

PAY AND CONDITIONS GUIDE

Food, Beverage and Tobacco Manufacturing Award 2010

[MA000073] ('modern award')

replacing terms and conditions in or derived from

Food Preservers Award 2000 [AP781106] ('pre-modern award')

(ACT, NSW, SA, TAS, VIC)

Effective from 01 July 2012.

Published 03 December 2012 

Background

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

Transitional arrangements

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

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

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

Transitional arrangements for Division 2B State awards

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

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

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

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

Who should use the guide?

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

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

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

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

The guide contains information from this modern award about:

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

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

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

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

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

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

Coverage

This industry award covers employers throughout Australia in the food, beverage and tobacco manufacturing industry and their employees in the classifications in this award to the exclusion of any other modern award.

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

This 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 industry set out in clause 4.1 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.

This award covers employers which provide group training services for apprentices and/or trainees engaged in the industry and/or parts of industry set out at clause 4.1 and those apprentices and/or trainees engaged by a group training service hosted by a company to perform work at a location where the activities described herein are being performed. This subclause operates subject to the exclusions from coverage in this award.

This award does not cover employers or employees covered by:

- the Clerks—Private Sector Award 2010
- the Fast Food Industry Award 2010
- the General Retail Industry Award 2010
- the Horticulture Award 2010
- the Hospitality Industry (General) Award 2010
- the Manufacturing and Associated Industries and Occupations Award 2010
- the Meat Industry Award 2010
- the Poultry Processing Award 2010
- the Seafood Processing Award 2010, or
- the Wine Industry Award 2010.

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

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

Wages

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

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

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

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

Casual employees

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

Please visit www.fairwork.gov.au for information about penalty entitlements for casual employees.

*Post 26 March 2006 employer

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

Adult

The rates in this guide are current from the first pay period on or after 01 July 2012 until the final pay period before 01 July 2013 only.

Full & Part Time

Modern award classification	Pre-modern award classification	Base rate of pay (hourly)
Level 1	Food production employee, Level 1a	\$15.96
Level 2	Food production employee, Level 1b	\$16.42
Level 3	Food production employee, Level 2	\$17.05
Level 4	Food production employee, Level 3	\$17.64
Level 5	Food industry tradesperson, Level 1	\$18.58
Level 6	Food industry tradesperson, Level 2	\$19.17

Casual

Modern award classification	Pre-modern award classification	Base rate of pay (hourly)
Level 1	Food production employee, Level 1a	\$19.95 (25%)
Level 2	Food production employee, Level 1b	\$20.53 (25%)
Level 3	Food production employee, Level 2	\$21.31 (25%)
Level 4	Food production employee, Level 3	\$22.04 (25%)
Level 5	Food industry tradesperson, Level 1	\$23.23 (25%)
Level 6	Food industry tradesperson, Level 2	\$23.96 (25%)

Note The following allowances are payable for all purposes, in addition to the above rates: Leading hand allowance, Heavy vehicle driving allowance, and Boiler attendants allowance. Please see **Allowances** for further information.

Junior

The rates in this guide are current from the first pay period on or after 01 July 2012 until the final pay period before 01 July 2013 only.

Full & Part Time Unapprenticed junior

Modern award classification	Pre-modern award classification	Base rate of pay (hourly)
At 18 years of age	Food production employee, Level 1a	\$15.19
At 18 years of age	Food production employee, Level 1b	\$15.37
At 18 years of age	Food production employee, Level 2	\$15.60
At 18 years of age	Food production employee, Level 3	\$15.82
At 18 years of age	Food industry tradesperson, Level 1	\$16.18
At 18 years of age	Food industry tradesperson, Level 2	\$16.40
At 17 years of age	Levels 1A, Under 18 years of age	\$12.71
At 17 years of age	Level 1B, Under 18 years of age	\$12.84
At 16 years of age	Levels 1A, Under 18 years of age	\$11.49
At 16 years of age	Level 1B, Under 18 years of age	\$11.79
Under 16 years of age	Levels 1A, Under 18 years of age	\$10.60
Under 16 years of age	Level 1B, Under 18 years of age	\$10.74

**Casual
Unapprenticed junior**

Modern award classification	Pre-modern award classification	Base rate of pay (hourly)
At 18 years of age	Food production employee, Level 1a	\$18.99 (25%)
At 18 years of age	Food production employee, Level 1b	\$19.21 (25%)
At 18 years of age	Food production employee, Level 2	\$19.51 (25%)
At 18 years of age	Food production employee, Level 3	\$19.78 (25%)
At 18 years of age	Food industry tradesperson, Level 1	\$20.23 (25%)
At 18 years of age	Food industry tradesperson, Level 2	\$20.50 (25%)
At 17 years of age	Levels 1A, Under 18 years of age	\$15.89 (25%)
At 17 years of age	Level 1B, Under 18 years of age	\$16.05 (25%)
At 16 years of age	Levels 1A, Under 18 years of age	\$14.37 (25%)
At 16 years of age	Level 1B, Under 18 years of age	\$14.74 (25%)
Under 16 years of age	Levels 1A, Under 18 years of age	\$13.26 (25%)
Under 16 years of age	Level 1B, Under 18 years of age	\$13.42 (25%)

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 25 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%

1/01/2010	1/07/2014	1/07/2010
Pre-modern award penalty	Modern award penalty	Penalty rate (phased)
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	1/07/2010	1/01/2010	1/07/2010
Modern award penalty	Penalty rate (phased)	Pre-modern award penalty	Penalty rate (phased)
	(20.00%)		(80.00%)
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:

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

Location allowances are payable to part time and casual employees on a proportionate basis.

