



Australian Government

# Fair Work

## OMBUDSMAN

### PAY AND CONDITIONS GUIDE

#### **Professional Diving Industry (Industrial) Award 2010**

**[MA000108]** ('modern award')

replacing terms and conditions in or derived from

#### **Professional Divers' - Maritime Union of Australia Award 2002**

**[AP814932]** ('pre-modern award')

**(ACT, NSW, NT, QLD, SA, TAS, VIC, WA)**

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 engaged in the provision of underwater services to industry, including offshore exploration and development diving and related shipboard services, and their employees in the classifications listed in Schedule B—Classification Structure to the exclusion of any other modern award.

Australia means all areas within the Commonwealth of Australia or within the adjacent areas as defined in the Petroleum (Submerged Lands) Acts (State or Federal) and/or such areas that fall within the territorial jurisdiction of the Commonwealth of Australia.

The award does not cover employers and employees covered by the classifications listed in the Professional Diving Industry (Recreational) 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 industry set out in clause 4.1 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.

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 Time

Modern award classification	Pre-modern award classification	Base rate of pay (hourly)
<b>Offshore diver</b>		
Diving superintendent	Offshore, Diving superintendent	\$53.03
Diving supervisor	Offshore, Diving supervisor	\$49.25
Supervisor (ADS operations)	Offshore, Supervisor (ADS Operations)	\$49.25
Hyperbaric welder	Offshore, Hyperbaric welder	\$47.47
Life support technician	Offshore, Life support technician	\$44.47
Senior operator (OMB operations)	Offshore, Senior operator (OMB operations)	\$44.47
Systems maintenance technician	Offshore, Systems maintenance technician	\$41.34
Diver	Offshore, Diver	\$38.36
Operator (ADS operations)	Offshore, Operator (ADS Operations)	\$38.36
Diver's attendant	Offshore, Diver's attendant	\$32.68
<b>Inshore diver</b>		
Diving supervisor	Inshore, Diving supervisor	\$35.52
Hyperbaric welder	Inshore, Hyperbaric welder	\$27.54

<b>Modern award classification</b>	<b>Pre-modern award classification</b>	<b>Base rate of pay (hourly)</b>
Diver	Inshore, Diver	\$26.33
Diver's attendant	Inshore, Divers attendant	\$21.64

### **Casual**

<b>Modern award classification</b>	<b>Pre-modern award classification</b>	<b>Base rate of pay (hourly)</b>
<b>Inshore diver</b>		
Diving supervisor	Inshore, Diving supervisor	\$44.04 (24%)
Hyperbaric welder	Inshore, Hyperbaric welder	\$34.16 (24%)
Diver	Inshore, Diver	\$32.65 (24%)
Diver's attendant	Inshore, Divers attendant	\$26.83 (24%)

### **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.

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

### Entitlements that are not equivalent

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

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

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

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

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

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

#### Example:

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

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

<b>1/01/2014</b>	<b>1/07/2010</b>
<b>Modern award penalty</b>	<b>Penalty rate (phased)</b>
	<b>(20.00%)</b>
10.00%	2.00%
20.00%	4.00%
25.00%	5.00%
50.00%	10.00%

<b>1/01/2010</b>	<b>1/07/2010</b>
<b>Pre-modern award penalty</b>	<b>Penalty rate (phased)</b>
	<b>(80.00%)</b>
10.00%	8.00%
20.00%	16.00%
25.00%	20.00%
50.00%	40.00%

<b>1/01/2014</b>	<b>1/07/2010</b>
<b>Modern award penalty</b>	<b>Penalty rate (phased)</b>
	<b>(20.00%)</b>
75.00%	15.00%
100.00%	20.00%
120.00%	24.00%
125.00%	25.00%
130.00%	26.00%
150.00%	30.00%

<b>1/01/2010</b>	<b>1/07/2010</b>
<b>Pre-modern award penalty</b>	<b>Penalty rate (phased)</b>
	<b>(80.00%)</b>
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**

