


PAY AND CONDITIONS GUIDE

Asphalt Industry Award 2010 [MA000054] ('modern award')
replacing terms and conditions in or derived from

A.W.U. Miscellaneous Workers' (ACT) Award 1998 [AP765606]
(‘pre-modern award’)

(ACT)

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 asphalt industry and their employees in the classifications listed in the award, to the exclusion of any other modern award.

Asphalt industry means roadmaking and the manufacture or preparation, applying, laying or fixing of bitumen emulsion, asphalt emulsion, bitumen or asphalt preparations, hot pre-mixed asphalt, cold paved asphalt and mastic asphalt.

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

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

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

This award covers any employer which supplies labour on an on-hire basis in the asphalt industry in respect of on-hire employees in classifications covered by this award, and those on-hire employees, while engaged in the performance of work for a business in that industry.

This award covers employers which provide group training services for trainees engaged in the industry and/or parts of the asphalt industry and those 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 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)
Skill level 1	Level 1	\$17.79
Skill level 2	Level 2	\$18.68
Skill level 3	Level 2	\$19.27
Skill level 3	Level 3	\$19.38
Skill level 4	Level 3	\$20.21
Skill level 4	Level 4	\$20.32
Skill level 5	Level 4	\$20.46

Casual

Modern award classification	Pre-modern award classification	Base rate of pay (hourly)
Skill level 1	Level 1	\$22.24 (25%)
Skill level 2	Level 2	\$23.35 (25%)
Skill level 3	Level 2	\$24.09 (25%)
Skill level 3	Level 3	\$24.22 (25%)
Skill level 4	Level 3	\$25.26 (25%)
Skill level 4	Level 4	\$25.40 (25%)
Skill level 5	Level 4	\$25.57 (25%)

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 14.2 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%
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%

First full pay period on or after	Percent of modern award loading/penalty
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
15.2(a)	Leading hand allowance	An employee working as a leading hand	1/07/2013	\$0.6318 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). (3.50%)
15.2(b)	First aid allowance	An employee with a current first aid certificate appointed by the employer to perform first aid duties (0.4% per week x 38 = 15.2% per day)	1/07/2013	\$2.7436 per day (15.20%)
15.3(a)	Industry allowance	All purpose allowance expressed as per week. This allowance includes both the industry allowance and the inclement weather allowance. <u>Industry allowance</u> Each employee will be paid an industry allowance of 4.0% of the standard rate per week for all purposes.	1/07/2013	\$1.4621 per hour (8.10%)

Clause	Allowance Type	Description	Effective Date	Rate
		<p><u>Inclement weather allowance</u></p> <p>Employees will be paid an inclement weather allowance of 4.1% of the standard rate per week. This allowance will be treated as part of the employee's ordinary wage for all purposes.</p> <p>The inclement weather allowance is intended to compensate employees for all the additional disabilities of being required to work when exposed to inclement weather and for working in isolated and under-developed locations. For the purpose of this clause, inclement weather means wet weather and/or abnormal climatic conditions such as hail, cold, high winds, severe dust storms, extreme high temperatures or any combination thereof.</p>		
15.3(b)	Wet work allowance	<p><u>Inclement weather</u> employees will be paid an inclement weather allowance, which will be treated as part of the employee's ordinary wage for all purposes of the award. The allowance compensates employees for the additional disabilities of being required to work when exposed to inclement weather and for working in isolated and under-developed locations. inclement weather means wet weather and/or abnormal climatic conditions such as hail, cold, high winds, severe dust storms, extreme high temperatures or any combination thereof.</p>	1/07/2013	<p>\$0.7401 per hour.</p> <p>This weekly allowance has been converted to an hourly amount. It should be applied to all ordinary hours of work (up to a maximum of 38 hours per week). (4.10%)</p>
15.4(a)(i)	Meal allowance	An employee working overtime for more than one and a half hours after their usual ceasing time, without having been notified the previous day or earlier	1/07/2013	\$13.9100 per occasion
15.4(a)(ii)	Meal allowance	An employee working overtime for five and a half hours or more after their usual ceasing time (and for each four hours thereafter)	1/07/2013	\$13.9100 per occasion

