

PAY AND CONDITIONS GUIDE

Commercial Sales Award 2010 [MA000083] ('modern award')
replacing terms and conditions in or derived from

Advertising Sales Representatives (State) Award [AN120006]
(‘pre-modern award’)

(NSW)

Effective from 01 July 2013.

Published 20 June 2013 

Background

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

Transitional arrangements

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

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

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

Transitional arrangements for Division 2B State awards

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

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

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

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

Who should use the guide?

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

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

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

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

The guide contains information from this modern award about:

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

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

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

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

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

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

Coverage

This occupational award covers employers throughout Australia with respect to Commercial Travellers, Merchandisers and Advertising Sales Representatives and those employees unless any other modern award contains classifications that apply to such persons, in which case the other modern award prevails.

The award does not cover employers and employees covered by the:

- (a) Clerks—Private Sector Award 2010;
- (b) Contract Call Centres Award 2010; or
- (c) Graphic Arts, Printing and Publishing Award 2010.

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 on - hire employees in classifications set out in clause 4.1 and those on - hire employees, if the employer is not covered by another modern award containing a classification which is more appropriate to the work performed by the employee. This subclause operates subject to the exclusions from coverage in this award.

This award covers employers which provide group training services for trainees engaged in any of the occupations 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 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.

Wages

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

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

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

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

Casual employees

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

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

*Post 26 March 2006 employer

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

Adult

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

Full & Part Time

Modern award classification	Pre-modern award classification	Base rate of pay (hourly)
Probationary traveller	Probationary representative	\$17.22
Commercial traveller / advertising sales representative	Representative	\$19.00
Commercial traveller / advertising sales representative	Probationary representative	\$18.81

Casual

Modern award classification	Pre-modern award classification	Base rate of pay (hourly)
Probationary traveller	Not applicable	\$21.14 (24%)
Commercial traveller / advertising sales representative	Not applicable	\$23.10 (24%)

NOTE: Although an employee's occupation type or classification may be covered by both the modern award and the pre-modern award, in some circumstances casual employees are covered by the modern award only. Where the table above states 'Not applicable', the pre-

modern award did not provide a casual employment category for that classification. Where this is the case, wage rates for these employees will phase from the Federal Minimum Wage (\$14.31 per hour) and the default casual loading (20%) as at 01 January 2010.

No Commercial Traveller (or Probationary Traveller) will be remunerated solely by commission payment, nor by any salary or retainer, which is lower than the minimum wage applicable to them under this award.

Junior

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 Time

Modern award classification	Pre-modern award classification	Base rate of pay (hourly)
Under 19 years of age	Cadet representative, 17 years old	\$12.22
Under 19 years of age	Cadet representative, 18 years old	\$12.54
19 years of age	Cadet representative, 19 years old	\$14.82
20 years of age	Cadet representative, 20 years old	\$16.71

No Commercial Traveller (or Probationary Traveller) will be remunerated solely by commission payment, nor by any salary or retainer, which is lower than the minimum wage applicable to them under this award.

Apprentice

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

Trainee

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

Supported Wage

Please refer to clause 14 of the modern award.

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

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

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

Transitional arrangements

This modern award includes transitional arrangements that apply to loading/penalty entitlements where there is a difference in modern award and pre-modern award loading/penalty entitlements. Transitional arrangements apply from the first pay period on or after

01 July 2010 until the first pay period on or after 01 July 2014 (when modern award loadings/penalties apply in full).

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

- A pre-modern award loading/penalty will be “equivalent” to a modern award entitlement where the loading/penalty applies:
 - for the same purpose (e.g. Saturday penalty);
 - for the same time periods; and
 - in the same way#.
 - #A pre-modern award and modern award loading/penalty applies in the same way if the entitlements are both:
 - paid at the same frequency, such as per hour or per shift; and
 - paid as a percentage of the same amount (e.g. both penalties are paid as a percentage of the employee’s classification rate, rather than as a percentage of a different amount or paid as a flat dollar amount).

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

Equivalent entitlements

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

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

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

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

Example:

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

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

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

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

The Western Australian location allowances have been extracted from **The Shop and Warehouse (Wholesale and Retail Establishments) State Award 1977**.