<b>Clause</b>	<b>Allowance Type</b>	<b>Description</b>	<b>Effective Date</b>	<b>Rate</b>
14.1	Disabilities allowance	<p><b>Offshore divers</b></p> <p>A <u>full time employee</u> will be paid a disability allowance for each on duty day on a support vessel whether dynamically positioned or anchor moored in recognition of all disabilities and work requirements associated with living and working from such a vessel.</p> <p>The amount reflects payment for the on-duty and off-duty period.</p> <p>(8% per week x 38 = 304% per hour)</p>	1/07/2013	\$57.5920 per day (304.00%)
14.8b	Clothing allowance	<p><b>Offshore divers</b></p> <p>A full-time employee required to supply and maintain their own wet suit and approved safety footwear, will be paid a clothing and equipment allowance per calendar month.</p> <p>This allowance does not apply where employer provides clothing and equipment.</p>	1/01/2010	\$108.6100 per calendar month

### **Casual**

Clause	Allowance Type	Description	Effective Date	Rate
14.1	Disabilities allowance	<p><b>Offshore divers</b></p> <p>A casual employee will be paid a disability allowance for each on duty day on a support vessel whether dynamically positioned or anchor moored in recognition of all disabilities and work requirements associated with living and working from such a vessel.</p> <p>The amount reflects payment for the on-duty and off-duty period.</p> <p>(9.49% per week x 38 = 360.620000% per hour)</p>	1/07/2013	\$68.3185 per day (360.62%)
14.8b	Clothing allowance	<p><b>Offshore divers</b></p> <p>A casual employee required to supply and maintain their own wetsuit and approved safety footwear, will be paid a clothing and equipment allowance per day.</p> <p>This allowance does not apply where employer provides clothing and equipment.</p>	1/01/2010	\$8.7500 per day
15.9b	Clothing allowance	<p><b>Inshore divers</b></p> <p>A casual employees may, instead of being provided with footwear by the employer, be paid a protective clothing, footwear and equipment allowance per day of employment for the purchase of approved safety footwear.</p> <p>This allowance will not apply where safety footwear is not required to be worn.</p>	1/01/2010	\$2.5300 per day

**Full Time, Casual**

Clause	Allowance Type	Description	Effective Date	Rate
14.2a	Other	<p><b>Offshore divers</b></p> <p>In addition to an employee's ordinary rate, a Diver, diving in other than ADS Operations, will be paid a diving allowance per metre or per foot or equivalent pressure.</p> <p>The minimum payment will be 50 times the diving allowance per foot, except where a Diver is engaged in a dive using saturation techniques where the minimum allowance will be 250 times the diving allowance per foot.</p> <p>Allowance is payable once for greatest depth or equivalent pressure in each period worked.</p> <p>A period worked begins when the diver enters the water or is subject to greater than atmospheric pressure and ends 12 hours later. Further 12 hour periods begin again if at the end of a period worked or a further period worked, a Diver is still subject to greater than atmospheric pressure.</p> <p>This allowance will not apply to an employee performing practice or training dives or an Operator (ADS Operations) within the first 12 month period.</p> <p>(0.47% per week x 38 = 17.86% per hour)</p>	1/07/2013	\$3.3835 per metre (17.86%)
14.2a	Other	<p><b>Offshore divers</b></p>	1/07/2013	\$1.0079 per foot (5.32%)

Clause	Allowance Type	Description	Effective Date	Rate
		<p>In addition to an employee's ordinary rate, a Diver, diving in other than ADS Operations, will be paid a diving allowance per metre or per foot or equivalent pressure.</p> <p>The minimum payment will be 50 times the diving allowance per foot, except where a Diver is engaged in a dive using saturation techniques where the minimum allowance will be 250 times the diving allowance per foot.</p> <p>Allowance is payable once for greatest depth or equivalent pressure in each period worked.</p> <p>A period worked begins when the diver enters the water or is subject to greater than atmospheric pressure and ends 12 hours later. Further 12 hour periods begin again if at the end of a period worked or a further period worked, a Diver is still subject to greater than atmospheric pressure.</p> <p>This allowance will not apply to an employee performing practice or training dives or an Operator (ADS Operations) within the first 12 month period.</p> <p>(0.14% per week x 38 = 5.32% per hour)</p>		
14.2b	Other	<p><b>Offshore divers</b></p> <p>In addition to the employee's ordinary rate, a Senior Operator (OMB Operations) and Operator (ADS Operations) will be paid a diving allowance per metre or per foot.</p> <p>The minimum payment will be 250 times the diving allowance per foot, which will be only payable once in respect of dives commenced within a 12 hour period.</p>	1/07/2013	\$1.6558 per metre (8.74%)

