24%)
Master V	Master, vessels 35m and over	\$25.22 (25.67%)	\$24.88 (24%)
Master V	Master, vessels 20m and over	\$24.78 (25.67%)	\$24.45 (24%)
Master V	Master, vessels under 20m but 18.25m and over	\$24.70 (25.67%)	\$24.38 (24%)
Master V	Master, vessels under 18.25m	\$24.68 (25.67%)	\$24.36 (24%)

Modern award classification	Pre-modern award classification	Base rate of pay (hourly)	Post 26 March 2006 employer*
Engineer MED II	Engineer, vessels 35m and over	\$25.59 (25.67%)	\$25.25 (24%)
Engineer MED II	Engineer, vessels 20m and over	\$25.15 (25.67%)	\$24.81 (24%)
Engineer MED II	Engineer, vessels under 20m but 18.25m and over	\$25.07 (25.67%)	\$24.74 (24%)
Master IV	Master, vessels 35m and over	\$25.59 (25.67%)	\$25.25 (24%)
Master IV	Master, vessels 20m and over	\$25.15 (25.67%)	\$24.81 (24%)
Master IV	Master, vessels under 20m but 18.25m and over	\$25.07 (25.67%)	\$24.74 (24%)
Engineer MED I	Engineer, vessels 35m and over	\$27.64 (25.67%)	\$27.27 (24%)
Engineer MED I	Engineer, vessels 20m and over	\$27.20 (25.67%)	\$26.84 (24%)
Engineer MED I	Engineer, vessels under 20m but 18.25m and over	\$27.12 (25.67%)	\$26.76 (24%)

Junior

The rates in this guide are current from the first pay period on or after 19 December 2013.

Full & Part Time

Overnight charter employees (Day payment 7.6 hours, half day payment 50% of the day payment)

Modern award classification	Pre-modern award classification	Base rate of pay (hourly)
Crew level 1, At 16 years of age	General purpose hands, At 16 years of age and under 17 years of age	\$8.81
Crew level 1, At 17 years of age	General purpose hands, At 17 years of age and under 18 years of age	\$10.57
Crew level 1, At 18 years of age	General purpose hands, At 18 years of age and under 19 years of age	\$13.22
Crew level 1, At 19 years of age	General purpose hands, At 19 years of age and under 20 years of age	\$15.84
Crew level 2, At 16 years of age	General purpose hands, At 16 years of age and under 17 years of age	\$9.26
Crew level 2, At 17 years of age	General purpose hands, At 17 years of age and under 18 years of age	\$11.11

Modern award classification	Pre-modern award classification	Base rate of pay (hourly)
Crew level 2, At 18 years of age	General purpose hands, At 18 years of age and under 19 years of age	\$13.88
Crew level 2, At 19 years of age	General purpose hands, At 19 years of age and under 20 years of age	\$16.63
Crew level 3, At 16 years of age	General purpose hands, At 16 years of age and under 17 years of age	\$9.60
Crew level 3, At 17 years of age	General purpose hands, At 17 years of age and under 18 years of age	\$11.51
Crew level 3, At 18 years of age	General purpose hands, At 18 years of age and under 19 years of age	\$14.39
Crew level 3, At 19 years of age	General purpose hands, At 19 years of age and under 20 years of age	\$17.24

Non-overnight charter employees

Modern award classification	Pre-modern award classification	Base rate of pay (hourly)
Crew level 1, At 16 years of age	General purpose hands, At 16 years of age and under 17 years of age	\$8.32
Crew level 1, At 17 years of age	General purpose hands, At 17 years of age and under 18 years of age	\$9.98
Crew level 1, At 18 years of age	General purpose hands, At 18 years of age and under 19 years of age	\$12.48
Crew level 1, At 19 years of age	General purpose hands, At 19 years of age and under 20 years of age	\$14.94
Crew level 2, At 16 years of age	General purpose hands, At 16 years of age and under 17 years of age	\$8.99
Crew level 2, At 17 years of age	General purpose hands, At 17 years of age and under 18 years of age	\$10.78
Crew level 2, At 18 years of age	General purpose hands, At 18 years of age and under 19 years of age	\$13.48
Crew level 2, At 19 years of age	General purpose hands, At 19 years of age and under 20 years of age	\$16.15

Casual

Overnight charter employees (Day payment 7.6 hours, half day payment 50% of the day payment)