In relation to the Western Australian location allowances, the following provisions apply:

An employee who has:

- a dependant shall be paid double the allowance
- a partial dependant shall be paid the allowance plus the difference between that rate and the amount such partial dependant 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 location allowance.

Junior, casual and part time employee shall receive the location allowance on a proportionate basis.

The location allowance is payable in relation to annual leave.

The Northern Territory district allowances have been extracted from the **Retail, Wholesale and Distributive Employees (NT) Award 2000** (AP794741).

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
16.4	Other	Weekend allowance An allowance will be paid to an employee required by the employer to be away from home or headquarters for any weekend.	1/07/2013	\$40.5400 per instance
16.5	Away from home/ usual place of employment	An employee required to remain away from their usual place of residence for 2 or more consecutive nights in any week, Monday to Sunday inclusive, in servicing the employee's allocated area will be paid an additional allowance.	1/07/2013	\$51.0400 per week.

Clause	Allowance Type	Description	Effective Date	Rate
16.8(a)	Vehicle allowance	An employee required by the employer to use the employee's motor vehicle in the performance of the employee's duties will be paid the following allowance - motor car.	1/07/2013	\$0.7600 per kilometre
16.8(b)	Vehicle allowance	An employee required by the employer to use the employee's motor vehicle in the performance of the employee's duties will be paid the following allowance - motorcycle.	1/01/2010	\$0.2500 per kilometre

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: <ul style="list-style-type: none"> - arrangements for when work is performed - overtime rates - penalty rates - allowances - leave loading.

Clause	Conditions Type	Description
		Other conditions concerning award flexibility are contained within the Fair Work Act 2009.
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)	The award sets out a dispute resolution procedure for dealing with disputes in relation to a matter under the award or the National Employment Standards (NES).
10.1	Other (Instrument)	<p>Statement and terms of engagement</p> <p>Within 14 days from the commencement of employment, the employer will provide to each employee a written statement containing the information set out below:</p> <ul style="list-style-type: none"> - the remuneration payable - the vehicle allowance payable or car supplied - the rate or rates of commission payable - the conditions and terms on which commission or any part thereof is payable or not payable - deductions, if any, which are made or may be made to the commission payable, and - if the employee has a territory, the boundaries or limits of the territory, provided that the employer may change territory boundaries or limits, or move employees from one territory to another on advice to the employee/s concerned.
10.3	Part-time conditions (Instrument)	<p>An employee may be employed on a regular part-time basis in any classification in this award.</p> <p>Before commencing part-time employment the employer and employee must agree on the number of hours to be worked by the employee, the days on which they will be worked and the commencing and finishing times for the work. The terms of this agreement may be varied by consent and such variation will be in writing.</p> <p>An employer is required to roster a part-time employee for a minimum of three consecutive hours on any shift.</p>

Clause	Conditions Type	Description
10.4	Casual conditions (Instrument)	A casual employee is an employee engaged as such. A casual employee must be paid per hour at the rate of 1/38th of the weekly rate prescribed for the class of work performed, plus 25%. This loading is instead of entitlements to leave and other matters from which casuals are excluded by the terms of this award and the NES.
11.2	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.
11.3	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.
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.
12.3	Redundancy - employee leaving during notice period (Instrument)	An employee given notice of termination in circumstances of redundancy may terminate their employment during the period of notice. The employee is entitled to receive the benefits and payments they would have received had they remained in employment until the expiry of the notice, but is not entitled to payment instead of notice.
12.4	Redundancy - job search entitlement (Instrument)	An employee given notice of termination in circumstances of redundancy must be allowed up to one day's time off without loss of pay during each week of notice for the purpose of seeking other employment. If the employee has been allowed paid leave for more than one day, the employee must, by request, produce proof of attendance at an interview or they will not be entitled to payment for the time absent. For this purpose a statutory declaration is sufficient.
12.5	Redundancy - transitional provisions (Instrument)	An employee is entitled to redundancy pay in accordance with the NAPSA that would have applied to the employee 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

