


PAY AND CONDITIONS GUIDE

Educational Services (Post-Secondary Education) Award 2010 **[MA000075]** ('modern award') replacing terms and conditions in or derived from **Teachers Non-Government (English Colleges) (State) Award** **2003 [AN120547]** ('pre-modern award')

(NSW)

Effective from 01 July 2013.

Published 19 June 2013 

Background

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

Transitional arrangements

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

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

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

Transitional arrangements for Division 2B State awards

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

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

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

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

Who should use the guide?

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

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

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

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

The guide contains information from this modern award about:

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

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

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

However, the penalty rates and allowances in the modern award do not apply to agreement-covered employees, unless the agreement is read in conjunction with the modern award (e.g. a pre-reform certified agreement (a type of collective agreement made before 27 March 2006)).

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

Coverage

This industry award covers employers throughout Australia in the post-secondary educational services industry and their employees (other than trades, cleaning or maintenance staff) employed in the classifications listed in Schedule A—Classifications—Academic Teachers, Schedule B—Classifications—Teachers and Tutor/instructors and Schedule C—General Staff to the exclusion of any other modern award.

To avoid doubt this award does not apply to:

any secondary school;

any employer in respect of an employee to whom the Higher Education Industry—Academic Staff—Award 2010 or the Higher Education Industry—General Staff—Award 2010 applies; or

any employer whose principal function is the provision of labour market assistance programs.

To avoid doubt, the post-secondary educational services industry includes:

vocational education and training (VET) teaching leading to qualifications recognised within the AQF;

ELICOS and TESOL teaching;

LOTE teaching;

English language, literacy and numeracy teaching;

English language teaching in migrant education programmes;

community and adult education teaching not leading to qualifications recognised by the AQF;

undergraduate and postgraduate teaching leading to the conferring of accredited degrees or other higher education qualifications recognised within the AQF, except teaching in a university approved to operate in Australia;

foundation studies programmes or bridging course teaching where the programme or course is preparatory to or articulates with programmes of teaching leading to higher education qualifications recognised within the AQF; and

the employees of any student unions established for students in institutions providing post-secondary educational services.

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 industry set out in paragraph one 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.

4.8 This award covers employers which provide group training services for trainees engaged in the industry and/or parts of industry set out at clause 4.1 and those trainees engaged by a group training service hosted by a company to perform work at a location where the activities described herein are being performed. 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 classification which is most appropriate to the work performed by the employee and to the environment in which the employee normally performs the work.

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

Wages

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

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

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

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

Casual employees

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

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

*Post 26 March 2006 employer

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

Adult

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

Full & Part Time Teachers and Tutor/Instructors

Modern award classification	Pre-modern award classification	Base rate of pay (hourly)
Level 1	Teacher, Step 0	\$21.44
Level 1	Teacher, Step 1	\$21.59
Level 2	Teacher, Step 2	\$21.99
Level 3	Teacher, Step 3	\$22.55
Level 4	Teacher, Step 4	\$23.12
Level 5	Teacher, Step 5	\$24.07
Level 6	Teacher, Step 6	\$24.78
Level 7	Teacher, Step 7	\$25.44
Level 8	Teacher, Step 8	\$26.15
Level 9	Teacher, Step 9	\$26.86
Level 10	Teacher, Step 10	\$27.71
Level 11	Teacher, Step 11	\$28.57

Casual

Hourly casual rates - Teachers and Tutor/Instructors

Modern award classification	Pre-modern award classification	Base rate of pay (hourly)
Level 1	Teacher, Step 0	\$40.19
Level 1	Teacher, Step 1	\$40.45
Level 2	Teacher, Step 2	\$41.45
Level 3	Teacher, Step 3	\$42.50
Level 4	Teacher, Step 4	\$43.56
Level 5	Teacher, Step 5	\$45.36
Level 6	Teacher, Step 6	\$46.68
Level 7	Teacher, Step 7	\$47.93
Level 8	Teacher, Step 8	\$49.25
Level 9	Teacher, Step 9	\$50.58
Level 10	Teacher, Step 10	\$52.19
Level 11	Teacher, Step 11	\$53.79

Casual

Daily casual rates - Teachers and Tutor/Instructors

Modern award classification	Pre-modern award classification	Base rate of pay (daily)
Level 1	Teacher, Step 0	\$202.47
Level 1	Teacher, Step 1	\$203.13
Level 2	Teacher, Step 2	\$206.23

Modern award classification	Pre-modern award classification	Base rate of pay (daily)
Level 3	Teacher, Step 3	\$212.12
Level 4	Teacher, Step 4	\$217.39
Level 5	Teacher, Step 5	\$226.39
Level 6	Teacher, Step 6	\$233.02
Level 7	Teacher, Step 7	\$239.23
Level 8	Teacher, Step 8	\$245.86
Level 9	Teacher, Step 9	\$252.52
Level 10	Teacher, Step 10	\$260.56
Level 11	Teacher, Step 11	\$268.56

Junior

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

Apprentice

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

Trainee

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

Supported Wage

Please refer to clause 19 of the modern award.