Modern award classification	Pre-modern award classification	Base rate of pay (hourly)	Post 26 March 2006 employer*
Crew level 1, At 16 years of age	General purpose hands, At 16 years of age and under 17 years of age	\$11.07 (25.67%)	\$10.93 (24%)
Crew level 1, At 17 years of age	General purpose hands, At 17 years of age and under 18 years of age	\$13.29 (25.67%)	\$13.11 (24%)
Crew level 1, At 18 years of age	General purpose hands, At 18 years of age and under 19 years of age	\$16.61 (25.67%)	\$16.39 (24%)
Crew level 1, At 19 years of age	General purpose hands, At 19 years of age and under 20 years of age	\$19.90 (25.67%)	\$19.64 (24%)
Crew level 2, At 16 years of age	General purpose hands, At 16 years of age and under 17 years of age	\$11.63 (25.67%)	\$11.48 (24%)
Crew level 2, At 17 years of age	General purpose hands, At 17 years of age and under 18 years of age	\$13.96 (25.67%)	\$13.77 (24%)
Crew level 2, At 18 years of age	General purpose hands, At 18 years of age and under 19 years of age	\$17.45 (25.67%)	\$17.22 (24%)
Crew level 2, At 19 years of age	General purpose hands, At 19 years of age and under 20 years of age	\$20.90 (25.67%)	\$20.62 (24%)
Crew level 3, At 16 years of age	General purpose hands, At 16 years of age and under 17 years of age	\$12.06 (25.67%)	\$11.90 (24%)
Crew level 3, At 17 years of age	General purpose hands, At 17 years of age and under 18 years of age	\$14.47 (25.67%)	\$14.28 (24%)
Crew level 3, At 18 years of age	General purpose hands, At 18 years of age and under 19 years of age	\$18.09 (25.67%)	\$17.85 (24%)
Crew level 3, At 19 years of age	General purpose hands, At 19 years of age and under 20 years of age	\$21.67 (25.67%)	\$21.38 (24%)

Non-overnight charter employees

Modern award classification	Pre-modern award classification	Base rate of pay (hourly)	Post 26 March 2006 employer*
Crew level 1, At 16 years of age	General purpose hands, At 16 years of age and under 17 years of age	\$10.45 (25.67%)	\$10.31 (24%)
Crew level 1, At 17 years of age	General purpose hands, At 17 years of age and under 18 years of age	\$12.54 (25.67%)	\$12.38 (24%)
Crew level 1, At 18 years of age	General purpose hands, At 18 years of age and under 19 years of age	\$15.68 (25.67%)	\$15.47 (24%)
Crew level 1, At 19 years of age	General purpose hands, At 19 years of age and under 20 years of age	\$18.78 (25.67%)	\$18.53 (24%)
Crew level 2, At 16 years of age	General purpose hands, At 16 years of age and under 17 years of age	\$11.29 (25.67%)	\$11.14 (24%)
Crew level 2, At 17 years of age	General purpose hands, At 17 years of age and under 18 years of age	\$13.55 (25.67%)	\$13.37 (24%)
Crew level 2, At 18 years of age	General purpose hands, At 18 years of age and under 19 years of age	\$16.94 (25.67%)	\$16.72 (24%)
Crew level 2, At 19 years of age	General purpose hands, At 19 years of age and under 20 years of age	\$20.29 (25.67%)	\$20.02 (24%)

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 13.4 of the modern award.

For detail of the supported wage provisions see the full version of the 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 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%
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
14.2	Meal allowance	When an employee, including a casual, is required to work overtime in excess of one and a half hours before or after the usual commencing time, the employee will be provided free of cost with a suitable meal and will be provided with a further suitable meal every four hours thereafter while overtime continues or be paid instead an allowance.	1/07/2013 - 30/06/2014	\$11.3000 per meal
14.3	Uniform allowance	Where employees are required to wear uniforms, these will be provided by the employer at no cost to the employee or, instead, the employer will pay to the employee an allowance.	1/01/2010	\$12.3700 per week.
14.5	Other	MED certificate Excluding any employee employed as a MED, employees required to hold a <u>MED II</u> certificate are to be paid an allowance for the duration of each voyage, charter or tour. (15.74% per day x 7.6 = 119.624% per hour)	1/07/2013 - 30/06/2014	\$25.2391 per day (119.62%)
14.5	Other	MED certificate Excluding any employee employed as a MED, employees required to hold a <u>MED III</u> certificate are to be paid an allowance for the duration of each voyage, charter or tour. (7.87% per day x 7.6 = 59.812% per hour)	1/07/2013 - 30/06/2014	\$12.6195 per day (59.81%)