Where an employee who is eligible to receive a location allowance has a dependent the employee shall be paid double the allowance specified.

Where the employee has a partial dependent they shall be paid the allowance specified plus the difference between that rate and the amount such partial dependent is receiving by way of a district or location allowance.

Where an employee is provided with board and lodging by the employer free of charge the employee shall be paid two thirds of the specified allowance. 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
26.1(a)	Leading hand allowance	All purpose allowance expressed as per week. A leading hand in charge of 3 or more employees must be paid an allowance. This allowance applies for all purposes of the award. In charge of 3-10 employees 166.3% of the standard rate per week extra.	1/07/2012	\$0.8132 per hour. This weekly allowance has been converted to an hourly amount. It should be applied to all ordinary hours of work (up to a maximum of 38 hours per week). (4.38%)
26.1(a)	Leading hand allowance	All purpose allowance expressed as per week. In charge of 11-20 employees 248.40% of the standard rate per week extra.	1/07/2012	\$1.2146 per hour. This weekly allowance has been converted to an hourly amount. It should be applied to all

Clause	Allowance Type	Description	Effective Date	Rate
				ordinary hours of work (up to a maximum of 38 hours per week). (6.54%)
26.1(a)	Leading hand allowance	All purpose allowance expressed as per week. In charge of more than 20 employees 316.20% of the standard rate per week extra.	1/07/2012	\$1.5462 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). (8.32%)
26.1(b)	Heavy vehicle allowance	All purpose allowance expressed as per hour. An employee who is required to drive a vehicle over 3 tonnes Gross Vehicle Weight (GVW) must be paid an allowance while they are engaged on such work. This allowance applies for all purposes of the award. Over 3 tonnes GVW and up to 4.5 tonnes GVW	1/07/2012	\$0.1115 per hour (0.60%)
26.1(b)	Heavy vehicle allowance	All purpose allowance expressed as per hour. Over 4.5 tonnes GVW and up to 14.95 tonnes GVW	1/07/2012	\$0.9291 per hour (5.00%)
26.1(b)	Heavy vehicle allowance	All purpose allowance expressed as per hour. Over 14.95 tonnes GVW	1/07/2012	\$1.2264 per hour (6.60%)

Clause	Allowance Type	Description	Effective Date	Rate
26.1(b)	Heavy vehicle allowance	All purpose allowance expressed as per hour. A semi trailer	1/07/2012	\$2.2112 per hour (11.90%)
26.1(c)	Boiler attendants allowance	All purpose allowance expressed as per week. An employee holding a Boiler Attendants Certificate and appointed by the employer to act as a boiler attendant must be paid an allowance. This allowance applies for all purposes of the award. 85.5% of the standard rate per week extra.	1/07/2012	\$0.4181 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). (2.25%)
26.2(a)	Vehicle allowance	An employee who reaches agreement with their employer to use their own motor vehicle on the employer's business, must be paid per kilometre travelled.	1/07/2012	\$0.7500 per kilometre
26.2(b)	First aid allowance	An employee who has been trained to render first aid and who is the current holder of appropriate first aid qualifications such as a certificate from the St John Ambulance or similar body must be paid an allowance if appointed by their employer to perform first aid duty.	1/07/2012	\$0.3697 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). (1.99%)

Clause	Allowance Type	Description	Effective Date	Rate
26.3(b)	Cold work disability allowance	An employee who works for more than one hour in places where the temperature is reduced by artificial means below 0 degrees Celsius must be paid an allowance. In addition, where the work continues for more than two hours, the employee is entitled to 20 minutes' rest after every two hours' work without loss of pay. This allowance must be paid irrespective of the times at which the work is performed, and is not subject to any premium or penalty additions.	1/07/2012	\$0.5203 per hour (2.80%)
26.3(c)	Hot work allowance	An employee who works for more than one hour in the shade in places where the temperature is raised by artificial means to between 46 and 54 degrees Celsius must be paid an allowance. This allowance must be paid irrespective of the times at which the work is performed, and is not subject to any premium or penalty additions.	1/07/2012	\$0.5389 per hour (2.90%)
26.3(c)	Hot work allowance	An employee who works for more than one hour in the shade in places where the temperature is raised by artificial means to above 54 degrees Celsius must be paid an allowance. In addition, where work continues for more than two hours in temperatures exceeding 54 degrees Celsius, the employee is entitled to 20 minutes' rest after every two hours work without loss of pay. This allowance must be paid irrespective of the times at which the work is performed, and is not subject to any premium or penalty additions.	1/07/2012	\$0.7061 per hour (3.80%)
26.3(d)	Wet work allowance	An employee working in any place where their clothing or boots become saturated by water, oil or another substance, must be paid an allowance. Any employee who becomes entitled to this extra rate must be paid such rate only for the part of the day or shift that they are required to work in wet clothing or boots. This allowance does not apply to an employee who is provided by the employer with suitable and effective protective clothing and/or footwear. This allowance must be paid irrespective of	1/07/2012	\$0.5389 per hour (2.90%)

