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Sent: Wednesday, 30 November 2022 3:45 PM
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Cc: Manufacturing Division Industrial <industrial@cfmeumd.org>; Sunil Kemppe <skemppe@actu.org.au>; David Kirner <dkirner@cfmeumd.org>
Subject: 4 yearly review of modern awards - AM2014/286 (Supported Employment Services Award 2020)

Dear AMod Team,

**Four Yearly Review of Modern Awards
(AM2014/286) Supported Employment Services Award 2020 (“SES Award”)**

We refer to the decision of the Full Bench [2022/FWCFB 203 issued on 10 November 2022 together with a Draft Determination for the SES Award.

Further to paragraphs [277] – [278] of the Decision please find attached by way of filing the following:

- Submission of the CFMMEU-Manufacturing Division (pdf)
- Draft Determination marked up by the CFMMEU-Manufacturing Division (word)

Kind Regards

Vivienne Wiles
Senior National Industrial Officer and Co-ordinator

Manufacturing Division
Construction Forestry Maritime Mining & Energy Union
Manufacturing Division

CFMMEU
MANUFACTURING

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IN THE FAIR WORK COMMISSION


s.156 - Four Yearly Review of Modern Awards
(AM2014/286)

Supported Employment Services Award 2020
[MA000103]

Submission in response to Decision (including provisional views) [2022]
FWCFB 203 (10 November 2022) and Draft Determination published (10
November 2022)

**CONSTRUCTION, FORESTRY, MARITIME, MINING & ENERGY UNION –
MANUFACTURING DIVISION
SUBMISSION**

(30 November 2022)

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(AM2014/286)
Supported Employment Services Award
Response to Decision [2022] FWCFB 203 and Draft Determination

Submission of the
Construction, Forestry, Maritime, Mining and Energy Union
(Manufacturing Division)

BACKGROUND

1. On 10 November 2022, the Full Bench issued a decision (*'November 2022 Decision'*) and a Draft Determination regarding the *Supported Employment Services Award 2020 (SES Award)*¹ as part of the Four Yearly Review of Modern Awards.
2. In the *November 2022 Decision* the Full Bench expressed a number of conclusions and *provisional* views regarding the proposed variation of the SES Award.
3. At paragraphs [277] – [279] of the *November 2022 Decision*, the Full Bench stated:

'[277] A draft determination to give effect to our decision (including *provisional* views expressed) will be published with this decision. Parties may file submissions by 5.00pm on 30 November 2022 addressing the following matters only:

- (1) the *provisional* view concerning the modification to the “gateway” requirements for Grades A and B (see paragraph [246] above and the proposed clause A.1.1 of the draft determination);
- (2) the *provisional* views concerning the operative date of the variations and the transitional arrangements (see paragraphs [260]-[265] above and proposed clauses 15.2 and Schedule 1 and the operative date of the draft determination);
- (3) the *provisional* view concerning alteration of the requirements as to the timing of SWS assessments (see paragraph [256] above and proposed clause D.7 of the draft determination);

¹ 4 Yearly Review of Modern Awards, (AM2014/286) Supported Employment Services Award 2020, [2022] FWCFB 203 (10 November 2022) Hatcher VP; Saunders DP; Cambridge C.

- (4) the *provisional* view concerning the redrafting of the definition of “*supported employment services*” in connection with the coverage of the SES Award (see paragraph [273] above and proposed clause 4.3 of the draft determination); and
- (5) any other drafting issues identified in the draft determination.

[278] Where any party proposes in its submissions that the draft determination be modified, it shall file with its submissions a marked-up version of the draft determination which sets out the amendments sought.

[279] We will additionally provide parties, on request (to be made on or before 30 November 2022), an opportunity to make oral submissions about the issues identified in paragraph [277] above. We will reserve the morning of 7 December 2022 for this purpose.²

4. For the purpose of the application of the SES Award, the CFMMEU-Manufacturing Division (“CFMMEU-MD”) has an interest in the following modern awards:
 - *Dry Cleaning and Laundry Industry Award 2020* (“Dry Cleaning Award”)
 - *Manufacturing and Associated Industries and Occupations Award 2020* (“Manufacturing Award”)
 - *Textile, Clothing, Footwear and Associated Industries Award 2022* (“TCF Award”)
 - *Timber Industry Award 2020* (“Timber Award”)
5. The CFMMEU-MD has members (both with a disability and without a disability) employed in a number of Australian Disability Enterprises (ADE’s).
6. The CFMMEU-MD’s submission addresses a discrete issue in relation to the Timber Industry Award 2020.