Clause	Allowance Type	Description	Effective Date	Rate
		<p>This allowance will not apply to an employee performing practice or training dives or an Operator (ADS Operations) within the first 12 month period.</p> <p>(0.23% per week x 38 = 8.74% per hour)</p>		
14.2b	Other	<p><b>Offshore divers</b></p> <p>In addition to the employee's ordinary rate, a Senior Operator (OMB Operations) and Operator (ADS Operations) will be paid a diving allowance per metre or per foot.</p> <p>The minimum payment will be 250 times the diving allowance per foot, which will be only payable once in respect of dives commenced within a 12 hour period.</p> <p>This allowance will not apply to an employee performing practice or training dives or an Operator (ADS Operations) within the first 12 month period.</p> <p>(0.07% per week x 38 = 2.66% per hour)</p>	1/07/2013	\$0.5039 per foot (2.66%)
14.3	Other	<p><b>Offshore divers</b></p> <p>Employees engaged in non-destructive testing of structures by the methods of magnetic particle testing, ultrasonic testing and radiography will be paid an allowance for each day or part thereof on which they are engaged in such duties.</p> <p>(7.04% per week x 38 = 267.52% per hour)</p>	1/07/2013	\$50.6810 per day (267.52%)
14.4b	Other	<p><b>Offshore divers</b></p>	1/07/2013	\$4.1754 per linear millimetre (22.04%)

Clause	Allowance Type	Description	Effective Date	Rate
		<p>A Hyperbaric Welder will be entitled to a hyperbaric welder allowance per linear millimetre for a successfully completed weld, that is a weld which has been accepted by the client without the necessity for repair.</p> <p>This allowance will only apply to members of the nominated hyperbaric welding team who have been coded for that particular hyperbaric welding task.</p> <p>(0.58% per week x 38 = 22.04% per hour)</p>		
14.4c	Other	<p><b>Offshore divers</b></p> <p>A Hyperbaric Welder will be entitled to a hyperbaric welder allowance per linear millimetre for a weld which requires repair prior to being accepted by the client.</p> <p>This allowance will only apply to members of the nominated hyperbaric welding team who have been coded for that particular hyperbaric welding task.</p> <p>(0.39% per week x 38 = 14.82% per hour)</p>	1/07/2013	\$2.8076 per linear millimetre (14.82%)
14.6	Other	<p><b>Offshore divers</b></p> <p>A Living away from home allowance per day or part thereof of their duty period offshore or in circumstances where employees would normally be working offshore and are temporarily accommodated onshore away from their home.</p>	1/07/2013	\$47.3400 per day

Clause	Allowance Type	Description	Effective Date	Rate
		<p>With the exception of annual leave, the allowance will not apply during periods of leave or authorised absences nor during periods in which the employee is specifically engaged on shore-based duties including equipment mobilisation or demobilisation where the employee is able to live at home.</p>		
15.1	Other	<p><b>Inshore divers</b></p> <p>A Diver will be paid a diving allowance per metre or per foot of water or equivalent pressure.</p> <p>Such allowance is paid once in respect of the greatest depth or equivalent pressure incurred each day.</p> <p>This allowance will only apply to dives made in excess of 50 feet or 15 metres of water or equivalent pressure or when decompression is necessary whichever will occur first.</p> <p>This allowance will not apply where the employee is performing practice or training dives.</p> <p>(0.43% per week x 33 = 14.19% per hour)</p>	1/07/2013	\$3.7423 per metre (14.19%)
15.1	Other	<p><b>Inshore divers</b></p> <p>A Diver will be paid a diving allowance per metre or per foot of water or equivalent pressure.</p> <p>Such allowance is paid once in respect of the greatest depth or equivalent pressure incurred each day.</p>	1/07/2013	\$1.1314 per foot (4.29%)