Clause	Allowance Type	Description	Effective Date	Rate
		the times at which the work is performed, and is not subject to any premium or penalty additions.		
26.3(e)	Confined spaces allowance	An employee working in a confined space must be paid an allowance. This allowance must be paid irrespective of the times at which the work is performed, and is not subject to any premium or penalty additions.	1/07/2012	\$0.7061 per hour (3.80%)
26.3(f)	Dirty work allowance	An employee who performs work of an unusually dirty, dusty or offensive nature must be paid an allowance. This allowance must be paid irrespective of the times at which the work is performed, and is not subject to any premium or penalty additions.	1/07/2012	\$0.5389 per hour (2.90%)
26.3(g)	Fumigation allowance	An employee using methyl bromide gas in fumigation work must be paid an allowance for any day on which the employee is required to use such gas. This allowance must be paid irrespective of the times at which the work is performed, and is not subject to any premium or penalty additions.	1/07/2012	\$7.0982 per day (38.20%)
26.4(e)	Meal allowance	This allowance is payable in relation to travel as provided by clause 26.4(b) and 26.4(c) (refer to Other Conditions).	1/07/2012	\$12.5800 per meal
33.10	Meal allowance	This allowance is payable on each occasion the employee is entitled to a rest break in accordance with clause 33.9 (refer to Other Conditions), except in the following circumstances: - if the employee is a day worker and was notified no later than the previous day that they would be required to work such overtime, or - if the employee is a shiftworker and was notified no later than the previous day or previous rostered shift that they would be required to work such overtime, or	1/07/2012	\$12.5800 per meal

Clause	Allowance Type	Description	Effective Date	Rate
		<ul style="list-style-type: none"> - if the employee lives in the same locality as the enterprise and could reasonably return home for meals, or - if the employee is provided with an adequate meal by the employer. <p>If an employee has provided a meal on the basis that have been given notice to work overtime and they are not required to work the overtime, they must be paid the allowance for each meal they have provided but which is surplus.</p>		

In computing overtime each day's work stands alone.

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

Clause	Conditions Type	Description
		<p>- leave loading.</p> <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"> - duty to notify, and - duty to discuss change.
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>
12	Part-time conditions (Instrument)	<p>An employee may be engaged to work on a part-time basis involving a regular pattern of hours which average less than 38 ordinary hours per week.</p> <p>A part-time employee must be engaged for a minimum of 3 consecutive hours a shift, unless the employee requests and the employer agrees to a lesser number of hours.</p> <p>Before commencing part-time employment, the employee and employer must agree in writing:</p> <ul style="list-style-type: none"> - on the hours, days and times to be worked by the employee and - on the classification applying to the work to be performed. <p>These terms may be varied by written agreement.</p> <p>The written agreement and any variation to it must be retained by the employer and a copy provided to the employee.</p> <p>Except as otherwise provided in this award, a part-time employee must be paid for the agreed hours.</p> <p>The terms of this award will apply pro rata to part-time employees on the basis that ordinary weekly hours for full-time employees are 38.</p> <p>A part-time employee who is required by the employer to work in excess of the agreed hours must be paid in accordance with the overtime provisions of the award.</p>

Clause	Conditions Type	Description
		<p>Where the part-time employee's normal paid hours fall on a public holiday prescribed in the NES and work is not performed by the employee, the employee must not lose pay for the day.</p> <p>Where the part-time employee works on the public holiday, the part-time employee must be paid in accordance with the provisions of the award.</p>
13	Casual conditions (Instrument)	<p>A casual employee is one engaged and paid as such.</p> <p>A casual employee must be paid an hourly rate equal to 1/38th of the relevant minimum weekly wage plus a casual loading of 25%. The loading constitutes part of the casual employee's all purpose rate.</p> <p>A casual employee must be paid for a minimum of 4 hours per engagement, unless the employee requests a lesser number of hours and the employer agrees.</p> <p>An employer when engaging a casual must inform the employee that they are employed as a casual, stating by whom the employee is employed, the classification level and rate of pay and the likely number of hours required.</p>
13.4	Casual conditions (Instrument)	<p>Casual conversion</p> <p>A casual employee engaged for a sequence of periods of employment under this award during a period of 6 months will have the right to elect to have their ongoing contract of employment converted to permanent full-time employment or part-time employment if the employment is to continue beyond the conversion process.</p> <p>Within 4 weeks of the employee becoming eligible under this clause to convert the employer must give the employee written notice of these provisions. The employee retains their right of election even if the employer fails to comply with this notice requirement.</p> <p>Upon receiving notice from the employer or after the expiry of the time for giving such notice, the employee may give 4 weeks' notice in writing to the employer that they seek to elect to convert their employment</p>

