

### PAY AND CONDITIONS GUIDE

**Aquaculture Industry Award 2010 [MA000114]** ('modern award')  
replacing terms and conditions in or derived from

**Oyster Farms, &C. (State) Award [AN120399]** ('pre-modern  
award')

**(NSW)**

Effective from 01 January 2014.

Published 16 April 2015 

#### **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 January 2014. 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 applies throughout Australia to employers engaged in the breeding, production, farming and related harvesting of fish, shellfish, crustacea and marine vegetation and operations ancillary thereto including initial preparation for market and their employees in the classifications in this modern award to the exclusion of any other modern award.

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

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

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

This award covers any employer which supplies labour on an on-hire basis in the industry set out in the first paragraph 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 industry and/or parts of industry set out in the first paragraph 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 January 2014.

#### **Full & Part Time**

<b>Modern award classification</b>	<b>Pre-modern award classification</b>	<b>Base rate of pay (hourly)</b>
Level 1	General hand	\$16.37
Level 2	General hand	\$16.61
Level 3	General hand	\$17.96
Level 4	General hand	\$18.69

#### **Casual**

<b>Modern award classification</b>	<b>Pre-modern award classification</b>	<b>Base rate of pay (hourly)</b>	<b>Post 26 March 2006 employer*</b>
Level 1	General hand	\$20.45 (24.92%)	\$20.14 (23%)
Level 2	General hand	\$20.75 (24.92%)	\$20.43 (23%)
Level 3	General hand	\$22.44 (24.92%)	\$22.09 (23%)
Level 4	General hand	\$23.35 (24.92%)	\$22.99 (23%)

### **Junior**

The rates in this guide are current from the first pay period on or after 01 January 2014.

#### **Full & Part Time**

Rates for juniors are new classifications inserted into the modern award with effect from 1 January 2014. As these classifications were not present in the award at 1 January 2010, the modern award rates apply in full. Penalties and loadings, including casual loadings, apply in accordance with the model transitional provisions.

<b>Modern award classification</b>	<b>Base rate of pay (hourly)</b>
Level 1, Under 17 years	\$9.82
Level 1, 17 years	\$11.46
Level 1, at 18 years	\$13.10
Level 1, at 19 years	\$14.74
Level 1, at 20 years	\$16.37
Level 2, Under 17 years	\$9.97
Level 2, 17 years	\$11.63
Level 2, at 18 years	\$13.29
Level 2, at 19 years	\$14.95
Level 2, at 20 years	\$16.61
Level 3, Under 17 years	\$10.90
Level 3, 17 years	\$12.72
Level 3, at 18 years	\$14.54
Level 3, at 19 years	\$16.35
Level 3, at 20 years	\$18.17
Level 4, Under 17 years	\$11.44
Level 4, 17 years	\$13.35
Level 4, at 18 years	\$15.25
Level 4, at 19 years	\$17.16
Level 4, at 20 years	\$19.07

### **Casual**

Rates for juniors are new classifications inserted into the modern award with effect from 1 January 2014. As these classifications were not present in the award at 1 January 2010, the modern award rates apply in full. Penalties and loadings, including casual loadings, apply in accordance with the model transitional provisions.

<b>Modern award classification</b>	<b>Base rate of pay (hourly)</b>	<b>Post 26 March 2006 Employer*</b>
Level 1, Under 17 years	\$12.27 (24.92%)	\$12.08 (23.00%)
Level 1, 17 years	\$14.32 (24.92%)	\$14.10 (23.00%)
Level 1, at 18 years	\$16.36 (24.92%)	\$16.11 (23.00%)
Level 1, at 19 years	\$18.41 (24.92%)	\$18.13 (23.00%)
Level 1, at 20 years	\$20.45 (24.92%)	\$20.14 (23.00%)
Level 2, Under 17 years	\$12.45 (24.92%)	\$12.26 (23.00%)
Level 2, 17 years	\$14.52 (24.92%)	\$14.30 (23.00%)
Level 2, at 18 years	\$16.60 (24.92%)	\$16.34 (23.00%)
Level 2, at 19 years	\$18.67 (24.92%)	\$18.39 (23.00%)
Level 2, at 20 years	\$20.75 (24.92%)	\$20.43 (23.00%)
Level 3, Under 17 years	\$13.62 (24.92%)	\$13.41 (23.00%)
Level 3, 17 years	\$15.89 (24.92%)	\$15.65 (23.00%)