Clause	Conditions Type	Description
		<p>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 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>
16.1	Other (Instrument)	<p>Telephone Allowance</p> <p>Where an employee does not have a telephone, modem or broadband connection and the employer makes a written request requiring the employee to have such equipment, the employer must reimburse the reasonable cost of purchase, installation and rental.</p> <p>Where an employer directs an employee to use their personal telephone for business purposes, the employer must reimburse the reasonable cost of calls. The employer can request details of all calls claimed by the employee.</p>
16.2	Other (Instrument)	<p>Expenses and accommodation reimbursement</p> <p>All reasonable expenses actually and properly incurred by an employee in the course of their duties will be reimbursed by the employer. This includes:</p> <ul style="list-style-type: none"> - approved entertainment expenses - vehicle parking fees - three star class accommodation - expenses for meals and morning or afternoon tea when the employee is required to be away overnight - laundry expenses incurred by the employee when required to be away for more than one weekend - first class rail tickets with sleeping accommodation on overnight journeys and economy class airline tickets where required - the cost of garaging when required by the employer, where the employee is eligible for the Living away from home allowance (see Allowances). <p>Where such an expense can be reasonably anticipated it will be paid in advance.</p>

Clause	Conditions Type	Description
16.3	Other (Instrument)	<p>Injury or illness requiring transport</p> <p>If an employee is ill or injured and needs to return to their usual place of residence, a hospital, or another place where they can receive medical treatment, the employer will reimburse the costs incurred in returning.</p>
16.6	Other (Instrument)	<p>Change of residence</p> <p>An employee, other than a casual, who is directed or required by the employer in writing to relocate their residence to another area will be reimbursed reasonable costs of relocating personal and household effects, and members of the immediate dependent family.</p> <p>The reasonable relocation costs are to be agreed upon in writing between the employer and employee prior to any relocation.</p>
16.7	Other (Instrument)	<p>Training program</p> <p>An employee required by the employer to undertake any course of instruction or training will have all fees and expenses reimbursed by the employer.</p>
16.9	Other (Instrument)	<p>Modification to vehicle reimbursement</p> <p>Where the employer requires the employee to alter or modify the employee's own vehicle, the employer will reimburse the full cost of such alteration or modifications.</p>
17	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 NPSA under the Workplace Relations Act 1996 that would have applied to the employee 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 payment of a district allowance.</p> <p>This clause ceases to operate on 31 December 2014.</p>

Clause	Conditions Type	Description
18	Accident pay (Instrument)	<p>An employee is entitled to accident pay in accordance with the terms of:</p> <ul style="list-style-type: none"> - 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. - 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>
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	Hours of work (Instrument)	<p>The ordinary hours of work for a full-time employee will be an average of 38 per week with a maximum of 152 hours over 28 consecutive days.</p> <p>The ordinary hours of work may be worked on any days of the week.</p> <p>The ordinary hours of work will not exceed 10 hours on any day.</p>

Clause	Conditions Type	Description
22	Breaks - meal (Instrument)	An employer will allow an employee reasonable time to have regular and normal meals on each day of the employee's employment.
23.4	Overtime – time off in lieu (Instrument)	Where agreement is reached between the employer and the employee, the employer may grant time off instead of the overtime payments prescribed by the award on the basis of one hour off for each hour worked.
24.2	Annual leave (Instrument)	Conversion to hourly entitlement An employer may reach agreement with the majority of employees concnered to convert the annual leave entitlement under the NES to an hourly entitlement for administrative ease.
24.3	Annual leave loading (Instrument)	During a period of annual leave: - an employee who does not receive commission must be paid a loading of 17.5% calculated on the employee's base rate of pay - an employee who receives commission must be paid in addition to their ordinary pay either the average of the commissions earned over the preceding 12 months, or a loading of 17.5%, which ever is the greater.
24.4	Annual leave (Instrument)	Paid leave in advance of accrued entitlement Where the employer and employee agree, a period of annual leave may be taken in advance of the entitlement accruing. If leave is taken in advance and the employment terminates before the entitlement accrues the employer may make a corresponding deduction from any money due to the employee on termination.
24.5	Annual leave (Instrument)	Requirement to take leave notwithstanding NES An employer may require any employee to take annual leave by giving at least four week's notice in the following circumstances: - as part of a close-down of its operations or - where more than 8 weeks' leave is accrued or proportionate amount for a part-time employee.

Clause	Conditions Type	Description
27.2	Public holidays (Instrument)	<p>Substitution of public holidays by agreement at the enterprise</p> <p>By agreement between the employer and the majority of employee 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>

Frequency of Payment

Employees will be paid weekly, fortnightly or 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.