

PAY AND CONDITIONS GUIDE

Silviculture Award 2010 [MA000040] ('modern award')
replacing terms and conditions in or derived from

Farming and Fruit Growing Award [AN170032] ('pre-modern
award')

(TAS)

Effective from 01 July 2013.

Published 20 June 2013

Background

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

Transitional arrangements

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

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

The rates in this guide are current from the first pay period on or after 01 July 2013. The rates set out in this guide will change from the first full period on or after 01 July each year to take account of Fair Work Australia's annual wage review and transitional arrangements. The rates may also change as a result of a Fair Work Australia decision to vary the modern award or pay and condition entitlements of the modern award from time to time.

Transitional arrangements for Division 2B State awards

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

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

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

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

Who should use the guide?

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

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

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

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

The guide contains information from this modern award about:

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

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

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

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

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

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

Coverage

This industry award covers employers throughout Australia in the industry of silviculture and afforestation and their employees in the classifications listed in this award to the exclusion of any other modern award. For the purpose of this clause, **silviculture and afforestation** means planting, pruning, fertilising and any other activity in or in connection with the establishment or cultivation of trees in forests.

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.

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

Where an employer is covered by more than one award, an employee of that employer is covered by the award classification which is most appropriate to the work performed by the employee and to the environment in which the employee normally performs the work.

NOTE: Where there is no classification for a particular employee in this award it is possible that the employer and that employee are covered by an award with occupational coverage.

Wages

This modern award includes transitional arrangements that apply to minimum wage entitlements from the first pay period on or after 01 July 2010 until the first pay period on or after 01 July 2014 (when modern award wages commence in full).

The following wage tables set out base rates of pay for classifications under the modern award.

It also sets out how the modern award classification matches up with pre-modern award classification. If there is no classification match the employee may be covered by another pre-modern award, or another modern award, such as a modern award that covers the employee's occupation rather than the industry.

The base rates of pay in this guide include any applicable industry allowance. The base rates of pay also include any increase from Fair Work Australia's annual wage review. For more information about transitional arrangements for minimum wage entitlements, please visit www.fairwork.gov.au

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 2013 until the final pay period before 01 July 2014 only.

Full & Part Time

Modern award classification	Pre-modern award classification	Base rate of pay (hourly)
Silviculture and afforestation worker grade 1	Farm and/or orchard hand, Level 1	\$17.90
Silviculture and afforestation worker grade 2	Farm and/or orchard hand, Level 2	\$18.60
Silviculture and afforestation worker grade 3	Farm and/or orchard hand, Level 3	\$19.00
Silviculture and afforestation worker grade 3	Mechanical plant operator, Level 1	\$19.00
Silviculture and afforestation worker grade 4	Farm and/or orchard hand, Level 3	\$19.37
Silviculture and afforestation worker grade 4	Mechanical plant operator, Level 2	\$19.47
Silviculture and afforestation worker grade 5	Farm and/or orchard hand, Level 4	\$19.88
Silviculture and afforestation worker grade 6	Farm and/or orchard hand, Level 4	\$20.01

Casual

Modern award classification	Pre-modern award classification	Base rate of pay (hourly)
Silviculture and afforestation worker grade 1	Farm and/or orchard hand, Level 1	\$22.20 (24%)
Silviculture and afforestation worker grade 2	Farm and/or orchard hand, Level 2	\$23.06 (24%)
Silviculture and afforestation worker grade 3	Farm and/or orchard hand, Level 3	\$23.56 (24%)
Silviculture and afforestation worker grade 3	Mechanical plant operator, Level 1	\$23.56 (24%)
Silviculture and afforestation worker grade 4	Farm and/or orchard hand, Level 3	\$24.01 (24%)

Modern award classification	Pre-modern award classification	Base rate of pay (hourly)
Silviculture and afforestation worker grade 4	Mechanical plant operator, Level 2	\$24.15 (24%)
Silviculture and afforestation worker grade 5	Farm and/or orchard hand, Level 4	\$24.65 (24%)
Silviculture and afforestation worker grade 6	Farm and/or orchard hand, Level 4	\$24.82 (24%)

Pieceworkers

Employees may work on piecework rates. Provided that where an employee works on piecework rates, that employee must be paid at least the hourly equivalent for the relevant classification and applicable allowances/loadings.

An employee working under a piecework rate agreement:

- (a) must not be disadvantaged in relation to their terms and conditions of employment;
- (b) has the option to unilaterally terminate a piecework agreement:
 - (i) if the amount payable under the piecework agreement falls below the amount that they would otherwise have been entitled to using the wages and allowances provisions prescribed by this award; and
 - (ii) if this amount has not been reached for three consecutive shifts.