<b>Modern award classification</b>	<b>Base rate of pay (hourly)</b>	<b>Post 26 March 2006 Employer*</b>
Level 3, at 18 years	\$18.16 (24.92%)	\$17.88 (23.00%)
Level 3, at 19 years	\$20.43 (24.92%)	\$20.12 (23.00%)
Level 3, at 20 years	\$22.70 (24.92%)	\$22.35 (23.00%)
Level 4, Under 17 years	\$14.29 (24.92%)	\$14.07 (23.00%)
Level 4, 17 years	\$16.67 (24.92%)	\$16.42 (23.00%)
Level 4, at 18 years	\$19.05 (24.92%)	\$18.76 (23.00%)
Level 4, at 19 years	\$21.43 (24.92%)	\$21.11 (23.00%)
Level 4, at 20 years	\$23.82 (24.92%)	\$23.45 (23.00%)

## **Apprentice**

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

**Please note:** This modern award contains special provisions for school based apprentices; these rates are not set out in this guide. For information about transitional rates for these employees please visit [www.fairwork.gov.au](http://www.fairwork.gov.au) and/or contact the **Fair Work Infoline** on **13 13 94**.

## **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 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 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%
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	Meal allowance	<p>An employee required to work more than two hours of overtime will be paid the meal allowance or provided with a meal.</p> <p>Where an employee was not notified by at least the previous day of the overtime being worked requiring a second meal break they will also be paid the meal allowance for the second meal.</p> <p>Where an employee brings a meal or meals and is not required to work the overtime or finishes early, the employee will be paid the allowance for each left over meal.</p>	1/07/2013 - 30/06/2014	\$15.3900 per meal
15.3	Tool allowance	All employees who are required to use tools will be either supplied with tools or paid a tool allowance.	1/07/2010	<p>\$0.2487 per hour</p> <p>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).</p>
15.4(c)	Travel allowance	Where an employee, with approval from the employer, is required to use their own motor vehicle, a travel allowance is paid.	1/07/2013 - 30/06/2014	\$0.7600 per kilometre travelled

Clause	Allowance Type	Description	Effective Date	Rate
15.5(a)	Other	<p><b>Diving Allowance</b></p> <p>Finfish attendants who are required to undertake diving duties and are provided with diving equipment, apart from tools, will be paid a diving allowance.</p>	1/07/2013 - 30/06/2014	\$3.4052 per hour or part thereof (17.86%)
15.5(b)	Other	<p><b>Diving Allowance</b></p> <p>Finfish attendants who are required to undertake diving duties and provide their own diving equipment, apart from tools, will be paid a diving allowance.</p> <p>This allowance will be <b>in addition</b> to the 'Diving Allowance' for employees provided with diving equipment.</p>	1/07/2010	\$5.6000 per hour or part thereof

### Full-time

Clause	Allowance Type	Description	Effective Date	Rate
15.1	First aid allowance	A full time employee holding first aid qualifications from St John Ambulance and appointed by the employer to perform first aid duty will receive a first aid allowance.	1/07/2013 - 30/06/2014	\$2.4633 per working day. (12.92%)

## **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 (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 (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>

<b>Clause</b>	<b>Conditions Type</b>	<b>Description</b>
10.2	Part-time conditions (Instrument)	<p>At the beginning of employment the employer and the part-time employee will agree in writing, on a regular pattern of work including the hours to be worked and the starting and finishing times on each day.</p> <p>Any variation to this agreement will be recorded in writing.</p> <p>An employer is required to roster a part-time employee for a minimum of three consecutive hours on any shift.</p>
11.2	Termination of employment - notice of termination by an employee (Instrument)	The notice of termination required to be given by an employee is the same as an employer except there is no requirement to give additional notice based on age. If an employee fails to give the required notice the employer may withhold from any monies due on termination, the difference between the amount of notice required and the amount of notice actually given.
11.3	Termination of employment - job search entitlement (Instrument)	Where an employer has given notice of termination to an employee, an employee must be allowed up to one day's time off without loss of pay for the purpose of seeking other employment. The time off is to be taken at times that are convenient to the employee after consultation with the employer.
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>

