



Australian Government

# Fair Work

## OMBUDSMAN

### PAY AND CONDITIONS GUIDE


#### **Professional Diving Industry (Recreational) Award 2010 [MA000109]** ('modern award')

replacing terms and conditions in or derived from

#### **Recreational Diving Industry Award 2001 [AP812348]** ('pre-modern award')

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

Effective from 01 July 2012.

Published 13 May 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 2012. 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 for the purposes of recreational diving and related shipboard services and their employees in the classifications outlined in this award to the exclusion of any other modern award.

In this clause Australia includes all such areas as fall within the territorial jurisdiction of the Commonwealth or of a State.

The award does not cover employers and employees covered by the classifications listed in the Professional Diving Industry (Industrial) 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 above 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 2012 until the final pay period before 01 July 2013 only.

<b>Modern award classification</b>	<b>Pre-modern award classification</b>	<b>Base rate of pay (hourly)</b>
<b>Full &amp; Part Time</b>		
Dive master	Dive master	\$17.34
Dive instructor	Diving instructor	\$18.05
<b>Casual</b>		
Dive master	Dive master	\$20.63 (19%)
Dive instructor	Diving instructor	\$21.48 (19%)

### **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**

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:

<b>First full pay period on or after</b>	<b>Proportion of transitional percentage</b>
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.

<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>
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%
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>
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>
15.2(c)	Travel allowance	<u>Rate of pay for travel to and from distant work</u>  Employees will be paid an amount to cover the expenses, if any, of reaching home and of transporting their personal diving equipment.	1/07/2012	\$5.6900 per occasion
15.2(d)(ii)	Accommodation allowance	<u>Accommodation and meals</u>  Employees, by agreement with the employer, may be paid a minimum weekly allowance in return for the employees being responsible for securing their own accommodation and meals.	1/07/2012	\$306.4400 per week
15.2(d)(iii)	Accommodation allowance	<u>Accommodation and meals</u>  Employees, by agreement with the employer, in the case when parts of the week occurring at the beginning or ending of employment on a distant job, may be paid a minimum daily allowance in return for the employees being responsible for securing their own accommodation and meals.	1/07/2012	\$43.8300 per day
15.3	Vehicle allowance	Employees who consent to use their own vehicle in the course of their employment for the transportation of themselves and their personal diving equipment will be paid an allowance per kilometre.	1/07/2012	\$0.7500 per kilometre

Clause	Allowance Type	Description	Effective Date	Rate
15.4	Other	<p><b>Language allowance</b></p> <p>A language allowance is payable for instructing in a language other than English, where required by the employer.</p> <p>(6% per week x 38 = 228% per hour)</p>	1/07/2012	\$39.5340 per week (228.00%)

### **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)	<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>

Clause	Conditions Type	Description
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>
10.3	Types of employment (Instrument)	<p><b>Part-time employees</b></p> <p>A part-time employee is an employee who:</p> <ul style="list-style-type: none"> <li>- is engaged to work an average of fewer than 38 ordinary hours per week, and</li> <li>- receives pro rata pay and conditions according to their classification in this award.</li> </ul> <p>For each ordinary hour worked, a part-time employee will be paid no less than 1/38th of the minimum weekly rate of pay for the relevant classification in this award.</p> <p>An employer must inform a part-time employee prior to the commencement of employment of the ordinary hours of work and starting and finishing times.</p>
10.4	Types of employment (Instrument)	<p><b>Casual employees</b></p> <p>A casual employee is one engaged and paid as such. The 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> <p>A casual employee engaged in shop work which includes classroom instruction is entitled to a minimum payment of two hours at the casual rate of pay.</p> <p>Where field work takes place within a period of 24 hours, a casual employee is entitled to a minimum payment of four hours at the casual rate of pay.</p>