Clause	Allowance Type	Description	Effective Date	Rate
		<p>This allowance will only apply to dives made in excess of 50 feet or 15 metres of water or equivalent pressure or when decompression is necessary whichever will occur first.</p> <p>This allowance will not apply where the employee is performing practice or training dives.</p> <p>(0.13% per week x 33 = 4.29% per hour)</p>		
15.2	Other	<p><b>Inshore divers</b></p> <p>Employees performing non-destructive testing of structures by the methods of magnetic particle testing, ultrasonic testing and radiography will be paid a non-destructive testing allowance per day or part thereof when completing these duties.</p>	1/07/2013	\$56.6565 per day or part thereof (214.83%)
15.3	Other	<p><b>Inshore divers</b></p> <p>A Hyperbaric Welder will be entitled to a hyperbaric welding allowance per linear millimetre for a successfully completed weld. That is, a weld which has been accepted by the client without the necessity for repair.</p> <p>This allowance will only apply to members of the nominated hyperbaric welding team who have been coded for the particular hyperbaric welding task.</p> <p>(0.49% per week x 33 = 16.17% per hour)</p>	1/07/2013	\$4.2645 per linear millimetre (16.17%)
15.3c	Other	<p><b>Inshore divers</b></p> <p>A Hyperbaric Welder will be paid a hyperbaric welding allowance per linear millimetre for a weld which</p>	1/07/2013	\$2.8720 per linear millimetre (10.89%)

Clause	Allowance Type	Description	Effective Date	Rate
		requires repair prior to being accepted by the client.  This allowance will only apply to members of the nominated hyperbaric welding team who have been coded for the particular hyperbaric welding task.		
15.5	Meal allowance	<b>Inshore divers</b>  Employees who are required to work more than two hours of overtime on any day after the usual finishing time will be paid a meal allowance  This allowance will not apply where the employee is notified the previous day of the overtime or a hot meal is provided by the employer.  However if employees are notified that they will be required to work overtime the following day and such order is cancelled after they have left work on the day on which they were notified they will then be paid the meal allowance.	1/07/2013	\$8.0100 per meal
15.6	Fares allowance	<b>Inshore divers</b>  Employees who begin and end work within a 50 km radius of the General Post Office in the city or town in which the employer's business address is situated will receive a fare allowance per day.	1/07/2013	\$11.3500 per day
15.7c	Travel allowance	An employee will be paid an allowance to cover the expenses, if any, of reaching home and of transporting their personal diving equipment.	1/07/2013	\$5.8300 per occasion
15.7e	Accommodation allowance	<b>Inshore divers</b>	1/07/2013	\$305.1100 per week

Clause	Allowance Type	Description	Effective Date	Rate
		<p>Distant work employees may be paid, by agreement with the employer, a distant work allowance per week, or a greater amount than the allowance may be agreed upon, in return for which employees will be responsible for securing their own accommodation and meals.</p> <p>A separate allowance applies where broken parts of a week occur at the beginning or ending of the employment on a distant job.</p> <p>This allowance will not apply if the employer provides reasonable board and lodging.</p>		
15.7e	Accommodation allowance	<p><b>Inshore divers</b></p> <p>A distant work allowance will be paid, by agreement with the employer, in return for which employees will be responsible for securing their own accommodation and meals. This allowance applies where broken parts of a week occur at the beginning or ending of the employment on a distant job and is paid per day.</p> <p>Should both parties agree on a higher weekly allowance, the daily amount will be one seventh of the agreed amount.</p> <p>This allowance will not apply if the employer provides reasonable board and lodging.</p>	1/07/2013	\$43.6300 per day
15.7f	Vehicle allowance	<p><b>Inshore divers</b></p> <p>Employees who consent to use their own vehicle in the course of their employment will be paid a vehicle allowance per kilometre.</p>	1/07/2013	\$0.7600 per kilometre

Clause	Allowance Type	Description	Effective Date	Rate
		This allowance is for the use of the vehicle by the employee for transporting the employee and the employee's personal diving equipment.		
15.8	Clothing allowance	<b>Inshore divers</b>  Employees who supply their own wet suits and personal diving equipment including weightbelt and diving knife will be paid, a clothing and equipment allowance per day on each day on which the equipment is used.	1/01/2010	\$7.0800 per day