² [2022] FWCFB 203 at [277] – [279]

DRAFT DETERMINATION – OTHER DRAFTING ISSUES

Deletion of reference to timber sector indicia

7. The CFMMEU-MD is aware that a number of ADE's engage workers in timber and furniture work for commercial gain including, for example at major timber mills and for organisations such as Bunnings. The CFMMEU-MD organises and has members at the ADE (Bedford) in SA in which employees undertake timber section work.

8. The current SES Award at 'Schedule A – Classification Definitions' contains terms expressly referencing work undertaken in the timber industry/sector at the classifications of Grade 2 (clause A.3), Grade 3 (clause A.4) and Grade 4 (clause A.5) extracted as follows:

A.3 Grade 2

A.3.3 *Indicative of the tasks which an employee at this level may perform are the following:*

(f) Timberwork

- *labouring;*
- *repetition work on automatic, semi-automatic or single purpose machines or equipment;*
- *sorting;*
- *packing;*
- *undercoat painting; and/or*
- *assembly.*

A.4 Grade 3

A.4.3 *Indicative of the tasks which an employee at this level may perform are the following:*

(f) Timberwork

- *nail gun work;*
- *sewing (manual);*
- *cutting (manual);*
- *painting; and/or*
- *more complex assembly.*

A.5 Grade 4

A.5.3 *Indicative of the tasks which an employee at this level may perform are the following:*

- *complex painting (i.e. use of machines); and/or*
- *complex cutting and sewing (i.e. use of machines).*

A.6 Grade 5

A.6.4 *Typical duties may include:*

(d) Timberwork

- *tradesperson (e.g. carpenter/furnisher)*

9. In the draft determination, indicative indicia have been deleted in the classifications Grade 2, Grade 3, Grade 4 and Grade 5 and replaced with new primary descriptors, together with a further reference to certain named modern awards.
10. However, in the draft determination the *Timber Industry Award 2020* has not been expressly referenced in the new lists of modern awards contained at Grades 2, 3, 4 and 5 despite timber industry work being specifically referenced under Grades 2, 3, 4 and 5 of the (current) SES Award. It is unclear to the CFMMEU-MD as to the reasons for the non-inclusion of an express reference to the Timber Award in the draft determination.
11. We raise the question of whether the omission of an express reference to the Timber Award in the draft determination is a drafting oversight or error. However, in any event, we submit that an express reference to the Timber Award (with the applicable classification level) should be included in order to reflect the reality of the timber and associated work undertaken by a number of ADE's.
12. In order to reflect the proposed inclusion of an express reference to the Timber Award, the CFMMEU-MD submits the draft determination be amended as outlined below (new text underlined).

A.2.4 Grade 2

Employees at this grade will perform a basic task or tasks in accordance with defined procedures under direct supervision. Such employees will understand and undertake basic quality control/assurance procedures including the ability to recognise basic quality deviations/faults. This may include the performance of work included in following award classifications:

- *Food and Beverage and Tobacco Manufacturing Award 2020: Level 2*
- *Gardening and Landscaping Services Award 2020: Level 1*
- *Manufacturing and Associated Industries and Occupations Award 2020: Level C13*
- *Textile, Clothing, Footwear and Associated Industries Award 2020: Skill Level 1*
- *Timber Industry Award 2020: Level 2*

A.2.5 Grade 3

Employees at this grade will perform work above and beyond the skill of an employee at Grade 2 and to their level of training. Such employees will perform a more complex task or tasks that at Grade 2 in accordance with defined procedures under routine supervision. This may include the performance of work included in the following awards classifications:

- *Dry Cleaning and Laundry Industry Award 2020: Laundry employee level 2*
- *Food and Beverage and Tobacco Manufacturing Award 2020: Level 3*
- *Gardening and Landscaping Services Award 2020: Level 2*
- *Manufacturing and Associated Industries and Occupations Award 2020: Level C12*
- *Storage Services and Wholesale Award 2020: Storeworker Grade 1*
- *Textile, Clothing, Footwear and Associated Industries Award 2020: Skill Level 2*
- *Timber Industry Award 2020: Level 3*
- *Waste Management Award 2020: Level 2*

