



Australian Government

# Fair Work

## OMBUDSMAN

### PAY AND CONDITIONS GUIDE

**Car Parking Award 2010 [MA000095]** ('modern award')  
replacing terms and conditions in or derived from

**Car Park Attendants Award - South Eastern Division 2005**  
**[AN140053]** ('pre-modern award')

**(QLD)**

Effective from 01 July 2013.

Published 20 June 2013 

#### **Background**

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

#### **Transitional arrangements**

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

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

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

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

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

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

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

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

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

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

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

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

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

The guide contains information from this modern award about:

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

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

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

However, the penalty rates and allowances in the modern award do not apply to agreement-covered employees, unless the agreement is read in conjunction with the

modern award (e.g. a pre-reform certified agreement (a type of collective agreement made before 27 March 2006)).

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

## **Coverage**

This industry award covers employers throughout Australia in the car parking industry and their employees in the classifications listed in this modern award to the exclusion of any other modern award. The award does not cover employers covered by the following modern awards:

- Clerks - Private Sector Award 2010
- General Retail Industry Award 2010
- Hospitality Industry (General) Award 2010
- Local Government Industry Award 2010
- Security Services Industry Award 2010.

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 car parking 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. This subclause operates subject to the exclusions from coverage in this award.

This award covers employers which provide group training or related temporary employment services for trainees engaged in the car parking industry and/or parts of such industry and those trainees engaged by a group training or related temporary employment 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](http://www.fairwork.gov.au)

### Casual employees

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

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

\*Post 26 March 2006 employer

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

### Adult

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

### Full & Part Time Car parking officer

| Modern award classification | Pre-modern award classification | Base rate of pay (hourly) |
|-----------------------------|---------------------------------|---------------------------|
| Level 1                     | Car park attendant, Level 1     | \$17.17                   |
| Level 2                     | Car park attendant, Level 2     | \$17.76                   |
| Level 2                     | Car park attendant, Level 3     | \$17.82                   |
| Level 3                     | Car park attendant, Level 4     | \$18.51                   |
| Level 3                     | Car park attendant, Level 5     | \$18.51                   |

### Casual Car parking officer

| Modern award classification | Pre-modern award classification | Base rate of pay (hourly) |
|-----------------------------|---------------------------------|---------------------------|
| Level 1                     | Car park attendant, Level 1     | \$21.40 (24.6%)           |
| Level 2                     | Car park attendant, Level 2     | \$22.13 (24.6%)           |
| Level 2                     | Car park attendant, Level 3     | \$22.21 (24.6%)           |
| Level 3                     | Car park attendant, Level 4     | \$23.06 (24.6%)           |
| Level 3                     | Car park attendant, Level 5     | \$23.06 (24.6%)           |

## **Junior**

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

## **Apprentice**

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

## **Trainee**

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

## **Supported Wage**

Please refer to clause 14.2 of the modern award.

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

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

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

## **Transitional arrangements**

This modern award includes transitional arrangements that apply to loading/penalty entitlements where there is a difference in modern award and pre-modern award loading/penalty entitlements. Transitional arrangements apply from the first pay period on or after 01 July 2010 until the first pay period on or after 01 July 2014 (when modern award loadings/penalties apply in full).

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

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

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

## **Equivalent entitlements**

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

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

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

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

*Example:*

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

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

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

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

*Example:*

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

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

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

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

## **Allowances**

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

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

| <b>Clause</b> | <b>Allowance Type</b> | <b>Description</b>  | <b>Effective Date</b> | <b>Rate</b>       |
|---------------|-----------------------|---|-----------------------|-------------------|
| 15.3          | Meal allowance        | <p>An employee required to work two or more hours of overtime without being notified by at least the previous day will be paid a meal allowance or provided with a meal.</p> <p>If an employee provides their own meal/s for an overtime period, and is not required to complete the full overtime period or a part of this period, they will be provided the meal allowance for meal/s they have provided.</p> | 1/07/2013             | \$9.3100 per meal |

### **Full Time**

| <b>Clause</b> | <b>Allowance Type</b> | <b>Description</b>  | <b>Effective Date</b> | <b>Rate</b>        |
|---------------|-----------------------|---|-----------------------|--------------------|
| 15.2(a)       | Laundry               | Where a full time employee is required to launder their uniform, they will be paid a laundry allowance. | 1/07/2013             | \$11.3800 per week |

### **Full Time, Part Time**

| Clause | Allowance Type      | Description  | Effective Date | Rate   |
|--------|---------------------|--|----------------|--|
| 15.1   | First aid allowance | An employee who is qualified in first aid and appointed by the employer to perform first aid, will be paid an allowance per week. Pro rata if part time. | 1/07/2013      | \$0.4527 per hour.<br><br>This weekly allowance has been converted to an hourly amount. It should be applied to all ordinary hours of work (up to a maximum of 38 hours per week). (2.54%) |

#### Part Time, Casual

| Clause | Allowance Type | Description   | Effective Date | Rate                      |
|--------|----------------|---|----------------|---------------------------|
| 15.2   | Laundry        | Where a part time or casual employee is required to launder their uniform, they will be paid a laundry allowance. | 1/07/2013      | \$2.2400 per shift worked |

