



Australian Government

Fair Work OMBUDSMAN

PAY AND CONDITIONS GUIDE

Mining Industry Award 2010 [MA000011] ('modern award')
replacing terms and conditions in or derived from

**Drilling and Exploration Industry (AWU) Award 1998, The
[AP778713]** ('pre-modern award')

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

Effective from 01 July 2012.

Published 22 June 2012

Background

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

Transitional arrangements

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

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

The rates in this guide are current from the first pay period on or after 01 July 2012. The rates set out in this guide will change from the first full period on or after 01 July each year to take account of Fair Work Australia's annual wage review and transitional arrangements. The rates may also change as a result of a Fair Work Australia decision to vary the modern award or pay and condition entitlements of the modern award from time to time.

Transitional arrangements for Division 2B State awards

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

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

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

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

Who should use the guide?

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

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

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

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

The guide contains information from this modern award about:

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

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

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

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

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

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

Coverage

This industry award covers employers throughout Australia who are engaged in the mining industry in respect of work by their employees in a classification in this award, to the exclusion of any other modern award.

For the purposes of this clause **mining industry** means:

extracting any of the following from the earth by any manner or method including exploration, prospecting, development and land clearing, preparatory work and rehabilitation during the life of the mine:

- any metals, minerals or ores
- phosphates and gemstones
- mineral sands
- uranium and other radioactive substances

the processing, smelting and refining of the metals, minerals, ores or substances specified in this award.

the transportation, handling and loading of any of the metals, minerals, ores or substances specified in this award on a mining lease or tenement

the transportation, handling and loading of any of the metals, minerals, ores or substances specified in this award by the mine operator, a related company or an entity principally engaged by the mine operator to do such work, using the plant or infrastructure (including rail and/or ports) of the mine operator or a related company

the servicing, maintaining (including mechanical, electrical, fabricating or engineering) or repairing of plant and equipment used in the activities set out above in the definition of **mining industry** by employees principally employed to perform work on an ongoing basis at a location where the activities described above are being performed, or

the provision of temporary labour services used in the activities set out above in the definition of **mining industry**, by temporary labour personnel principally engaged to perform work at a location where the activities described above are being performed.

This award does not cover:

- an employee who is 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 such employee
- an employee who is 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 such an employee
- an employee excluded from award coverage by the Act

- employers in respect of their operations or activities in the following industries or occupations:
 - aluminium
 - catering, accommodation, cleaning and incidental services (unless employed by a mine operator or a related company)
 - clerical or administrative
 - information technology professionals, professional engineers, geologists and scientists
 - oil, gas and hydrocarbons
 - quarrying of stone, crushed stone, sand and gravel, and land reclamation (including dredging)
 - salt
 - security services (unless employed by a mine operator or a related company)
 - steel making
 - prospecting and resource assessment for the purposes of potential mine development, which is not on a mining lease or tenement
 - brown coal mining, and
 - melting and smelting of metals in connection with manufacturing activities covered by the Manufacturing and Associated Industries and Occupations Award 2010
- employers in respect of their operations or activities covered by the Black Coal Mining Industry Award 2010
- employers in respect of their operations or activities covered by the Manufacturing and Associated Industries and Occupations Award 2010, except for work listed above, and
- persons employed in the head office or town office of an employer.

This award covers employers which provide group training services for apprentices and trainees engaged in the mining industry and/or parts of the mining 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.

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

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 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)
Mining industry services employees		
Entry level - introductory	Exploration development worker	\$17.10
Entry level - introductory	Pilot plant operator	\$16.96
Entry level - introductory	Cook	\$16.92
Entry level - introductory	Field assistant, Grade 1	\$16.77
Entry level - introductory	Drillers assistant	\$16.76
Entry level - introductory	Cooks assistant	\$16.76
Entry level - introductory	Utility worker	\$16.76
Level 1 - basic	Exploration development worker	\$17.61
Level 1 - basic	Field assistant, Grade 2	\$17.61
Level 1 - basic	Pilot plant operator	\$17.46
Level 1 - basic	Cook	\$17.42
Level 1 - basic	Field assistant, Grade 1	\$17.28
Level 1 - basic	Drillers assistant	\$17.27
Level 1 - basic	Cooks assistant	\$17.27
Level 1 - basic	Utility worker	\$17.27
Level 2 -intermediate	Cook	\$17.84
Mining industry surface mining and haulage employees		
Entry level - introductory	Trainee driller	\$16.92
Level 1 - basic	Driller, Grade 1	\$17.61
Level 1 - basic	Trainee driller	\$17.42
Level 2 - intermediate	Driller, Grade 2	\$18.37
Level 3 - competent	Driller, Grade 3	\$18.95

Casual

Modern award classification	Pre-modern award classification	Base rate of pay (hourly)
Mining industry services employees		
Entry level - introductory	Exploration development worker	\$21.37 (25%)
Entry level - introductory	Pilot plant operator	\$21.19 (25%)
Entry level - introductory	Cook	\$21.14 (25%)
Entry level - introductory	Field assistant, Grade 1	\$20.96 (25%)
Entry level - introductory	Drillers assistant	\$20.95 (25%)
Entry level - introductory	Cooks assistant	\$20.95 (25%)
Entry level - introductory	Utility worker	\$20.95 (25%)
Level 1 - basic	Exploration development worker	\$22.01 (25%)
Level 1 - basic	Field assistant, Grade 2	\$22.01 (25%)
Level 1 - basic	Pilot plant operator	\$21.83 (25%)
Level 1 - basic	Cook	\$21.78 (25%)
Level 1 - basic	Field assistant, Grade 1	\$21.59 (25%)
Level 1 - basic	Drillers assistant	\$21.59 (25%)
Level 1 - basic	Cooks assistant	\$21.59 (25%)
Level 1 - basic	Utility worker	\$21.59 (25%)
Level 2 - intermediate	Cook	\$22.30 (25%)
Mining industry surface mining and haulage employees		
Entry level - introductory	Trainee driller	\$21.14 (25%)
Level 1 - basic	Driller, Grade 1	\$22.01 (25%)
Level 1 - basic	Trainee driller	\$21.78 (25%)
Level 2 - intermediate	Driller, Grade 2	\$22.97 (25%)
Level 3 - competent	Driller, Grade 3	\$23.69 (25%)