The employee must put their intention to terminate their piecework agreement in writing. The termination of the piecework agreement will then take effect 48 hours after the employer has been served with the written notice.

For the purpose of the NES, the base rate of pay for a pieceworker is the base rate of pay as defined in the NES.

For the purpose of the NES, the full rate of pay for a pieceworker is the full rate of pay as defined in the NES.

Junior

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

Apprentice

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

Trainee

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

Supported Wage

Please refer to clause 16 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	1/07/2014	1/07/2010
Pre-modern award penalty	Modern award penalty	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	1/07/2014	1/07/2010
Pre-modern award penalty	Modern award penalty	Penalty rate (phased)
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:

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 Modern award penalty	1/07/2010 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%
120.00%	24.00%
125.00%	25.00%
130.00%	26.00%
150.00%	30.00%

1/01/2010 Pre-modern award penalty	1/07/2010 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%
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	Special allowance	<p>All purpose allowance expressed as per week.</p> <p>All employees will be paid a special allowance of \$7.70 which is payable for all purposes of the award.</p> <p>(\$7.70/38=\$0.202632 per hour)</p>	1/01/2010	\$0.2026 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).
18.1(a)	Fares and travelling time	<p>Metropolitan radial areas</p> <p>When employed on work located within 30kms from the GPO or principal post office of the nearest capital city. This does not apply when the employer provides suitable transport free of charge from the employee's home or where an employee qualifies for a living away from home allowance while residing on site.</p>	1/07/2013	\$11.6500 per day
18.1(b)	Fares and travelling time	<p>Distant jobs</p> <p>When employed on a distant job (as defined) 30kms from the place where the employee is accommodated for the distant job. This does not apply when the employer provides suitable transport free of charge from the employee's home or where an employee qualifies for a living away from home allowance while residing on site.</p>	1/07/2013	\$11.6500 per day

Clause	Allowance Type	Description	Effective Date	Rate
18.1(c)	Fares and travelling time	Country radial areas When employed on work located outside the metropolitan radial area or distant job area and within 30kms from the post office nearest the employer's establishment for the purpose of engaging in silviculture and afforestation work. Where there is more than one establishment in the same place, the establishment nearest the employee's residence will apply. This does not apply when the employer provides suitable transport free of charge from the employee's home or where an employee qualifies for a living away from home allowance while residing on site.	1/07/2013	\$11.6500 per day
18.1(d)(ii)	Fares and travelling time	Travelling outside radial areas Where an employee travels daily from inside any radial area to a job outside that area using their own vehicle, in addition to the daily travel allowance. This does not apply when the employer provides suitable transport free of charge from the employee's home or where an employee qualifies for a living away from home allowance while residing on site.	1/07/2013	\$0.7600 per kilometre
18.1(e)	Fares and travelling time	Travelling between radial areas Where an employee travels daily between a metropolitan radial area, distant job area or country radial area using their own vehicle. This does not apply when the employer provides suitable transport free of charge from the employee's home or permanent location or where an employee qualifies for a living away from home allowance while residing on site.	1/07/2012	\$0.7500 per kilometre
18.1(k)	Fares and travelling time	Transfer during ordinary working hours An employee transferred from one site to another during working hours will be paid for the time occupied in travelling and for the cost of fares. Where the employee is required to use their own car, the allowance prescribed by this clause will apply.	1/07/2013	\$0.7600 per kilometre

Clause	Allowance Type	Description	Effective Date	Rate
		This does not apply where an employee qualifies for a living away from home allowance while residing on site.		
18.2	Industry allowance	All purpose allowance expressed as per week. To compensate for the disabilities of the industry, employees will be paid each week an allowance of 147% of the standard rate. This allowance is payable for all purposes of the award.	1/07/2013	\$0.7174 per hour (3.87%)
18.3(a)	Leading hand allowance	In charge of not more than one person A leading hand in charge of not more than one person will receive the allowance in addition to the highest rate paid to the employees supervised. Where the leading hand's own rate of pay is higher, the allowance will not be payable.	1/07/2013	\$0.4587 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). (2.47%)
18.3(a)	Leading hand allowance	In charge of 2 and not more than 5 persons A leading hand in charge of 2 and not more than 5 persons will receive the allowance in addition to the highest rate paid to the employees supervised. Where the leading hand's own rate of pay is higher, the allowance will not be payable.	1/07/2013	\$1.0200 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). (5.50%)
18.3(a)	Leading hand allowance	In charge of 6 and not more than 10 persons A leading hand in charge of 6 and not more than 10 persons will receive the allowance in addition to the highest rate paid to the	1/07/2013	\$1.2933 per hour. This weekly allowance has been converted to an