Clause	Allowance Type	Description	Effective Date	Rate
14.6	Other	<p>Outer reef work</p> <p>Where the itinerary requires outer reef work, a master is to be paid an outer reef allowance for the duration of the voyage, charter or tour.</p> <p>(7.87% per day x 7.6 = 59.812% per hour)</p>	1/07/2013 - 30/06/2014	\$12.6195 per day (59.81%)

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 to meet the genuine needs of the employer and the individual employee:</p> <p>(a) arrangements for when work is performed (b) overtime rates (c) penalty rates (d) allowances (e) leave loading.</p>

Clause	Conditions Type	Description
		Other conditions concerning award flexibility are contained within the Fair Work Act 2009.
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)	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	Part-time conditions (Instrument)	<p>An Overnight Charter Employee or Non-Overnight Charter Employee may be engaged to work on a part-time basis involving a regular pattern of hours which averages less than 38 ordinary hours per week.</p> <p>Overnight charter employee means an employee who is engaged within the classifications in clause 13.1(a) of the award and who is employed by a business that provides overnight accommodation for staff and paying guests.</p> <p>Non-overnight charter employee means an employee who is engaged within the classifications in clause 13.2(a) of the award and who is employed by a business that does not provide overnight accommodation for staff and paying guests.</p> <p>A part-time employee must be engaged for a minimum of two consecutive hours a day. 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 two hours.</p> <p>All terms of this award will apply pro rata to part-time employees.</p>
10.3	Casual conditions (Instrument)	<p>An Overnight Charter Employee or Non-Overnight Charter Employee may be engaged to work on a casual basis. A casual employee:</p> <ul style="list-style-type: none"> - is engaged to work a variety of hours if they are a Non-Overnight Charter Employee or a specified trip or trips if they are an Overnight Charter Employee at the direction of the employer;

Clause	Conditions Type	Description
		<ul style="list-style-type: none"> - if they are an Overnight Charter Employee, must be engaged for a minimum of one half day trip as per clause 20.3, or if they are a Non-Overnight Charter Employee must be engaged for a minimum of two hours per shift and a maximum of 12 hours per shift; - cannot be engaged for more than 38 hours per week if they are a Non-Overnight Charter Employee; and - must be paid the applicable loading as defined in wages provisions.
10.4	Other (Instrument)	<p>Notice to be provided to all employees</p> <p>Upon making an offer of employment to a potential employee, the employer must provide a written notice to the person to whom the offer of employment is addressed stating:</p> <ul style="list-style-type: none"> - whether the person is to be engaged as an Overnight Charter Employee or a Non-Overnight Charter Employee; - whether the person is to be engaged on a full-time, part-time or casual basis; and - the classification level and rate of pay the employee will receive. <p>The engagement of an employee as described in the written notice can only be varied by mutual agreement between the employer and employee, documented in writing.</p> <p>For the purposes of providing potential casual employees with this written notice, the employer must also specify the likely time periods or trips the employee will be required to work.</p>
11.2	Termination of employment - notice of termination by an employee (Instrument)	The notice of termination required to be given by an employee is the same as an employer except there is no requirement to give additional notice based on age. If an employee fails to give the required notice the employer may withhold from any monies due on termination, the difference between the amount of notice required and the amount of notice actually given.
11.3	Termination of employment - job search entitlement (Instrument)	Where an employer has given notice of termination to an employee, an employee must be allowed up to one day's time off without loss of pay for the purpose of seeking other employment. The time off is to be taken at times that are convenient to the employee after consultation with the employer.

Clause	Conditions Type	Description
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>
14.1	Other (Instrument)	<p>Meals and living away from home</p> <p>Whilst on an overnight charter every Overnight Charter Employee will be provided with:</p> <ul style="list-style-type: none"> - proper meals; - a bed; and - clean linen once a week, for which the employer will be responsible for the laundering. <p>Meals, tea, sugar, milk and coffee will be provided on all vessels for all employees under this award at the employer's expense.</p>
15	District allowance (Instrument)	<p>An employee in the Northern Territory or Western Australia is entitled to payment of a district allowance in accordance with the provisions of an award or NAPSA under the Workplace Relations Act 1996 that would have applied to the employee immediately prior to 1 January 2010, if the employee had at that time been in their current circumstances of employment and no agreement-based transitional instrument or enterprise agreement had applied to the employee.</p> <p>This clause ceases to operate on 31 December 2014.</p>

