

### PAY AND CONDITIONS GUIDE

**Children's Services Award 2010 [MA000120]** ('modern award')  
replacing terms and conditions in or derived from

**Child Care (SA) Award [AN150035]** ('pre-modern award')

**(SA)**

Effective from 01 July 2012.

Published 05 September 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 award covers employers throughout Australia in the children's services and early childhood education industry and their employees in the classifications listed in Schedule B - Classification Structure, to the exclusion of any other modern award. The award does not cover employers whose primary functions are covered by the following awards: the Educational Services (Schools) General Staff Award 2010, the Higher Education Industry - General Staff - Award 2010, the Local Government Industry Award 2010, or the Social, Community, Home Care and Disability Services Industry Award 2010.

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

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

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

This award covers any employer which supplies labour on an on-hire basis in the children's services and early childhood education industry in respect of on-hire employees in classifications covered by this award, and those on-hire employees, while engaged in the performance of work for a business in that industry. This operates subject to the exclusions from coverage in this award.

This award covers employers which provide group training services for apprentices and trainees engaged in the children's services and early childhood education industry and/or parts of such industry and those apprentices and trainees engaged by a group training service hosted by a company to perform work at a location where the activities described herein are being performed. This 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.

### Full & Part Time

| Modern award classification                           | Pre-modern award classification                                   | Base rate of pay (hourly) |
|-------------------------------------------------------|-------------------------------------------------------------------|---------------------------|
| <b>Support worker</b>                                 |                                                                   |                           |
| Level 1, 1.1 on commencement                          | Support worker, Level 1.1                                         | \$16.32                   |
| Level 2, 2.1 - on commencement                        | Support worker, Level 2.1 on commencement                         | \$16.95                   |
| Level 2, 2.2 - after 1 year's service in the industry | Support worker, Level 2.2 after one year                          | \$17.53                   |
| Level 2, 2.2 - after 1 year's service in the industry | Support worker, Level 2.3 after two years                         | \$17.53                   |
| Level 3, 3.1 - on commencement                        | Support worker, Level 3.1                                         | \$18.58                   |
| <b>Children's services employees</b>                  |                                                                   |                           |
| Level 1, 1.1 - on commencement                        | Childrens services assistant, Level 1.1 on commencement           | \$16.32                   |
| Level 1, 1.1 - on commencement                        | Childrens services assistant, Level 1.1, 20 years of age and over | \$16.32                   |
| Level 2, 2.1 - on commencement                        | Childrens services assistant, Level 1.2 after one year            | \$16.95                   |
| Level 2, 2.1 - on commencement                        | Childrens services assistant, Level 1.2, 20 years and over        | \$16.95                   |

| <b>Modern award classification</b>                      | <b>Pre-modern award classification</b>                                                      | <b>Base rate of pay (hourly)</b> |
|---------------------------------------------------------|---------------------------------------------------------------------------------------------|----------------------------------|
| Level 2, 2.2 - after 1 year's service in the industry   | Childrens services assistant, Level 1.3 after one year of level 1.2                         | \$17.53                          |
| Level 2, 2.2 - after 1 year's service in the industry   | Childrens services assistant, Level 1.3, 20 years and over                                  | \$17.53                          |
| Level 3, 3.1 - on commencement                          | Childrens services assistant, Level 2.1 on commencement                                     | \$18.58                          |
| Level 3, 3.2 - After 1 year's service in the industry   | Childrens services assistant, Level 2.2 after one year                                      | \$19.22                          |
| Level 3, 3.3 - After 2 year's service in the industry   | Childrens services assistant, Level 2.3 after two years                                     | \$19.83                          |
| Level 3, 3.3 - After 2 year's service in the industry   | Childrens services assistant, Level 2.4 OHSC employee                                       | \$19.83                          |
| Level 3, 3.4 - diploma                                  | Childrens services assistant, Level 2.4 OHSC employee                                       | \$20.68                          |
| Level 3, 3.4 - diploma                                  | Childrens services assistant, Level 2.5                                                     | \$20.92                          |
| Level 4, 4.1 - on commencement                          | Childrens services professional, Level 1.1 on commencement                                  | \$21.89                          |
| Level 4, 4.2 - after 1 year's service in the industry   | Childrens services professional, Level 1.2 after one year                                   | \$22.22                          |
| Level 4, 4.3 - after 2 year's service in the industry   | Childrens services professional, Level 1.3 after two years                                  | \$22.55                          |
| Level 5A, 5A.3 - after 2 year's service in the industry | Childrens services professional - assistant director/coordinator, Level 3.2 after one year  | \$23.49                          |
| Level 5, 5.1 on commencement                            | Childrens services professional, Level 2.1 on commencement                                  | \$22.89                          |
| Level 5, 5.1 on commencement                            | Childrens services professional - assistant director/coordinator, Level 3.1 on commencement | \$22.89                          |
| Level 5, 5.2 - after 1 year's service in the industry   | Childrens services professional - assistant director/coordinator, Level 3.2 after one year  | \$23.22                          |
| Level 5, 5.4 minimum pay for ass. director adv dip.     | Childrens services professional - assistant director/coordinator, Level 3.1 on commencement | \$23.39                          |
| Level 5, 5.4 minimum pay for ass. director adv dip.     | Childrens services professional - assistant director/coordinator, Level 3.2 after one year  | \$23.55                          |