A.2.6 Grade 4

Employees at this grade will perform work:

(a) *above and beyond the skill of an employee at Grade 3 and below and to their level of training. Such employees will hold a qualification at or equivalent to AQF II or above or an equivalent level of training and experience. Employees at this grade will:*

- *work independently from complex instructions and procedures; and*
- *assist in the provision of on the job training for other employees; and*
- *co-ordinate work in a team environment or work individually under general supervision; and*
- *be responsible for ensuring the quality of their own work; or*

(b) *encompassed in any of the following award classifications:*

- *Dry Cleaning and Laundry Industry Award 2020: Laundry employee level 3*
- *Food and Beverage and Tobacco Manufacturing Award 2020: Level 4*
- *Gardening and Landscaping Services Award 2020: Level 3*
- *Manufacturing and Associated Industries and Occupations Award 2020: Level C11*
- *Storage Services and Wholesale Award 2020: Storeworker Grade 2*
- *Textile, Clothing, Footwear and Associated Industries Award 2020: Skill Level 3*
- *Timber Industry Award 2020: Level 4*
- *Waste Management Award 2020: Level 2*

A.2.7 Grade 5

Employees at this grade will perform work:

(a) *Above and beyond the skill of an employee at Grade 4 and below and to their level of training. Such employees will hold a trade certificate or an equivalent qualification or an equivalent level of training and experience. Employees at this grade will perform work primarily involving the skills of their trade and may also perform work that is incidental to that work; or*

(b) *Encompassed in any of the following award classifications:*

- *Dry Cleaning and Laundry Industry Award 2020: Laundry employee level 4*
- *Food and Beverage and Tobacco Manufacturing Award 2020: Level 5*
- *Gardening and Landscaping Services Award 2020: Level 4*
- *Manufacturing and Associated Industries and Occupations Award 2020: Level C10*
- *Storage Services and Wholesale Award 2020: Storeworker Grades 3 and 4*
- *Textile, Clothing, Footwear and Associated Industries Award 2020: Skill Level 4*
- *Timber Industry Award 2020: Level 5*
- *Waste Management Award 2020: Levels 4, 5 and 6*

13. A marked up version of the draft determination reflecting these proposed modifications above is also attached to these submissions.

Filed for and on behalf of the CFMMEU-Manufacturing Division

Vivienne Wiles
Senior National Industrial Officer & Co-ordinator
CFMMEU – Manufacturing Division

(30 November 2022)



DRAFT DETERMINATION

Fair Work Act 2009
s.156—4 yearly review of modern awards

**4 yearly review of modern awards—Supported Employment Services Award
2020**
(AM2014/286)

SUPPORTED EMPLOYMENT SERVICES AWARD 2020
[MA000103]

Social, community, home care and disability services

VICE PRESIDENT HATCHER
DEPUTY PRESIDENT SAUNDERS
COMMISSIONER CAMBRIDGE

SYDNEY, XX MONTH 2022

4 yearly review of modern awards – Supported Employment Services Award 2020 – variation to clauses 4, 15 and Schedule A – deletion of clause 18 – insertion of new Schedule I—Transitional Arrangements.

A. Further to the decisions issued by the Full Bench of the Fair Work Commission on 10 November 2022 ([2022] FWCFB 203) and XX DATE 20XX ([20XX] FWCFB XXXX), the above award is varied as follows:

1. By deleting clause 4.3 and inserting the following:
- 4.3 Supported employment services** has the meaning given to that term in section 7 of the *Disability Services Act 1986* (Cth).
2. By deleting clause 15 and inserting the following:
15. Minimum rates
- 15.1** Upon engagement, an employee will be graded by the employer in one of the grades in Schedule A—Classifications in accordance with the provisions of that Schedule, having regard to the employee’s skills, experience and qualifications and the nature of the position in which the employee is employed.
- 15.2** Subject to clauses 15.3, 15.4 and 15.5 the following minimum rates of pay will apply for the grades set out below:

Grade	Minimum weekly rate (full-time employee)	Minimum hourly rate
	\$	\$
Grade A—from 1 May 2023 to 30 April 2024	180.50	4.75
Grade A—from 1 May 2024 to 30 April 2025	209.00	5.50
Grade A—from 1 May 2025 to 30 April 2026	237.50	6.25
Grade A—from 1 May 2026	266.00	7.00
Grade B—from 1 May 2023 to 30 April 2024	361.00	9.50
Grade B—from 1 May 2024 to 30 April 2025	418.00	11.00
Grade B—from 1 May 2025 to 30 April 2026	475.00	12.50
Grade B—from 1 May 2026	532.00	14.00
Grade 1	812.60	21.38
Grade 2	834.80	21.97
Grade 3	865.20	22.77
Grade 4	893.60	23.52
Grade 5	940.90	24.76
Grade 6	1026.60	27.02
Grade 7	1068.10	28.11

NOTE 1: For the purpose of this award, the hourly rate for all employees will be calculated by dividing the weekly rate by 38, then rounded to the nearest cent.

NOTE 2: See Schedule B—Summary of Hourly Rates of Pay for a summary of hourly rates of pay, including overtime and penalty rates.

15.3 National training wage

- (a) Schedule E to the *Miscellaneous Award 2020* sets out minimum wage rates and conditions for employees undertaking traineeships.
- (b) This award incorporates the terms of Schedule E to the *Miscellaneous Award 2020* as at 1 July 2022. Provided that any reference to “this award” in Schedule E to the *Miscellaneous Award 2020* is to be read as referring to the *Supported Employment Services Award 2010* and not the *Miscellaneous Award 2020*.

15.4 Wage assessment—employees with a disability

(a) An employee with a disability may be paid such percentage of the rate of pay of the relevant grade in clause 15.2 as assessed under the Supported Wage System in accordance with Schedule D—Supported Wage System.

(b) No decrease—regression of disability

An employee with a disability will not have their rate of pay reduced as a result of a wage assessment made pursuant to clause 15.4(a). This clause does not cover the circumstance where the wage of an employee with a disability may need to be reduced due to the regression of the employee's disability. However, a wage assessment that determines a lower percentage than an earlier wage assessment of the employee against the same duties is of no effect unless the reduction in percentage is solely due to the regression of the employee's disability. Before the wage of an employee may be reduced the employer must exhaust all reasonable training options and options to allocate the employee new tasks to avoid the regression.

15.5 Higher duties

(a) An employee will be paid at a higher grade if carrying out the duties of a higher grade for 2 or more hours in any shift. They will be paid at the higher grade for the time worked at the higher rate.

(b) Clause 15.5 will not apply whilst an employee is carrying out work in a higher grade for training purposes only.

3. By deleting clause 18—Wage assessment—employees with a disability.
4. By renumbering clauses 19 to 34 as clauses 18 to 33.
5. By deleting the reference to clause 18.1 in clause 31.4(d) and inserting a reference to clause 15.4(a)
6. By deleting Schedule A—Classification Definitions and inserting the following:

Schedule A—Classifications

A.1 Explanation of Classification Structure

A.1.1 Grades A and B of the classification structure in Schedule A—Classifications apply to any employee with a disability who:

(a) because of their disability, does not have the capacity to undertake the duties or exercise the level of skill and responsibility of any position to which Grades 1-7 apply; and

(b) has been placed in a position by their employer which:

MA000103 PRXXXXXX

- (i) consists of duties and a level of supervision which accommodate the circumstances of the employee's disability; and
- (ii) does not fall into Grades 1-7.

A.1.2 Grades 1-7 apply to employees with or without a disability who undertake the duties and exercise the level of skill and responsibility specified in the classification descriptors. An employee in any of Grades 1-7 may (subject to any necessary training) be required to perform any or all of the duties in the classification descriptors.

A.2 Classification Definitions

A.2.1 Grade A

Employees at this grade will perform a simple task or tasks consisting of up to 3 sequential steps or sub-tasks, any of which may involve the use of jigs or equipment or tools with basic functionality, under direct supervision and constant monitoring.

A.2.2 Grade B

Employees at this grade will perform a simple task or tasks consisting of more than 3 sequential steps or sub-tasks, each of which may involve the use of mechanical or electric equipment or tools, under direct supervision with regular monitoring.

A.2.3 Grade 1

Employees at this grade will undertake on the job induction and/or training to perform work in Grade 2 or above for a period not exceeding 3 months.