Clause	Allowance Type	Description	Effective Date	Rate
15.4(c)	Meal allowance	For each meal taken while travelling (to a maximum of three per day)	1/07/2013	\$13.9100 per meal
15.4(c)	Overnight stay	Where required to spend a night en route whilst travelling	1/07/2013	\$61.2100 per night
15.4(c)(ii)	Away from home/ usual place of employment	An employee on distance work who is unable to return home the same night (where board and lodging not provided).	1/07/2013	\$439.2400 per week. In the case of broken parts of a week the allowance will be all living expenses actually and reasonably incurred but not exceeding \$414.72 per week.
15.4(c)(ii)	Away from home/ usual place of employment	Incidentals allowance (where engaged on distance work)	1/07/2013	\$4.6800 per night

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)	<p>An employer and an individual employee may agree to vary the following terms of this award to meet the genuine needs of the employer and the individual employee with respect to:</p> <ul style="list-style-type: none">- arrangements for when work is performed- overtime rates- penalty rates- allowances- leave loading. <p>Other conditions concerning award flexibility are contained within the Fair Work Act 2009.</p>
8	Consultation (Instrument)	<p>The award contains information on the employer's responsibility to consult regarding major workplace change including the:</p> <ul style="list-style-type: none">- duty to notify, and- duty to discuss change.
9	Dispute resolution (Instrument)	<p>The award sets out a dispute resolution procedure for dealing with disputes in relation to a matter under the award or the National Employment Standards (NES).</p>
10.3	Part-time conditions	<p>A part-time employee:</p>

Clause	Conditions Type	Description
	(Instrument)	<p>- is engaged to work an average of fewer than 38 ordinary hours per week - receives pro rata basis pay and conditions to those of full-time employees.</p> <p>Upon commencement the employer and a part-time employee must agree in writing, on the ordinary hours per week and the days the hours will be worked. The regular number of ordinary hours once fixed may be varied in writing by mutual agreement.</p> <p>All time worked in excess of the regular number of ordinary hours will be deemed overtime.</p>
10.4	Casual conditions (Instrument)	<p>A casual employee is one engaged and paid as such. 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>A casual employee will receive a minimum of 4 hours' pay per engagement.</p> <p><u>Casual conversion</u></p> <p>The award allows for casual conversion, where a casual employee has been engaged by an employer for a period of 6 months. The provisions surrounding this process are outlined in the award.</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)	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.
12.5	Redundancy - transitional provisions (Instrument)	An employee is entitled to redundancy pay in accordance with the NAPSA that would have applied immediately prior to 1 January 2010 and that would have entitled the employee to redundancy pay in excess of the employee's entitlement under the NES. This includes employees engaged after 1 January 2010. The entitlement to redundancy pay under the NAPSA is limited to the amount which exceeds the entitlement under the NES. This clause does not reduce an employee's entitlement to redundancy pay under any other instrument and ceases to operate on 31 December 2014.
13	Other (Instrument)	<u>Notification of classification</u> Employers must advise their employees in writing of their classification and any changes to it. The classification by the employer must be according to the Skill level or levels required to be exercised by the employee in order to carry out the principal functions of the employment as determined by the employer.
15.3(b)	Inclement weather (Instrument)	Where employees cannot be gainfully employed on normal duties or other productive work because of wet weather, they will carry out alternative work out of the rain, where available.
15.4(b)	Clothing, footwear and/ or equipment	<u>Protective clothing, equipment and tools</u>

Clause	Conditions Type	Description
	(Instrument)	<p>Where an employee is required to wear protective clothing and equipment such as safety boots, headwear or wet-weather clothing, the employer must reimburse the employee for purchasing the clothing/ equipment.</p> <p>Where the employer requires an employee to wear any special clothing such as uniforms, the employer must reimburse the employee for purchasing 3 sets of uniforms, unless they are supplied without cost.</p> <p>Where the clothing/uniform is supplied without cost, it will remain the employer's property and will be returned in good condition (subject to fair wear and tear) on leaving the service of an employer. Should an employee leave employment within 6 months of commencement and not return all clothing issued, the employee will be liable for 50% of the cost of such clothing.</p> <p>Where an employee provides and uses their own tools, the employer must reimburse the employee for the cost of purchasing such equipment.</p>
15.4(c)	Transport of employees (Instrument)	<p><u>Reimbursement of fares</u></p> <p>All employees sent from the city to the country, or from one country centre to another country centre, or from a country centre to the city will have their fares reimbursed by the employer. Employees remaining until the completion of the job, or until the special work they were performing is completed and no other work is provided, will be entitled to reimbursement of fares back to the place of employment. Alternatively, an employer may pay an allowance covering the actual cost of the fares rather than reimbursement.</p>
15.4	Travelling time (Instrument)	<p>Where an employee is sent from one centre to another and is required to remain away from home while travelling between centres, they will be paid travelling time at ordinary rates. The maximum travel time paid for will be 8 hours per day in addition to wages otherwise earned for work performed. Provided that this paragraph will not alter any current practice.</p>
15.4(iii)	Away from home/usual place of employment (Instrument)	<p>Where country work continues for more than 2 months, an employee will be entitled to be paid fares reasonably incurred in returning home for a weekend, or must be provided with normal transport at the employer's cost. The entitlement to fares will accrue for 1 weekend every 4 weeks after the completion of 2 months' continuous service on such distant work.</p> <p>Fares will not be payable unless:</p>