| <b>Modern award classification</b>                        | <b>Pre-modern award classification</b>                                               | <b>Base rate of pay (hourly)</b> |
|-----------------------------------------------------------|--------------------------------------------------------------------------------------|----------------------------------|
| Level 6A, 6A.3 - after 2 years of service in the industry | Childrens services professional level 4, Director level 1, 1yr experience this level | \$27.05                          |
| Director lvl 1, 6.1 - on commencement                     | Childrens services professional level 4, Director level 1, On commencement           | \$26.39                          |
| Director lvl 1, 6.2 - after 1 year in the industry        | Childrens services professional level 4, Director level 1, 1yr experience this level | \$26.72                          |
| Director lvl 2, 6.4 - on commencement                     | Childrens services professional level 4, Director level 2, On commencement           | \$28.06                          |
| Director lvl 2, 6.5 - after 1 year in the industry        | Childrens services professional level 4, Director level 2, 1yr experience this level | \$28.32                          |
| Director lvl 2, 6.6 - after 2 years in the industry       | Childrens services professional level 4, Director level 2, 1yr experience this level | \$28.66                          |
| Director lvl 3, 6.7 - on commencement                     | Childrens services professional level 4, Director level 3, On commencement           | \$29.00                          |
| Director lvl 3, 6.7 - on commencement                     | Childrens services professional level 4, Director level 4                            | \$29.58                          |
| Director lvl 3, 6.8 - after 1 year in the industry        | Childrens services professional level 4, Director level 3, After 1 year              | \$29.33                          |
| Director lvl 3, 6.8 - after 1 year in the industry        | Childrens services professional level 4, Director level 4                            | \$29.79                          |
| Director lvl 3, 6.9 - after 2 years in the industry       | Childrens services professional level 4, Director level 4                            | \$29.99                          |

### **Casual**

| <b>Modern award classification</b>                    | <b>Pre-modern award classification</b>    | <b>Base rate of pay (hourly)</b> |
|-------------------------------------------------------|-------------------------------------------|----------------------------------|
| <b>Support worker</b>                                 |                                           |                                  |
| Level 1, 1.1 on commencement                          | Support worker, Level 1.1                 | \$20.07 (23%)                    |
| Level 2, 2.1 - on commencement                        | Support worker, Level 2.1 on commencement | \$20.85 (23%)                    |
| Level 2, 2.2 - after 1 year's service in the industry | Support worker, Level 2.2 after one year  | \$21.56 (23%)                    |
| Level 2, 2.2 - after 1 year's service in the industry | Support worker, Level 2.3 after two years | \$21.57 (23%)                    |

| <b>Modern award classification</b>                      | <b>Pre-modern award classification</b>                                                      | <b>Base rate of pay (hourly)</b> |
|---------------------------------------------------------|---------------------------------------------------------------------------------------------|----------------------------------|
| Level 3, 3.1 - on commencement                          | Support worker, Level 3.1                                                                   | \$22.86 (23%)                    |
| <b>Children's services employees</b>                    |                                                                                             |                                  |
| Level 1, 1.1 - on commencement                          | Childrens services assistant, Level 1.1 on commencement                                     | \$20.07 (23%)                    |
| Level 1, 1.1 - on commencement                          | Childrens services assistant, Level 1.1, 20 years of age and over                           | \$20.07 (23%)                    |
| Level 2, 2.1 - on commencement                          | Childrens services assistant, Level 1.2 after one year                                      | \$20.85 (23%)                    |
| Level 2, 2.1 - on commencement                          | Childrens services assistant, Level 1.2, 20 years and over                                  | \$20.85 (23%)                    |
| Level 2, 2.2 - after 1 year's service in the industry   | Childrens services assistant, Level 1.3 after one year of level 1.2                         | \$21.56 (23%)                    |
| Level 2, 2.2 - after 1 year's service in the industry   | Childrens services assistant, Level 1.3, 20 years and over                                  | \$21.56 (23%)                    |
| Level 3, 3.1 - on commencement                          | Childrens services assistant, Level 2.1 on commencement                                     | \$22.86 (23%)                    |
| Level 3, 3.2 - After 1 year's service in the industry   | Childrens services assistant, Level 2.2 after one year                                      | \$23.64 (23%)                    |
| Level 3, 3.3 - After 2 year's service in the industry   | Childrens services assistant, Level 2.3 after two years                                     | \$24.39 (23%)                    |
| Level 3, 3.3 - After 2 year's service in the industry   | Childrens services assistant, Level 2.4 OHSC employee                                       | \$24.39 (23%)                    |
| Level 3, 3.4 - diploma                                  | Childrens services assistant, Level 2.4 OHSC employee                                       | \$25.43 (23%)                    |
| Level 3, 3.4 - diploma                                  | Childrens services assistant, Level 2.5                                                     | \$25.73 (23%)                    |
| Level 4, 4.1 - on commencement                          | Childrens services professional, Level 1.1 on commencement                                  | \$26.92 (23%)                    |
| Level 4, 4.2 - after 1 year's service in the industry   | Childrens services professional, Level 1.2 after one year                                   | \$27.33 (23%)                    |
| Level 4, 4.3 - after 2 year's service in the industry   | Childrens services professional, Level 1.3 after two years                                  | \$27.74 (23%)                    |
| Level 5A, 5A.3 - after 2 year's service in the industry | Childrens services professional - assistant director/coordinator, Level 3.2 after one year  | \$28.90 (23%)                    |
| Level 5, 5.1 on commencement                            | Childrens services professional, Level 2.1 on commencement                                  | \$28.15 (23%)                    |
| Level 5, 5.1 on commencement                            | Childrens services professional - assistant director/coordinator, Level 3.1 on commencement | \$28.15 (23%)                    |