A.2.4 Grade 2

Employees at this grade will perform a basic task or tasks in accordance with defined procedures under direct supervision. Such employees will understand and undertake basic quality control/assurance procedures including the ability to recognise basic quality deviations/faults. This may include the performance of work included in the following awards classifications:

- *Food, Beverage and Tobacco Manufacturing Award 2020*: Level 2
- *Gardening and Landscaping Services Award 2020*: Level 1
- *Manufacturing and Associated Industries and Occupations Award 2020*: Level C13
- *Textile, Clothing, Footwear and Associated Industries Award 2020*: Skill Level 1
- [Timber Industry Award 2020: Level 2](#)

A.2.5 Grade 3

Employees at this grade will perform work above and beyond the skill of an employee at Grade 2 and to their level of training. Such employees will perform a more complex task or tasks than at Grade 2 in accordance with defined procedures under routine supervision. This may include the performance of work included in the following awards classifications:

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- *Dry Cleaning and Laundry Industry Award 2020*: Laundry employee level 2
- *Food, Beverage and Tobacco Manufacturing Award 2020*: Level 3
- *Gardening and Landscaping Services Award 2020*: Level 2
- *Manufacturing and Associated Industries and Occupations Award 2020*: Level C12
- *Storage Services and Wholesale Award 2020*: Storeworker Grade 1
- *Textile, Clothing, Footwear and Associated Industries Award 2020*: Skill Level 2
- [Timber Industry Award 2020: Level 3](#)
- *Waste Management Award 2020*: Level 2

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A.2.6 Grade 4

Employees at this grade will perform work:

- (a) above and beyond the skill of an employee at Grade 3 and below and to their level of training. Such employees will hold a qualification at or equivalent to AQF II or above or an equivalent level of training and experience. Employees at this grade will:
- work independently from complex instructions and procedures; and
 - assist in the provision of on the job training for other employees; and
 - co-ordinate work in a team environment or work individually under general supervision; and
 - be responsible for ensuring the quality of their own work; or
- (b) encompassed in any of the following award classifications:
- *Dry Cleaning and Laundry Industry Award 2020*: Laundry employee level 3
 - *Food, Beverage and Tobacco Manufacturing Award 2020*: Level 4
 - *Gardening and Landscaping Services Award 2020*: Level 3
 - *Manufacturing and Associated Industries and Occupations Award 2020*: Level C11
 - *Storage Services and Wholesale Award 2020*: Storeworker Grade 2
 - *Textile, Clothing, Footwear and Associated Industries Award 2020*: Skill Level 3
 - [Timber Industry Award 2020: Level 4](#)
 - *Waste Management Award 2020*: Level 3

A.2.7 Grade 5

Employees at this grade will perform work:

- (a) above and beyond the skill of an employee at Grade 4 and below and to their level of training. Such employees will hold a trade certificate or an equivalent qualification or an equivalent level of training and experience. Employees at this grade will perform work primarily involving the skills of their trade and may also perform work that is incidental to that work; or
- (b) encompassed in any of the following award classifications:
- *Dry Cleaning and Laundry Industry Award 2020*: Laundry employee Level 4
 - *Food, Beverage and Tobacco Manufacturing Award 2020*: Level 5

MA000103 PRXXXXXX

- *Gardening and Landscaping Services Award 2020*: Level 4
- *Manufacturing and Associated Industries and Occupations Award 2020*: Level C10
- *Storage Services and Wholesale Award 2020*: Storeworker Grades 3 and 4
- [Textile, Clothing, Footwear and Associated Industries Award 2020](#): Skill Level 4
- [Timber Industry Award 2020: Level 5](#)
- *Waste Management Award 2020*: Levels 4, 5 and 6

A.2.8 Grade 6

Employees at this grade will perform work above and beyond the skill of an employee at Grade 5 and below and to their level of training. Such employees will hold a qualification at or equivalent to AQF IV or above or an equivalent level of training and experience. Such employees will perform the work described below:

- assess the ability of an employee with disability to carry out specific work tasks; and/or
- design, develop and provide individual instruction or training for an employee with a disability; and/or
- undertake specialist functions in the workplace such as procurement or marketing; and/or
- supervise employees in a section of the workplace.