Clause	Conditions Type	Description
		<p>Within 4 weeks of receiving such notice the employer must consent to or refuse the election, but must not unreasonably refuse.</p> <p>Where an employer refuses an election to convert, the reasons for doing so must be fully stated and discussed with the employee and a genuine attempt must be made to reach agreement.</p> <p>If the employee does not make an election within 4 weeks of receiving written notice from the employer the employee will be considered to have elected against conversion.</p> <p>Once an election to convert has been made the employee may only revert to casual employment by written agreement with the employer.</p> <p>If a casual employee has elected to convert to full-time or part-time in accordance with these provisions, the employer and employee must discuss and agree upon:</p> <ul style="list-style-type: none"> - whether the employee will convert to full-time or part-time employment; and - if it is agreed that the employee will become a part-time employee, the number of hours and the pattern of hours, as set out in the part-time employment provisions of this award. <p>An employee who has worked on a full-time basis throughout their casual employment has the right to elect to convert to full-time employment and an employee who has worked on a part-time basis during their casual employment has the right to elect to convert to part-time employment, on the basis of the same number of hours and times of work as previously worked, unless other arrangements are agreed between the employer and the employee.</p> <p>Following an agreement being reached, the employee must convert to full-time or part-time employment.</p> <p>By agreement between the employer and the majority of the employees in the relevant workplace or a section or sections of it, or with the casual employee concerned, the employer may apply these provisions as if the reference to 6 months is a reference to 12 months, but only in respect of a currently engaged individual employee or group of employees. Any such agreement reached must be kept by the employer as a time and wages record. Any such agreement reached with an individual employee may only be reached within the two months prior to the period of six months.</p> <p>These provisions do not apply to an irregular casual who has been engaged to perform work on an occasional or non-systematic or irregular basis.</p>

Clause	Conditions Type	Description
		An employee must not be engaged and re-engaged, dismissed or replaced in order to avoid any obligation under this provision.
14	Other (Instrument)	<p>Apprentices</p> <p>The terms of this award apply to apprentices, including adult apprentices, except where otherwise stated.</p> <p>The probationary period of an apprentice must not exceed 3 months.</p>
18.2	Termination of employment - notice of termination by an employee (Instrument)	The notice of termination required to be given by an employee is the same as an employer except there is no requirement to give additional notice based on age. If an employee fails to give the required notice the employer may withhold from any monies due on termination, the difference between the amount of notice required and the amount of notice actually given.
18.3	Termination of employment - job search entitlement (Instrument)	Where an employer has given notice of termination to an employee, an employee must be allowed up to one day's time off without loss of pay for the purpose of seeking other employment. The time off is to be taken at times that are convenient to the employee after consultation with the employer.
19.2	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>
19.3	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.

Clause	Conditions Type	Description
19.4	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.
19.5	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.
20.2	Higher duties (Instrument)	An employee engaged for more than 2 hours during a day or shift on duties carrying a higher minimum wage than their ordinary classification must be paid the higher minimum wage for such day or shift. If engaged for 2 hours or less during a day or shift, they must be paid the higher minimum wage for the time so worked.
26.2(d)	Clothing, footwear and/or equipment (Instrument)	Where an employee as a result of performing any duty required by the employer, and as a result of negligence of the employer, suffers any damage to or soiling of clothing or other personal equipment, including spectacles and hearing aids, the employer is liable for the replacement, repair or cleaning of such clothing or personal equipment including spectacles and hearing aids.
26.2(e)	Clothing, footwear and/or equipment (Instrument)	Where an employee is required to wear special clothing and equipment, the employer must reimburse the employee for the cost of purchasing and laundering such special clothing and equipment unless the clothing and equipment is paid for and/or laundered by the employer.
26.4(a)	Travelling time (Instrument)	Excess travelling and fares An employee required to start and/or finish work at a job away from the employer's usual workplace must be paid: - travelling time for all time reasonably spent by the employee in reaching and/or returning from the job which is in excess of the time normally spent by the employee in travelling between their residence and the their usual workplace; and

Clause	Conditions Type	Description
		<p>- any fares reasonably incurred by the employee or which would have been incurred by the employee had the employee not used their own means of transport, which are in excess of those normally incurred in travelling between the employee's residence and their usual workplace.</p> <p>If the employee used their own means of transport then excess fares need not be paid where the employee has an arrangement with their employer for a regular allowance.</p>
26.4(b)	Travelling time (Instrument)	<p>Distant work</p> <p>An employee required to remain temporarily away from their usual residence because they are working temporarily in a locality away from their usual workplace must be paid travelling time for necessary travel between the locality and the employee's usual workplace and expenses.</p> <p>After each 4 week period on distant work an employee is entitled to be paid for a return fare for personal travel between the locality and their usual residence, unless such distant work is inherent in the normal work of the employee.</p> <p>Expenses include:</p> <ul style="list-style-type: none"> - all fares reasonably incurred - reasonable expenses incurred while travelling, including a meal allowance for each meal taken (see Allowances) - a reasonable allowance to cover the cost incurred for board and lodging.
26.4(c)	Transfer of employee (Instrument)	<p>Transfer involving change of residence</p> <p>An employee required to transfer permanently from the employee's usual workplace to another locality must be paid travelling time for necessary travel between the employee's usual workplace and the new locality and expenses for up to 3 months.</p> <p>Where the employee is in the process of buying a residence in the new locality, travel time and expenses are payable for up to 6 months.</p> <p>Payment for travel time and expenses ceases after the employee has taken up permanent residence in the new locality.</p>