Clause	Conditions Type	Description
		<ul style="list-style-type: none"> - the employee works their full ordinary hours on the ordinary working day before and after such weekend, and - the distant work continues for at least 2 weeks after such weekend.
16	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, providing that employee was not bound by an agreement under that Act.</p> <p>This clause ceases to operate on 31 December 2014.</p>
17	Accident pay (Instrument)	<p>An employee is entitled to accident pay in accordance with the terms of:</p> <ul style="list-style-type: none"> - 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> <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>
18	Higher duties (Instrument)	<p>An employee required to do work for which a higher rate is fixed will be entitled to receive the higher rate for all work done on that day.</p>
19.2	Method of payment (Instrument)	<p>An employer may pay an employee's wages by cash, cheque or electronic funds transfer into the employee's bank or other recognised financial institution account.</p>
19.3	Method of payment	<p>Payment of wages on termination of employment</p>

Clause	Conditions Type	Description
	(Instrument)	On termination of employment the wages due to an employee must be paid on the day of termination or be forwarded to the employee within 2 business days after termination.
19.4	Method of payment (Instrument)	<p><u>Day off coinciding with pay day</u></p> <p>Where an employee is paid wages by cash or cheque and their ordinary day off coincides with pay day the employee must be paid no later than the working day immediately following pay day. However, if the employer is able to make suitable arrangements, wages may be paid on the working day before pay day.</p>
19.5	Method of payment (Instrument)	<p><u>Wages to be paid during working hours</u></p> <p>Where an employee is paid wages by cash or cheque, they are to be paid during the employee's ordinary hours. If an employee is paid wages by cash and is kept waiting for their wages on pay day, after the usual ceasing time, the employee is to be paid at overtime rates for the period they are kept waiting.</p>
20	Hours of work (Instrument)	<p>The ordinary hours of work will be an average of 38 hours per week over a 4 week cycle. Employees will work 8 hours each day and 0.4 of one hour of each day worked will accrue as an entitlement to take a rostered day off (RDO) in each cycle as a day off paid for as though worked.</p> <p>The award has detailed provisions surrounding RDOs, which specify conditions relating to the scheduling, deferring, accumulating and substituting RDOs as well as conditions for work being performed on an RDO. Full details can be found in the award.</p> <p><u>Employees - other than shiftworkers</u></p> <p>Employees other than shiftworkers may be required to work up to 10 ordinary hours per day, between 6.00 am and 6.00 pm, Monday to Friday. The spread of hours may be altered by agreement between the employer and majority of affected employees.</p>
20.3	Hours of work (Instrument)	<p><u>Methods of arranging ordinary working hours</u></p> <p>Subject to the employer's right to fix the daily hours of work and commencing and finishing time of shifts, the arrangement of ordinary working hours is to be by agreement between the employer and the majority</p>