## **Other Conditions**

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

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

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

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

| <b>Clause</b> | <b>Conditions Type</b>             | <b>Description</b>  |
|---------------|------------------------------------|---|
| 7             | Award flexibility<br>(Instrument)  | <p>An employer and an individual employee may agree to vary the following terms of this award to meet the genuine needs of the employer and the individual employee with respect to:</p> <ul style="list-style-type: none"><li>- arrangements for when work is performed</li><li>- overtime rates</li><li>- penalty rates</li><li>- allowances</li><li>- leave loading.</li></ul> <p>Other conditions concerning award flexibility are contained within the Fair Work Act 2009.</p> |
| 8             | Consultation<br>(Instrument)       | <p>The award contains information on the employer's responsibility to consult regarding major workplace change including the:</p> <ul style="list-style-type: none"><li>- duty to notify, and</li><li>- duty to discuss change.</li></ul>   |
| 9             | Dispute resolution<br>(Instrument) | <p>The award sets out a dispute resolution procedure for dealing with disputes in relation to a matter under the award or the National Employment Standards (NES).</p>  |

| <b>Clause</b> | <b>Conditions Type</b>   | <b>Description</b>  |
|---------------|--|---|
| 10.4          | Part-time conditions<br>(Instrument)   | At the time of employment, both parties will agree in writing on the hours worked each day, which days of the week they will work and the starting and finishing times each day. Any changes will be agreed and in writing.<br><br>A part-time employee must be provided with a minimum of three hours per shift.   |
| 10.5          | Casual conditions<br>(Instrument)  | A casual employee is required one hour's notice of termination by either party.<br><br>A casual employee must be provided with a minimum of three hours per shift.  |
| 11.2          | Termination of employment - notice of termination by an employee<br>(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<br>(Instrument)               | Where an employer has given notice of termination to an employee, an employee must be allowed up to one day's time off without loss of pay for the purpose of seeking other employment. The time off is to be taken at times that are convenient to the employee after consultation with the employer.  |
| 12.2          | Redundancy - transfer to lower paid duties<br>(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<br>(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<br>(Instrument)                              | An employee given notice of termination in circumstances of redundancy must be allowed up to one day's time off without loss of pay during each week of notice for the purpose of seeking other employment.<br><br>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. |

| Clause | Conditions Type                                   | Description  |
|--------|---|--|
| 12.5   | Redundancy - transitional provisions (Instrument) | <p>An employee is entitled to redundancy pay in accordance with the NAPSA that would have applied immediately prior to 1 January 2010 and that would have entitled the employee to redundancy pay in excess of the employee's entitlement under the NES. This includes employees engaged after 1 January 2010.</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> |
| 15.4   | Travelling time (Instrument)                      | <p>An employee transferred to another worksite by the employer on the same day will be paid for the time spent in travelling as time worked. An employee will be reimbursed all reasonably incurred travel costs.</p>  |
| 15.5   | Accommodation (Instrument)                        | <p>An employee required to live away from home will be paid a minimum of eight hours work for each day that they work within their ordinary hours, as well as any penalty rates for actual time worked.</p> <p>An employee working outside their ordinary hours of work, while living away from home, will be paid for a minimum of twelve hours, as well as any penalty rates for actual time worked.</p> <p>An employee living away from home will be paid an allowance to cover the cost of their reasonable board and lodging.</p>   |
| 16.1   | District allowance (Instrument)                   | <p>An employee in the Northern Territory 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>   |
| 16.2   | District allowance (Instrument)                   | <p>An employee in 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>  |

| Clause | Conditions Type                   | Description   |
|--------|-----------------------------------|---|
|        |                                   | This clause ceases to operate on 31 December 2014.  |
| 17     | Accident pay<br>(Instrument)      | <p>An employee is entitled to accident pay in accordance with the terms of:</p> <ul style="list-style-type: none"> <li>- a NAPSA that would have applied to the employee immediately prior to 1 January 2010 or an award made under the Workplace Relations Act 1996 (Cth) that would have applied to the employee immediately prior to 27 March 2006, if the employee had at that time been in their current circumstances of employment and no agreement made under the Workplace Relations Act 1996 (Cth) had applied to the employee, and</li> <li>- 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.</li> </ul> <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> |
| 18     | Higher duties<br>(Instrument)     | <p>An employee performing work carrying a higher minimum wage, for more than four hours during one day or shift, must be paid the higher rate for the day or shift.</p> <p>An employee performing work carrying a higher minimum wage, for less than four hours during one day or shift, must be paid the higher rate for the time so worked.</p>   |
| 19     | Method of payment<br>(Instrument) | <p>An employer may pay an employee's wages by electronic funds transfer into a bank or financial institution nominated by the employee or by cash or cheque.</p> <p>If payment is by cash or cheque, wages will be paid during ordinary working hours.</p>  |
| 20     | Superannuation<br>(Instrument)    | <p>The award contains information on:</p> <ul style="list-style-type: none"> <li>- superannuation legislation;</li> <li>- employer contributions;</li> </ul>  |