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

Modern award classification	Pre-modern award classification	Base rate of pay (hourly)
Introductory		
16 years or less	Exploration development worker, Under 18 years of age	\$12.63
16 years or less	Pilot plant operator, Under 18 years of age	\$12.53
16 years or less	Cook, Under 18 years of age	\$12.50
16 years or less	Trainee driller, Under 18 years of age	\$12.50
16 years or less	Field assistant, Grade 1, Under 18 years of age	\$12.40
16 years or less	Drillers assistant, Under 18 years of age	\$12.40

Modern award classification	Pre-modern award classification	Base rate of pay (hourly)
16 years or less	Cooks assistant, Under 18 years of age	\$12.40
16 years or less	Utility worker, Under 18 years of age	\$12.40
At 17 years	Exploration development worker, Under 18 years of age	\$13.69
At 17 years	Pilot plant operator, Under 18 years of age	\$13.59
At 17 years	Cook, Under 18 years of age	\$13.56
At 17 years	Trainee driller, Under 18 years of age	\$13.56
At 17 years	Field assistant, Grade 1, Under 18 years of age	\$13.46
At 17 years	Drillers assistant, Under 18 years of age	\$13.46
At 17 years	Cooks assistant, Under 18 years of age	\$13.46
At 17 years	Utility worker, Under 18 years of age	\$13.46
At 18 years	Exploration development worker	\$17.10
At 18 years	Pilot plant operator	\$16.96
At 18 years	Cook	\$16.92
At 18 years	Trainee driller	\$16.92
At 18 years	Field assistant, Grade 1	\$16.77
At 18 years	Drillers assistant	\$16.76
At 18 years	Cooks assistant	\$16.76
At 18 years	Utility worker	\$16.76
Basic		
16 years or less	Driller, Grade 1, Under 18 years of age	\$14.49
16 years or less	Exploration development worker, Under 18 years of age	\$13.01
16 years or less	Field assistant, Grade 2, Under 18 years of age	\$13.01
16 years or less	Pilot plant operator, Under 18 years of age	\$12.91
16 years or less	Cook, Under 18 years of age	\$12.88
16 years or less	Trainee driller, Under 18 years of age	\$12.88
16 years or less	Field assistant, Grade 1, Under 18 years of age	\$12.78
16 years or less	Drillers assistant, Under 18 years of age	\$12.78
16 years or less	Cooks assistant, Under 18 years of age	\$12.78
16 years or less	Utility worker, Under 18 years of age	\$12.78
At 17 years	Driller, Grade 1, Under 18 years of age	\$15.44

Modern award classification	Pre-modern award classification	Base rate of pay (hourly)
At 17 years	Exploration development worker, Under 18 years of age	\$14.12
At 17 years	Field assistant, Grade 2, Under 18 years of age	\$14.12
At 17 years	Pilot plant operator, Under 18 years of age	\$14.02
At 17 years	Cook, Under 18 years of age	\$13.99
At 17 years	Trainee driller, Under 18 years of age	\$13.99
At 17 years	Field assistant, Grade 1, Under 18 years of age	\$13.89
At 17 years	Drillers assistant, Under 18 years of age	\$13.89
At 17 years	Cooks assistant, Under 18 years of age	\$13.89
At 17 years	Utility worker, Under 18 years of age	\$13.89
At 18 years	Driller, Grade 1	\$17.61
At 18 years	Exploration development worker	\$17.61
At 18 years	Field assistant, Grade 2	\$17.61
At 18 years	Pilot plant operator	\$17.46
At 18 years	Cook	\$17.42
At 18 years	Trainee driller	\$17.42
At 18 years	Field assistant, Grade 1	\$17.28
At 18 years	Drillers assistant	\$17.27
At 18 years	Cooks assistant	\$17.27
At 18 years	Utility worker	\$17.27
Intermediate		
16 years or less	Driller, Grade 2, Under 18 years of age	\$13.57
16 years or less	Cook, Under 18 years of age	\$13.20
At 17 years	Driller, Grade 2, Under 18 years of age	\$14.72
At 17 years	Cook, Under 18 years of age	\$14.35
At 18 years	Driller, Grade 2	\$18.37
At 18 years	Cook	\$17.84
Competent		
16 years or less	Driller, Grade 3, Under 18 years of age	\$13.99
At 17 years	Driller, Grade 3, Under 18 years of age	\$15.18
At 18 years	Driller, Grade 3	\$18.95

Casual

Modern award classification	Pre-modern award classification	Base rate of pay (hourly)
Introductory		