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

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

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

Transitional arrangements

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

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

- A pre-modern award loading/penalty will be "equivalent" to a modern award entitlement where the loading/penalty applies:
 - for the same purpose (e.g. Saturday penalty);
 - for the same time periods; and
 - in the same way#.

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

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

Equivalent entitlements

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

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

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

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

Example:

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

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

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

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

Example:

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

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

1/01/2010	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%

1/01/2014	1/07/2010
Modern award penalty	Penalty rate (phased)
	(20.00%)
50.00%	10.00%
75.00%	15.00%
100.00%	20.00%
120.00%	24.00%
125.00%	25.00%
130.00%	26.00%
150.00%	30.00%

1/01/2010	1/07/2010
Pre-modern award penalty	Penalty rate (phased)
	(80.00%)
50.00%	40.00%
75.00%	60.00%
100.00%	80.00%
120.00%	96.00%
125.00%	100.00%
130.00%	104.00%
150.00%	120.00%

New entitlements

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

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

Example:

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

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

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

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

Allowances

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

All states covered by this instrument Full Time, Part Time, Casual

Clause	Allowance Type	Description	Effective Date	Rate
15.1(c)	Laundry	When an employee is required to wear and launder a uniform the employee will be paid a laundry allowance.	1/01/2010	\$3.5500 per week.
15.3	First aid allowance	An employee who has been trained to render first aid and who is a current holder of appropriate first aid qualifications (such as a certificate from St John Ambulance or a similar body) will be paid an amount as follows if they are appointed in writing by their employer to perform first aid duty.	1/07/2013	\$0.2861 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). (1.50%)
15.5	Meal allowance	An employee required to work for more than one and a half hours of overtime, without being given 24 hours' notice, after the employee's ordinary finishing time, or who works approved overtime for more than five hours on a Saturday or Sunday, will be paid a meal allowance as follows or be supplied with a meal instead. This allowance only applies to general staff.	1/07/2013	\$14.0800 per occasion
15.5	Meal allowance	Where overtime work exceeds four hours a further meal allowance will be paid.	1/07/2013	\$11.2700 per occasion

Clause	Allowance Type	Description	Effective Date	Rate
15.8(a)(i)	Vehicle allowance	An employee who by agreement with the employer uses their own motor vehicle in the course of their work will be paid the following allowance - Motor cars	1/07/2013	\$0.7600 per kilometre, up to a maximum payment of 400 kilometres per week
15.8(a)(ii)	Vehicle allowance	An employee who by agreement with the employer uses their own motor cycle in the course of their work will be paid an allowance.	1/01/2010	\$0.2500 per kilometre, up to a maximum payment of 400 kilometres per week

Other Conditions

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

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

For more information about the NES, please visit www.fairwork.gov.au

All states covered by this instrument

Clause	Conditions Type	Description
7	Award flexibility (Instrument)	An employer and an individual employee may agree to vary the following terms of this award to meet the genuine needs of the employer and the individual employee with respect to: - arrangements for when work is performed - overtime rates

Clause	Conditions Type	Description
		<ul style="list-style-type: none"> - penalty rates - allowances - leave loading. <p>Other conditions concerning award flexibility are contained within the Fair Work Act 2009.</p>
8	Consultation (Instrument)	<p>The award contains information on the employer's responsibility to consult regarding major workplace change including the:</p> <ul style="list-style-type: none"> - duty to notify, and - duty to discuss change.
9	Dispute resolution (Instrument)	<p>The award sets out a dispute resolution procedure for dealing with disputes in relation to a matter under the award or the National Employment Standards (NES).</p>
10.3	Part-time conditions (Instrument)	<p>A part-time employee is an employee employed for less an average of 38 hours per week, or in the case of a teaching staff member for less than the face-to-face teaching load of a full-time teaching staff member, for which all award entitlements are paid or calculated on a pro rata basis.</p> <p>Before engagement the employer and the part-time employee will agree in writing on a regular pattern of work, including the number of hours to be worked each week, the days of the week the employee will work, the starting and finishing times each day where hours are not averaged, and any periods during a year when work by the employee will not be required.</p> <p>Changes in hours may only be made by agreement in writing between the employer and the employee.</p> <p>An employer is required to roster a part-time employee for a minimum of two hours on any day.</p> <p>Except where hours are averaged, all time worked in excess of the agreed hours will be overtime and paid for at the appropriate overtime rate.</p>
10.4	Casual conditions (Instrument)	<p>A casual employee must be paid at the end of each shift, or in accordance with the usual payment methods for full-time employees.</p>