Clause	Allowance Type	Description	Effective Date	Rate
		employees supervised. Where the leading hand's own rate of pay is higher, the allowance will not be payable.		hourly amount. It should be applied to all ordinary hours of work (up to a maximum of 38 hours per week). (6.97%)
18.3(a)	Leading hand allowance	In charge of more than 10 persons A leading hand in charge of more than 10 persons will receive the allowance in addition to the highest rate paid to the employees supervised. Where the leading hand's own rate of pay is higher, the allowance will not be payable.	1/07/2013	\$1.7227 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). (9.29%)
18.4	Meal allowance	An employee who is required to work in excess of one and a half hours' overtime after working ordinary hours must be paid a meal allowance or be provided with a suitable meal.	1/07/2013	\$12.1500 each occasion
18.5(c)(ii)	Away from home/ usual place of employment	Board and lodging Where an employee qualifies, the employer will either provide the worker with reasonable board and lodging or pay an allowance per week of seven days. The allowance may be increased if a greater outlay is incurred. Reasonable board and lodging will mean lodging in a well kept establishment with three adequate meals each day, adequate furnishings, good bedding, good floor coverings, good lighting and heating and with hot and cold running water, in a single room.	1/07/2013	\$318.6700 per week.

Clause	Allowance Type	Description	Effective Date	Rate
18.5(c)(ii)	Away from home/ usual place of employment	<p>Board and lodging Where an employee qualifies, the employer will either provide the worker with reasonable board and lodging or pay an allowance per day in the case of broken parts of the week occurring at the beginning or the ending of the employment on a distant job. The allowance may be increased if a greater outlay is incurred. Reasonable board and lodging will mean lodging in a well kept establishment with three adequate meals each day, adequate furnishings, good bedding, good floor coverings, good lighting and heating and with hot and cold running water, in a single room.</p>	1/07/2013	\$45.5500 per day
18.5(d)(ii)	Away from home/ usual place of employment	<p>Camping out Where it is necessary to house employees in a camp, such camp will be constructed and maintained. An employee living in a camp where free messing is not provided must receive the allowance for every complete week the employee is available for work. Charges made for meals in a camp will be fixed by agreement.</p>	1/07/2013	\$170.8500 per week.
18.5(d)(ii)	Away from home/ usual place of employment	<p>Camping out Where it is necessary to house employees in a camp, such camp will be constructed and maintained. If required to be in camp for less than a complete week the employee must receive a daily payment including any Saturday or Sunday providing they are in camp and available for work on the working days immediately preceding and succeeding each Saturday and Sunday. Will not apply on any day where the employee is absent without the employer's approval. If such unauthorised absence occurs on the working day immediately preceding or succeeding a Saturday or Sunday, the allowance will not be payable for the Saturday and Sunday. Charges made for meals in a camp will be fixed by agreement.</p>	1/07/2013	\$24.3700 per day

Clause	Allowance Type	Description	Effective Date	Rate
18.5(f)(iii)	Away from home/ usual place of employment	Forward journey - meals An employee living away from home, for each meal incurred while travelling (forward journey).	1/07/2012	\$11.7700 each occasion
18.5(g)	Away from home/ usual place of employment	Return journey - meals An employee living away from home, for each meal incurred while travelling (return journey). Will not be paid if the employee terminates or discontinues their employment within two months of commencing on the job (or prior to the job completion if the work is for less than two months), or if they are dismissed for incompetence within one working week of commencing on the job, or are dismissed for misconduct.	1/07/2012	\$11.7700 each occasion
18.5(j)(i)	Away from home/ usual place of employment	Weekend return home Applies to an employee required to work on the working day before and the working day after a weekend when returning to their usual place of residence for the weekend after notifying the employer by Tuesday of the given week of their intention to do so. No reduction of the allowance will be made when employees return to their usual place of residence for a weekend or part of a weekend and do not absent themselves from the job for any of the ordinary working hours. Will not apply to an employee who is receiving a living away from home allowance or camping allowance.	1/07/2013	\$24.8500 each occasion

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: - arrangements for when work is performed - overtime rates - penalty rates - allowances - leave loading. Other conditions concerning award flexibility are contained within the Fair Work Act 2009.
8	Consultation (Instrument)	The award contains information on the employer's responsibility to consult regarding major workplace change including the: - 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	Full-time conditions	A full time employee is an employee engaged to work an average of 38 hours per week.

