

### PAY AND CONDITIONS GUIDE


#### **Professional Employees Award 2010 [MA000065]** ('modern award')

replacing terms and conditions in or derived from

#### **Professional Engineers And Professional Scientists (Private Industry) (State) Award [AN120440]** ('pre-modern award')

#### **(NSW)**

Effective from 01 July 2013.

Published 29 July 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 award covers employers throughout Australia with respect to their employees performing professional engineering and professional scientific duties who are covered by the classifications and definitions of the award.

This award covers employers throughout Australia principally engaged in the information technology industry, the quality auditing industry or the telecommunications services industry and their employees who are covered by the classifications in the award.

The award does not cover employees who are covered by the following awards:

- Airport Employees Award 2010
- Black Coal Mining Industry Award 2010
- Electrical Power Industry Award 2010
- Port Authorities Award 2010
- Rail Industry Award 2010
- State Government Agencies Administration Award 2010, or
- Water Industry Award 2010.

The award does not cover employees of a local government covered by another award.

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

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

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

This award covers any employer which supplies labour on an on - hire basis in the industries set out in paragraphs one and two above 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 those industries. This subclause operates subject to the exclusions from coverage in this award.

This award covers any employer which supplies on - hire employees in classifications set out in Schedule B and those on - hire employees, if the employer is not covered by another modern award containing a classification which is more appropriate to the work performed by the employee. This subclause operates subject to the exclusions from coverage in this award.

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

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

## **Wages**

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

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

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

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

## **Casual employees**

The rates for casual employees set in the table below are minimum rates for **ordinary hours** only.

Please visit [www.fairwork.gov.au](http://www.fairwork.gov.au) for information about penalty entitlements for casual employees.

### \*Post 26 March 2006 employer

Wage rates for casual employees of employers that became part of the national system after 26 March 2006 do not include annual leave loading because those employees did not have a pre-modern award entitlement to annual leave loading.

## **Adult**

The rates in this guide are current from the first pay period on or after 01 July 2013 until the final pay period before 01 July 2014 only.

## **Full & Part Time**

<b>Modern award classification</b>	<b>Pre-modern award classification</b>	<b>Base rate of pay (hourly)</b>
<b>Level 1 Graduate professional</b>		
Pay point 1.1 (3 year degree)	Level 1A Professional Scientist (Graduate/ Diplomate - 3 year course)	\$21.82
Pay point 1.1 (4 or 5 year degree)	Level 1 Professional Engineer	\$22.37

<b>Modern award classification</b>	<b>Pre-modern award classification</b>	<b>Base rate of pay (hourly)</b>
Pay point 1.1 (4 or 5 year degree)	Level 1B Professional Scientist (Graduate 4 or 5 year course)	\$22.37
Pay point 1.2	Level 1 Professional Engineer	\$22.67
Pay point 1.2	Level 1B Professional Scientist (Graduate 4 or 5 year course)	\$22.67
Pay point 1.3	Level 1 Professional Engineer	\$23.45
Pay point 1.3	Level 1B Professional Scientist (Graduate 4 or 5 year course)	\$23.45
Pay point 1.4	Level 1 Professional Engineer	\$24.43
Pay point 1.4	Level 1B Professional Scientist (Graduate 4 or 5 year course)	\$24.43

<b>Modern award classification</b>	<b>Pre-modern award classification</b>	<b>Base rate of pay (hourly)</b>
<b>Full &amp; Part Time</b>		
Level 2 Experienced professional/ Quality auditor	Level 2 Professional Engineer / Professional Scientist (Experienced)	\$25.74
Level 3 Professional/Senior (lead) quality auditor	Level 3 Professional Engineer / Professional Scientist	\$28.13
Level 4 Professional	Level 4 Professional Engineer / Professional Scientist	\$31.73

### **Casual**

<b>Modern award classification</b>	<b>Pre-modern award classification</b>	<b>Base rate of pay (hourly)</b>
<b>Level 1 Graduate professional</b>		
Pay point 1.1 (3 year degree)	Level 1A Professional Scientist (Graduate/ Diplomate - 3 year course)	\$27.06 (24%)
Pay point 1.1 (4 or 5 year degree)	Level 1 Professional Engineer	\$27.73 (24%)
Pay point 1.1 (4 or 5 year degree)	Level 1B Professional Scientist (Graduate 4 or 5 year course)	\$27.73 (24%)
Pay point 1.2	Level 1 Professional Engineer	\$28.11 (24%)
Pay point 1.2	Level 1B Professional Scientist (Graduate 4 or 5 year course)	\$28.11 (24%)