Clause	Conditions Type	Description
		<p>For teachers and tutor/instructors, the minimum payment for each engagement will be for two hours' work. For general staff the minimum payment will be for three hours' work.</p>
10.5	Other (Instrument)	<p>Sessional employment</p> <p>These provisions only apply to teaching staff members.</p> <p>A sessional employee is an employee engaged to work on a full-time or part-time basis for a specified period or periods of not less than four weeks or more than forty weeks in any calendar year.</p> <p>A sessional employee will be paid at the same rate and be entitled to the same conditions as those prescribed for a full-time or part-time teacher with the same qualifications, experience and teaching load.</p> <p>On termination of a sessional engagement, an employee may elect to be paid out accrued annual leave entitlements or have the employer keep them for use during further employment. However, where the leave is not taken within 12 months, or the employee is not re-engaged within eight weeks, the entitlement will be paid out.</p> <p>Subject to the employee's satisfactory conduct and performance, where an equivalent position will exist at the expiry of the employee's period of engagement, the employer will offer a further engagement to the employee.</p> <p>Where reasonable, notice of re-engagement will be given at least two weeks prior to the expiry of the current engagement and the employee will give one week's notice of acceptance to the employer.</p>
10.6	Other (Instrument)	<p>Continuous service</p> <p>These provisions only apply to teaching staff members.</p> <p>For the purposes of the NES:</p> <p>One or more engagements of a casual or sessional employee with an employer will be deemed to be continuous unless more than eight weeks have elapsed between those engagements. The period between engagements will not count as service.</p>

Clause	Conditions Type	Description
		Service will be deemed to be continuous, including where it has been broken by the employer with the intention of avoiding an obligation under this award, another industrial instrument or relevant legislation.
10.7	Other (Instrument)	<p>Letter of appointment</p> <p>On appointment an employer will provide an employee (other than a casual employee) with a letter of appointment stating their classification, rate of pay and mode of appointment. In the case of a sessional teacher this will also state the finish date of the employment.</p>
11.2	Termination of employment (Instrument)	<p>Notice of termination—teaching staff member</p> <p>The employment of a teaching staff member (other than a casual employee) will not be terminated without at least four weeks' notice (inclusive of the notice required under the NES) or the payment of four weeks' salary instead of notice.</p> <p>Where a course is cancelled because of the failure of students to attend, or to notify the employer that they would not be attending, or because the employer is otherwise made aware that the course will be undersubscribed and therefore have to be cancelled, and the employer cannot give four weeks' notice of termination of a teaching staff member, notice of at least two weeks will be given.</p>
11.3	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.
11.4	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.
12.2	Redundancy - transfer to lower paid duties (Instrument)	Where an employee is transferred to lower paid duties by reason of redundancy, the same period of notice must be given as the employee would have been entitled to if the employment had been terminated. Alternatively, the employer may choose to pay the employee the difference between the former ordinary time rate of pay and the new ordinary time rate of pay for the number of weeks of notice still owing.

Clause	Conditions Type	Description
12.3	Redundancy - employee leaving during notice period (Instrument)	An employee given notice of termination in circumstances of redundancy may terminate their employment during the period of notice. The employee is entitled to receive the benefits and payments they would have received had they remained in employment until the expiry of the notice, but is not entitled to payment instead of notice.
12.4	Redundancy - job search entitlement (Instrument)	<p>An employee given notice of termination in circumstances of redundancy must be allowed up to one day's time off without loss of pay during each week of notice for the purpose of seeking other employment.</p> <p>If the employee has been allowed paid leave for more than one day, the employee must, by request, produce proof of attendance at an interview or they will not be entitled to payment for the time absent. For this purpose a statutory declaration is sufficient.</p>
12.5	Redundancy - transitional provisions (Instrument)	<p>An employee is entitled to redundancy pay in accordance with the 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.</p> <p>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.</p> <p>This clause does not reduce an employee's entitlement to redundancy pay under any other instrument and ceases to operate on 31 December 2014.</p>
14.5	Casual conditions (Instrument)	<p>Casual Conditions for Teachers and Tutors / Instructors</p> <p>A teacher (not an academic teacher) and tutor / instructor will be paid a daily casual rate <u>except</u> where the engagement is for less than five hours when payment will be at the hourly rate.</p> <p>The casual daily rate for teachers (not an academic teacher) and tutors / instructors will be calculated as follows:</p> <p><u>Annual Salary divided by 261 plus 25%</u></p>