| <b>Modern award classification</b>                        | <b>Pre-modern award classification</b>                                                      | <b>Base rate of pay (hourly)</b> |
|-----------------------------------------------------------|---------------------------------------------------------------------------------------------|----------------------------------|
| Level 5, 5.2 - after 1 year's service in the industry     | Childrens services professional - assistant director/coordinator, Level 3.2 after one year  | \$28.56 (23%)                    |
| Level 5, 5.4 minimum pay for ass. director adv dip.       | Childrens services professional - assistant director/coordinator, Level 3.1 on commencement | \$28.77 (23%)                    |
| Level 5, 5.4 minimum pay for ass. director adv dip.       | Childrens services professional - assistant director/coordinator, Level 3.2 after one year  | \$28.96 (23%)                    |
| Level 6A, 6A.3 - after 2 years of service in the industry | Childrens services professional level 4, Director level 1, 1yr experience this level        | \$33.27 (23%)                    |
| Director lvl 1, 6.1 - on commencement                     | Childrens services professional level 4, Director level 1, On commencement                  | \$32.46 (23%)                    |
| Director lvl 1, 6.2 - after 1 year in the industry        | Childrens services professional level 4, Director level 1, 1yr experience this level        | \$32.87 (23%)                    |
| Director lvl 2, 6.4 - on commencement                     | Childrens services professional level 4, Director level 2, On commencement                  | \$34.52 (23%)                    |
| Director lvl 2, 6.5 - after 1 year in the industry        | Childrens services professional level 4, Director level 2, 1yr experience this level        | \$34.83 (23%)                    |
| Director lvl 2, 6.6 - after 2 years in the industry       | Childrens services professional level 4, Director level 2, 1yr experience this level        | \$35.25 (23%)                    |
| Director lvl 3, 6.7 - on commencement                     | Childrens services professional level 4, Director level 3, On commencement                  | \$35.67 (23%)                    |
| Director lvl 3, 6.7 - on commencement                     | Childrens services professional level 4, Director level 4                                   | \$36.39 (23%)                    |
| Director lvl 3, 6.8 - after 1 year in the industry        | Childrens services professional level 4, Director level 3, After 1 year                     | \$36.07 (23%)                    |
| Director lvl 3, 6.8 - after 1 year in the industry        | Childrens services professional level 4, Director level 4                                   | \$36.64 (23%)                    |
| Director lvl 3, 6.9 - after 2 years in the industry       | Childrens services professional level 4, Director level 4                                   | \$36.89 (23%)                    |

## **Junior**

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.

**Full & Part Time  
Junior childrens services employee, level 1 & 2**

| <b>Modern award classification</b> | <b>Pre-modern award classification</b>                         | <b>Base rate of pay (hourly)</b> |
|------------------------------------|----------------------------------------------------------------|----------------------------------|
| On commencement, Under 17 years    | Childrens services assistant, Level 1.1, Under 18 years of age | \$11.86                          |
| On commencement, Under 18 years    | Childrens services assistant, Level 1.1, Under 18 years of age | \$13.08                          |
| On commencement, Under 19 years    | Childrens services assistant, Level 1.1, Under 19 years of age | \$14.81                          |
| On commencement, Under 20 years    | Childrens services assistant, Level 1.1, Under 20 years of age | \$16.42                          |

**Junior childrens services , level 1&2**

| <b>Modern award classification</b>              | <b>Pre-modern award classification</b>                         | <b>Base rate of pay (hourly)</b> |
|-------------------------------------------------|----------------------------------------------------------------|----------------------------------|
| After 1 year's industry service, Under 17 years | Childrens services assistant, Level 1.2, Under 18              | \$12.27                          |
| After 1 year's industry service, Under 17 years | Childrens services assistant, Level 1.3, Under 18 years of age | \$12.59                          |
| After 1 year's industry service, Under 18 years | Childrens services assistant, Level 1.2, Under 18              | \$13.55                          |
| After 1 year's industry service, Under 18 years | Childrens services assistant, Level 1.3, Under 18 years of age | \$13.71                          |
| After 1 year's industry service, Under 19 years | Childrens services assistant, Level 1.2, Under 19 years of age | \$15.34                          |
| After 1 year's industry service, Under 19 years | Childrens services assistant, Level 1.3, Under 19 years of age | \$15.53                          |
| After 1 year's industry service, Under 20 years | Childrens services assistant, Level 1.2, Under 20 years of age | \$17.01                          |
| After 1 year's industry service, Under 20 years | Childrens services assistant, Level 1.3, Under 20 years of age | \$17.22                          |