Modern award classification	Pre-modern award classification	Base rate of pay (hourly)
16 years or less	Exploration development worker, Under 18 years of age	\$15.79 (25%)
16 years or less	Pilot plant operator, Under 18 years of age	\$15.66 (25%)
16 years or less	Cook, Under 18 years of age	\$15.63 (25%)
16 years or less	Trainee driller, Under 18 years of age	\$15.63 (25%)
16 years or less	Field assistant, Grade 1, Under 18 years of age	\$15.50 (25%)
16 years or less	Drillers assistant, Under 18 years of age	\$15.50 (25%)
16 years or less	Cooks assistant, Under 18 years of age	\$15.50 (25%)
16 years or less	Utility worker, Under 18 years of age	\$15.50 (25%)
At 17 years	Exploration development worker, Under 18 years of age	\$17.12 (25%)
At 17 years	Pilot plant operator, Under 18 years of age	\$16.99 (25%)
At 17 years	Cook, Under 18 years of age	\$16.95 (25%)
At 17 years	Trainee driller, Under 18 years of age	\$16.95 (25%)
At 17 years	Field assistant, Grade 1, Under 18 years of age	\$16.82 (25%)
At 17 years	Drillers assistant, Under 18 years of age	\$16.82 (25%)
At 17 years	Cooks assistant, Under 18 years of age	\$16.82 (25%)
At 17 years	Utility worker, Under 18 years of age	\$16.82 (25%)
At 18 years	Exploration development worker	\$21.37 (25%)
At 18 years	Pilot plant operator	\$21.19 (25%)
At 18 years	Cook	\$21.14 (25%)
At 18 years	Trainee driller	\$21.14 (25%)
At 18 years	Field assistant, Grade 1	\$20.96 (25%)
At 18 years	Drillers assistant	\$20.95 (25%)
At 18 years	Cooks assistant	\$20.95 (25%)
At 18 years	Utility worker	\$20.95 (25%)
Basic		
16 years or less	Driller, Grade 1, Under 18 years of age	\$18.12 (25%)
16 years or less	Exploration development worker, Under 18 years of age	\$16.27 (25%)
16 years or less	Field assistant, Grade 2, Under 18 years of age	\$16.27 (25%)
16 years or less	Pilot plant operator, Under 18 years of age	\$16.14 (25%)
16 years or less	Cook, Under 18 years of age	\$16.10 (25%)

Modern award classification	Pre-modern award classification	Base rate of pay (hourly)
16 years or less	Trainee driller, Under 18 years of age	\$16.10 (25%)
16 years or less	Field assistant, Grade 1, Under 18 years of age	\$15.97 (25%)
16 years or less	Drillers assistant, Under 18 years of age	\$15.97 (25%)
16 years or less	Cooks assistant, Under 18 years of age	\$15.97 (25%)
16 years or less	Utility worker, Under 18 years of age	\$15.97 (25%)
At 17 years	Driller, Grade 1, Under 18 years of age	\$19.30 (25%)
At 17 years	Exploration development worker, Under 18 years of age	\$17.66 (25%)
At 17 years	Field assistant, Grade 2, Under 18 years of age	\$17.66 (25%)
At 17 years	Pilot plant operator, Under 18 years of age	\$17.53 (25%)
At 17 years	Cook, Under 18 years of age	\$17.49 (25%)
At 17 years	Trainee driller, Under 18 years of age	\$17.49 (25%)
At 17 years	Field assistant, Grade 1, Under 18 years of age	\$17.36 (25%)
At 17 years	Drillers assistant, Under 18 years of age	\$17.36 (25%)
At 17 years	Cooks assistant, Under 18 years of age	\$17.36 (25%)
At 17 years	Utility worker, Under 18 years of age	\$17.36 (25%)
At 18 years	Driller, Grade 1	\$22.01 (25%)
At 18 years	Exploration development worker	\$22.01 (25%)
At 18 years	Field assistant, Grade 2	\$22.01 (25%)
At 18 years	Pilot plant operator	\$21.83 (25%)
At 18 years	Cook	\$21.78 (25%)
At 18 years	Trainee driller	\$21.78 (25%)
At 18 years	Field assistant, Grade 1	\$21.59 (25%)
At 18 years	Drillers assistant	\$21.59 (25%)
At 18 years	Cooks assistant	\$21.59 (25%)
At 18 years	Utility worker	\$21.59 (25%)
Intermediate		
16 years or less	Driller, Grade 2, Under 18 years of age	\$16.96 (25%)
16 years or less	Cook, Under 18 years of age	\$16.49 (25%)
At 17 years	Driller, Grade 2, Under 18 years of age	\$18.40 (25%)
At 17 years	Cook, Under 18 years of age	\$17.94 (25%)
At 18 years	Driller, Grade 2	\$22.97 (25%)
At 18 years	Cook	\$22.30 (25%)
Competent		

Modern award classification	Pre-modern award classification	Base rate of pay (hourly)
16 years or less	Driller, Grade 3, Under 18 years of age	\$17.49 (25%)
At 17 years	Driller, Grade 3, Under 18 years of age	\$18.97 (25%)
At 18 years	Driller, Grade 3	\$23.69 (25%)

Apprentice

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

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

Trainee

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

Supported Wage

Please refer to clause 13.5 of the modern award.

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

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

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

Transitional arrangements

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

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

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

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

Equivalent entitlements

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

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

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

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

Example:

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

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

1/01/2010 Pre-modern award penalty	1/07/2014 Modern award penalty	1/07/2010 Penalty rate (phased)
25%	50%	30%
50%	75%	55%
50%	100%	60%
75%	100%	80%

4. Where the modern award loading/penalty is lower, the penalty rate is obtained by adding the proportion of the transitional percentage.

Example:

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

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

1/01/2010 Pre-modern award penalty	1/07/2014 Modern award penalty	1/07/2010 Penalty rate (phased)
50%	25%	45%

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

Entitlements that are not equivalent

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

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

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

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

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

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

Example:

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

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

1/01/2014	1/07/2010
Modern award penalty	Penalty rate (phased)
	(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%

1/01/2010	1/07/2010
Pre-modern award penalty	Penalty rate (phased)
	(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%

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

1/01/2010	1/07/2010
Pre-modern award penalty	Penalty rate (phased)
	(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.