### **Other Conditions**

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

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

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

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

Clause	Conditions Type	Description
7	Award flexibility (Instrument)	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

Clause	Conditions Type	Description
		<ul style="list-style-type: none"> <li>- allowances</li> <li>- leave loading.</li> </ul> <p>Other conditions concerning award flexibility are contained within the Fair Work Act 2009.</p>
8	Consultation (Instrument)	<p>The award contains information on the employer's responsibility to consult regarding major workplace change including the:</p> <ul style="list-style-type: none"> <li>- duty to notify, and</li> <li>- duty to discuss change.</li> </ul>
9	Dispute resolution (Instrument)	<p>The award sets out a dispute resolution procedure for dealing with disputes in relation to a matter under the award or the National Employment Standards (NES).</p>
10.2	Full-time conditions (Instrument)	<p>Inshore divers must be employed by the week.</p> <p>Offshore divers, employment for the first four weeks will be on a weekly basis and thereafter will be on a calendar month basis.</p> <p>A full-time employee works an average of 38 ordinary hours per week.</p> <p>Where employed less than four weeks, employees will be paid casual rates.</p>
10.3	Casual conditions (Instrument)	<p>A casual employee will be paid a minimum payment of eight hours, except where required to attend for work at the usual starting time but not required to start work. They must then be paid four hours' pay plus fares and travelling time, as per the award.</p> <p>The casual loading constitutes part of the casual employee's all purpose rate.</p> <p>Casual employment is to be terminated by four hours' notice on either side, or by the payment or forfeiture of four hours' wages as the case may be.</p>
11.2	Termination of employment - notice of	<p>The notice of termination required to be given by an employee is the same as an employer except there is no requirement to give additional notice based on age. If an employee fails to give the required notice the</p>

<b>Clause</b>	<b>Conditions Type</b>	<b>Description</b>
	termination by an employee (Instrument)	employer may withhold from any monies due on termination, the difference between the amount of notice required and the amount of notice actually given.
11.3	Termination of employment - job search entitlement (Instrument)	Where an employer has given notice of termination to an employee, an employee must be allowed up to one day's time off without loss of pay for the purpose of seeking other employment. The time off is to be taken at times that are convenient to the employee after consultation with the employer.
12.2	Redundancy - transfer to lower paid duties (Instrument)	Where an employee is transferred to lower paid duties by reason of redundancy, the same period of notice must be given as the employee would have been entitled to if the employment had been terminated. Alternatively, the employer may choose to pay the employee the difference between the former ordinary time rate of pay and the new ordinary time rate of pay for the number of weeks of notice still owing.
12.3	Redundancy - employee leaving during notice period (Instrument)	An employee given notice of termination in circumstances of redundancy may terminate their employment during the period of notice. The employee is entitled to receive the benefits and payments they would have received had they remained in employment until the expiry of the notice, but is not entitled to payment instead of notice.
12.4	Redundancy - job search entitlement (Instrument)	An employee given notice of termination in circumstances of redundancy must be allowed up to one day's time off without loss of pay during each week of notice for the purpose of seeking other employment.  If the employee has been allowed paid leave for more than one day, the employee must, by request, produce proof of attendance at an interview or they will not be entitled to payment for the time absent. For this purpose a statutory declaration is sufficient.
12.5	Redundancy - transitional provisions (Instrument)	An employee is entitled to redundancy pay in accordance with the NAPSA that would have applied immediately prior to 1 January 2010 and that would have entitled the employee to redundancy pay in excess of the employee's entitlement under the NES. This includes employees engaged after 1 January 2010.  The entitlement to redundancy pay under the NAPSA is limited to the amount which exceeds the entitlement under the NES.  This clause does not reduce an employee's entitlement to redundancy pay under any other instrument and ceases to operate on 31 December 2014.