Clause	Conditions Type	Description
	(Instrument)	
10.3	Part-time conditions (Instrument)	<p>A part-time employee is an employee who:</p> <ul style="list-style-type: none"> - works less than full-time hours of 38 per week - had predictable hours of work, 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>At the time of engagement the employer and the part-time employee will agree in writing on a regular pattern of work, specifying at least the days to be worked and the starting and finishing times. Any variation to the regular pattern of work will be recorded in writing.</p> <p>An employer is required to roster a part-time employee for a minimum of three hours on any shift.</p> <p>All time worked in excess of the hours mutually arranged will be overtime.</p>
10.4	Casual conditions (Instrument)	<p>A casual employee is an employee engaged and paid as such.</p> <p>A casual employee will be paid an hourly rate of 1/38th of the actual weekly rate prescribed for the relevant classification, plus a loading of 25%. The loading is paid instead of annual leave, sick leave, long service leave and public holidays.</p>
11.2	Termination of employment - notice of termination by an employee (Instrument)	<p>The notice of termination required to be given by an employee is the same as an employer except there is no requirement to give additional notice based on age. If an employee fails to give the required notice the employer may withhold from any monies due on termination, the difference between the amount of notice required and the amount of notice actually given.</p>
11.3	Termination of employment - job search entitlement (Instrument)	<p>Where an employer has given notice of termination to an employee, an employee must be allowed up to one day's time off without loss of pay for the purpose of seeking other employment. The time off is to be taken at times that are convenient to the employee after consultation with the employer.</p>
12.2	Redundancy - transfer to lower paid duties (Instrument)	<p>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.</p>

Clause	Conditions Type	Description
12.3	Redundancy - employee leaving during notice period (Instrument)	An employee given notice of termination in circumstances of redundancy may terminate their employment during the period of notice. The employee is entitled to receive the benefits and payments they would have received had they remained in employment until the expiry of the notice, but is not entitled to payment instead of notice.
12.4	Redundancy - job search entitlement (Instrument)	<p>An employee given notice of termination in circumstances of redundancy must be allowed up to one day's time off without loss of pay during each week of notice for the purpose of seeking other employment.</p> <p>If the employee has been allowed paid leave for more than one day, the employee must, by request, produce proof of attendance at an interview or they will not be entitled to payment for the time absent. For this purpose a statutory declaration is sufficient.</p>
12.5	Redundancy - transitional provisions (Instrument)	<p>An employee is entitled to redundancy pay in accordance with the NAPSA that would have applied immediately prior to 1 January 2010 and that would have entitled the employee to redundancy pay in excess of the employee's entitlement under the NES. This includes employees engaged after 1 January 2010.</p> <p>The entitlement to redundancy pay under the NAPSA is limited to the amount which exceeds the entitlement under the NES.</p> <p>This clause does not reduce an employee's entitlement to redundancy pay under any other instrument and ceases to operate on 31 December 2014.</p>
15	Piecework (Instrument)	<p>An employee may work on piecework rates providing that the employee is paid at least the hourly equivalent under the relevant classification and any applicable allowances/loadings.</p> <p>An employee working under a piecework rate agreement:</p> <ul style="list-style-type: none"> - must not be disadvantaged in relation to their terms and conditions of employment, and - has the option to unilaterally terminate the piecework agreement if the amount payable falls below the wages and allowances they would otherwise be entitled to under the award for at least three consecutive shifts. The intention to terminate the agreement must be writing and will take effect 48 hours after it has been served on the employer.