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

For more information about transitional arrangements for loading/penalty entitlements please visit 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

Clause	Allowance Type	Description	Effective Date	Rate
14.2(a)	Leading hand allowance	Employees in charge of 3-10 employees receive 4.40% of the standard rate per week. (4.4% x 38hrs = 167.2)	1/07/2012	\$0.8176 per hour. This weekly allowance has been converted to an hourly amount. It should be applied to all ordinary hours of work (up to a maximum of 38 hours per week). (4.40%)
14.2(a)	Leading hand allowance	Employees in charge of 11-20 employees receive 5.60% of the standard rate per week. (5.60% x 38 = 212.8)	1/07/2012	\$1.0406 per hour. This weekly allowance has been converted to an hourly amount. It should be applied to all ordinary hours of work (up to a maximum of 38 hours per week). (5.60%)
14.2(a)	Leading hand allowance	Employees in charge of more than 20 employees receive 7.53% of the standard rate per week. (7.53% x 38 hrs = 286.14)	1/07/2012	\$1.3992 per hour. This weekly allowance has been converted to an hourly amount. It

Clause	Allowance Type	Description	Effective Date	Rate
				should be applied to all ordinary hours of work (up to a maximum of 38 hours per week). (7.53%)
14.2(b)	First aid allowance	An employee who holds first aid qualifications from St John Ambulance or an equivalent body, and is appointed by the employer to act as the first aid officer, including emergency response, will receive 2% of the standard rate per week. (2% x 38hrs = 76)	1/07/2012	\$0.3716 per hour. This weekly allowance has been converted to an hourly amount. It should be applied to all ordinary hours of work (up to a maximum of 38 hours per week). (2.00%)
14.2(c)	Licence allowance	All purpose allowance expressed as per week. An employee who is required by their employer to hold an Electrical Technicians licence (or equivalent) will receive 4.55% of the standard rate per week. (4.55% per week x 38 = 172.9% per hour)	1/07/2012	\$0.8455 per hour. This weekly allowance has been converted to an hourly amount. It should be applied to all ordinary hours of work (up to a maximum of 38 hours per week). (4.55%)
14.2(d)	Rail allowance	Entry Level - Introductory Employees who are assessed as being mainline competent and appointed by their employer as Locomotive Drivers and required to operate on the mainline will receive a rail allowance of 30% of the ordinary hourly base rate of pay specified in this award.	1/07/2012	\$4.9642 per hour (30.00%)

Clause	Allowance Type	Description	Effective Date	Rate
14.2(d)	Rail allowance	Entry Level - Introductory At 17 years Employees who are assessed as being mainline competent and appointed by their employer as Locomotive Drivers and required to operate on the mainline will receive a rail allowance of 30% of the ordinary hourly base rate of pay specified in this award.	1/07/2012	\$4.2196 per hour (85.00%)
14.2(d)	Rail allowance	Level 1 - Basic Employees who are assessed as being mainline competent and appointed by their employer as Locomotive Drivers and required to operate on the mainline will receive a rail allowance of 30% of the ordinary hourly base rate of pay specified in this award.	1/07/2012	\$5.2082 per hour (30.00%)
14.2(d)	Rail allowance	Entry Level - Introductory 16 years or less Employees who are assessed as being mainline competent and appointed by their employer as Locomotive Drivers and required to operate on the mainline will receive a rail allowance of 30% of the ordinary hourly base rate of pay specified in this award.	1/07/2011	\$0.7500 per hour (75.00%)
14.2(d)	Rail allowance	Level 1 - Basic 16 years or less Employees who are assessed as being mainline competent and appointed by their employer as Locomotive Drivers and required to operate on the mainline will receive a rail allowance of 30% of the ordinary hourly base rate of pay specified in this award.	1/07/2012	\$3.9061 per hour (75.00%)
14.2(d)	Rail allowance	Level 1 - Basic At 17 years Employees who are assessed as being mainline competent and appointed by their employer as Locomotive Drivers and required to operate on the mainline will receive a rail allowance of 30% of the ordinary hourly base rate of pay specified in this award.	1/07/2012	\$4.4269 per hour (85.00%)

Clause	Allowance Type	Description	Effective Date	Rate
14.2(d)	Rail allowance	Level 2 - Intermediate Employees who are assessed as being mainline competent and appointed by their employer as Locomotive Drivers and required to operate on the mainline will receive a rail allowance of 30% of the ordinary hourly base rate of pay specified in this award.	1/07/2012	\$5.4095 per hour (30.00%)
14.2(d)	Rail allowance	Level 2 - Intermediate 16 years or less Employees who are assessed as being mainline competent and appointed by their employer as Locomotive Drivers and required to operate on the mainline will receive a rail allowance of 30% of the ordinary hourly base rate of pay specified in this award.	1/07/2012	\$4.0571 per hour (75.00%)
14.2(d)	Rail allowance	Level 2 - Intermediate At 17 years Employees who are assessed as being mainline competent and appointed by their employer as Locomotive Drivers and required to operate on the mainline will receive a rail allowance of 30% of the ordinary hourly base rate of pay specified in this award.	1/07/2012	\$4.5981 per hour (85.00%)
14.2(d)	Rail allowance	Level 3 - Competent Employees who are assessed as being mainline competent and appointed by their employer as Locomotive Drivers and required to operate on the mainline will receive a rail allowance of 30% of the ordinary hourly base rate of pay specified in this award.	1/07/2012	\$5.5745 per hour (30.00%)
14.2(d)	Rail allowance	Level 4 - Advanced Employees who are assessed as being mainline competent and appointed by their employer as Locomotive Drivers and required to operate on the mainline will receive a rail allowance of 30% of the ordinary hourly base rate of pay specified in this award.	1/07/2012	\$5.9471 per hour (30.00%)