Clause	Conditions Type	Description
15.1	Clothing, footwear and/or equipment (Instrument)	<p>The employer will reimburse an employee engaged in work which may be damaging to clothing an amount equal to the cost of uniforms and/or protective clothing, except where such uniforms are provided by the employer.</p> <p>The employer will reimburse an employee required to work in the normal course of their employment under conditions which are wet and damaging to footwear, an amount equal to the cost of protective footwear, except where such footwear is otherwise provided by the employer.</p>
15.2	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>
15.4	Away from home/usual place of employment (Instrument)	<p>An employee, required to be temporarily away from their usual place of residence in the course of the employer's business, is entitled to the following:</p> <ul style="list-style-type: none"> - reimbursement of reasonable expenses, or the payment of an allowance to cover the cost of meals, accommodation and expenses - reimbursement of the reasonable cost, or the payment of an allowance, to cover all fares associated with the travel, and - payment at ordinary rates of pay for all time spent in travelling between the employee's usual place of employment and the temporary location, such paid time not to exceed eight hours in 24 hours. <p>The allowances referred to above are not payable where the fares, accommodation and living expenses are paid or provided directly by the employer.</p>
15.6	Travelling time (Instrument)	<p>If an employee is required by the employer to travel from one place of work to another, all time so occupied by the employee will be deemed to be working time and will be paid for at the ordinary time rate. All fares associated with such travel will be paid for by the employer.</p>
15.7	Transport of employees	Shiftworkers

Clause	Conditions Type	Description
	(Instrument)	Where a shiftworker commences or finishes work at a time other than the employee's normal time of commencing or finishing, and when reasonable means of transport are not available, the employer will reimburse the employee an amount equal to the cost of any transport which enables the employee to reach their home, unless the employer otherwise provides suitable transport.
15.8	Other (Instrument)	<p>Vehicle allowance</p> <p>The employer must pay all expenses including, registration, running and maintenance where an employer provides a motor vehicle which is used by an employee in the performance of their duties.</p>
16	Accident pay (Instrument)	<p>An employee is entitled to accident pay in accordance with the terms of:</p> <ul style="list-style-type: none"> - a NAPSA that would have applied to the employee immediately prior to 1 January 2010 or an award made under the Workplace Relations Act 1996 (Cth) that would have applied to the employee immediately prior to 27 March 2006, if the employee had at that time been in their current circumstances of employment and no agreement-based transitional instrument or enterprise agreement had applied to the employee, and - that would have entitled the employee to accident pay in excess of the employee's entitlement to accident pay, if any, under any other instrument. <p>The employee's entitlement to accident pay under the NAPSA or award is limited to the amount of accident pay which exceeds the employee's entitlement to accident pay, if any, under any other instrument.</p> <p>This clause does not reduce an employee's entitlement to accident pay under any other instrument and ceases to operate on 31 December 2014.</p>
17	Higher duties (Instrument)	An employee who is required to perform the duties of a position in a classification higher than their usual classification for, in the case of a general employee classified at Level 7 or below, more than two weeks, or in the case of a general employee classified at Level 8 or 9 or a member of the teaching staff, more than four weeks, will be paid for all time worked at the higher level rate.
18.2	Method of payment (Instrument)	The employer may elect to pay wages by cash, cheque or by electronic funds transfer (EFT) into an account nominated by the employee with a bank or other financial institution.