<b>Clause</b>	<b>Conditions Type</b>	<b>Description</b>
15.4(a)	Travelling time (Instrument)	An employee who is required to work at a workplace away from their usual workplace will, at the direction of the employer, begin at the usual time; however all time spent travelling to and from this workplace in excess of time usually spent travelling to and from the employee's usual workplace will be paid at ordinary rates of pay.
15.4(b)	Expenses (Instrument)	<p>-Where an employee is required to remain away from their usual place of residence, the employee will be paid for all expenses reasonably incurred.</p> <p>In addition, from 12 July 2013:</p> <p>-When a tuna fish farm is located away from the shore so that some means of conveyance is necessary for an employee to pass between the shore and the tuna farm before starting and after finishing work, the time occupied by the employee before starting and after finishing work spent travelling or necessarily waiting for the conveyance will be paid at ordinary rates but, subject to the majority of the employees agreeing by means of a vote, that time will not count as part of the daily working time, except that the provisions of 'rest period after overtime' will continue to apply.</p> <p>-Only trips in excess of 30 minutes will invoke the travel time provisions set out above and they will only apply to an employee who is travelling, resting or in a state of rest and recline. Where an employee is required to engage in the performance of work tasks, or where the majority of the employees have not agreed in accordance with subclause 15.4(b), such time will be counted as daily working time.</p> <p>-Where an employee is required to remain away from their usual place of residence, the employee will be paid for all expenses reasonably incurred while so absent.</p>
15.6	Clothing, footwear and/ or equipment (Instrument)	Where an employee must wear protective clothing which is not provided by the employer (e.g. oilskins, gumboots, overalls, goggles, safety boots etc.), the employer must reimburse the employee the costs of buying the protective clothing and equipment
16	Higher duties (Instrument)	<p>An employee who must perform work for which a higher rate is paid than their ordinary rate will, if working for more than two hours per day, be paid for all work done on such day at the higher rate.</p> <p>In all other cases, the employee will be paid the higher rate for the actual time worked.</p>
17.2	Method of payment (Instrument)	Wages may be paid by cash, cheque or electronic funds transfer into a nominated bank or financial institution account, as agreed between an employer and an employee.

Clause	Conditions Type	Description
		If payment is by cash or cheque, wages will be paid during ordinary working hours.
18	Superannuation (Instrument)	<p>The award contains information on:</p> <ul style="list-style-type: none"> <li>- superannuation legislation;</li> <li>- employer contributions;</li> <li>- voluntary employee contributions; and</li> <li>- superannuation fund.</li> </ul>
19.1	Hours of work (Instrument)	<p>The ordinary working hours will not be more than 38 hours per week on average over a maximum of 12 weeks.</p> <p>Ordinary hours may be worked between 5.00 am and 7.00 pm for up to 10 hours per day, on any five days Monday to Sunday inclusive. Any work performed outside the ordinary hours must be paid for at overtime rates.</p> <p>From 12 July 2013:  Subject to the methods of arranging ordinary working hours, the ordinary hours of work for a day worker will not exceed 38 hour per week on average, over a maximum of 12 weeks.</p> <ul style="list-style-type: none"> <li>- The ordinary hours of work may be worked on any five days Monday to Sunday inclusive and to be worked continuously, except for meal breaks, at the discretion of the employer between 5.00 am and 7.00 pm for up to 10 hours a day.</li> <li>- Where an employee was employed before 12 July 2013, the employee cannot be required to work shiftwork, unless the employee otherwise agrees.</li> </ul>
19.3	Hours of work (Instrument)	<p><b>Ordinary hours of work—continuous shiftworkers</b></p> <p>Continuous shiftwork means work carried on with consecutive shifts of employees throughout the 24 hours of each of at least six consecutive days without interruption except for breakdowns or meal breaks or due to unavoidable causes beyond the control of the employer.</p> <p>-Subject to the paragraph below, the ordinary hours of work are, at the discretion of the employer, to average 38 hours per week inclusive of meal breaks and must not exceed 152 hours in 28 consecutive days. A continuous shiftworker is entitled to a 20 minute meal break on each shift which must be counted as time worked. This paid break is in place of the meal break provisions.</p>