Clause	Allowance Type	Description	Effective Date	Rate
14.2(d)	Rail allowance	Level 3 - Competent At 17 years Employees who are assessed as being mainline competent and appointed by their employer as Locomotive Drivers and required to operate on the mainline will receive a rail allowance of 30% of the ordinary hourly base rate of pay specified in this award.	1/07/2012	\$4.7383 per hour (85.00%)
14.2(d)	Rail allowance	1st year apprentice Employees who are assessed as being mainline competent and appointed by their employer as Locomotive Drivers and required to operate on the mainline will receive a rail allowance of 30% of the ordinary hourly base rate of pay specified in this award.	1/07/2012	\$2.5085 per hour (45.00%)
14.2(d)	Rail allowance	2nd year apprentice Employees who are assessed as being mainline competent and appointed by their employer as Locomotive Drivers and required to operate on the mainline will receive a rail allowance of 30% of the ordinary hourly base rate of pay specified in this award.	1/07/2012	\$3.0660 per hour (55.00%)
14.2(d)	Rail allowance	Level 4 - Advanced 16 years or less Employees who are assessed as being mainline competent and appointed by their employer as Locomotive Drivers and required to operate on the mainline will receive a rail allowance of 30% of the ordinary hourly base rate of pay specified in this award.	1/07/2012	\$4.4603 per hour (75.00%)
14.2(d)	Rail allowance	3rd year apprentice Employees who are assessed as being mainline competent and appointed by their employer as Locomotive Drivers and required to operate on the mainline will receive a rail allowance of 30% of the ordinary hourly base rate of pay specified in this award.	1/07/2012	\$4.1809 per hour (75.00%)
14.2(d)	Rail allowance	Level 4 - Advanced At 17 years	1/07/2012	\$5.0550 per hour (85.00%)

Clause	Allowance Type	Description	Effective Date	Rate
		Employees who are assessed as being mainline competent and appointed by their employer as Locomotive Drivers and required to operate on the mainline will receive a rail allowance of 30% of the ordinary hourly base rate of pay specified in this award.		
14.2(d)	Rail allowance	4th year apprentice Employees who are assessed as being mainline competent and appointed by their employer as Locomotive Drivers and required to operate on the mainline will receive a rail allowance of 30% of the ordinary hourly base rate of pay specified in this award.	1/07/2012	\$4.9055 per hour (88.00%)
14.2(d)	Rail allowance	Level 3 - Competent 16 years or less Employees who are assessed as being mainline competent and appointed by their employer as Locomotive Drivers and required to operate on the mainline will receive a rail allowance of 30% of the ordinary hourly base rate of pay specified in this award.	1/07/2012	\$4.1809 per hour (75.00%)
14.2(d)	Rail allowance	Level 5 - Advanced Specialist Employees who are assessed as being mainline competent and appointed by their employer as Locomotive Drivers and required to operate on the mainline will receive a rail allowance of 30% of the ordinary hourly base rate of pay specified in this award.	1/07/2012	\$6.3332 per hour (30.00%)
14.2(d)	Rail allowance	Level 5 - Advanced Specialist 16 years or less Employees who are assessed as being mainline competent and appointed by their employer as Locomotive Drivers and required to operate on the mainline will receive a rail allowance of 30% of the ordinary hourly base rate of pay specified in this award.	1/07/2012	\$4.7499 per hour (75.00%)
14.2(d)	Rail allowance	Level 5 - Advanced Specialist At 17 years	1/07/2012	\$5.3832 per hour (85.00%)

Clause	Allowance Type	Description	Effective Date	Rate
		Employees who are assessed as being mainline competent and appointed by their employer as Locomotive Drivers and required to operate on the mainline will receive a rail allowance of 30% of the ordinary hourly base rate of pay specified in this award.		
14.2(d)	Rail allowance	Level 6 - Dual Trade Employees who are assessed as being mainline competent and appointed by their employer as Locomotive Drivers and required to operate on the mainline will receive a rail allowance of 30% of the ordinary hourly base rate of pay specified in this award.	1/07/2012	\$6.6442 per hour (30.00%)
14.2(d)	Rail allowance	Level 6 - Dual Trade 16 years or less Employees who are assessed as being mainline competent and appointed by their employer as Locomotive Drivers and required to operate on the mainline will receive a rail allowance of 30% of the ordinary hourly base rate of pay specified in this award.	1/07/2012	\$4.9832 per hour (75.00%)
14.2(d)	Rail allowance	Level 6 - Dual Trade At 17 years Employees who are assessed as being mainline competent and appointed by their employer as Locomotive Drivers and required to operate on the mainline will receive a rail allowance of 30% of the ordinary hourly base rate of pay specified in this award.	1/07/2012	\$5.6476 per hour (85.00%)
14.2(d)	Rail allowance	Level 7 - Dual Trade Instrumentation Employees who are assessed as being mainline competent and appointed by their employer as Locomotive Drivers and required to operate on the mainline will receive a rail allowance of 30% of the ordinary hourly base rate of pay specified in this award.	1/07/2012	\$6.9134 per hour (30.00%)
14.2(d)	Rail allowance	Level 7 - Dual Trade Instrumentation 16 years or less	1/07/2012	\$5.1851 per hour (75.00%)

Clause	Allowance Type	Description	Effective Date	Rate
		Employees who are assessed as being mainline competent and appointed by their employer as Locomotive Drivers and required to operate on the mainline will receive a rail allowance of 30% of the ordinary hourly base rate of pay specified in this award.		
14.2(d)	Rail allowance	Level 7 - Dual Trade Instrumentation At 17 years Employees who are assessed as being mainline competent and appointed by their employer as Locomotive Drivers and required to operate on the mainline will receive a rail allowance of 30% of the ordinary hourly base rate of pay specified in this award.	1/07/2012	\$5.8764 per hour (85.00%)
14.3(a)	Industry allowance	All purpose allowance expressed as per week. Employees will be paid 3.7% of the standard rate per week. This is in payment for all aspects of work in the industry, including but not limited to the location and nature of mining operations, clothing, dirt, wet, height, fumes, heat, cold, confined space, and all other disabilities not expressly dealt with under this clause.	1/07/2012	\$0.6875 per hour. This weekly allowance has been converted to an hourly amount. It should be applied to all ordinary hours of work (up to maximum of 38 hours week). (3.70%)
14.3(c)	Underground allowance	Employees, other than employees classified as underground miners, whilst required by their employer to work underground will receive 7% per hour, calculated by reference to the standard rate.	1/07/2012	\$1.3007 per hour (7.00%)
14.3(d)(i)	Camping allowance	The following allowance applies only to employees who are required to perform drilling, prospecting and exploration duties. Employees who are required to camp at remote locations (including remote from a mine site) and reasonable transport to and from their home is not provided and where meals are not	1/07/2012	\$23.9368 per day (128.82%)