Clause	Conditions Type	Description
		<p>of employees affected. This does not preclude the employer reaching agreement with individual employees about their working hours.</p> <p>Matters upon which agreement may be reached include:</p> <ul style="list-style-type: none"> - how hours are to be averaged within a work cycle - the duration of the work cycle for employees other than shiftworkers provided the duration will not exceed 3 months - rosters which specify the start and finish times of working hours - a period of notice of an RDO which is less than 4 weeks - substitution and accumulation of RDOs - arrangements which allow for flexibility in relation to the taking of RDOs. and - any arrangements of ordinary hours which exceed 8 hours in any day. <p>By agreement between the employer and the majority of employees in the enterprise or part of the enterprise concerned, 12 hour days or shifts may be introduced subject to:</p> <ul style="list-style-type: none"> - proper health monitoring procedures being introduced - suitable roster arrangements being made - proper supervision being provided, and - adequate breaks being provided. <p>Employees may be required to work on their RDO and if so will be granted a day off within 14 days of the original rostered day off.</p>
20.4	Daylight saving (Instrument)	<p>Where by reason of State legislation, summer time is prescribed as being in advance of the standard time in that State the length of any shift:</p> <ul style="list-style-type: none"> - commencing before the time prescribed by the relevant legislation for the commencement of a summer time period, and - commencing on or before the time prescribed by such legislation for the termination of a summer time period

Clause	Conditions Type	Description
		will be deemed to be the number of hours represented by the difference between the time recorded by the clock at the beginning of the shift and the time so recorded at the end of the shift. The time of the clock in each case is to be set to the time fixed by the relevant State legislation.
21	Shiftwork (Instrument)	<p><u>Definitions</u></p> <p>Day shift means any shift starting at or after 6.00 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 6.00 am</p> <p>The span of hours may be altered by up to one hour at either end by agreement between the employer and the majority of affected employees.</p> <p><u>Hours of work</u></p> <p>The ordinary working hours of employees on shiftwork will not exceed an average of 38 hours per week spread over a period of 2, 3, or 4 weeks and must not exceed 144 hours in 28 consecutive days. Such hours are to be worked in shifts of 8 hours inclusive of a meal break of 30 minutes which will be counted as time worked.</p> <p>By agreement between the employer and the majority of employees concerned, a roster system may operate on an average of 38 ordinary hours per week over a period which does not exceed 12 months.</p> <p>Except at changeover of shifts an employee will not be required to work more than one shift in each 24 hours.</p> <p>Employees on shiftwork will accrue 0.4 of one hour for each 8 hour shift worked to allow one complete shift to be taken off as a paid shift for every 20 shift cycle. This 20th shift will be paid for at the appropriate shift rate. Each day of paid leave taken and any public holiday occurring during any cycle of 4 weeks will be regarded as a shift worked for accrual purposes.</p> <p>Employees not working a complete 4 week cycle will be paid pro rata accrued entitlements for each shift worked, on the programmed shift off, or on termination.</p>

Clause	Conditions Type	Description
		<p>The employer and employees will agree in writing upon arrangements for rostered paid days or for accumulation of accrued days to be taken at or before the end of a particular contract.</p> <p>Once such days have been rostered they will be taken as paid days off. Provided that where an employer, for emergency reasons, requires a shiftworker to work on a rostered day off the employee will be paid, in addition to the accrued entitlement, the rates prescribed for Saturday work for employees other than shiftworkers.</p> <p><u>Shift rosters</u></p> <p>There will be a roster of shifts which will:</p> <ul style="list-style-type: none"> - provide for rotation unless all the employees concerned desire otherwise, and - provide not more than 8 shifts to be worked in any 9 consecutive days.
21.7	Shiftwork (Instrument)	<p><u>Change to shiftworker</u></p> <p>An employee other than a shiftworker may be changed to shiftwork with at least 24 hours' notice.</p>
22.1	Breaks - rest (Instrument)	<p>An employee other than a shiftworker will be allowed a rest break of one 15 minute period or two seven and a half minute periods on each day, to be counted as time worked without deduction of pay. The employer will fix the time for the commencement of the rest period and this period will not involve a complete stoppage of work.</p>
22.2	Breaks - meal (Instrument)	<p>Employees, other than shiftworkers, will be entitled to an unpaid meal break of not less than 30 minutes after every 5 hours worked.</p>
22.3	Breaks - meal (Instrument)	<p>A shiftworker working 10 hours or less will be entitled to a paid meal break of 30 minutes per shift.</p>
22.4	Breaks - meal (Instrument)	<p><u>Operational requirements</u></p> <p>Breaks will be scheduled by an employee's supervisor based on operational requirements so as to ensure continuity of operations. The employer will not require an employee to work more than 5 hours before the first meal is taken or between subsequent meal breaks, if any.</p>