<b>Clause</b>	<b>Conditions Type</b>	<b>Description</b>
13.2	Other (Instrument)	<p>An aggregate weekly factor is incorporated into the offshore divers' minimum rate, this factor includes payment for the various rosters that may be worked, overtime, the nature of the industry, penalties and conditions of employment applicable to the work performed.</p> <p>In order to calculate the minimum monthly wages, an employee's relevant hourly rate should be multiplied by 38, and then multiplied by 4.35.</p>
14.2a(ii)	Other (Instrument)	<p><b>Offshore divers - hyperbaric welder</b></p> <p>The minimum hourly rate for a hyperbaric welder will apply from the date the employee is required to carry out those duties until the date the employee is no longer required to complete those duties.</p>
14.2c	Other (Instrument)	<p><b>Offshore divers</b></p> <p>Underwater services must not be performed for the employer during practice or training dives.</p>
14.2d	Allowances and special rates (Instrument)	<p><b>Offshore divers</b></p> <p>Diving Superintendents, Diving Supervisors and Supervisors (ADS Operations) will receive 20% and Life Support Technicians will receive 15% of the average diving allowance paid to Divers or Operators (ADS Operations) under their control.</p> <p>Average diving allowance is calculated daily by dividing the total diving allowance earned in each day or part thereof by Divers or Operators (ADS Operations) under the control of a Diving Superintendent, Diving Supervisor or Supervisor (ADS Operations) by the number of Divers or Operators (ADS Operations) who earned a diving allowance in that day.</p> <p>Surface oriented dives made in conjunction with saturation diving operations must be calculated separately for the purpose of calculating the average diving allowance.</p>
14.7	Travelling time (Instrument)	<p><b>Offshore divers - transportation and accommodation allowance</b></p> <p>At the beginning and end of each on-duty period, the employer must provide transport between the designated assembly point and the designated point of</p>

Clause	Conditions Type	Description
		<p>embarkation. Employees are required to present themselves at the designated point of embarkation by use of the transport provided by the employer or otherwise at their own expense.</p> <p>If the transport provided is a hired vehicle the employee will be responsible for the care of the vehicle and if an accident occurs while the employee is in charge of the vehicle and is proven to be under the influence of illegal drugs or alcohol, the employer will have the right to recover from the employee any cost incurred by the employer resulting from such accident.</p> <p>During the period of duty, employees who cannot reasonably return to their usual residence will be reimbursed the cost of reasonable accommodation and meals.</p> <p>This will not apply where such accommodation and meals are provided.</p> <p>The employer will notify the employees of the designated assembly point and designated point of embarkation for each job.</p>
14.8	Clothing, equipment and tools (Instrument)	<p><b>Offshore divers - clothing and equipment allowance</b></p> <p>Employees will be reimbursed for the purchase of clothing and equipment required for the performance of duties.</p>
14.9	Medical examination allowance (Instrument)	<p><b>Offshore divers - medical examination allowance</b></p> <p>Where:</p> <ul style="list-style-type: none"> <li>- the employer requests a prospective employee undertake a pre-employment medical examination; or</li> <li>- where Commonwealth, State or Territory legislation requires that employees bound by this award must submit to medical examination, then upon compliance;</li> </ul> <p>the employee will be reimbursed for the costs of attending such examination.</p>

<b>Clause</b>	<b>Conditions Type</b>	<b>Description</b>
15.2	Other (Instrument)	<p><b>Inshore divers - diving allowance</b></p> <p>Underwater services will not be performed for the employer during practice or training dives.</p> <p>Diving Supervisors will receive 20% of the average diving allowance paid to Divers under their control.</p> <p>Average diving allowance (calculated daily) = the total diving allowance earned by divers whilst under the control of a Diving Supervisor / the number of divers who earned a diving allowance on that day.</p>
15.3a	Other (Instrument)	<p><b>Inshore divers - hyperbaric welder</b></p> <p>The minimum hourly rate for a hyperbaric welder will apply from the date the employee is required to carry out those duties until the date the employee is no longer required to complete those duties.</p>
15.4	Medical examination allowance (Instrument)	<p><b>Inshore divers - annual medical exam allowance</b></p> <p>Employees who are subjected to greater than atmospheric pressure will be reimbursed the cost of an annual medical examination which will include, but not be limited to, the requirement set out in Appendix A of the Standards Association of Australia Underwater Air Breathing Operations Standard AS 2299.</p> <p>This does not apply where the employer provides for the service.</p>
15.6(b)	Travelling time (Instrument)	<p><b>Inshore divers - fares and travelling time allowance</b></p> <p>Employees who begin and end work beyond a 50km radius of the General Post Office in the city or town in which the employer's business address is situated, will be reimbursed for actual fares incurred and all time spent travelling beyond this radius at ordinary rates.</p>
15.7	Other (Instrument)	<p><b>Inshore divers</b></p> <p>Distant work is where it is reasonably necessary for an employee to live and sleep at another place other than their usual residence at the time of beginning such work. If an employee's usual place of residence is changed while employed on distant work, this new residence will be considered the usual place of residence for the determination of distant work.</p>