Clause	Allowance Type	Description	Effective Date	Rate
		<p>provided by the employer will receive 3.39% of the standard rate per day.</p> <p>3.39% of the standard rate per week x 38 = 128.82% of the hourly rate</p>		
14.3(d)(i)	Camping allowance	<p>The following allowance applies only to employees who are required to perform drilling, prospecting and exploration duties.</p> <p>Employees who are required to camp at remote locations (including remote from a mine site) and reasonable transport to and from their home is not provided, & where meals are provided by the employer will receive 1.87% of the standard rate per day.</p> <p>1.87% of the standard rate per week x 38 = 71.06% of the hourly rate</p>	1/07/2012	\$13.2041 per day (71.06%)
14.3(d)(ii)	Broken shift allowance	<p>All purpose allowance expressed as per week.</p> <p>Employees who are classified as cooks and cooks assistants whilst they are required by their employer to work broken shifts will receive 1.07% of the standard rate per week.</p> <p>(1.07% per week x 38 = 40.66% per hour)</p>	1/07/2012	\$7.5553 per occasion/shift (40.66%)
14.4(a)	Meal allowance	<p>An employee will be paid a meal allowance on each occasion that the employee is entitled to a rest break during overtime work. This is not payable if a meal or meal-making facilities are provided or if the employee was notified no later than the previous day or shift that the employee would be required to work the overtime.</p>	1/07/2012	\$14.4900 per occasion

Clause	Allowance Type	Description	Effective Date	Rate
14.4(b)	Tool allowance	An employee who is required by the employer to supply and maintain tools ordinarily required in the performance of work will receive the following allowance.	1/07/2010	\$0.3855 per hour. This weekly allowance has been converted to an hourly amount. It should be applied to all ordinary hours of work (up to a maximum of 38 hours per week).

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

All states covered by this instrument

Clause	Conditions Type	Description
7	Award flexibility (Instrument)	An employer and an individual employee may agree to vary the following terms of this award to meet the genuine needs of the employer and the individual employee with respect to: <ul style="list-style-type: none"> - arrangements for when work is performed - overtime rates - penalty rates - allowances - leave loading.

Clause	Conditions Type	Description
		Other conditions concerning award flexibility are contained within the Fair Work Act 2009.
8	Consultation (Instrument)	<p>The award contains information on the employer's responsibility to consult regarding major workplace change including the:</p> <ul style="list-style-type: none"> - duty to notify, and - duty to discuss change.
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	Part-time conditions (Instrument)	<p>A part-time employee is an employee who:</p> <ul style="list-style-type: none"> - is engaged to work an average of fewer than 38 ordinary hours per week, and - receives, on a pro rata basis, equivalent pay and conditions to those of full-time employees who do the same kind of work. <p>For each ordinary hour worked, a part-time employee will be paid no less than 1/38th of the minimum weekly rate of pay.</p> <p>An employer must inform a part-time employee of the ordinary hours of work and starting and finishing times. All time worked in excess of these hours will be paid at the appropriate overtime rate.</p>
10.3	Casual conditions (Instrument)	<p>A casual employee's ordinary hours of work are the lesser of an average of 38 hours per week or the hours required to be worked by the employer.</p> <p>For each hour worked, a casual employee will be paid no less than 1/38th of the minimum weekly rate of pay for their classification plus a casual loading of 25%. The loading constitutes part of the casual employee's all purpose rate.</p> <p>The casual loading is paid in lieu of annual leave, personal/carer's leave, notice of termination, redundancy benefits and the other attributes of full-time or part-time employment.</p>

Clause	Conditions Type	Description
10.4	Probation period (Instrument)	An employer may initially engage a full-time or part-time employee for a period of probationary employment for the purpose of determining the employee's suitability for ongoing employment. The employee must be advised in advance that the employment is probationary and of the duration of the probation which is to be either: -three months or less, or - more than three months and is reasonable, having regard to the nature and circumstances of the employment.
11.2	Termination of employment - notice of termination by an employee (Instrument)	The notice of termination required to be given by an employee is the same as an employer except there is no requirement to give additional notice based on age. If an employee fails to give the required notice the employer may withhold from any monies due on termination, the difference between the amount of notice required and the amount of notice actually given.
11.3	Termination of employment - job search entitlement (Instrument)	Where an employer has given notice of termination to an employee, an employee must be allowed up to one day's time off without loss of pay for the purpose of seeking other employment. The time off is to be taken at times that are convenient to the employee after consultation with the employer.
12.2	Redundancy - transfer to lower paid duties (Instrument)	Where an employee is transferred to lower paid duties by reason of redundancy, the same period of notice must be given as the employee would have been entitled to if the employment had been terminated. Alternatively, the employer may choose to pay the employee the difference between the former ordinary time rate of pay and the new ordinary time rate of pay for the number of weeks of notice still owing.
12.3	Redundancy - employee leaving during notice period (Instrument)	An employee given notice of termination in circumstances of redundancy may terminate their employment during the period of notice. The employee is entitled to receive the benefits and payments they would have received had they remained in employment until the expiry of the notice, but is not entitled to payment instead of notice.
12.4	Redundancy - job search entitlement (Instrument)	An employee given notice of termination in circumstances of redundancy must be allowed up to one day's time off without loss of pay during each week of notice for the purpose of seeking other employment. If the employee has been allowed paid leave for more than one day, the employee must, by request, produce proof of attendance at an interview or they will not be entitled to payment for the time absent. For this purpose a statutory declaration is sufficient.