Clause	Conditions Type	Description
		For the purpose of the NES, the base rate of pay and full rate of pay for a pieceworker is the same as that defined by the NES.
18.1(f)(g)(h)	Fares and travelling time (Instrument)	<p>Provision of transport The fares and travelling time allowances prescribed by this award <u>will not</u> be payable on any day on which the employer provides or offers to provide transport free of charge from the employee's home or place of accommodation to the place of work and return. The transport supplied must be equipped with suitable seating accommodation and be covered when necessary so as to be weatherproof.</p> <p>The fares and travelling time allowances prescribed by this award <u>will</u> be payable in respect of any day on which the employer provides a vehicle free of charge to the employee and pursuant to the contract of employment, the employee is required by the employer to drive such vehicle from the employee's home to the place of work and return.</p> <p>Time spent by an employee travelling from the employee's home or place of accommodation to the place of work and return outside ordinary hours will not be regarded as time worked for any purpose of this award and no travelling time payment will be made except in relation to travel between radial areas and the call out provisions under the award.</p>
18.1(g)	Fares and travelling time (Instrument)	<p>Work in preparation The fares and travelling time allowance provisions apply to preparation work performed by an employee in an off site yard which is then required to be erected or fixed on site.</p>
18.1(j)	Fares and travelling time (Instrument)	<p>Requirement to transfer As required by the employer, employees will start and cease work on the job at the usual commencing and finishing times within which ordinary hours may be worked and will transfer from site to site as directed by the employer.</p>
18.1(l)	Fares and travelling time (Instrument)	<p>Daily entitlement The travelling allowances prescribed in this clause will not be taken into account in calculating overtime, penalty rates, annual or personal leave, but must be payable for any day upon which the employee is required to work or report for work or allocation of work <u>and</u> for rostered days off or call outs.</p>

Clause	Conditions Type	Description
18.1(m)	Fares and travelling time (Instrument)	<p>Employees required to drive plant off site Notwithstanding the provisions of this clause, time occupied by an employee by direction of the employer in driving plant to a camp or centre or job from any point and/or return will be regarded and paid for as working time.</p>
18.1(n)	Fares and travelling time (Instrument)	<p>Transport from employer's location An employee who, by mutual agreement with an employer, reports for work at a permanent location established by the employer and is transported from such location to the place of work and return will not be paid the fares and travelling time allowances as prescribed by this award. This does not apply in the case of an employee directed by the employer to pick up and/or return other employees to their homes.</p> <p>All time over 30 minutes spent by the employee travelling to and from the place of work in such transportation must be counted as time worked.</p> <p>Transport supplied by the employer must be free of charge, equipped with suitable seating accommodation, and covered when necessary so as to be weatherproof.</p>
18.5(a)(b)	Away from home/usual place of employment (Instrument)	<p>Qualification for payment An employee will be entitled to a living away from home allowance when employed on a job such a distance from their usual place of residence that they cannot reasonably return to that place each night, subject to the following conditions:</p> <ul style="list-style-type: none"> - the employee is maintaining a separate place of residence to which it is not reasonable to expect them to return each night; and - the employee, on being requested by the employer, informs the employer, at the time of engagement, that they maintain a separate place of residence from the address recorded on the job application. <p>Employee's address The employer will obtain and the employee will provide the employer with a statement in writing or documentary proof of their usual place of residence at the time the employee is engaged. The employee will inform their employer in writing of any subsequent change in their usual place of residence. The address of the employee's usual place of residence and not the place of engagement will determine the application of this clause.</p>

Clause	Conditions Type	Description
18.5(e)(f)(g)(h)	Away from home/usual place of employment (Instrument)	<p>Travelling expenses An employee who qualifies for the provision of this clause will not be entitled to any of the fares and traveling time allowances prescribed by this award for the period occupied in travelling from their usual place of residence to the distant job, but instead must be paid:</p> <p><u>Forward journey</u> - for the time spent in so travelling, at ordinary rates up to a maximum of eight hours per day for each day of travel - for the amount of the public transport fare and any excess payment related to luggage - for each meal incurred while travelling paid as per the meal allowance prescribed by this award, or greater by consent of the employer.</p> <p>This will not be paid if the employee terminates or discontinues their employment within two weeks of commencing on the job and does not immediately return to their place of engagement.</p> <p><u>Return journey</u> An employee will, for the return journey, receive the same time, fares and meal payments as provided under this award.</p> <p>This will not be paid if the employee terminates or discontinues their employment within two months of commencing on the job or if they are dismissed for incompetence or misconduct within one working week of commencing on the job.</p> <p>Departure point Travelling time will be calculated as the time taken for the journey from the central or regional bus or air terminal nearest the employee's usual place of residence to work.</p>
18.5(i)	Away from home/usual place of employment (Instrument)	<p>Daily fares allowance An employee engaged on a job which qualifies them to a living away from home allowance and who is required to reside elsewhere than on the site (or adjacent to the site and supplied with transport) must be paid the relevant fares and travel allowance.</p>
18.5(k)	Away from home/usual place of employment (Instrument)	<p>Rest and recreation</p> <p><u>Bus and air travel</u></p>