Clause	Conditions Type	Description
		<p>Expenses include:</p> <ul style="list-style-type: none"> - all fares reasonably incurred - reasonable expenses incurred while travelling, including a meal allowance for each meal taken (see Allowances) - a reasonable allowance to cover the cost incurred for board and lodging.
26.4(d)	Travelling time (Instrument)	<p>Travelling time payment</p> <p>Travelling time is paid at ordinary time, except on Sundays and public holidays when it is paid at 150%.</p> <p>The maximum travelling time to be paid is for 12 out of every 24 hours, or when a sleeping berth is provided by the employer for all-night travel, 8 out of every 24 hours.</p>
26.5	Other (Instrument)	<p>Training costs</p> <p>Any costs associated with standard fees for prescribed courses and prescribed textbooks (excluding those textbooks which are available in the employer's technical library) incurred by an employee in connection with training agreed to by the employer must be reimbursed by the employer on the production of evidence of such expenditure by the employee provided that reimbursement may be on an annual basis subject to the presentation of reports of satisfactory progress.</p> <p>Travel costs incurred by an employee undertaking training agreed to by the employer, which exceed those normally incurred in travelling to and from work, must be reimbursed by the employer.</p>
26.6	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>
26.7	Accident pay (Instrument)	<p>An employee is entitled to accident pay in accordance with the terms of:</p>

Clause	Conditions Type	Description
		<p>- 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</p> <p>- that would have entitled the employee to accident pay in excess of the employee's entitlement to accident pay, if any, under any other instrument.</p> <p>The employee's entitlement to accident pay under the NAPSA or award is limited to the amount of accident pay which exceeds the employee's entitlement to accident pay, if any, under any other instrument.</p> <p>This clause does not reduce an employee's entitlement to accident pay under any other instrument and ceases to operate on 31 December 2014.</p>
26.8	Annual bonus (Instrument)	<p>An employee is entitled to payment of an annual bonus or Christmas allowance in accordance with the terms of:</p> <p>- a notional agreement preserving a State award 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</p> <p>- that would have entitled the employee to payment of an annual bonus or Christmas allowance.</p> <p>This provision ceases to operate on 31 December 2014.</p>
27	Other (Instrument)	<p>The extra rates in this award, except Special Rates (see Allowances) and rates for work on public holidays, are not cumulative so as to exceed the maximum of double ordinary time rates.</p>
29	Superannuation (Instrument)	<p>The award contains information on:</p> <p>- the employers responsibility to make superannuation contributions to a superannuation fund</p>

Clause	Conditions Type	Description
		<ul style="list-style-type: none"> - 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.
30.1	Hours of work (Act)	Maximum ordinary hours of work limited to 38 hours per week. The Fair Work Act 2009 guarantees that an employee cannot be required or requested to work more than 38 hours per week plus reasonable additional hours, or an average of 38 hours per week over a period of up to 12 months (if the employee and the employer agree in writing) and reasonable additional hours.
30.2	Hours of work (Instrument)	<p>Ordinary hours of work - day workers</p> <p>The ordinary hours of work for day workers are an average of 38 per week but not exceeding 152 hours in 28 days.</p> <p>The ordinary hours of work may be worked on any day or all of the days of the week, Monday to Friday. The days on which ordinary hours are worked may include Saturday and Sunday subject to agreement between the employer and the majority of employees concerned. Agreement in this respect may also be reached between the employer and an individual employee.</p> <p>The ordinary hours of work are to be worked continuously, except for meal breaks, at the discretion of the employer between 6.00 am and 6.00 pm. This spread of hours may be altered by up to 1 hour at either end of the spread, by agreement between an employer and the majority of employees concerned or, in appropriate circumstances, between the employer and an individual employee.</p> <p>Any work performed outside the spread of hours must be paid for at overtime rates. However, any work performed by an employee prior to the spread of hours which is continuous with ordinary hours for the purpose, for example, of getting the plant in a state of readiness for production work is to be regarded as part of the 38 ordinary hours of work.</p>
30.3	Hours of work (Instrument)	<p>Ordinary hours of work - continuous shiftworkers</p> <p>Continuous shiftwork mean work carried on with consecutive shifts of employees throughout the 24 hours of each of at least 6 consecutive days with out interruption except for breakdowns or meal breaks or due to unavoidable circumstances beyond the control of the employer.</p>

Clause	Conditions Type	Description
		<p>The ordinary hours of continuous shiftworkers are, at the discretion of the employer, to average 38 hours per week inclusive of meal breaks and must not exceed 152 hours in 28 consecutive days. Continuous shiftworkers are entitled to a 20 minute meal break on each shift which must be counted as time worked.</p> <p>By agreement between the employer and the majority of employees concerned, a roster system may operate on the basis that the weekly average of 38 ordinary hours is achieved over a period which exceeds 28 consecutive days but does not exceed 12 months.</p> <p>Except at the regular changeover of shifts, an employee must not be required to work more than 1 shift in each 24 hours.</p>
30.4	Hours of work (Instrument)	<p>Ordinary hours of work - non-continuous shiftworkers</p> <p>The ordinary hours of work for non-continuous shiftworkers are an average of 38 per week and must not exceed 152 hours in 28 consecutive days.</p> <p>By agreement between the employer and the majority of employees concerned, a roster system may operate on the basis that the weekly average of 38 ordinary hours is allowed over a period which exceeds 28 consecutive days but does not exceed 12 months.</p> <p>The ordinary hours of work must be worked continuously, except for meal breaks, at the discretion of the employer.</p> <p>Except at changeover of shifts an employee must not be required to work more than 1 shift in each 24 hours.</p>
30.5	Hours of work (Instrument)	<p>Methods of arranging ordinary working hours</p> <p>Subject to the employer's right to fix the daily hours of work for day workers from time to time within the spread of hours and the employer's right to fix the commencing and finishing time of shifts from time to time, the arrangement of ordinary working hours must be by agreement between the employer and the majority of employees in the enterprise or part of the enterprise concerned. This does not preclude the employer reaching agreement with individual employees about how their working hours are to be arranged.</p>