Clause	Conditions Type	Description
		<p>-By agreement between the employer and the majority of employees concerned, a roster system may operate on the basis that the weekly average of 38 ordinary hours is achieved over a period which exceeds 28 consecutive days but does not exceed 12 weeks. Such 12 week period may be extended to 26 weeks provided that the daily ordinary hours shall remain a maximum of 10 ordinary hours and provided that the majority of the employees in the section or sections concerned agree by means of a vote.</p> <p>-Except at the regular changeover of shifts, an employee must not be required to work more than one shift in each 24 hours.</p>
19.4	Hours of work (Instrument)	<p><b>Ordinary hours of work—non-continuous shiftworkers</b></p> <p>-Subject to the paragraph below, an average of 38 hours per week and must not exceed 152 hours in 28 consecutive days. A non-continuous shiftworker is entitled to a 20 minute meal break on each shift which must be counted as time worked. This paid break is in place of the meal breaks provisions.</p> <p>-By agreement between the employer and the majority of employees concerned, a roster system may operate on the basis that the weekly average of 38 ordinary hours is achieved over a period which exceeds 28 consecutive days but does not exceed 12 weeks. Such 12 week period may be extended to 26 weeks provided that the daily ordinary hours shall remain a maximum of 10 ordinary hours and provided that the majority of the employees in the section or sections concerned agree by means of a vote.</p> <p>- must be worked continuously, except for meal breaks, at the discretion of the employer.</p> <p>- Except at changeover of shifts an employee must not be required to work more than one shift in each 24 hours.</p>
19.5	Hours of work (Instrument)	<p><b>Methods of arranging ordinary working hours</b></p> <p>Subject to the employer's right to fix the daily hours of work for day workers from time to time within the spread of hours referred to in the award and the employer's right to fix the commencing and finishing time of shifts from time to time, the arrangement of ordinary working hours must be by agreement between the employer and the majority of employees in the enterprise or part of the enterprise concerned. This does not preclude the employer reaching agreement with individual employees about how their working hours are to be arranged.</p> <p>The matters on which agreement may be reached include:</p> <p>-how the hours are to be averaged within a work cycle established in accordance with clauses 19.2, 19.3 and 19.4 provided that the maximum ordinary hours per day shall be 10 hours;</p>

Clause	Conditions Type	Description
		<p>-the duration of the work cycle for day workers provided that such duration does not exceed 12 weeks. Such 12 week period may be extended to 26 weeks provided that the daily ordinary hours shall be a maximum of 10 ordinary hours and provided that the majority of the employees in the section or sections concerned agree by means of a vote.</p> <p>-rosters which specify the starting and finishing times of working hours;</p> <p>-a period of notice of a rostered day off which is no less than four weeks;</p> <p>-substitution of rostered days off;</p> <p>-accumulation of rostered days off;</p> <p>-arrangements which allow for flexibility in relation to the taking of rostered days off.</p>
20.5(d)	Shiftwork (Instrument)	Where shifts fall partly on a public holiday, the shift which has the major portion falling on the public holiday must be regarded as the public holiday shift. By agreement between the employer and the majority of employees concerned, the shift which has the minor portion falling on the public holiday may be regarded as the public holiday shift instead.
21.1	Breaks - meal (Instrument)	<p>A meal break of at least 30 minutes, within five hours of starting work, will be provided.</p> <p>However, in order to complete task or tasks before change of tide or to ensure the timely return of fish to a growing or holding area in the water, an agreement may be made for the break to occur at another time during work that day.</p>
21.2	Tea breaks (Instrument)	<p>A tea break of 10 minutes which is counted as time worked, will be allowed during the morning and afternoon of each working day to each employee at a time to be arranged by the employer.</p> <p>The afternoon tea break above will not be taken in any business where the majority of employees agree to end normal work 10 minutes earlier each day instead of taking the break.</p> <p>From 12 July 2013, the tea breaks set out above may be staggered throughout the day and taken at times which suit operational requirements and are consistent with the employer's fatigue management plan.</p>
21.3	Crib break (Instrument)	<p>An employee working overtime will be allowed a crib break of 20 minutes without loss of pay after each four hours of overtime worked.</p> <p>Where overtime is to be for more than one and a half hours, an employee will be allowed a paid meal break of 20 minutes after ordinary hours but before commencing overtime.</p>