Clause	Conditions Type	Description
10.5(a)	Other (Instrument)	<p><b>Boat trips</b></p> <p><u>Full-time and part-time employees</u></p> <p>A day trip means a trip that takes place within a period of 24 hours, i.e. the employee leaves and returns within a period of 24 hours.</p> <p>A long trip means a trip that exceeds a period of 24 hours.</p> <p>When a full-time employee is on a day trip, the employee is entitled to a minimum payment of six hours' ordinary time pay. When a part-time employee is on a day trip, the employee is entitled to a minimum payment of three hours' ordinary time pay.</p> <p>When a full-time or part-time employee is on a long trip, the employee is entitled to a minimum payment of six hours' ordinary time pay for each 24 hour period of the trip.</p>
10.5(b)	Other (Instrument)	<p><b>Boat trips</b></p> <p><u>Casual employees</u></p> <p>When a casual employee is on a day trip that is in excess of six hours, the employee is entitled to a minimum payment of six hours at the casual rate of pay.</p> <p>When a casual employee is on a day trip of less than six hours, the employee is to be paid the actual hours worked.</p>
11.2	Termination of employment - notice of termination by an employee (Instrument)	<p>The notice of termination required to be given by an employee is the same as an employer except there is no requirement to give additional notice based on age. If an employee fails to give the required notice the employer may withhold from any monies due on termination, the difference between the amount of notice required and the amount of notice actually given.</p>
11.3	Termination of employment - job search entitlement	<p>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.</p>

Clause	Conditions Type	Description
	(Instrument)	
12.2	Redundancy - transfer to lower paid duties (Instrument)	Where an employee is transferred to lower paid duties by reason of redundancy, the same period of notice must be given as the employee would have been entitled to if the employment had been terminated. Alternatively, the employer may choose to pay the employee the difference between the former ordinary time rate of pay and the new ordinary time rate of pay for the number of weeks of notice still owing.
12.3	Redundancy - employee leaving during notice period (Instrument)	An employee given notice of termination in circumstances of redundancy may terminate their employment during the period of notice. The employee is entitled to receive the benefits and payments they would have received had they remained in employment until the expiry of the notice, but is not entitled to payment instead of notice.
12.4	Redundancy - job search entitlement (Instrument)	<p>An employee given notice of termination in circumstances of redundancy must be allowed up to one day's time off without loss of pay during each week of notice for the purpose of seeking other employment.</p> <p>If the employee has been allowed paid leave for more than one day, the employee must, by request, produce proof of attendance at an interview or they will not be entitled to payment for the time absent. For this purpose a statutory declaration is sufficient.</p>
12.5	Redundancy - 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>
15.1	Accommodation (Instrument)	<p><b>Accommodation and meals offshore</b></p> <p>The employee will be reimbursed for all meals and accommodation purchased whilst onboard a vessel travelling offshore for a journey of one or more nights. This provision will not apply where meals and accommodation are provided by the employer.</p>

Clause	Conditions Type	Description
15.2(a)	Other (Instrument)	<p><b>Distant work onshore</b></p> <p><u>Definition</u></p> <p>For the purpose of this clause <b>distant work</b> means that the distances or the travelling facilities to and from places of work make it reasonably necessary that employees live and sleep at a place other than their usual place of residence at the time of commencing work.</p> <p>If employees whilst employed on distant work change their usual place of residence, such new place of residence or any further change of residence (if made whilst employed on distant work) will be regarded as the employee's usual place of residence for determination of whether the work is distant work within the meaning of this clause.</p>
15.2(b)	Other (Instrument)	<p><u>Travel to and from distant work</u></p> <p>Employees engaged on distant work and who are required to travel, with equipment, to and from work will be reimbursed for the cost of such travel unless the employer provides the means of travel.</p> <p>Where an employee is recalled and required to return on more than one occasion to the place of work, the employer will reimburse the employee the cost of obtaining conveyance on each occasion, provided that where the employer provides such conveyance, the obligation with respect to payment or reimbursement will have been fulfilled.</p> <p>The employer will not reimburse the employee for the cost of travel and travelling time of an employee who:</p> <ul style="list-style-type: none"> <li>- leaves the employment of their own volition before the completion of the job or before being three months in such employment, whichever happens first,</li> <li>- is discharged for unsatisfactory performance within one week of engagement, or</li> <li>- is discharged for misconduct.</li> </ul>
15.2(c)	Other (Instrument)	<p><u>Rate of pay for travel to and from distant work</u></p> <p>The rate of pay for time occupied in travelling to and from distant work will be ordinary rates.</p>