Clause	Conditions Type	Description
20	Superannuation (Instrument)	<p>The award contains information on:</p> <ul style="list-style-type: none"> - the employers responsibility to make superannuation contributions to a superannuation fund - the ability for an employee to authorise their employer to pay on their behalf contributions to a superannuation fund - the employers responsibility to make superannuation contributions to another superannuation fund that is chosen by the employee.
21.1(a)	Hours of work (Instrument)	<p>General staff</p> <p>Ordinary hours of work are those hours worked continuously, except for meal breaks, on any of the days from Monday to Friday between 7.00am and 7.00pm, and from 7.00am to 12.30pm on a Saturday. However, an employee may be required to work until 8.00pm up to a maximum of eight weekdays within a 28 day period without the entitlement to overtime, if the ordinary hours worked do not exceed the number of hours within the nominated cycle. The spread of hours may be altered by up to one hour at either end of the spread, by agreement between an employer and the majority of employees concerned.</p>
21.1(b)	Hours of work (Instrument)	<p>Full-time employees</p> <p>The ordinary working hours for full-time employees will not exceed an average of 38 hours per week to be worked on one of the following bases:</p> <ul style="list-style-type: none"> - an average of 38 hours over a work cycle not exceeding seven consecutive days; - an average of 76 hours over a work cycle not exceeding 14 consecutive days; or - an average of 152 hours over a work cycle not exceeding 28 consecutive days; and - not more than 10 consecutive hours, exclusive of meal breaks (except if paid for at overtime rates) in any one day. <p>Where agreed, and only as part of a 28 day work cycle, a full-time employee is entitled to accrue one rostered day off during that work cycle, which must be taken within that work cycle.</p> <p>An employer and the majority of employees at an enterprise may agree to establish a system of rostered days off or a system of flexible daily attendance.</p>

Clause	Conditions Type	Description
21.2	Hours of work (Instrument)	<p>Academic teachers</p> <p>For the purposes of the NES, the ordinary hours of work are 38 per week.</p> <p>The employer will be entitled to annualise the hours of work in such a manner that they are averaged over 12 months, or where the contract of employment is for less than a calendar year, for the period of employment.</p> <p>For the purposes of determining the number of hours worked by an academic teacher, the following will apply:</p> <ul style="list-style-type: none"> - a lecture will count as three hours' work for each hour of delivery, and will include associated preparation, assessment and student consultation - a tutorial will count as three hours' work for each hour of delivery and will include associated preparation, assessment and student consultation, and - a repeat of a lecture or tutorial, carried out within 28 days of the first delivery, will count as two hours' work for each hour of delivery.
21.3	Hours of work (Instrument)	<p>Teachers and tutor/instructors</p> <p>For the purposes of the NES, the ordinary hours of work are 38 per week.</p> <p>The employer will be entitled to annualise the hours of work in such a manner that they are averaged over 12 months, or where the contract of employment is for less than a calendar year, for the period of employment.</p> <p>For the purpose of determining the number of hours worked by a teacher or tutor/instructor the following will apply:</p> <ul style="list-style-type: none"> - each contact hour of teaching delivery by a teacher will count as 1.5 hours of work, including administration, assessment and consultation, and

Clause	Conditions Type	Description
		- each contact hour of delivery by a tutor/instructor will count as 1.25 hours of work, including administration, assessment and consultation.
21.4	Hours of work (Instrument)	Where a member of the teaching staff is working annualised hours, the breaks and overtime provisions will not apply. However, such an employee will be entitled to an unpaid meal break of not less than 30 minutes after five hours of work.
22.1	Breaks - meal (Instrument)	<p>Shiftworkers</p> <p>A paid meal break for shiftworkers of not less than 20 minutes must be allowed no later than five hours after the time of commencement of each shift.</p>
22.2	Breaks - meal (Instrument)	<p>Non-shiftworkers</p> <p>An unpaid meal break for non-shiftworkers of not less than 30 minutes and not more than one hour will be allowed for a meal. An employee will not be required to work for more than five hours without a meal break.</p>
22.3	Breaks - rest (Instrument)	<p>All employees</p> <p>An employee must be allowed two 10 minute rest breaks on each day as follows:</p> <ul style="list-style-type: none"> - one 10 minute break between the starting time and the usual meal break and - a second 10 minute break between the usual meal break and the finishing time. <p>An employee who works more than four hours overtime on a Saturday morning must be allowed a rest break of 10 minutes between starting and finishing work.</p> <p>An employee working overtime will be allowed a meal break of 20 minutes without deduction of pay after each four hours of overtime worked.</p>
23.2(a)(ii)	Saturday and Sunday work (Instrument)	<p>Non-shiftworkers</p> <p>Saturday work</p>