A.2.9 Grade 7

Employees at this grade will hold a qualification at AQF IV to or above, of which one third of the competencies are related to the supervision or training of employees, or an equivalent qualification or an equivalent level of training and experience. Employees at this grade will perform work above and beyond the skill of an employee at Grade 6 and below and to their level of training. Such employees will perform the work described below:

- co-ordinate and supervise employees; and/or
- have responsibility for the content and delivery of training; and
- be capable of operating all of the equipment or tools to be used by employees that they are supervising or training.

7. By deleting clause B.1.3 and inserting the following:

B.1.3 Full-time and part-time employees—ordinary and penalty rates

	Ordinary hours	Saturday	Sunday		Public holidays
			Catering services employees	All other employees	
% of ordinary hourly rate ¹					
	100%	150%	175%	200%	250%
	\$	\$	\$	\$	\$
Grade A—from 1 May 2023 to 30 April 2024	4.75	7.13	8.31	9.50	11.88
Grade A—from 1 May 2024 to 30 April 2025	5.50	8.25	9.63	11.00	13.75
Grade A—from 1 May 2025 to 30 April 2026	6.25	9.38	10.94	12.50	15.63
Grade A—from 1 May 2026	7.00	10.50	12.25	14.00	17.50
Grade B—from 1 May 2023 to 30 April 2024	9.50	14.25	16.63	19.00	23.75
Grade B—from 1 May 2024 to 30 April 2025	11.00	16.50	19.25	22.00	27.50
Grade B—from 1 May 2025 to 30 April 2026	12.50	18.75	21.88	25.00	31.25
Grade B—from 1 May 2026	14.00	21.00	24.50	28.00	35.00
Grade 1	21.38	32.07	37.42	42.76	53.45
Grade 2	21.97	32.96	38.45	43.94	54.93
Grade 3	22.77	34.16	39.85	45.54	56.93
Grade 4	23.52	35.28	41.16	47.04	58.80
Grade 5	24.76	37.14	43.33	49.52	61.90
Grade 6	27.02	40.53	47.29	54.04	67.55
Grade 7	28.11	42.17	49.19	56.22	70.28

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¹ Rates in table are calculated based on the minimum hourly rate, see clauses B.1.1 and B.1.2.

8. By deleting clause B.1.4 and inserting the following:

B.1.4 Full-time and part-time employees—shiftwork

	Afternoon shift¹ (paid for whole shift)	Night shift² (paid for whole shift)
	% of ordinary hourly rate³	
	115%	130%
	\$	\$
Grade A—from 1 May 2023 to 30 April 2024	5.46	6.18
Grade A—from 1 May 2024 to 30 April 2025	6.33	7.15
Grade A—from 1 May 2025 to 30 April 2026	7.19	8.13
Grade A—from 1 May 2026	8.05	9.10
Grade B—from 1 May 2023 to 30 April 2024	10.93	12.35
Grade B—from 1 May 2024 to 30 April 2025	12.65	14.30
Grade B—from 1 May 2025 to 30 April 2026	14.38	16.25
Grade B—from 1 May 2026	16.10	18.20
Grade 1	24.59	27.79
Grade 2	25.27	28.56
Grade 3	26.19	29.60
Grade 4	27.05	30.58
Grade 5	28.47	32.19
Grade 6	31.07	35.13
Grade 7	32.33	36.54

¹ **Afternoon shift** means ~~an~~ ordinary hours in a shift which finishes after 6.00pm and at or before 12.00 midnight, Monday to Friday (see clause 22.1).

² **Night shift** means hours in a rotating roster shift which finishes after 12.00 midnight and at or before 8.00am Monday to Friday (see clause 22.2).

³ Rates in table are calculated based on the minimum hourly rate, see clauses B.1.1 and B.1.2.

9. By deleting clause B.1.5 and inserting the following:

B.1.5 Full-time and part-time employee—overtime

	Monday to Saturday		Saturday	Sunday	Public holidays
	First 2 hours	After 2 hours	After 12.00 noon where such time is not part of ordinary shift		
% of ordinary hourly rate ¹					
	150%	200%	200%	200%	250%
	\$	\$	\$	\$	\$
Grade A— from 1 May 2023 to 30 April 2024	7.13	9.50	9.50	9.50	11.88
Grade A— from 1 May 2024 to 30 April 2025	8.25	11.00	11.00	11.00	13.75
Grade A— from 1 May 2025 to 30 April 2026	9.38	12.50	12.50	12.50	15.63
Grade A— from 1 May 2026	10.50	14.00	14.00	14.00	17.50
Grade B— from 1 May 2023 to 30 April 2024	14.25	19.00	19.00	19.00	23.75
Grade B— from 1 May 2024 to 30 April 2025	16.50	22.00	22.00	22.00	27.50
Grade B— from 1 May 2025 to 30 April 2026	18.75	25.00	25.00	25.00	31.25
Grade B— from 1 May 2026	21.00	28.00	28.00	28.00	35.00
Grade 1	32.07	42.76	42.76	42.76	53.45
Grade 2	32.96	43.94	43.94	43.94	54.93
Grade 3	34.16	45.54	45.54	45.54	56.93