Clause	Conditions Type	Description
		<p>An employee who proceeds to a job which qualifies them for a living away from home allowance may return to their usual place of residence on weekends after two months continuous service and then after each three months of continuous service, provided that no delay (unless agreed to by the employer) occurs in connection with the employee's return to work after the weekend.</p> <p>The employee will be paid public transport costs for this purpose on the payday which immediately follows the date on which they return to the job.</p> <p>Does not apply if the work upon which the employee is engaged will terminate within a further 28 days after the expiration of any such period of two or three months.</p> <p><u>Service requirements</u> Service will be deemed to be continuous notwithstanding an employee's absence from work.</p> <p><u>Variable return home</u> In special circumstances, and by agreement, the return to the usual place of residence entitlements may be granted earlier or taken later than the prescribed date of accrual without alteration to the employee's accrual entitlements.</p> <p><u>Non-payment instead</u> Payment of fares and leave with pay as provided will not be made unless the rest and recreation leave is taken by the employee.</p>
18.5(l)	Away from home/usual place of employment (Instrument)	<p>Alternative paid day off procedure Where there is agreement in writing, a paid rostered day off may be taken, and paid for, in conjunction with the additional rest and recreation leave or at the end of the project or on termination.</p>
18.5(m)	Away from home/usual place of employment (Instrument)	<p>Termination An employee will be entitled to notice of termination in sufficient time to arrange suitable transport at termination or must be paid as if employed up to the end of the ordinary working day before transport is available.</p>
20	Higher duties (Instrument)	<p>An employee engaged for a total of more than four hours on any day or shift on duties carrying a higher rate than their usual classification must be paid the higher rate for the entire day or shift.</p>

Clause	Conditions Type	Description
		An employee engaged for four hours or less on any day or shift on duties carrying a higher rate than their ordinary classification must be paid the higher rate for the time so worked.
21	Payment of wages (Instrument)	<p>Method of payment Employees must be paid their wages in cash, cheque or electronic funds transfer.</p> <p>Time of payment</p> <ul style="list-style-type: none"> - Employees must be paid their wages in working hours. - Wages must be paid during ordinary working hours of work on Thursday of each week or fortnight. - In any week on which a holiday falls on a Thursday or Friday employees must be paid on the preceding Wednesday. - Nothing will prevent any alternative mutual arrangement between an employer and an employee. - The employer must not keep more than two days wages in hand. <p>Payment on termination When notice is given in accordance with the NES, all money due to the employee under this award must be paid at the time of termination. Where this is not practicable the employer must transfer all money due by electronic funds transfer or by registered post to the employee's home address within two working days of the termination. If the money is not posted within that time, the period beyond the two working days must be paid for at ordinary rates at the rate of eight hours per day for up to a maximum of one week.</p>
22	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 - 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>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>

Clause	Conditions Type	Description
		This clause does not reduce an employee's entitlement to accident pay under any other instrument and ceases to operate on 31 December 2014.
23	Superannuation (Instrument)	<p>The award contains information on:</p> <ul style="list-style-type: none"> - the employers responsibility to make superannuation contributions to a superannuation fund - the ability for an employee to authorise their employer to pay on their behalf contributions to a superannuation fund - the employers responsibility to make superannuation contributions to another superannuation fund that is chosen by the employee.
24	Hours of work (Instrument)	<p>The ordinary hours of work are 38 hours per week worked between 5.00am and 5.00pm Monday to Friday.</p> <p>Method of implementation</p> <p>Ordinary hours of work will be arranged in accordance with one or more of the methods set out below, provided that they do not exceed an average of 38 over an agreed and specified work cycle:</p> <ul style="list-style-type: none"> - by employees working fewer than eight ordinary hours on each day - by employees working fewer than eight ordinary hours on one or more day each week - by fixing one week day on which all employees will be rostered off during a particular work cycle - by rostering employees off on various days of the week during each particular work cycle so that each employee has one week day off during each such cycle - by banking the days accrued to be taken as days off at a time designated by management, or - by any other method agreed between the employer and employee. <p>At each establishment an assessment should be made as to which method of implementation best suits that establishment. The proposal will be discussed with employees concerned with the objective of reaching agreement on the method of implementation.</p> <p>Employees may be required to work in excess of eight ordinary hours per day but not more than ten ordinary hours per day.</p> <p>Circumstances may arise where different methods of implementation of the 38 hour week apply to various groups, individuals or sections of employees in the plant or establishment concerned.</p>