Clause	Conditions Type	Description
		Work performed on a Saturday outside the spread of ordinary hours will be paid at the relevant overtime rate.
24.1	Other (Instrument)	<p>General staff – non-shiftworkers classified at Level 7 or below</p> <p>The minimum period for which an employee must be paid overtime is one half hour per week.</p> <p>An employee whose ordinary hours of work are 38 worked between Monday and Friday must be paid a minimum of three hours at overtime rates for work performed on a Saturday.</p>
24.3	Overtime – time off in lieu (Instrument)	<p>General staff classified at Level 7 or below</p> <p>Where an employee and the employer agree the employee may be compensated for the hours worked in excess of their ordinary stipulated hours on the basis of one hour for each hour worked.</p> <p>The employee is entitled to take time off instead of overtime payment in the next pay period following accrual or otherwise as mutually agreed with the employer.</p> <p>Where time off instead of overtime payment is not taken within four weeks of accrual, at the request of the employee, the employer must pay the accrued time at the relevant overtime rate.</p>
24.4	Overtime - other (Instrument)	<p>Teaching staff and general staff classified at Level 8 or 9</p> <p>An employee who is not working annualised hours and who works overtime will be entitled to time off instead of overtime payment on the basis of one hour for each hour worked.</p> <p>If on the anniversary of an employee's appointment the employee has accumulated time instead of overtime payment equal to 76 ordinary hours, they must take enough time off to reduce the accumulated hours to below 76 hours.</p> <p>If six months after the anniversary date an employee holds more than 76 accumulated hours, the employer must pay the employee for the hours in excess of 76.</p>

Clause	Conditions Type	Description
		If an employee's employment is terminated before they are able to take accumulated time off, any accrued hours must be paid to the employee at the time of the termination.
24.5	Overtime - other (Instrument)	<p>Rest periods after overtime</p> <p>An employee who works overtime is entitled to a break of at least 10 hours plus reasonable travelling time, between the finishing of one shift and the starting of the next.</p> <p>An employee who has not had at least 10 hours break must be released at the completion of the overtime until they have had 10 consecutive hours off duty without loss of pay during that absence.</p> <p>Where the employee is a shiftworker, the required break will be eight hours instead of 10 in the following circumstances:</p> <ul style="list-style-type: none"> - where overtime is worked for the purpose of changing shift rosters - where a shiftworker does not report for duty and a day worker or a shiftworker is required to replace them or - where a shift is worked by arrangement between the employees themselves.
24.6	Recall (Instrument)	Where an employee is required to return to duty after their usual finishing time they must be paid at the relevant overtime rate and must be paid for a minimum of three hours at that rate. This provision does not apply where the work is continuous (subject to a meal break of not more than one hour) with the completion or commencement of ordinary working time.
24.7	Overtime - other (Instrument)	<p>Make-up time</p> <p>An employee may elect, with the consent of the employer, to work make-up time where the employee takes time off during ordinary hours and works those hours at a later time, during the spread of ordinary hours.</p>
25.3	Annual leave loading (Instrument)	<p>During a period of annual leave an employee will receive a loading calculated on the basic rate of pay. Annual leave loading is payable on leave accrued on the following bases:</p> <ul style="list-style-type: none"> - employees who would have worked on day work only had they not been on leave - 17.5% of their ordinary rate of pay or

Clause	Conditions Type	Description
		- employees who would have worked on shiftwork had they not been on leave - a loading of 17.5% of their ordinary rate of pay or the shift loading, whichever is the greater.
25.4	Annual leave - paid leave in advance of accrued entitlement (Instrument)	If the employer and employee agree, an employee can take annual leave in advance of the entitlement accruing. However, if leave is taken in advance and the employment terminates before the entitlement has accrued, the employer can deduct the entitlement from any money due to the employee on termination.
25.5	Annual leave - close-down (Instrument)	An employer may specify up to two close-down periods each year, during which the employer will be closing down its operations. For these periods an employer may require an employee to take annual leave subject to the requirement that the employee is given notice as soon as practicable of the employer's intention to close down.
28.2	Parental leave (Instrument)	In addition, parental leave entitlements of employees under an award that was made under the Workplace Relations Act 1996 (Cth), that would have applied to the employee immediately before 1 January 2010, will be maintained under this award.
29.2	Public holidays (Instrument)	Substitution of public holidays by agreement By agreement between the employer and the majority of employees in an enterprise another day may be substituted for a public holiday.

Frequency of Payment

Wages or salaries may be paid either:

weekly or fortnightly, according to the average number of ordinary hours worked each week or fortnight; or

by agreement between the employer and the majority of employees, 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.