Clause	Conditions Type	Description
		The maximum travelling time to be paid for is 12 hours out of every 24 hours, or when a sleeping berth is provided by the employer for all night travel, 8 hours out of every 24 hours.
15.2(d)	Other (Instrument)	<u>Accommodation and meals</u>  The employee will be reimbursed for all meals and accommodation purchased whilst on distant work. The provision will not apply where meals and accommodation are provided by the employer or where the employee is paid a weekly amount in return for being responsible for securing their own accommodation and meals.
15.5	Other (Instrument)	<u>Loss of personal effects allowance</u>  An employee will be reimbursed up to \$2000.00 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. Provided that no payment will be made where the employee's loss is made good by any insurance policy or other claim on the employer or any third party.
15.5	Other (Instrument)	<u>Loss of personal effects allowance</u>  An employee will be reimbursed up to \$2147.00 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. Provided that no payment will be made where the employee's loss is made good by any insurance policy or other claim on the employer or any third party.
15.5	Other (Instrument)	<u>Loss of personal effects allowance</u>  An employee will be reimbursed up to \$2181.00 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. Provided that no payment will be made where the employee's loss is made good by any insurance policy or other claim on the employer or any third party.
16	Accident pay (Instrument)	An employee is entitled to accident pay in accordance with the terms of:  - a NAPSA that would have applied to the employee immediately prior to 1 January 2010 or an award made under the Workplace Relations Act 1996 (Cth) that would have applied to the employee immediately

Clause	Conditions Type	Description
		<p>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</p> <p>- that would have entitled the employee to accident pay in excess of the employee's entitlement to accident pay, if any, under any other instrument.</p> <p>The employee's entitlement to accident pay under the NAPSA or award is limited to the amount of accident pay which exceeds the employee's entitlement to accident pay, if any, under any other instrument.</p> <p>This clause does not reduce an employee's entitlement to accident pay under any other instrument and ceases to operate on 31 December 2014.</p>
17	Higher duties (Instrument)	<p>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.</p> <p>For the purposes of this clause a <b>higher paid classification</b> means a classification with salary and allowances at a higher paid classification than the employee's current classification.</p>
18	Payment of wages (Instrument)	<p>Wages will be paid by cash, bank cheque or electronic funds transfer (EFT) into the employee's bank or nominated financial institution account.</p> <p>On termination of employment, wages due to employees must be paid to them on the day of such termination or forwarded to them by post on the next working day.</p>
19	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>
20	Hours of work (Instrument)	<p><u>Ordinary hours of work and rostering</u></p>



Clause	Conditions Type	Description
		<p>This clause supplements Division 3 of the NES which deals with maximum weekly hours.</p> <p>The ordinary hours of work are an average of 38 hours per week but not exceeding 152 hours over a period of 28 days.</p> <p>The ordinary hours of work may be worked on any day of the week to a maximum of 12 hours on any one day.</p>
21.1	Breaks - meal (Instrument)	An employee is entitled to an unpaid meal break at a time fixed by agreement between the employer and the majority of employees concerned, provided that no employee works more than five hours without a meal break
21.2	Breaks - rest (Instrument)	An employee is entitled to a 10 minute paid rest break during the morning or the afternoon without loss of pay at a time agreed between the employer and the employee.
23.2	Annual leave loading (Instrument)	In addition to the payment required to be made under the NES, the employee will be paid an annual leave loading of 17.5% of the ordinary rate of pay for the period of annual leave.

### **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.