Clause	Conditions Type	Description
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 notional agreement preserving a State award that would have applied to the employee immediately prior to 1 January 2010 or an award made under the Workplace Relations Act 1996 (Cth) that would have applied to the employee immediately prior to 27 March 2006, if the employee had at that time been in their current circumstances of employment and no agreement-based transitional instrument or enterprise agreement had applied to the employee; and - 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	Higher duties (Instrument)	<p>An employee who is required to do work for which a higher rate is fixed than that provided for their ordinary duties will, if such work exceeds a total of four hours on any day, be paid for all work done on such day at the higher rate.</p> <p>If such work does not exceed four hours on any day the employee will be paid the higher rate for the actual time worked.</p>
19	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.
20.2	Hours of work (Instrument)	Ordinary hours of work—Non-Overnight Charter Employees

Clause	Conditions Type	Description																				
		<p>For Non-Overnight Charter Employees the ordinary hours:</p> <ul style="list-style-type: none"> - must not exceed 38 hours per week averaged over a period of 12 months; - must be a minimum of two hours and a maximum of 12 hours on any one day within the spread of hours below; and - may be worked on any day of the week Monday to Saturday between the hours of 6.00 am and 2.00 am the next day or during any other six day period in any week mutually agreed upon between an employer and an employee and of which period the employer has given at least 14 days' written notice to the employee. 																				
20.3	Hours of work (Instrument)	<p>Ordinary hours of work—Overnight Charter Employees</p> <p>For Overnight Charter Employees the ordinary hours:</p> <ul style="list-style-type: none"> - must not exceed 38 hours per week averaged over a period of 12 months; - must not exceed 20 days in any 28 day roster cycle; or - must not exceed a maximum of 12 ordinary hours on any one day. 																				
20.4	Rates of pay (Instrument)	<p>Charters will be paid at the following percentage of the daily rate:</p> <table border="0" style="width: 100%;"> <thead> <tr> <th style="text-align: left;">Charter length</th> <th style="text-align: left;">% of daily rate</th> </tr> </thead> <tbody> <tr> <td>Half day charter *</td> <td>50</td> </tr> <tr> <td>Day charter **</td> <td>100</td> </tr> <tr> <td>1 day/1 night</td> <td>150</td> </tr> <tr> <td>2 days/1 night</td> <td>200</td> </tr> <tr> <td>2 days/2 nights</td> <td>250</td> </tr> <tr> <td>3 days/2 nights</td> <td>300</td> </tr> <tr> <td>3 days/3 nights</td> <td>350</td> </tr> <tr> <td>4 days/3 nights</td> <td>400</td> </tr> <tr> <td>4 days/4 nights</td> <td>450</td> </tr> </tbody> </table> <p>* Half day charter: No nights, with a duration of up to four hours ** Day charter: No nights, with a duration of more than four hours</p> <p>This classifying system continues for all longer trips following the same pattern, and recognises that back to back departures are calculated as a single charter.</p>	Charter length	% of daily rate	Half day charter *	50	Day charter **	100	1 day/1 night	150	2 days/1 night	200	2 days/2 nights	250	3 days/2 nights	300	3 days/3 nights	350	4 days/3 nights	400	4 days/4 nights	450
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20.5	Break between work periods (Instrument)	<p>Employees must not be rostered to work within 10 hours of the cessation of their previous rostered charter or trip.</p> <p>Should an employee be rostered to work so that such employee will not have at least 10 consecutive hours off between rostered duty times then the employee must be released from work until the employee has had 10 consecutive hours off between rostered duty times.</p> <p>If, on the instructions of the employer, such employee resumes or continues work without having had 10 consecutive hours off between rostered periods of duty, the employee will be paid double rates until the employee is released from rostered duty at which stage the employee will be entitled to be absent until the employee has had 10 consecutive hours off rostered duty without loss of pay for ordinary working time occurring during such absence.</p> <p>For the purpose of this provision, eight hours will be substituted for 10 hours where there is a changeover of rosters or where the employee and employer mutually agree in writing to do so.</p>
20.6	Other (Instrument)	<p>Notice to employees regarding employment of more than seven consecutive days</p> <p>Where an employee is to be in employment for more than seven consecutive days, an employer will give as much notice as is reasonably practicable to an employee of the times during which they are to work on days other than their rest days.</p>
20.7	Other (Instrument)	<p>Rest day</p> <p>At the commencement of employment or as soon as practicable thereafter, an employer will inform each employee of the days on which the employee will be required to work and which days are to be rest days. Days may be altered by agreement or by the employer giving at least 14 days' written notice to the employee.</p> <p>All time worked by an employee on a rest day will be overtime and must be paid for a minimum of four hours.</p>
20.8	Other (Instrument)	Make-up time