Clause	Conditions Type	Description
23.5	Recall (Instrument)	<p><u>Recall and stand-by</u></p> <p>If an employee is recalled to work overtime after leaving the job (whether notified before or after leaving) they will be paid for a minimum of 3 hours' work (whether worked or not) or where the employee has been paid for standing by they will be paid a minimum of 3 hours' pay at the appropriate rates.</p>
23.6	Break between work periods (Instrument)	<p><u>Rest period after overtime</u></p> <p>When overtime work is necessary it must, wherever reasonably practicable, be so arranged that employees have at least 10 consecutive hours off duty between the work of successive working days.</p> <p>An employee (other than a casual employee) who works so much overtime that they have not had at least 10 consecutive hours off duty must be released after the completion of the overtime until the employee has had 10 consecutive hours off duty without loss of pay for ordinary working time occurring during such absence.</p> <p>These provisions will apply to shiftworkers as if 8 hours were substituted for 10 hours when overtime is worked:</p> <ul style="list-style-type: none"> - for the purpose of changing shift rosters - where a shiftworker does not report for duty and an employee other than a shiftworker or a shiftworker is required to replace the shiftworker, or - where a shift is worked by arrangement between the employees themselves.
23.7	Breaks - meal (Instrument)	<p><u>Overtime meal break</u></p> <p>An employee is entitled to a 20 minute paid break after 2 hours of work past the normal finishing time and after each additional 4 hours of continuous overtime, provided the work will continue after the break. Time worked will mean time worked on the job and excludes time spent travelling from the job back to the depot.</p> <p>An employer and employee may agree to vary this break to meet the circumstances of the work, provided that the employer is not required to make any payment in excess of or less than what would otherwise be required under this section.</p>

Clause	Conditions Type	Description
23.8	Overtime – time off in lieu (Instrument)	An employee may elect, with the employer's consent, to take time off instead of payment for overtime within 12 months of the said election. If the leave is not taken, payment for time accrued at overtime rates will be made at the expiry of the 12 month period or on termination. Overtime taken as time off during ordinary hours of work will be taken at the ordinary time rate; that is an hour for each hour worked. Where no election is made the employee will be paid at overtime rates.
24.3	Annual leave - paid leave in advance of accrued entitlement (Instrument)	By agreement between an employer and an employee, a period of annual leave may be taken in advance of the entitlement accruing. Provided that if leave is taken in advance and the employment terminates before the entitlement has accrued the employer may make a corresponding deduction from any monies due to the employee on termination.
24.4	Annual leave - close-down (Instrument)	Where an employer intends temporarily to close (or reduce to nucleus) during the Christmas/New Year period for the purpose, amongst others, of allowing annual leave to a majority of employees concerned, the employer may give those employees one month's notice in writing of an intention to apply the provisions of this section. Where an employee is employed after notice has been given, notice must be given on the date they are offered employment. An employee who has accrued sufficient annual leave at the date of closing must be: - given annual leave commencing from the date of closing, and - 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. Any employee who has not accrued sufficient annual leave at the date of closing must be: - given leave without pay from the date of closing, and - paid for any public holiday during such leave for which the employee is entitled to payment.
24.5	Annual leave - excessive leave (Instrument)	Annual leave will be taken within 18 months of the entitlement accruing. For the purpose of ensuring accrued annual leave is taken within that period and in the absence of agreement as provided for in the Fair Work Act 2009, an employer may direct an employee to take a period of annual leave provided the employee is given at least 28 days' notice.
24.6	Annual leave loading	Before the start of an employee's annual leave the employer must pay the employee:

Clause	Conditions Type	Description
	(Instrument)	<ul style="list-style-type: none"> - instead of the base rate of pay referred to in the Fair Work Act 2009, the amount the employee would have earned for working their ordinary hours had they not been on leave, and - an additional loading of 17.5% of the wages prescribed by this award for the ordinary hours of work as performed between Monday and Friday or if they were a shiftworker prior to entering leave, their shift penalty, whichever is greater.
27	Public holidays (Instrument)	<p><u>Substitution of public holidays by agreement</u></p> <p>By agreement between the employer and the majority of employees in an enterprise another day may be substituted for a day provided for in the NES.</p>

Frequency of Payment

Wages will be paid weekly or fortnightly, by agreement between the employer and 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.