Clause	Conditions Type	Description
12.5	Redundancy - transitional provisions (Instrument)	<p>An employee is entitled to redundancy pay in accordance with the NAPSA that would have applied to the employee immediately prior to 1 January 2010, if the employee had at that time been in their current circumstances of employment and no agreement-based transitional instrument or enterprise agreement had applied to the employee, and that would have entitled the employee to redundancy pay in excess of the employee's entitlement under the NES. This includes employees engaged after 1 January 2010.</p> <p>The entitlement to redundancy pay under the NAPSA is limited to the amount which exceeds the entitlement under the NES.</p> <p>This clause does not reduce an employee's entitlement to redundancy pay under any other instrument and ceases to operate on 31 December 2014.</p>
14.3(b)	District allowance (Instrument)	<p>An employee in the Northern Territory or 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, if the employee had at that time been in their current circumstances of employment and no agreement-based transitional instrument or enterprise agreement had applied to the employee; and that would have entitled the employee to payment of a district allowance.</p> <p>This clause ceases to operate on 31 December 2014.</p>
14.3(d) (iii)	Transfer of employee (Instrument)	<p>Employees who are required to transfer from one place of employment to another or work away from their usual place of employment for a temporary period will be reimbursed for the cost of transport. Travelling time of up to eight hours will be paid at their ordinary hourly rate (provided that no reimbursement will be required to be made if the employer provides transport).</p>
14.6	Accident pay (Instrument)	<p>An employee is entitled to accident pay in accordance with the terms of:</p> <ul style="list-style-type: none"> - 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

Clause	Conditions Type	Description
		<p>- that would have entitled the employee to accident pay in excess of the employee's entitlement to accident pay, if any, under any other instrument.</p> <p>The employee's entitlement to accident pay under the NAPSA or award is limited to the amount of accident pay which exceeds the employee's entitlement to accident pay, if any, under any other instrument.</p> <p>This clause does not reduce an employee's entitlement to accident pay under any other instrument and ceases to operate on 31 December 2014.</p>
15	Method of payment (Instrument)	<p>The employer will pay the employees wages, penalties and allowances at a frequency of not longer than monthly by electronic funds transfer into the employee's bank (or other recognised financial institution) nominated by the employee.</p> <p>An employer may deduct from any amount required to be paid to an employee under this clause the amount of any overpayment of wages or allowances.</p>
16	Annualised salary arrangements (Instrument)	<p>Annual salary instead of award provisions</p> <p>An employer may pay an employee an annual salary in satisfaction of any or all of the following provisions of the award:</p> <ul style="list-style-type: none"> - Classifications and minimum wage rates - Allowances - Overtime and penalty rates and - Payment for annual leave. <p>Where an annual salary is paid the employer must advise the employee in writing of the annual salary that is payable and which of the provisions of this award will be satisfied by payment of the annual salary.</p> <p>Annual salary not to disadvantage employees</p> <p>The annual salary must be no less than the amount the employee would have received under this award for the work performed over the year for which the salary is paid (or if the employment ceases earlier over such lesser period as has been worked).</p>

Clause	Conditions Type	Description
		<p>The annual salary of the employee must be reviewed by the employer at least annually to ensure that the compensation is appropriate having regard to the award provisions which are satisfied by the payment of the annual salary.</p> <p>Base rate of pay for employees on annual salary arrangements</p> <p>For the purposes of the NES, the base rate of pay of an employee receiving an annual salary comprises the portion of the annual salary equivalent to the relevant rate of pay and excludes any incentive-based payments, bonuses, loadings, monetary allowances, overtime and penalties.</p>
17.2	Hours of work (Instrument)	<p>Employees, other than shiftworkers, may be required to work up to 10 ordinary hours per day, between the hours of 6.00 am and 6.00 pm, Monday to Sunday. If the employer and a majority of affected employees agree, up to 12 ordinary hours per day may be worked.</p> <p>An employer may agree with a majority of affected employees to alter the spread of hours.</p> <p>Where employees were required to work 12 hour shifts under roster and working hours arrangements which were in place before 1 January 2010 those arrangements may continue to operate in respect to both existing employees and new employees.</p>
17.3	Hours of work (Instrument)	<p>Shiftworkers may be required to work a shift of up to 10 consecutive ordinary hours (including meal breaks) provided an employer may agree with a majority of affected employees to alter the spread of hours and/or to increase the ordinary hours per day to a maximum of 12.</p> <p>Where employees were required to work 12 hour shifts under roster and working hours arrangements which were in place before 1 January 2010 those arrangements may continue to operate in respect to both existing employees and new employees.</p>
17.4	Hours of work (Instrument)	<p>Special arrangements for cycle work</p> <p>Notwithstanding any other provision of this award, the following arrangements apply to employees who are required to undertake a work cycle:</p>

Clause	Conditions Type	Description
		<p>- Employees may be engaged to work on a work cycle made up of working and non-working days. The total ordinary hours of work during a work cycle must not exceed 38 hours multiplied by the total number of working (on-duty period) and non-working (off-duty period) days in the cycle divided by seven.</p> <p>- The on-duty period commences at the time the employee reports to the point designated by the employer for commencement of work at the workplace. The off-duty period commences at the conclusion of the employee's last rostered shift.</p>
18	Hours of work (Instrument)	<p>Maximum weekly hours</p> <p>The award provides industry specific detail and supplements the NES which deals with maximum weekly hours. For the purposes of the NES an employee's weekly hours may be averaged over a period of up to 26 weeks.</p>
19.3	Method of calculation of overtime rate (Instrument)	<p>When computing overtime payments, each day or shift worked will stand alone.</p> <p>Any payments under this clause are in substitution of any other loadings or penalty rates.</p>
19.1(b)	Overtime - other (Instrument)	<p>An employee recalled to work overtime after leaving the employer's premises (whether notified before or after leaving the premises) will be engaged to work for a minimum of four hours or will be paid for a minimum of four hours work in circumstances where the employee is engaged for a lesser period.</p>
19.4	Overtime – time off in lieu (Instrument)	<p>An employee may elect, with the consent of the employer, to take time off in lieu of payment for overtime at a time or times agreed with the employer.</p> <p>The employee may take one hour of time off for each hour of overtime, paid at the employee's ordinary hourly base rate of pay.</p>
20	Rostering (Instrument)	<p>An employer may vary an employee's days of work or start and finish times to meet the needs of the business by giving at least 48 hours' notice, or a shorter period if agreed.</p> <p>Where an employee is performing shiftwork, the employer may change shift rosters or require an employee to work a different shift roster with 48 hours' notice. These time periods may be reduced where agreed or at the direction of the employer where operational circumstances require.</p>