Clause	Conditions Type	Description
		It may be mutually agreed to vary above arrangements provided the employer will not be required to make payment in respect of any time allowed in excess of 20 minutes.
22.3	Rest period after overtime duty (Instrument)	<p>When overtime work is necessary it must, wherever reasonably practicable, be arranged so that an employee has at least 10 consecutive hours off duty between the work of successive working days.</p> <ul style="list-style-type: none"> <li>- An employee who works so much overtime between the termination of their ordinary hours on one day and the commencement of their ordinary hours on the next day that the employee has not had at least 10 consecutive hours off duty between those times must, subject to this provision, be released after completion of the overtime until the employee has had 10 consecutive hours off duty without loss of pay for ordinary hours occurring during such absence.</li> <li>- If on the instructions of the employer an employee resumes or continues work without having had the 10 consecutive hours off duty the employee must be paid at the rate of double time until the employee is released from duty for such period. The employee is then entitled to be absent until the employee has had 10 consecutive hours off duty without loss of pay for ordinary hours occurring during the absence.</li> <li>- By agreement between the employer and individual employee, the 10 hour break may be reduced to a period of no less than eight hours.</li> <li>- Crib break provisions will apply in the case of a shiftworker as if eight hours were substituted for 10 hours when overtime is worked for the purpose of changing shift rosters; or where a shiftworker does not report for duty and a day worker or a shiftworker is required to replace the shiftworker; or where a shift is worked by arrangement between the employees themselves.</li> </ul>
23.2	Annual leave - paid leave in advance of accrued entitlement (Instrument)	By agreement between an employer and an employee a period of annual leave may be taken in advance of the entitlement accruing. Provided that if leave is taken in advance and the employment terminates before the entitlement has accrued the employer may make a corresponding deduction from any money due to the employee on termination.
23.3	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> </ul>

Clause	Conditions Type	Description
		- 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.
23.4	Annual leave - requirement to take leave (notwithstanding terms of the NES) (Instrument)	Annual leave is to be taken within 18 months being accrued. An employer may require an employee to take annual leave, provided the employee is given 28 days' notice.
23.5	Annual leave loading (Instrument)	Before starting annual leave the employee must be paid the amount they would have been paid (excluding overtime) had they not been on leave, and an additional loading of 17.5% of the minimum ordinary rate, as per the award.
23.6	Annual leave - shiftworkers (Instrument)	For the purpose of the additional week of annual leave provided for in s.87(1)(b) of the Act, a shiftworker is a seven day shiftworker who is regularly rostered to work on Sundays and public holidays. Where an employee with 12 months' continuous service is engaged for part of the 12 month period as a seven day shiftworker, that employee must have their annual leave increased by half a day for each month the employee is continuously engaged as a seven day shiftworker.
26.1	Substitution of public holidays (Instrument)	By agreement between the employer and the majority of employees in an enterprise, another day may be substituted for a public holiday.

## **Frequency of Payment**

Where it is agreed between an employer and an employee, wages may be paid on a weekly or fortnightly basis.

Wages will be paid no later than Thursday of the agreed pay period.

By agreement between the employer and the majority of employees, payment of wages may be made on a day later than Thursday.

**IMPORTANT NOTE: Disclaimer**

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

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