Clause	Conditions Type	Description
		<p>Distant work employees will be conveyed with equipment to and from work at their employer's expense, including each time the employee is recalled and sent again to the place of work. However, return fares and travelling time will not be paid to employees who:</p> <ul style="list-style-type: none"> <li>- leave the employment of their own free will before the end of the job or before being employed for three months, whichever happens first; or</li> <li>- are discharged for incompetence within one week of engagement; or</li> <li>- are discharged for misconduct.</li> </ul> <p>The time taken travelling to and from distant work will be paid at ordinary rates, except on Sundays and public holidays, this penalty is listed within the 'Penalty Summary' of this guide.</p> <p>The maximum travelling time to be paid for will be 12 hours out of every 24 hours, or when a sleeping berth is provided by the employer for all night travel, eight hours out of every 24 hours.</p>
15.9	Protective clothing, footwear and covering allowance (Instrument)	<p><b>Inshore divers</b></p> <p>Employees will be reimbursed for the cost of all required industrial protective clothing, footwear and safety equipment other than wet suits and personal diving equipment including weight belt and diving knife.</p> <p>This does not apply if the clothing and the equipment is supplied by the employer.</p>
17	Accident pay (Instrument)	<p>An employee is entitled to accident pay in accordance with the terms of:</p> <ul style="list-style-type: none"> <li>- a NAPSA that would have applied to the employee immediately prior to 1 January 2010 or an award made under the Workplace Relations Act 1996 (Cth) that would have applied to the employee immediately prior to 27 March 2006, if the employee had at that time been in their current circumstances of employment and no agreement 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>

Clause	Conditions Type	Description
		<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 (Instrument)	<p>Where employees perform the duties of a higher paid classification for a day or part thereof they will be paid at the higher rate for that day and paid at the higher rate for an equivalent day in their off-duty period.</p> <p>A higher paid classification means a classification which is higher with salary and allowances than the employee's current classification.</p>
19	Payment of wages (Instrument)	<p>Wages will be paid weekly or fortnightly (unless otherwise agreed) by cash, bank cheque or Electronic Funds Transfer(EFT).</p> <p>On termination of employment, wages due to employees must be paid to them on the day of such termination or forwarded by post on the next working day.</p>
20	Superannuation (Instrument)	<p>The award contains information on:</p> <ul style="list-style-type: none"> <li>- the employers responsibility to make superannuation contributions to a superannuation fund</li> <li>- the ability for an employee to authorise their employer to pay on their behalf contributions to a superannuation fund</li> <li>- the employers responsibility to make superannuation contributions to another superannuation fund that is chosen by the employee.</li> </ul>
21	Hours of work (Instrument)	<p><b>Inshore divers</b></p> <p>Ordinary hours of work, not exceed 6 hours and 36 minutes per day, worked between 6.00am and 6.00pm, Monday to Friday.</p> <p>This spread of hours may be altered by mutual agreement of employer and employee, by up to one hour.</p>