<b>Modern award classification</b>	<b>Pre-modern award classification</b>	<b>Base rate of pay (hourly)</b>
Pay point 1.3	Level 1 Professional Engineer	\$29.07 (24%)
Pay point 1.3	Level 1B Professional Scientist (Graduate 4 or 5 year course)	\$29.07 (24%)
Pay point 1.4	Level 1 Professional Engineer	\$30.29 (24%)
Pay point 1.4	Level 1B Professional Scientist (Graduate 4 or 5 year course)	\$30.29 (24%)

<b>Modern award classification</b>	<b>Pre-modern award classification</b>	<b>Base rate of pay (hourly)</b>
<b>Casual</b>		
Level 2 Experienced professional/ Quality auditor	Level 2 Professional Engineer / Professional Scientist (Experienced)	\$31.92 (24%)
Level 3 Professional/Senior (lead) quality auditor	Level 3 Professional Engineer / Professional Scientist	\$34.89 (24%)
Level 4 Professional	Level 4 Professional Engineer / Professional Scientist	\$39.35 (24%)

### **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**

Trainee provisions are not covered in this Modern Award.

### **Supported Wage**

Supported Wage rates of pay are not covered by this summary.

### **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%

<b>1/01/2010</b>	<b>1/07/2014</b>	<b>1/07/2010</b>
<b>Pre-modern award penalty</b>	<b>Modern award penalty</b>	<b>Penalty rate (phased)</b>
75%	100%	80%

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

*Example:*

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

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

<b>1/01/2010</b>	<b>1/07/2014</b>	<b>1/07/2010</b>
<b>Pre-modern award penalty</b>	<b>Modern award penalty</b>	<b>Penalty rate (phased)</b>
50%	25%	45%
75%	50%	70%
100%	50%	90%
100%	75%	95%

#### **Entitlements that are not equivalent**

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

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

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

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

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

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

*Example:*



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

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

<b>1/01/2014</b>	<b>1/07/2010</b>	<b>1/01/2010</b>	<b>1/07/2010</b>
<b>Modern award penalty</b>	<b>Penalty rate (phased)</b>	<b>Pre-modern award penalty</b>	<b>Penalty rate (phased)</b>
	<b>(20.00%)</b>		<b>(80.00%)</b>
10.00%	2.00%	10.00%	8.00%
20.00%	4.00%	20.00%	16.00%
25.00%	5.00%	25.00%	20.00%
50.00%	10.00%	50.00%	40.00%
75.00%	15.00%	75.00%	60.00%
100.00%	20.00%	100.00%	80.00%
120.00%	24.00%	120.00%	96.00%
125.00%	25.00%	125.00%	100.00%
130.00%	26.00%	130.00%	104.00%
150.00%	30.00%	150.00%	120.00%

### **New entitlements**

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

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

### *Example:*

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

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

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

For more information about transitional arrangements for loading/penalty entitlements please visit [www.fairwork.gov.au](http://www.fairwork.gov.au) and/or contact the **Fair Work Infoline** on **13 13 94** for advice and assistance.

## **Allowances**

In cases where it is mutually agreed that an employee will be required to use their private vehicle on the employer's business, the employee will be paid reasonable compensation, but in no case will the employee receive payment at a rate less than specified below.

Allowances in modern awards apply in full from 01 January 2010 (although the rates may change from time to time).

### **All states covered by this instrument**

#### **Full Time, Part Time, Casual**

<b>Clause</b>	<b>Allowance Type</b>	<b>Description</b>	<b>Effective Date</b>	<b>Rate</b>
16.2	Vehicle allowance	Where it is mutually agreed that an employee will be required to use their private vehicle on the employer's business.	1/07/2013	\$0.7600 per kilometre travelled

## **Other Conditions**

The following conditions in the modern award apply in full from 1 January 2010. Please note that the below table is a summary of commonly applicable entitlements in the modern award, there may be other entitlements in the modern award that are relevant to particular employers or employees. Please refer to the modern award for full details.