Clause	Conditions Type	Description
		<p>Where the method of implementation adopted involves rostered days off, hours worked in excess of 38 hours will be kept at hand and paid to the employee in the pay week that the rostered day off is due to occur so as to enable an averaging of payments for ordinary time over the particular work cycle.</p> <p>Rostered day off falling on a holiday with pay An employee entitled to a rostered day off must not have that day off rostered on a public holiday. In the event that a public holiday falls on a rostered day off, the employer must allow the employee to take the day off at an alternative time during ordinary hours. Where an employee is sick or injured on such rostered day off, the employee will not be entitled to personal leave nor will the employee's personal leave entitlement be reduced.</p>
25	Breaks (Instrument)	<p>Meal breaks Employees must receive a break of not less than 30 minutes duration within the first five hours of work. By agreement with the majority of employees, the meal break may be shortened to not less than 20 minutes with a consequential adjustment to the daily time of cessation of work.</p> <p>Overtime crib breaks An employee working overtime must be allowed a crib break of 20 minutes without deduction of pay after each four hours of overtime worked if the employee continues work after such crib time.</p> <p>An employee working at least one and a half hours of overtime must be allowed a crib break of 20 minutes before starting overtime after working ordinary hours which will be paid for at ordinary rates.</p> <p>Tea breaks Two tea breaks of 7.5 minutes duration each must be allowed to employees without deduction of pay on each day or shift. The times for taking such tea breaks will be set by agreement between the employer and employees concerned.</p> <p>Extension of breaks The duration of any break prescribed by this clause may be extended by agreement between the employer and employees concerned. The employer will not be required to pay for any such extension.</p>
26.3	Transport after overtime work (Instrument)	When an employee, after having worked overtime, finishes work at a time when reasonable means of transport are not available, the employer must provide transport to their usual place of residence or to the nearest appropriate public transport.

Clause	Conditions Type	Description
27	Fire fighting (Instrument)	<p>This applies to situations where a fire is burning out of control requiring emergency attendance. It does not apply to regeneration burns and the mopping up operations associated with regeneration burns or wildfires.</p> <p>Retention classification An employee will retain the classification applicable immediately prior to the outbreak of a wildfire. Where the employer assigns an employee to another classification, the higher duties allowance prescribed by this award will apply.</p> <p>Normal hours of work The weekly total of hours at ordinary time will not exceed 38 per week.</p> <p>Work periods The minimum work period, except as provided for stand-by and call outs, will be eight consecutive hours. A work period can only be terminated by a rest period of a minimum of eight hours.</p> <p>Rest period An employee must receive a rest period of at least eight consecutive hours between successive work periods. If a rest period exceeds 16 hours, a new work period will be deemed to commence at the expiration of that 16 hours.</p> <p>Paid rest period If a work period exceeds 16 hours due to an extreme emergency or lack of transport, an employee must, at the conclusion of such work period, receive a rest period of at least eight hours duration and be paid eight hours at ordinary rates for the period. After eight hours of any paid rest period, a new work period will be deemed to commence.</p> <p>Meal breaks Meal breaks must not exceed 45 minutes and must be counted as time worked.</p> <p>Call outs An employee recalled to work must be paid for a minimum 4 hours.</p>

Clause	Conditions Type	Description
		<p>The employee must not be required to work the full hours if the job for which they are recalled is completed in a shorter period.</p> <p>If such work continues for more than 4 hours, the employee must be paid for a minimum 8 hours.</p> <p>Travelling time All time spent by an employee getting to and from a wildfire at the direction of the employer will be deemed to be time worked. Payment must commence from, and cease at, the employer's depot, camp or normal pick-up place in the home district.</p> <p>Resumption of normal duties Each employee who has been engaged on firefighting work will be entitled upon the cessation of such work and prior to the resumption of normal duties to a clear break of ten hours without loss of pay for recognised working time occurring during such break. An employee who has been camped out for at least three nights will be entitled to a clear break of twelve hours.</p> <p>This will not apply with respect to any firefighting operations commenced and completed between the hours of 7.00 am and 5.00 pm on the same day.</p> <p>Provision of meals The employer must provide three meals per day. Where an employee is required to work at night, the employer must provide suitable provisions at reasonable intervals. All food supplied by the employer must be free of charge.</p>
28	Shiftwork (Instrument)	<p>Definitions For the purposes of this award:</p> <ul style="list-style-type: none"> - day shift means any shift starting on or after 5.00 am and before 10.00 am - afternoon shift means any shift starting at or after 10.00 am and before 8.00 pm - night shift means any shift starting at or after 8.00 pm and before 5.00 am, and - rostered shift means a shift for which the employee concerned has had at least 48 hours' notice. <p>Roster Shifts must be worked according to a roster which will:</p> <ul style="list-style-type: none"> - provide for rotation of shifts unless all the employees concerned agree otherwise