**Casual  
Junior childrens services employee, level 1 & 2**

| <b>Modern award classification</b> | <b>Pre-modern award classification</b>                         | <b>Base rate of pay (hourly)</b> |
|------------------------------------|----------------------------------------------------------------|----------------------------------|
| On commencement, Under 17 years    | Childrens services assistant, Level 1.1, Under 18 years of age | \$14.59 (23%)                    |
| On commencement, Under 18 years    | Childrens services assistant, Level 1.1, Under 18 years of age | \$16.08 (23%)                    |
| On commencement, Under 19 years    | Childrens services assistant, Level 1.1, Under 19 years of age | \$18.21 (23%)                    |
| On commencement, Under 20 years    | Childrens services assistant, Level 1.1, Under 20 years of age | \$20.20 (23%)                    |

### **Junior childrens services , level 1&2**

| <b>Modern award classification</b>              | <b>Pre-modern award classification</b>                         | <b>Base rate of pay (hourly)</b> |
|-------------------------------------------------|----------------------------------------------------------------|----------------------------------|
| After 1 year's industry service, Under 17 years | Childrens services assistant, Level 1.2, Under 18              | \$15.10 (23%)                    |
| After 1 year's industry service, Under 17 years | Childrens services assistant, Level 1.3, Under 18 years of age | \$15.48 (23%)                    |
| After 1 year's industry service, Under 18 years | Childrens services assistant, Level 1.2, Under 18              | \$16.66 (23%)                    |
| After 1 year's industry service, Under 18 years | Childrens services assistant, Level 1.3, Under 18 years of age | \$16.86 (23%)                    |
| After 1 year's industry service, Under 19 years | Childrens services assistant, Level 1.2, Under 19 years of age | \$18.86 (23%)                    |
| After 1 year's industry service, Under 19 years | Childrens services assistant, Level 1.3, Under 19 years of age | \$19.10 (23%)                    |
| After 1 year's industry service, Under 20 years | Childrens services assistant, Level 1.2, Under 20 years of age | \$20.92 (23%)                    |
| After 1 year's industry service, Under 20 years | Childrens services assistant, Level 1.3, Under 20 years of age | \$21.18 (23%)                    |

A junior employee employed as a Children's Services Employees Level 3, 4 and 5 must be paid at the appropriate adult rate.

### **Apprentice**

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

### **Trainee**

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

### **Supported Wage**

Please refer to clause 14.5 of the modern award.

For detail of the supported wage provisions see the 1 January 2010 version of the instrument.

### **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:

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

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

*Example:*

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

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

| 1/01/2014<br>Modern award penalty | 1/07/2010<br>Penalty rate (phased)<br>(20.00%) |
|-----------------------------------|------------------------------------------------|
| 10.00%                            | 2.00%                                          |
| 20.00%                            | 4.00%                                          |
| 25.00%                            | 5.00%                                          |
| 50.00%                            | 10.00%                                         |
| 75.00%                            | 15.00%                                         |
| 100.00%                           | 20.00%                                         |
| 120.00%                           | 24.00%                                         |
| 125.00%                           | 25.00%                                         |
| 130.00%                           | 26.00%                                         |
| 150.00%                           | 30.00%                                         |

| 1/01/2010<br>Pre-modern award penalty | 1/07/2010<br>Penalty rate (phased)<br>(80.00%) |
|---------------------------------------|------------------------------------------------|
| 10.00%                                | 8.00%                                          |
| 20.00%                                | 16.00%                                         |
| 25.00%                                | 20.00%                                         |
| 50.00%                                | 40.00%                                         |
| 75.00%                                | 60.00%                                         |
| 100.00%                               | 80.00%                                         |
| 120.00%                               | 96.00%                                         |
| 125.00%                               | 100.00%                                        |
| 130.00%                               | 104.00%                                        |
| 150.00%                               | 120.00%                                        |

**New entitlements**

Where an employee did not have a particular loading/penalty entitlement before 01 January 2010, the modern award loading/penalty is phased in from zero as a new entitlement from the first pay period on or after 01 July 2010 by multiplying the penalty rate by the following percentage:

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

*Example:*

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

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

| <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>                                         |
|---------------|-----------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------|-----------------------------------------------------|
| 15.1          | Shift allowance       | <b>Broken shift allowance</b><br><br>An employee working two separate shifts in a day, will be paid a broken shift allowance per day for day on which a broken shift is worked.                                                                                                                  | 1/07/2012 -<br>30/06/2013 | \$13.4865 per day a broken shift is worked (72.58%) |
| 15.2(b)       | Laundry               | An employee required to launder their own clothing, as per the award, will be paid a laundry allowance of \$1.90 per day of \$9.49 per week.                                                                                                                                                     | 1/01/2010                 | \$1.9000 per day or \$9.49 per week                 |
| 15.2(b)       | Laundry               | An employee required to launder their own clothing, as per the award, which does not require ironing will be paid a laundry allowance of \$1.20 per day or \$5.98 per week.                                                                                                                      | 1/01/2010                 | \$1.2000 per day or \$5.98 per week                 |
| 15.3          | Fares allowance       | An employee directed to work away from their normal workplace on any day will be paid an excess fares allowance of \$12.88 per day to compensate for excess fares.<br><br>This does not apply if the employer provides or offers to provide suitable transport free of charge.                   | 1/07/2012 -<br>30/06/2013 | \$12.8800 per day                                   |
| 15.4          | First aid allowance   | An employee classified below Level 3 required to administer first aid to children within their care, while holding a current recognised first aid qualification (eg. certificate from St John Ambulance, the Australian Red Cross or a similar body) will be paid a first aid allowance per day. | 1/07/2012 -<br>30/06/2013 | \$7.9789 per day (42.94%)                           |

| Clause | Allowance Type          | Description                                                                                                                                                                                                                                                                                                                                            | Effective Date         | Rate                      |
|--------|-------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------|---------------------------|
|        |                         | If employed in out-of-school hours care, this allowance will not apply.                                                                                                                                                                                                                                                                                |                        |                           |
| 15.4   | First aid allowance     | An employee, working at an <b>out-of -school hours care</b> classified at Level 3 or below required to administer first aid to children within their care, while holding a current recognised first aid qualification (eg. certificate from St John Ambulance, the Australian Red Cross or a similar body) will be paid a first aid allowance per day. | 1/07/2012 - 30/06/2013 | \$1.0592 per hour (5.70%) |
| 15.5   | Meal allowance          | An employee required to work more than two hours without being notified by at least the previous day of the overtime required, the employer will either provide a meal or the employee will be paid a meal allowance.<br><br>The meal allowance will not apply where an employee could reasonably return home within the time allowed.                 | 1/07/2012 - 30/06/2013 | \$10.6000 per meal        |
| 15.6   | Qualification allowance | All purpose allowance expressed as per week.<br><br>A Director or Assistant Director who holds a Graduate Certificate in Childcare Management or equivalent will be paid an all-purpose allowance.<br><br>Calculated at 5% of the weekly rate for an Assistant Director (Children's Services Employee Level 5.4)<br>(190/38=5% per hour rate)          | 1/07/2012 - 30/06/2013 | \$1.1817 per hour (5.00%) |
| 15.7   | Vehicle allowance       | An employee requested to use their own <b>motor car</b> in the performance of their duties will be paid an allowance of \$0.75 per kilometre.                                                                                                                                                                                                          | 1/07/2012 - 30/06/2013 | \$0.7500 per kilometre    |

| Clause | Allowance Type    | Description                                                                                                                                    | Effective Date | Rate                   |
|--------|-------------------|------------------------------------------------------------------------------------------------------------------------------------------------|----------------|------------------------|
| 15.7   | Vehicle allowance | An employee requested to use their own <b>motorcycle</b> in the performance of their duties will be paid an allowance of \$0.25 per kilometre. | 1/01/2010      | \$0.2500 per kilometre |

## **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> |
| 8      | Consultation (Instrument)      | The award contains information on the employer's responsibility to consult regarding major workplace change including the:                                                                                                                                                                                                                                                                                                                                                                |

| Clause | Conditions Type                       | Description                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |
|--------|---------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
|        |                                       | <ul style="list-style-type: none"> <li>- duty to notify, and</li> <li>- duty to discuss change.</li> </ul>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              |
| 9      | Dispute resolution (Instrument)       | The award sets out a dispute resolution procedure for dealing with disputes in relation to a matter under the award or the National Employment Standards (NES).                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         |
| 10.2   | Conditions of employment (Instrument) | At the time of engagement an employer will inform each employee of the terms of their engagement and in particular whether they are to be full time, part time or casual.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |
| 10.4   | Part-time conditions (Instrument)     | <p>At the beginning of employment an agreement will be made between employer and employee, in writing on a regular pattern of work, specifying at least the hours worked each day, the days of the week worked and the starting and finishing times each day.</p> <p>Changes in the agreed regular pattern of work may only be made by agreement in writing between the employer and employee. Changes in the days to be worked or in starting and/or finishing times (whether on-going or ad hoc) may also be made by agreement in writing. Where agreement cannot be reached, the employer may change the days the employee is to work by giving seven days' notice in advance of the change as per the award. The employer is relieved of the obligation to provide the full seven days' notice of change of the days an employee is to work where an emergency outside of the employer's control causes the employer to make the change.</p> <p>The employee must be rostered for at least two hours per shift.</p> <p>An employee who agrees to work more than their normal hours will be paid ordinary rates for eight hours, provided this is worked in the ordinary hours of the early childhood service, as per the award.</p> |
| 10.5   | Casual conditions (Instrument)        | <p>A casual employee is one engaged for temporary and relief purposes.</p> <p>A casual employee will be paid a minimum of two hours pay for each engagement.</p> <p>A casual employee working in more than:</p> <ul style="list-style-type: none"> <li>- eight hours on any one day or shift; or</li> <li>- 38 hours in any one week,</li> </ul>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |

| <b>Clause</b> | <b>Conditions Type</b>                                                        | <b>Description</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |
|---------------|-------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
|               |                                                                               | will be paid overtime rates, as per the award.                                                                                                                                                                                                                                                                                                                                                                                                                                        |
| 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.                                                                                                          |
| 11.4          | 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.<br><br>If the employee has been allowed paid leave for more than one day, the employee must, by request, produce proof of attendance at an interview or they will not be entitled to payment for the time absent. For this purpose a statutory declaration is sufficient. |
| 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.<br><br>The entitlement to redundancy pay under the NAPSA is limited to the amount which exceeds the entitlement under the NES.                                            |

| Clause | Conditions Type                                  | Description                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |
|--------|--------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
|        |                                                  | This clause does not reduce an employee's entitlement to redundancy pay under any other instrument and ceases to operate on 31 December 2014.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |
| 14.2   | Other<br>(Instrument)                            | <p>Progression through levels within a classification occurs when an employee has:</p> <ul style="list-style-type: none"> <li>- competency at the existing level;</li> <li>- 12 months experience at that level (or in the case of employees employed for 19 hours or less per week, 24 months) and in-service training as required; and</li> <li>- demonstrated ability to acquire the skills necessary for advancement to the next pay point.</li> </ul> <p>Where an employee is deemed to have <b>not</b> been able to meet the criteria above when appraised, progression may be deferred for three months, provided that:</p> <ul style="list-style-type: none"> <li>- the employee is given written notice of reasons;</li> <li>- the employee has, within the last 12 months, had in-service training required to attain a higher pay point; and</li> <li>- training is given to assist the employee in moving to the next level after the review.</li> </ul> <p>If an appraisal is deferred for operational reasons and when it occurs progression is approved, any increase in wages will be backdated to the appropriate date of progression.</p> <p>If a progression is refused or deferred an employee may access the Dispute Resolution provisions of the award. Any increase granted as a result will be backdated to the appropriate date of progression.</p> <p>A Children's Services Employee Level 2 will immediately progress one level after completing an accredited introductory childcare course.</p> |
| 14.4   | Apprentice conditions<br>(Instrument)            | Apprentices will be engaged in accordance with the relevant apprenticeship legislation.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |
| 15.2   | Clothing, equipment<br>and tools<br>(Instrument) | An employee required to wear special clothing or protective clothing or equipment (such as goggles, aprons or gloves) must be reimbursed for the cost of such clothing or equipment, this does not apply where the employer purchases the items.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |
| 15.4   | Other                                            | A first aid officer need not be appointed where a qualified nurse is on the premises at all times.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |

| Clause | Conditions Type                 | Description                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 |
|--------|---------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
|        | (Instrument)                    | Where an employee is required by an employer to act as a first aid officer and they do not have current qualifications, the employer must pay the costs of any required training.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |
| 16.1   | District allowance (Instrument) | <p>An employee in the Northern Territory is entitled to payment of a district allowance in accordance with the provisions of an award or NAPSA under the Workplace Relations Act 1996 that would have applied to the employee immediately prior to 1 January 2010, providing that employee was not bound by an agreement under that Act.</p> <p>This clause ceases to operate on 31 December 2014.</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |
| 16.2   | District allowance (Instrument) | <p>An employee in Western Australia is entitled to payment of a district allowance in accordance with the provisions of an award or NAPSA under the Workplace Relations Act 1996 that would have applied to the employee immediately prior to 1 January 2010, providing that employee was not bound by an agreement under that Act.</p> <p>This clause ceases to operate on 31 December 2014.</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> <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> |

| Clause | Conditions Type                | Description                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         |
|--------|--------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 18     | Higher duties<br>(Instrument)  | <p>An employee engaged in duties carrying a higher rate of pay for two or more hours in a row within any shift or day will be paid at the higher rate for the time worked, provided:</p> <ul style="list-style-type: none"> <li>- the greater part of the time so worked is spent in performing duties carrying the higher rate;</li> <li>- an employee employed as a Children’s Services Employee Level 5 (Assistant Director) who is required to undertake the duties of a Director as the Director is absent will not be entitled to payment under this clause unless this absence exceeds two complete working days in a row;</li> <li>- an employee working as a Children’s Services Employee Level 3 who is required to undertake duties of the Director as the director has not attended outside of core hours will not be entitled to payment under this clause;</li> <li>- where an employee is appointed to act as the Director of a Centre or a Supervising Officer as per the relevant childcare regulations, they will be paid for the entire period at the rate applicable for a Director or Supervising Officer; or</li> <li>- an employee who is required to undertake the duties of another employee as the employee is absent in order to attend (with pay) an approved training course (including in-service training) will not be entitled to payment under this clause.</li> </ul> <p>For the purposes of the above statements, the duties of an employee will be determined by reference to the award and the employee’s job description.</p> |
| 20     | Superannuation<br>(Instrument) | <p>The award contains information on:</p> <ul style="list-style-type: none"> <li>- superannuation legislation;</li> <li>- employer contributions;</li> <li>- voluntary employee contributions;</li> <li>- superannuation fund; and</li> <li>- absence from work.</li> </ul>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         |
| 21     | Hours of work<br>(Instrument)  | <p>Ordinary hours of work - full time employees</p> <ul style="list-style-type: none"> <li>- An average of 38 hours per week over a one, two or four week cycle.</li> </ul>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         |