Clause	Conditions Type	Description
		<p>The matters on which agreement may be reached include:</p> <ul style="list-style-type: none"> - how the hours are to be averaged within a work cycle; - the duration of the work cycle for day workers provided that such duration does not exceed three months; - rosters which specify the starting and finishing times of working hours; - a period of notice of a rostered day off which is less than 4 weeks; - substitution of rostered days off; - accumulation of rostered days off; - arrangements which allow for flexibility in relation to the taking of rostered days off; and - any arrangements of ordinary hours which exceed 8 hours in any day. <p>By agreement between an 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; - adequate breaks being provided; and - a trial or review process being jointly implemented by the employer and the employees or their representatives.
30.6	Other (Instrument)	<p>Daylight saving</p> <p>Where by reason of State or Territory legislation summer time is prescribed as being in advance of the standard time in that state, the length of any shift commencing before the time prescribed by the relevant legislation for the commencement of a summer time period or commencing on or before the time prescribed by the relevant legislation for the termination of a summer time period, is 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 legislation.</p> <p>The terms standard time and summer time have the same meaning as in the relevant State or Territory legislation.</p>

Clause	Conditions Type	Description
30.7	Other (Instrument)	<p>Make-up time</p> <p>An employee may elect, with the consent of the employer, to work make-up time under which the employee takes time off during ordinary hours, and works those hours at a later time, during the spread of ordinary hours provided in this award.</p> <p>An employee on shiftwork may elect, with the consent of their employer, to work make-up time under which the employee takes time off during ordinary hours and works those hours at a later time, at the rate which would have been applicable to the hours taken off.</p>
31.2	Shiftwork (Instrument)	<p>For the purposes of this award:</p> <ul style="list-style-type: none"> - early morning shift means any shift commencing between 3.00 am and 6.00 am (or 5.00 am if the span of ordinary hours is varied by agreement - afternoon shift means any shift finishing after 6.00 pm and at or before midnight, and - night shift means any shift finishing after midnight and at or before 8.00 am. <p>By agreement between the employer and the majority of employees concerned or in appropriate cases an individual employee, the span of hours over which shifts may be worked may be altered by up to one hour at either end of the span.</p>
31.5(c),(d)	Shiftwork (Instrument)	<p>Where shifts commence between 11.00 pm and midnight on a Sunday or public holiday, the time so worked before midnight does not entitle the employee to the Sunday or public holiday rate for the shift.</p> <p>However, the time worked by an employee on a shift commencing before midnight on the day preceding a Sunday or public holiday and extending into the Sunday or public holiday must be regarded as time worked on the Sunday or public holiday.</p> <p>Where shifts fall partly on a holiday, the shift which has the major portion falling on the public holiday must be regarded as the holiday shift. By agreement between the employer and the majority of employees concerned, the shift which has the minor portion falling on the public holiday may be regarded as the holiday shift instead.</p>

Clause	Conditions Type	Description
32	Breaks - meal (Instrument)	<p>An employee must not be required to work for more than 5 hours without a break for a meal except in the following circumstances:</p> <ul style="list-style-type: none"> - in cases where canteen or other facilities are limited to the extent that meal breaks must be staggered and as a result it is not practicable for all employees to take a meal break within 5 hours, an employee must not be required to work for more than 6 hours without a break for a meal; or - by agreement between an employer and an individual employee or the majority of employees in an enterprise or part of an enterprise concerned, an employee or employees may be required to work in excess of 5 hours but not more than 6 hours at the ordinary time rate without a meal break. <p>The time of taking a scheduled meal break or rest break by one or more employees may be altered by an employer if it is necessary to do so in order to meet a requirement for continuity of operations.</p> <p>An employer may stagger the time of taking meal and rest breaks to meet operational requirements.</p> <p>Subject to the provisions above, an employee must work during meal breaks at the ordinary time rate whenever instructed to do so for the purpose of making good any breakdown of plant or for routine maintenance of plant which can only be done while the plant is idle.</p>
33.1(d)	Overtime – time off in lieu (Instrument)	<p>An employee may elect, with the consent of the employer, to take time off instead of payment for overtime at a time or times agreed with the employer, provided that:</p> <ul style="list-style-type: none"> - overtime taken as time off during ordinary hours must be taken at the ordinary time rate, that is an hour for each hour worked; and - an employer must, if requested by an employee, provide payment, at the rate provided for the payment of overtime in this award, for any overtime worked which has not been taken as time off instead of payment for overtime within four weeks of accrual.
33.2	Overtime - other (Instrument)	<p>One in, all in does not apply</p> <p>The assignment of overtime by an employer to an employee is to be based on specific work requirements and the practice of one in, all in overtime must not apply.</p>