Clause	Conditions Type	Description
		<p>If not employed for the full 6 hours and 36minutes in diving operations, employer has the right to use employee's services for other work for any remaining time.</p> <p><b>Offshore divers</b></p> <p>With the exception of employees engaged in operations rendering them subject to greater than atmospheric pressure, the average daily hours of work will be no greater than 12 hours.</p> <p>Starting and finishing times will be in accordance with a nominated regularly recurrent roster schedule.</p>
22	Rostering (Instrument)	<p><b>Offshore divers</b></p> <p>Each on-duty day worked by employees, other than casuals, will receive one paid off-duty leave day.</p> <p>The employer will establish a regularly recurring roster of equal on / off-duty periods for each work site. The on and off-duty periods will each be of 14 days' duration, provided that other equal periods may be worked by agreement between the parties.</p> <p>For employees, other than casuals, the on-duty period begins on the day of arrival at the designated point of embarkation to the work site and the off-duty period begins on the day of departure from the work site.</p> <p><u>Not attending duty</u></p> <p>Employees not attending for duty in a rostered on-duty period, other than as provided for, will not be paid nor accrue off-duty leave days for such period.</p> <p>At an employee's request the employer may grant authorised unpaid leave to an employee, during this period the employee will not be paid nor accrue or use paid off-duty leave days. The granting of authorised unpaid leave will be at the sole discretion of the employer.</p> <p>Where an employee reports for duty at a designated assembly point but cannot be transported to the offshore work site due to weather conditions, insufficient work or other circumstances beyond the employer's control, the period of such delay will be regarded as an on-duty period provided that the employer may gainfully employ the employee onshore.</p>

Clause	Conditions Type	Description
		<p>Where during an on-duty period an employee cannot remain at the offshore work due to circumstances beyond the employer's control, such days will be considered to be on-duty days provided that the employer may gainfully employ the employee onshore.</p> <p>Where due to weather conditions or other circumstances an employee is delayed offshore and prevented from commencing a rostered off-duty period the employee will be on duty and accruing off-duty leave days until the employee actually commences an off-duty period.</p> <p><u>Off-duty days accrual</u></p> <p>An employee may accrue more off-duty leave days than are taken or take more off-duty leave days than have been accrued:</p> <ul style="list-style-type: none"> <li>- Where more off-duty leave days have been accrued than are taken the balance will be recorded and taken at another time.</li> <li>- Where the employee takes more off-duty leave days than are accrued they will be deducted from any balance of off-duty days yet to be taken. Where that results in a negative balance of off-duty leave days that number of days will be subtracted from the employee's pay for that month.</li> <li>- At termination any owed off-duty days will be paid to the employee at that time.</li> </ul> <p><u>Changeover</u></p> <p>To allow a smooth change over of on and off-duty crews, employees will normally be required to work for some period of the first day of their off-duty period on the understanding that they will on average not work a corresponding period on the first day of their on-duty period.</p>
23	Breaks (Instrument)	<b>Inshore divers</b> will be entitled to a meal break of a duration and at a time fixed by agreement provided that no employee will work more than three hours without such a break.
24.2	Overtime - other (Instrument)	An employee recalled to work overtime after leaving the employer's premises (whether notified before or after leaving the premises) will be engaged to work or paid for a minimum of four hours work.

<b>Clause</b>	<b>Conditions Type</b>	<b>Description</b>
25.2	Annual leave - payment (Instrument)	An employee prior to going on leave must be paid the amount the employee would have been paid for working ordinary hours during the period of annual leave as per the ordinary hours of the award.
25.4	Annual leave loading (Instrument)	<b>Inshore divers</b> in addition to their payment for annual leave, will be paid an annual leave loading of 17.5%.
14.5	Other (Instrument)	<p><b>Offshore divers - loss of personal effects reimbursement</b></p> <p>An employee will be reimbursed up to \$2291.00 for the loss of personal effects normally required while offshore, which are lost due to fire, explosion, collision, foundering or collapse of a fixed platform, vessel or work barge.</p> <p>This will not apply where the employee's loss is made good by any insurance policy or other claim on the employer or any third party.</p>
14.10	Insurance (Instrument)	<p><b>Offshore divers - insurance policy reimbursement</b></p> <p>Where the employee elects to get insurance cover against death from any cause with a sum insured of \$117,244 to apply during the period of their employment, then upon presenting verifiable evidence of the purchased insurance policy, the employer will reimburse the employee for the cost of the policy.</p> <p>This does not apply where the employer provides insurance coverage directly.</p>

### **Frequency of Payment**

Wages will be paid weekly or fortnightly unless otherwise agreed between the employer and the employee.

**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.