| Clause | Conditions Type       | Description                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |
|--------|-----------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
|        |                       | <ul style="list-style-type: none"> <li>- Maximum of eight consecutive hours in a day, between Monday and Friday. By mutual agreement this may be increased to a maximum of ten consecutive hours in a day.</li> <li>- Worked between 6.00 am and 6.30 pm</li> <li>- Broken shifts can be spread over no more than 12 hours per day.</li> </ul>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |
| 21.4   | Other<br>(Instrument) | <p><b>Rostered time off for full-time employees</b></p> <p>The 38 hour week may be rostered by any of the following:</p> <ul style="list-style-type: none"> <li>- by employees working less than eight ordinary hours per day;</li> <li>- by employees working less than eight ordinary hours on one or more days each week;</li> <li>- by rostering employees off on various days of the week during the work cycle; or</li> <li>- by accumulating rostered days off with a maximum of five such days being taken consecutively at times mutually convenient to the employer and the employee.</li> </ul> <p>In the absence of agreement at a workplace in respect to rostering of the 38 hour week the dispute resolution process of the award will apply.</p> <p><b>Non-contact time</b></p> <p>An employee responsible for the preparation, implementation and/or evaluation of a developmental program for an individual child or group of children will be entitled to a minimum of two hours per week, during which the employee is not required to supervise children or perform other duties directed by the employer, for the purpose of planning, preparing, evaluating and programming activities.</p> <p>Wherever possible non-contact time should be rostered in advance.</p> <p><b>Attendance at court</b></p> |

| Clause | Conditions Type               | Description                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            |
|--------|-------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
|        |                               | Where an employee must attend court on the employer's, or the employer's clients, behalf in connection with their employment, the time taken will count as time worked.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |
| 21.7   | Rostering<br>(Instrument)     | <p>An employer will post a clear roster at a place readily accessible to employees.</p> <p>An employer may change an employee's rostered hours, but only by giving the employee seven days' notice. In the absence of such notice overtime will be paid until seven days have elapsed from the date the notice was given. However, an employee and employer may agree to waive or shorten this notice period in a particular case. Agreement must be recorded in writing and form part of the time and wages records. The employer is also relieved of the obligation to provide the full seven days' notice where an emergency outside of the employer's control causes the employer to make the change. Where an employee is required to stay beyond their rostered hours because a parent fails to arrive on time to collect a child, this will not be regarded as an emergency. In this circumstance, the employer must pay the employee at overtime rates for the additional time the employee remains at the workplace.</p> <p>An employee may be directed to be transferred from one location to another within their rostered hours, the time taken to transfer will be paid.</p> <p>An employee required to permanently transfer to another location (other than by mutual agreement) will be given seven days notice or paid overtime for seven days from the date the notice was given.</p> |
| 21.8   | Make-up time<br>(Instrument)  | An employee may elect, with the consent of their employer, to work make-up time under which the employee takes time off during ordinary hours and works those hours at a later time during the ordinary spread of hours at the ordinary rate of pay.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |
| 21.9   | Hours of work<br>(Instrument) | <p><b>Hours of work — out-of-school hours care, preschools and kindergartens</b></p> <p>An employee in an out-of-school hours care service, preschool or kindergarten may be employed as a term-time employee to work:</p> <ul style="list-style-type: none"> <li>- only the school education weeks of the year as per the award;</li> <li>- an average of 38 ordinary hours per week of the school education year; or</li> <li>- less than an average of 38 hours per week of the school education year.</li> </ul>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |

| Clause | Conditions Type               | Description                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |
|--------|-------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
|        |                               | <p>All entitlements for term-time employees are no less than those for normal employees, except that no ordinary wages are payable for the weeks the employee is not working.</p> <p>Although wages are not paid during periods term time employees do not work, these periods still count as service for the purposes of accrual of paid annual and personal/carer's leave and wage increments.</p> <p>Where a public holiday falls on a day on which a term-time employee normally works, the employee will be paid their ordinary rate for the number of hours they would ordinarily have worked on that day.</p> <p>Annual leave is exclusive of any public holiday which may occur during the period of leave provided the employee would have ordinarily been required to work on the day on which the public holiday falls.</p> <p>Nothing in this clause prevents an employee in a preschool or kindergarten from being employed other than as a term-time only employee.</p> <p>Where a person employed as at the date of making this award is employed on a contract which provides for payment of salary during non-term times or is employed under an award-based transitional instrument which provides for such payments the provisions of this clause will not have the effect that their contract of employment is changed as a result of this award coming into operation.</p> <p>The making of this award is not intended to prevent other arrangements for staff, who are not required to work during non-term weeks, to be agreed between the employer and majority of employees in a preschool, kindergarten or out-of-school hours care service.</p> |
| 22     | Breaks - meal<br>(Instrument) | <p>An employee will not be required to work more than five hours without an unpaid meal break of at least 30 minutes and not more than one hour.</p> <p>Provided that employees who are engaged for not more than six consecutive hours per shift may elect to give up their meal break.</p> <p>A meal break must be uninterrupted.</p> <p>Notwithstanding the normal unpaid meal break, an employee required to remain on the employer's premises, will receive a paid meal break of at least 20 minutes and no more than 30 minutes. This paid</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       |