Clause	Conditions Type	Description
		<p>The employer must consult with directly affected employees about any changes made.</p> <p>Emergency arrangements</p> <p>Notwithstanding anything elsewhere contained in this clause, an employer may vary or suspend any roster arrangement immediately in the case of an emergency.</p>
21	Breaks (Instrument)	<p>Meal breaks and rest breaks</p> <p>An employee, other than a shiftworker, is entitled to an unpaid meal break of not less than 30 minutes after every five hours worked.</p> <p>A shiftworker working 10 hours or less will be entitled to a paid meal break of 20 minutes per shift.</p> <p>A shiftworker working for longer than 10 hours will be entitled to paid meal breaks totalling 40 minutes per shift.</p> <p>Breaks will be scheduled by the employee's supervisor based upon operational requirements so as to ensure continuity of operations. The employer will not require an employee to work more than five hours before the first meal is taken or between subsequent meal breaks if any.</p> <p>Rest breaks during overtime</p> <p>An employee may take a paid rest break of 20 minutes after each four hours of overtime worked, if the employee is required to continue work after the rest break.</p> <p>Any variation to this may be mutually agreed to meet the circumstances of the workplace, provided that the employer is not required to make any payment in excess of or less than what would otherwise be required under this clause.</p> <p>Minimum break between work on successive day or shifts</p> <p><u>Employees other than shiftworkers</u></p>

Clause	Conditions Type	Description
		<p>When overtime work is necessary it must, wherever reasonably practicable, be arranged so that employees have at least 10 consecutive hours off work between work on successive working days.</p> <p>An employee (other than a casual employee) who works so much overtime between the termination of ordinary work on one day and the commencement of ordinary work on the next day that the employee has not had at least 10 consecutive hours off work between those times, must be released after completion of the overtime until the employee has had 10 consecutive hours off work without loss of pay for ordinary working time occurring during such absence.</p> <p><u>Shiftworkers</u></p> <p>For shiftworkers, the required period of consecutive hours off work is eight hours.</p>
22.2	Annual leave (Instrument)	For the purposes of the provisions of the NES which deal with annual leave, shiftworker means a continuous shiftworker.
22.3	Annual leave (Instrument)	<p>Arrangements for taking leave</p> <p>Where an employee works in a remote location or on cycle work made up of working days and non-working days, a period of paid annual leave includes working and non-working days during the period.</p> <p>Where an employee works in a remote location or on cycle work made up of working days (on-duty period) and non-working days (off-duty period), an employer may reasonably require that:</p> <ul style="list-style-type: none"> - any period or periods of annual leave taken by the employee must be a multiple of the on-duty period and/or off-duty period under the employee's work cycle roster or - employee take annual leave in accordance with the roster cycle.
22.4	Annual leave - payment (Instrument)	<p>Payment for annual leave</p> <p>The amount to be paid to an employee prior to going on leave must be worked out on the basis of the greater of:</p>

Clause	Conditions Type	Description
		<p>- the amount the employee would have been paid for working ordinary hours during the period of annual leave, including loadings, penalties and allowances paid for all purposes (but excluding payments in respect of overtime, or any other payment which might have been payable to the employee as a reimbursement for expenses incurred) or</p> <p>- employee's minimum rate of pay for ordinary hours under this award plus an annual leave loading of 17.5%.</p>
22.5	Annual leave - close-down (Instrument)	An employer may direct an employee to take paid annual leave during all or part of a period where the employer shuts down the business or part of the business where the employee works. If an employee does not have enough accrued annual leave the employee may be required to take leave without pay.
22.6	Annual leave - excessive leave (Instrument)	An employer may direct an employee to take paid annual leave if the employee has accrued more than eight weeks or, in the case of continuous shiftworkers 10 weeks, paid annual leave, and the employer and employee are unable to reach agreement on the taking of the leave. An employer must however, give an employee at least 28 days' notice.
22.7	Annual leave (Instrument)	<p>Taking of annual leave over an extended period</p> <p>It may be mutually agreed that an employee can take a period of paid leave over a longer period. Where this occurs, the payment for the leave will be reduced in proportion to the period of extension. For example, it may be agreed that the leave period is doubled and taken on half pay.</p>
22.8	Annual leave - paid leave in advance of accrued entitlement (Instrument)	<p>Annual leave may be taken in advance of an entitlement accruing under the NES. Where this occurs, the employee's leave balance will be reduced by an amount equivalent to the leave taken in advance as the employee's entitlement to paid annual leave accrues.</p> <p>The employer may deduct from the employee's termination payments, leave taken in advance where the entitlement to that leave has not accrued as at the date of termination.</p>
25.2	Public holidays (Instrument)	<p>Substitution of public holidays</p> <p>An employer and a majority of affected employees or an individual employee may reach agreement in writing to substitute a day or part-day for a day or part-day that would otherwise be a public holiday under terms of the NES.</p>

Clause	Conditions Type	Description

Frequency of Payment

The employer will pay the employees wages, penalties and allowances at a frequency of not longer than monthly by electronic funds transfer into the employee's bank (or other recognised financial institution) nominated by 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.