**Note:** The National Employment Standards (**NES**) operate together with modern awards to provide minimum conditions of employment for employers and employees in the national system. The NES sets out ten minimum statutory entitlements that apply to all employees, including leave and termination of employment entitlements.

For more information about the NES, please visit [www.fairwork.gov.au](http://www.fairwork.gov.au)

### **All states covered by this instrument**

<b>Clause</b>	<b>Conditions Type</b>	<b>Description</b>
7	Award flexibility (Instrument)	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:

Clause	Conditions Type	Description
		<ul style="list-style-type: none"> <li>- arrangements for when work is performed</li> <li>- overtime rates</li> <li>- penalty rates</li> <li>- allowances</li> <li>- leave loading.</li> </ul> <p>Other conditions concerning award flexibility are contained within the Fair Work Act 2009.</p>
9	Consultation (Instrument)	<p>The award contains information on the employer's responsibility to consult regarding major workplace change including the:</p> <ul style="list-style-type: none"> <li>- duty to notify, and</li> <li>- duty to discuss change.</li> </ul>
10	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>
11.3	Part-time conditions (Instrument)	<p>A part-time employee is engaged for a specified number of ordinary hours each week being less than those of full-time employees. A part-time employee will receive pro rata pay and conditions to those of full-time employees.</p> <p>Any employee engaged on a full-time basis will not be converted to a part-time basis without their written agreement.</p>
11.5	Other (Instrument)	<p>Employees must be advised in writing of the conditions under which they are to be employed. On appointment and/or request an employee must be informed of the award based responsibility or classification level which the employer considers relevant to their employment.</p>
11.7	Other (Instrument)	<p><b>Evidence of qualifications</b></p> <p>An employee who is employed under this award or who is an applicant for employment covered by this award, must if required, produce written evidence that they possess or have acquired the qualifications of a Qualified engineer, Experienced Engineer, Qualified Scientist, Experienced Scientist, Graduate Information Technology employee or Experienced Information Technology employee to the employer.</p>

Clause	Conditions Type	Description
		Where an employee has failed to produce written evidence that they possess or have acquired the relevant qualifications and the employee subsequently claims to be entitled to payment at a rate prescribed by the award, it will be a defence to the employer if the employer establishes that during the said period the employer did not know and had no reason to believe that the employee had acquired the relevant qualifications.
11.8	Other (Instrument)	<p><b>Professional development</b></p> <p>It is understood and accepted that it is an employees responsibility to keep themselves informed of developments in their profession, and to develop their professional knowledge and ability and that it is appropriate for employees to be encouraged to undertake self-development programs.</p> <p>Where, the parties agree an activity will be undertaken as part of a structured training program, the employer will meet all costs associated with the training.</p>
12.1	Termination of employment (Instrument)	<p>In order to terminate the employment of an employee the employer must give them one months notice.</p> <p>This period is increased by one week if the employee is over 45 years old and has completed at least 2 years of continuous service with the employer at the end of the day the notice is given.</p>
12.3	Termination of employment - notice of termination by an employee (Instrument)	The notice of termination required to be given by an employee is the same as an employer except there is no requirement to give additional notice based on age. If an employee fails to give the required notice the employer may withhold from any monies due on termination, the difference between the amount of notice required and the amount of notice actually given.
12.4	Termination of employment - job search entitlement (Instrument)	Where an employer has given notice of termination to an employee, an employee must be allowed up to one day's time off without loss of pay for the purpose of seeking other employment. The time off is to be taken at times that are convenient to the employee after consultation with the employer.
13.2	Redundancy - transfer to lower paid duties (Instrument)	Where an employee is transferred to lower paid duties by reason of redundancy, the same period of notice must be given as the employee would have been entitled to if the employment had been terminated. Alternatively, the employer may choose to pay the employee the difference between the former ordinary time rate of pay and the new ordinary time rate of pay for the number of weeks of notice still owing.