| Clause  | Conditions Type               | Description   |
|---------|-------------------------------|---|
|         |                               | <ul style="list-style-type: none"> <li>- voluntary employee contributions; and</li> <li>- superannuation fund.</li> </ul>   |
| 21.1    | Hours of work<br>(Instrument) | <p>The ordinary hours of work are 38 hours per week or an average of 38 hours per week over:</p> <ul style="list-style-type: none"> <li>- 76 hours in any period of two weeks; or</li> <li>- 114 hours in any period of three weeks; or</li> <li>- 152 hours in any period of four weeks.</li> </ul> <p>Day workers – ordinary hours are:</p> <ul style="list-style-type: none"> <li>- between 7.00am and 7.00pm any day</li> <li>- up to a maximum of 7.6 hours per day or 10 hours by agreement with employee</li> <li>- no more than 3 ten hour days in a row without a 48 hour break and no more than 8 ten hour days in a four week cycle.</li> </ul> <p>Shiftworkers – ordinary hours are:</p> <ul style="list-style-type: none"> <li>- any day up to a maximum of 7.6 hours per day or 10 hours by agreement with majority of employees to allow rostered day off system.</li> </ul> |
| 21.1(d) | Other<br>(Instrument)         | <p>The following is considered time worked and should be paid:</p> <ul style="list-style-type: none"> <li>- rest periods;</li> <li>- time spent filling in or making time records or cards (other than checking in or out upon entering or leaving business);</li> <li>- time spent attending court in connection with employment; and</li> <li>- time spent in required training.</li> </ul>   |
| 21.2    | Roster<br>(Instrument)        | Employer must notify employee when they are required to start and finish work. Roster may be changed with seven days notice unless otherwise agreed or in the event of an emergency.  |
| 22.1    | Breaks - meal<br>(Instrument) | An employee will be provided an unpaid meal break of at least 30 minutes per day or shift, which must be taken within 5 hours of the employee beginning work. Where can not leave their work station for the meal break, it will be counted as time worked and paid at the ordinary rate.   |
| 22.2    | Breaks - rest<br>(Instrument) | An employee will be provided with a rest period of 10 minutes in the morning and afternoon on each day worked. They are to be taken at the business and will be counted as time worked.   |

| Clause | Conditions Type  | Description   |
|--------|--|---|
|        |  | By agreement, an afternoon rest break can be taken immediately before or after lunch, or immediately prior to finishing work. The rest periods may also be staggered to meet the needs of the business.   |
| 23.3   | Rest period after overtime duty (Instrument)                             | An employee (other than a casual), who works so much overtime that the employee does not have 10 hours off duty between ordinary shifts, will be provided with a break of ten hours without loss of pay for ordinary working time occurring within the break.   |
| 24     | Minimum engagements (Instrument)   | If an employee is required to report for duty and does so, they will receive a minimum of three hours' work or payment at the appropriate rate.   |
| 25.3   | Annual leave - paid leave in advance of accrued entitlement (Instrument) | By agreement, annual leave may be taken in advance of being accrued. Provided that if leave is taken in advance and the employment terminates before the entitlement has accrued the employer may make a deduction from any money due to the employee on termination.   |
| 25.4   | Annual leave - close-down (Instrument)                                   | <p>Where an employer closes the business to, among other things, allow employees to take annual leave, the employer must provide:</p> <ul style="list-style-type: none"> <li>- one month's notice in writing of employer's intention</li> <li>- any employee with accrued annual leave, will be given paid annual leave for the close down</li> <li>- any employee without accrued annual leave will be given leave without pay for the close down period and paid for any public holidays, they would normally have been entitled to, that occur during close down.</li> </ul> |
| 25.5   | Annual leave - excessive leave (Instrument)                              | If agreement about when to take annual leave can genuinely not be reached between employer and employee, the employer can direct the employee to take annual leave by giving at least four weeks' notice. However, the employee must have accrued at least 8 weeks of annual leave and can only be directed to take at most a quarter of their accrued annual leave.  |
| 25.6   | Annual leave loading (Instrument)  | <p>Before starting annual leave the employee must be paid the amount they would have been paid for working ordinary hours had they not been on leave. They must also receive either:</p> <ul style="list-style-type: none"> <li>- an additional loading of 17.5% of the minimum ordinary rate, as per the award, and the first aid allowance if normally paid to the employee; or</li> </ul>  |

| Clause | Conditions Type                                 | Description   |
|--------|---|---|
|        |   | - if employee is a shiftworker, their appropriate shift penalty, whichever is greater.  |
| 28     | Substitution of public holidays<br>(Instrument) | By agreement between the employer and the majority of employees in a business, another day may be substituted for a public holiday.   |
| 29     | Transfer of employee<br>(Instrument)            | An employee may be transferred for operational reasons, from one location to another location within 5 kilometres of the original location, without prejudice to either the employer or the employee. |

### **Frequency of Payment**

Wages, including overtime, penalties and allowances, must be paid weekly or fortnightly. Payment will be made to the employee no later than Friday in each pay week. Where a public holiday occurs on a pay day the employee must be paid on the day preceding the usual pay day.

**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.