Clause	Conditions Type	Description
33.3	Break between work periods (Instrument)	<p>Rest period after overtime</p> <p>When overtime work is necessary it must, wherever reasonably practicable, be arranged so that an employee has 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 between the termination of their ordinary hours on one day and the commencement of their ordinary hours on the next day that the employee has not had at least 10 consecutive hours off duty between those times must be released after completion of the overtime until the employee has had 10 consecutive hours off duty without loss of pay for ordinary hours occurring during such absence.</p> <p>By agreement between the employer and individual employee, the 10 hour break provided for in these provisions may be reduced to a period of no less than eight hours.</p> <p>These provisions will apply in the case of a shiftworker as if eight hours were substituted for 10 hours when overtime is worked:</p> <ul style="list-style-type: none"> - for the purpose of changing shift rosters; or - where a shiftworker does not report for duty and a day worker or a shiftworker is required to replace the shiftworker; or - where a shift is worked by arrangement between the employees themselves.
33.4	Call-back (Instrument)	<p>Where an employee is required to regularly hold themselves in readiness for a call-back they must be paid for a minimum of three hours work at the appropriate overtime rate, subject to the standing by provisions.</p> <p>If the employee is recalled on more than one occasion between the termination of their ordinary hours on one day and the commencement of their ordinary hours on the next working day they are entitled to the three or four hour minimum overtime payment provided for in the overtime provisions for each call-back. However, in such circumstances, it is only the time which is actually worked during the previous call or calls which is to be taken into account when determining the overtime rate for subsequent calls.</p> <p>Except in the case of unforeseen circumstances arising, an employee must not be required to work the full three or four hours as the case may be if the job they were recalled to perform is completed within a shorter period.</p>

Clause	Conditions Type	Description
		<p>These provisions do not apply in cases where it is customary for an employee to return to the enterprise to perform a specific job outside the employee's ordinary hours or where the overtime is continuous, subject to a meal break, with the commencement or completion of ordinary hours.</p> <p>Overtime worked in the circumstances specified in these provisions is not to be regarded as overtime for the purposes of clause 33.3 concerning rest periods after overtime, when the actual time worked is less than three hours on the call-back or on each call-back.</p>
33.5	Other (Instrument)	<p>Standing by</p> <p>Subject to any custom prevailing at an enterprise, where an employee is required regularly to hold themselves in readiness to work after ordinary hours, the employee must be paid standing by time at the employee's ordinary time rate for the time they are standing by.</p>
33.9	Breaks - rest (Instrument)	<p>An employee working overtime must be allowed a rest break of 20 minutes without deduction of pay after each 4 hours of overtime worked if the employee is to continue work after the rest break.</p> <p>Where a day worker is required to work overtime on a Saturday, Sunday, public holiday or rostered day off, the first rest break must be paid at the employee's ordinary time rate.</p> <p>Where overtime is to be worked immediately after the completion of ordinary hours on a day or shift and the period of overtime is to be more than one and a half hours, an employee, before starting the overtime, is entitled to a rest break of 20 minutes to be paid at the employee's ordinary time rate.</p> <p>An employer and employee may agree to any variation to these rest break provisions to meet the circumstances of the work in hand provided that the employer is not required to make any payment in excess of or less than what would otherwise be required under these provisions.</p>
33.11	Transport of employees (Instrument)	<p>When an employee, 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 employee with suitable transport home, or pay the employee at the overtime rate for the time reasonably occupied in reaching home.</p>
34.2	Annual leave (Instrument)	<p>Conversion to hourly entitlement</p>

Clause	Conditions Type	Description
		An employer may reach agreement with the majority of employees concerned to convert the annual leave entitlement to an hourly entitlement for administrative ease (i.e. 152 hours for a full-time employee entitled to four weeks of annual leave and 190 hours for a shiftworker as defined).
34.3	Annual leave (Instrument)	<p>Definition of shiftworker</p> <p>For the purposes of the additional week of annual leave provided to a shiftworker, a shiftworker is a seven day shiftworker who is regularly rostered to work Sundays and public holidays.</p> <p>Where an employee with 12 months continuous service is engaged for part of the 12 month period as a seven day shiftworker, that employee must have their annual leave increased by half a day for each month the employee is continuously engaged as a seven day shiftworker.</p>
34.4	Annual leave (Instrument)	<p>Payment for period of annual leave</p> <p>An employee under this award, before going on annual leave, must be paid the wages they would have received in respect of the ordinary hours the employee would have worked had the employee not been on leave during the relevant period.</p> <p>The wages to be paid must be worked out on the basis of what the employee would have been paid under this award for working ordinary hours during the period of annual leave, including allowances, loadings and penalties paid for all purposes of the award, first aid allowance and any other wages payable under the employee's contract of employment including any overaward payment.</p> <p>The employee is not entitled to payments in respect of overtime, special rates or any other payment which might have been payable to the employee as a reimbursement for expenses incurred.</p>
34.5	Annual leave loading (Instrument)	<p>During a period of annual leave an employee must also be paid a loading calculated on the wages prescribed under Payment for period of annual leave. The loading must be as follows:</p> <p><u>Day work</u></p> <p>An employee who would have worked on day work only had they not been on leave must be paid a loading equal to 17.5% of the wages prescribed under Payment for period of annual leave or the relevant weekend penalty rates, whichever is the greater but not both.</p>