<b>Clause</b>	<b>Conditions Type</b>	<b>Description</b>
13.3	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.
13.4	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.
13.5	Redundancy - transitional provisions (Instrument)	An employee is entitled to redundancy pay in accordance with the notional agreement preserving the state award that would have applied immediately prior to 1 January 2010, if the employee had at that time been in their current circumstances of employment and no agreement - based transitional instrument or enterprise agreement had applied to the employee and that would have entitled the employee to redundancy pay in excess of the employee's entitlement under the NES. This includes employees engaged after 1 January 2010.  The entitlement to redundancy pay under the notional agreement preserving the state award 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.
16.1	Travelling time (Instrument)	<b>Travelling expenses and travelling time</b>  An employee will be reimbursed all reasonable expenses (including accommodation, meals and out-of-pocket expenses directly related to their employment) incurred while travelling on their employer's business. Reasonable compensation for excess travel time will be agreed upon.
16.3	Clothing, footwear and/ or equipment (Instrument)	Except where an employee elects to provide equipment and special clothing, the employer will provide all equipment and special clothing reasonably required for the adequate discharge of duties, free of cost. Such equipment or clothing will remain the property of the employer.

Clause	Conditions Type	Description
17	Superannuation (Instrument)	<p>The award contains information on:</p> <ul style="list-style-type: none"> <li>- the employers responsibility to make superannuation contributions to a superannuation fund</li> <li>- the ability for an employee to authorise their employer to pay on their behalf contributions to a superannuation fund</li> <li>- the employers responsibility to make superannuation contributions to another superannuation fund that is chosen by the employee.</li> </ul>
18	Hours of work (Instrument)	<p><b>Ordinary hours of work and rostering</b></p> <p>Ordinary hours of work are 38 per week. An employee who by agreement with their employer is working a regular cycle (including shorter or longer hours) must not have ordinary hours of duty which exceed an average of 38 hours per week over the cycle.</p> <p>Employers will compensate for:</p> <ul style="list-style-type: none"> <li>- time worked regularly in excess of ordinary hours of duty</li> <li>- time worked on call-backs</li> <li>- time spent standing by in readiness for a call-back</li> <li>- time spent carrying out professional engineering duties or professional scientific/information technology duties outside of the ordinary hours over the telephone or via remote access arrangements, or</li> <li>- time worked on afternoon, night or weekend shifts.</li> </ul> <p>Compensation may include:</p> <ul style="list-style-type: none"> <li>- granting special additional leave or remuneration</li> <li>- taking this factor into account in the fixation of annual remuneration, or</li> <li>- granting a special allowance or loading.</li> </ul> <p>Such compensation or remuneration will include consideration (where relevant) of the penalty rate or equivalent and the conditions applicable to the majority of employees in the establishment. The compensation and/or remuneration will be reviewed annually to ensure that it is set at an appropriate level.</p> <p><b>Transfers</b></p>

Clause	Conditions Type	Description
		Where an employee is transferred permanently from day work to shiftwork or from shiftwork to day work, they should receive at least one month's notice. The employer and the employee may agree on a lesser period of notice.
19.2	Annual leave loading (Instrument)	<p>An employee must be paid a loading calculated at the rate of 17.5% of their base rate of pay, subject to the following.</p> <p>In no case will there be an entitlement to an amount in excess of the ABS average weekly earnings for all males (Australia) for the preceding September quarter of the year preceding the year in which the date of the accrual of the annual leave falls.</p> <p>Where an employee is in receipt of remuneration from their employer which is related to their annual leave loading and which is established as being of equivalent value to or greater value than the 17.5% loading, no further entitlement will accrue. Where the benefit is of a lesser value than equivalent value the employer must make up the benefit to that value.</p>
19.4	Annual leave - close-down (Instrument)	Where an employer closes down the enterprise, or a section, for the purposes of allowing annual leave to all or the majority of employees in the enterprise, or section concerned, the same conditions which apply to the other employees of the enterprise, or section may also apply to employees covered by this award.
22.2	Public holidays (Instrument)	<p><b>Substitution of public holidays by majority agreement</b></p> <p>An employer and a majority of affected employees may agree to substitute another day for any of the public holidays prescribed.</p> <p><u>Substitution of public holidays by individual agreement</u></p> <p>An employer and individual employee may agree to the employee taking another day as the public holiday instead of the day which is being observed as the public holiday in the workplace.</p>

## **Frequency of Payment**

In accordance with the Fair Work Act 2009, an employer must pay an employee at least monthly.





**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.