Clause	Conditions Type	Description
		<p>- provide for not more than eight shifts to be worked in any nine consecutive days, and - specify the commencing and finishing times of each shift.</p> <p>Ordinary hours The ordinary hours of work for shiftworkers must not exceed an average of 38 per week over a cycle of 2, 3 or 4 weeks.</p> <p>A shift will consist of not more than 8 consecutive hours inclusive of a crib time of 30 minutes which will be counted as time worked.</p> <p>Rostered day off shift 24 minutes of each 8 hour shift worked during a shift cycle will accrue as an entitlement to take a rostered day off shift after each 19 shifts worked. The rostered off shift will be paid for as though worked.</p> <p>Paid leave Each day of paid leave taken and any public holiday occurring during any shift cycle will be regarded as a shift worked for accrual purposes.</p> <p>Pro rata accrued entitlements A shiftworker who has not worked or is on paid leave or public holiday will receive pro rata accrued entitlements for each shift worked or regarded as having been worked in that cycle. Such pro rata entitlements will be payable for the rostered off shift or on termination.</p> <p>Taking rostered day off The employer and employees concerned must agree in writing upon arrangements for the taking of rostered day off or for their accumulation. Such accumulation must be limited to not more than 5 shifts before they are taken as rostered days off. When rostered days off shifts are taken, they will be regarded as shifts worked for accrual purposes in the particular shift cycle in which they are taken.</p> <p>Work on a rostered day off Where an employer, for emergency reasons, requires an employee to work on their rostered day off, the employee will be paid at overtime rates for all work performed on the rostered day off.</p> <p>Sundays and public holidays</p>

Clause	Conditions Type	Description
		<p>The public holiday clause in this award will apply to shiftworkers. Where shifts commence between 11.00 pm and midnight on a Sunday or public holiday, the time worked before midnight will not entitle the employee to the Sunday or public holiday rate.</p> <p>The time worked by an employee on a shift commencing before midnight on the day preceding a Sunday or public holiday and extending into a Sunday or public holiday must be regarded as time worked on such Sunday or public holiday. Where the major portion of a shift falls on a Sunday or a holiday that shift will be regarded as a Sunday or public holiday shift.</p> <p>Transport after overtime or shift When a shiftworker, after having worked overtime or a shift for which they have not been regularly rostered, finishes work at a time when reasonable means of transport are not available, the employer must provide the shiftworker with transport to their usual place of residence or to the nearest appropriate public transport.</p>
29.2	Annual leave - paid leave in advance of accrued entitlement (Instrument)	By agreement, annual leave may be taken in advance provided that if the employment terminates before the entitlement has accrued the employer may make a corresponding deduction from any money due to the employee on termination.
29.3	Annual leave - close-down (Instrument)	<p>Where an employer intends to close (or reduce to nucleus) temporarily the place of employment or a section of it for the purpose, amongst others, of allowing annual leave to the employees concerned or a majority of them, the employer may give those employees one month's notice in writing of an intention to apply the provisions of this clause. In the case of any employee engaged after notice has been given, notice must be given to that employee on the date of their engagement.</p> <p>Any employee who has accrued annual leave at the date of closing must:</p> <ul style="list-style-type: none"> - be given annual leave commencing from the date of closing, and - be paid 1/12th of their ordinary pay for any period of employment between accrual of the employee's right to the annual leave and the date of closing. <p>Any employee who has no accrued annual leave at the date of closing must:</p> <ul style="list-style-type: none"> - be given leave without pay as from the date of closing, and - be paid for any public holiday during such leave for which the employee is entitled to payment.

Clause	Conditions Type	Description
29.4	Annual leave (Instrument)	Annual leave is to be taken within 18 months of the entitlement accruing. To enable this and in the absence of agreement as provided for in the NES, an employer may require an employee to take a period of annual leave from a particular date provided the employee is given at least 28 days' notice.
29.5	Annual leave loading (Instrument)	Before the start of the employee's annual leave the employer must pay the employee: - instead of the base rate of pay under the NES, the amount the employee would have earned for working their normal hours, exclusive of overtime, had they not been on leave, and - an additional loading of 17.5% of the minimum rate.

Frequency of Payment

Employees must be paid their wages in working hours.

Wages must be paid during ordinary working hours of work on Thursday of each week or fortnight.

In any week on which a holiday falls on a Thursday or Friday employees must be paid on the preceding Wednesday.

Nothing will prevent any alternative mutual arrangement between an employer and an employee.

The employer must not keep more than two days wages in hand.

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.