Clause	Conditions Type	Description
		<p><u>Shiftwork</u></p> <p>An employee who would have worked on shiftwork had they not been on leave must be paid a loading equal to 17.5% of the wages prescribed under Payment for period of annual leave or the shift loading including relevant weekend penalty rates, whichever is the greater but not both.</p> <p>An employee entitled to the payment of an annual leave bonus in accordance with the Annual leave bonus provisions is not entitled to the payment of an annual leave loading in accordance with these provisions. This provision ceases to operate on 31 December 2014.</p>
34.6	Annual leave (Instrument)	<p>Annual leave bonus</p> <p>An employee is entitled to the payment of an annual leave bonus in accordance with the terms of:</p> <ul style="list-style-type: none"> - a notional agreement preserving a State award 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 that Act had applied to the employee, and - that would have entitled the employee to the payment of an annual leave bonus. <p>This provision ceases to operate on 31 December 2014.</p>
34.7	Annual leave (Instrument)	<p>Excessive leave</p> <p>Notwithstanding the provisions of the Fair Work Act 2009, if an employer has genuinely tried to reach agreement with an employee as to the timing of taking annual leave, the employer can require the employee to take annual leave by giving not less than 4 weeks' notice of the time when such leave is to be taken if:</p> <ul style="list-style-type: none"> - at the time the direction is given, the employee has 8 weeks or more of annual leave accrued; and - the amount of annual leave the employee is directed to take is less than or equal to a quarter of the amount of leave accrued.

Clause	Conditions Type	Description
34.8	Annual leave (Instrument)	<p>Paid leave in advance of accrued entitlement</p> <p>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 money due to the employee on termination.</p>
34.9	Annual leave (Instrument)	<p>Annual close-down</p> <p>Notwithstanding the provisions of the Act and clause 34.7, an employer may close down an enterprise or part of it for the purpose of allowing annual leave to all or the majority of the employees in the enterprise or part concerned, provided that:</p> <ul style="list-style-type: none"> - the employer gives not less than 4 weeks' notice of intention to do so; and - an employee who has accrued sufficient leave to cover the period of the close-down, is allowed leave and also paid for that leave at the appropriate wage in accordance with clauses 34.4 and 34.5; and - an employee who has not accrued sufficient leave to cover part or all of the close-down, is allowed paid leave for the period for which they have accrued sufficient leave and given unpaid leave for the remainder of the close-down; and - any leave taken by an employee as a result of a close-down pursuant to this clause also counts as service by the employee with their employer; and - the employer may only close down the enterprise or part of it for one or two separate periods in a year; and - if the employer closes down the enterprise or part of it in two separate periods, one of the periods must be for a period of at least 14 consecutive days including non-working days; and - the employer and the majority of employees concerned may agree to the enterprise or part of it being closed down for three separate periods in a year provided that one of the periods is a period of at least 14 days including non-working days; and

Clause	Conditions Type	Description
		- the employer may close down the enterprise or part of it for a period of at least 14 days including non-working days and allow the balance of any annual leave to be taken in one continuous period in accordance with a roster.
34.10	Transfer of business (Instrument)	Where a business is transferred from one employer to another, the period of continuous service that an employee had with the old employer must be deemed to be service with the new employer and taken into account when calculating annual leave. However an employee is not entitled to leave or payment instead for any period in respect of which leave has been taken or paid for.
34.11	Annual leave (Instrument)	<p>Proportionate leave on termination</p> <p>On termination of employment, an employee must be paid for annual leave accrued that has not been taken at the appropriate wage calculated in accordance with clause 34.4.</p>
35.2	Personal/carer's leave (Instrument)	If an employee is terminated by their employer and is re-engaged by the same employer within a period of six months, the employee's unclaimed balance of paid personal/carer's leave continues from the date of re-engagement.
37.2	Public holidays (Instrument)	<p>Substitution of certain public holidays by agreement at the enterprise</p> <p>By agreement between the employer and the majority of employees in the enterprise or part of the enterprise concerned, an alternative day may be taken as the public holiday instead of any of the prescribed days.</p> <p>An employer and an 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 enterprise or part of the enterprise concerned.</p>
37.3	Public holidays (Instrument)	<p>Rostered day off falling on a public holiday</p> <p>Where a full-time employee's ordinary hours of work are structured to include a day off and such day off falls on a public holiday other than on a Saturday or Sunday, the employee is entitled, at the discretion of the employer, to either:</p> <ul style="list-style-type: none"> - 7.6 hours of pay at the ordinary time rate or

Clause	Conditions Type	Description
		<p>- 7.6 hours of extra annual leave or - a substitute day off on an alternative week day.</p> <p>The following provisions do not apply in relation to days off which are specified in an employee's regular roster or pattern of ordinary hours as the above provision applies to such days off:</p> <p>Where an employee has credited time accumulated under an averaging system, then such credited time should not be taken as a day off on a public holiday.</p> <p>If an employee is rostered to take credited time accumulated under an averaging system as a day off on a week day and such week day is prescribed as a public holiday after the employee was given notice of the day off, then the employer must allow the employee to take the time off on an alternative week day.</p>

Frequency of Payment

Wages must be paid weekly or fortnightly, either:

- according to the actual ordinary hours worked each week or fortnight, or
- according to the average number of ordinary hours worked each week or fortnight.

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.