| Clause  | Conditions Type                          | Description                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 |
|---------|------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
|         |                                          | meal break is to be counted as time worked. By agreement an employee may leave the premises during the meal break, however, such time away from the premises will not be counted as time worked and will not be paid time.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |
| 22.2    | Breaks - rest (Instrument)               | <p>An employee working four hours or more on any engagement will receive a paid rest period of 10 minutes.</p> <p>Provided that an employee working for seven hours or more will be entitled to two such paid rest periods of 10 minutes each unless the employee agrees to give up one of these rest periods.</p> <p>All rest periods must be uninterrupted.</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |
| 22.3    | Break between work periods (Instrument)  | <p>All employees will be entitled to a 10 hour rest period between the end of work on one day and the beginning of work on the next. Work includes any reasonable additional hours or overtime.</p> <p>By agreement the period of 10 hours may be reduced to at least eight hours.</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |
| 23.2(b) | Overtime - other (Instrument)            | <p>Where, due to a genuine and pressing emergency situation, as per the award, an employee is required to stay at work after their normal finishing time, this time will be paid at their ordinary rate. Provided that such emergency overtime does not exceed one hour per week.</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       |
| 23.2(c) | Overtime – time off in lieu (Instrument) | <p>An employee and an employer may agree that an employee will be provided with time off instead of being paid an overtime payment for all authorised work performed outside of or in excess of the ordinary or rostered hours subject to the following:</p> <ul style="list-style-type: none"> <li>- any periods of time off in ordinary hours will equate to the relevant period of overtime worked;</li> <li>- an employee must not accumulate more than 20 hours of time off, which is to be taken within four weeks of its accrual. Where time off is not taken the overtime will be paid for in the next pay period at the appropriate overtime rate; and</li> <li>- notwithstanding the maximum accrual amount and time limit, the employee may by agreement take time off instead of payment for overtime as part of their annual leave.</li> </ul> |

| Clause | Conditions Type                                                             | Description                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |
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| 24.3   | Annual leave loading<br>(Instrument)                                        | In addition to the payment provided for by the NES (shown under 'Annual leave' within 'Other conditions') an employer is required to pay leave loading of 17.5% of that payment.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 |
| 24.4   | Annual leave - close-down<br>(Instrument)                                   | <p>Where a workplace is closed during a vacation period, other than Christmas vacation, and no work is available, an employee will be paid at their ordinary rate during such period.</p> <p>During the Christmas vacation only, an employee may be directed to take annual leave. An employee without enough accrued leave to maintain their ordinary rate of pay during the vacation period may be required to take leave without pay for a maximum of four weeks.</p> <p>Notwithstanding paid time during a vacation period other than Christmas mentioned above, in establishments which operate for more than 48 weeks per year, an employer may require an employee to take annual leave by giving at least four weeks notice in the following circumstances:</p> <ul style="list-style-type: none"> <li>- as part of a close-down of its operations; or</li> <li>- where an employee has accrued more than eight weeks' leave.</li> </ul> |
| 24.5   | Annual leave - paid leave in advance of accrued entitlement<br>(Instrument) | An employer may allow an employee to take annual leave either wholly or partly in advance before the leave has accrued. Where such leave is paid in advance and the employee leaves the employment before completing the service necessary to account for the leave provided, the employer may deduct the amount of leave paid in advance from any termination payments owing to the employee. No leave loading will be payable in respect of leave taken in advance of accrual.                                                                                                                                                                                                                                                                                                                                                                                                                                                                 |
| 27.2   | Public holidays<br>(Instrument)                                             | <p>By agreement between the employer and the majority of employees in the relevant workplace an alternative day may be taken as the public holiday instead of any of the days prescribed by the NES.</p> <p><b>Additional arrangements for full time employees</b></p> <p>A full-time employee whose rostered day off falls on a public holiday must, subject to the above substitute day, either:</p> <ul style="list-style-type: none"> <li>- be paid an extra day's pay;</li> <li>- be provided with an alternative day off within 28 days; or</li> <li>- receive an additional day's annual leave.</li> </ul>                                                                                                                                                                                                                                                                                                                                |

| Clause | Conditions Type | Description                                                                                                    |
|--------|-----------------|----------------------------------------------------------------------------------------------------------------|
|        |                 | A full-time employee who works on a public holiday is entitled to a substitute day as provided for in the NES. |

### **Frequency of Payment**

Wages may be paid weekly, fortnightly or monthly by agreement between the employer and employee, by one of the following means: cash, cheque, or payment into employee's bank or nominated financial institution account by electronic funds transfer, without cost to 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.