Clause	Conditions Type	Description
		<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, at the ordinary rate of pay.</p> <p>An employee on shiftwork may elect, with the consent of the employer, to work make-up time at the shiftwork rate which would have been applicable to the hours taken off.</p>
21.1	Breaks - meal (Instrument)	<p>All employees will be allowed time for unpaid meal breaks during the course of their working day provided that the time allowed for such meal must be not less than half an hour.</p> <p>The actual time for a meal will be by agreement between the employee and the employer concerned appropriate to the operational requirements of the particular vessel.</p>
21.2	Breaks - rest (Instrument)	Each employee is entitled to a 10 minute rest pause during the morning and afternoon without loss of pay, to be taken at a time mutually agreed between the employer and the employee.
23.2	Annual leave (Instrument)	<p>Conversion to hourly entitlement</p> <p>An employer may reach agreement with the majority of employees concerned to convert the annual leave entitlement in s.87 of the Act to an hourly entitlement for administrative ease (i.e. 152 hours for a full-time employee entitled to four weeks of annual leave).</p>
23.3	Annual leave loading (Instrument)	The terms of the National Employment Standard (NES) prescribe the basis for payment for annual leave, including payment for untaken leave upon the termination of employment. In addition to the terms of the NES, an employer is required to pay an additional leave loading of 17.5% calculated on an employee's ordinary time rate of pay.
23.4	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 not less than four weeks' notice of the time when such leave is to be taken if:</p> <ul style="list-style-type: none"> - at the time the direction is given, the employee has eight weeks or more 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.

Clause	Conditions Type	Description
23.5	Annual leave - paid leave in advance of accrued entitlement (Instrument)	By agreement between an employer and an employee, a period of annual leave may be taken in advance of the entitlement accruing. Provided that if leave is taken in advance and the employment terminates before the entitlement has accrued the employer may make a corresponding deduction from any money due to the employee on termination.
23.6	Annual leave loading (Instrument)	On termination of employment, an employee entitled to payment in place of annual leave must be paid pro rata the loading provided for in clause 23.3.
26.3	Public holidays (Instrument)	<p>Non-Overnight Charter Employees</p> <p>Non-Overnight Charter Employees who are required to work on Christmas Day will be paid triple time for a minimum of four hours.</p> <p>Non-Overnight Charter Employees who are required to work on public holidays, other than Christmas Day will be paid ordinary time and have an extra day added to their annual leave entitlement or, alternatively, be paid double time for such work.</p> <p>Where the part-time employee's normal rostered hours fall on a public holiday prescribed in the National Employment Standard and work is not performed by the employee, such employee must not lose pay for the day.</p>
14.4	Reimbursement of expenses (Instrument)	If, by fire, explosion, foundering, shipwreck, collision, stranding or any other cause whatsoever not attributable to the employee's neglect, an employee should sustain damage to or loss of their personal effects or equipment, such equipment being necessary for the performance of their duties, the employer will compensate the employee for such damage or loss by cash payment equivalent to the value thereof to a maximum of \$1079.00, provided that this amount or any part thereof will not be payable where loss is recovered through workers compensation insurance.

Frequency of Payment

Wages will be paid either weekly or fortnightly. Payment will be made to the employee no later than Thursday in each pay cycle.

The employer may elect to pay wages either in cash or by electronic funds transfer into an account nominated by the employee with a bank or other financial institution. Provided that the employer and an employee may agree that wages be paid in cash.

Where a public holiday falls on the normal pay day or the day following the normal pay day, the wages will be paid on the ordinary working day preceding the normal pay day, or on another day if agreed between the employer and an employee.

IMPORTANT NOTE: Disclaimer

The Fair Work Ombudsman is committed to providing advice that you can rely on.

The information contained in this guide is general in nature. If you are unsure about how it applies to your situation you can call our Infoline on 13 13 94 or speak with a union, industry association or workplace relations professional.