	Monday to Saturday		Saturday	Sunday	Public holidays
	First 2 hours	After 2 hours	After 12.00 noon where such time is not part of ordinary shift		
	% of ordinary hourly rate¹				
	150%	200%	200%	200%	250%
Grade 4	35.28	47.04	47.04	47.04	58.80
Grade 5	37.14	49.52	49.52	49.52	61.90
Grade 6	40.53	54.04	54.04	54.04	67.55
Grade 7	42.17	56.22	56.22	56.22	70.28

¹ Rates in table are calculated based on the minimum hourly rate, see clauses B.1.1 and B.1.2.

10. By deleting clause B.2.2 and inserting the following:

B.2.2 Casual employees—ordinary and penalty rates

	Ordinary hours	Saturday	Sunday	
			Catering services employees	All other employees
	% of casual ordinary hourly rate¹			
	100%	150%	175%	200%
	\$	\$	\$	\$
Grade A—from 1 May 2023 to 30 April 2024	5.94	8.91	10.40	11.88
Grade A—from 1 May 2024 to 30 April 2025	6.88	10.32	12.04	13.76
Grade A—from 1 May 2025 to 30 April 2026	7.81	11.72	13.67	15.62
Grade A—from 1 May 2026	8.75	13.13	15.31	17.50
Grade B—from 1 May 2023 to 30 April 2024	11.88	17.82	20.79	23.76
Grade B—from 1 May 2024 to 30 April 2025	13.75	20.63	24.06	27.50

	Ordinary hours	Saturday	Sunday	
			Catering services employees	All other employees
% of casual ordinary hourly rate ¹				
	100%	150%	175%	200%
Grade B—from 1 May 2025 to 30 April 2026	15.63	23.45	27.35	31.26
Grade B—from 1 May 2026	17.50	26.25	30.63	35.00
Grade 1	26.73	40.10	46.78	53.46
Grade 2	27.46	41.19	48.06	54.92
Grade 3	28.46	42.69	49.81	56.92
Grade 4	29.40	44.10	51.45	58.80
Grade 5	30.95	46.43	54.16	61.90
Grade 6	33.78	50.67	59.12	67.56
Grade 7	35.14	52.71	61.50	70.28

¹ **Casual ordinary hourly rate** includes the casual loading payable for all purposes. Any all-purpose allowances applicable need to be added to these rates, see clauses B.1.1 and B.1.2.

11. By deleting clause B.2.3 and inserting the following:

B.2.3 Casual employees—shiftwork

	Afternoon shift ¹ (paid for whole shift)	Night shift ² (paid for whole shift)
	% of casual ordinary hourly rate ³	
	115%	130%
	\$	\$
Grade A—from 1 May 2023 to 30 April 2024	6.83	7.72
Grade A—from 1 May 2024 to 30 April 2025	7.91	8.94
Grade A—from 1 May 2025 to 30 April 2026	8.98	10.15
Grade A—from 1 May 2026	10.06	11.38
Grade B—from 1 May 2023 to 30 April 2024	13.66	15.44

	Afternoon shift¹ (paid for whole shift)	Night shift² (paid for whole shift)
	% of casual ordinary hourly rate³	
	115%	130%
Grade B—from 1 May 2024 to 30 April 2025	15.81	17.88
Grade B—from 1 May 2025 to 30 April 2026	17.97	20.32
Grade B—from 1 May 2026	20.13	22.75
Grade 1	30.74	34.75
Grade 2	31.58	35.70
Grade 3	32.73	37.00
Grade 4	33.81	38.22
Grade 5	35.59	40.24
Grade 6	38.85	43.91
Grade 7	40.41	45.68

¹ **Afternoon shift** means ordinary hours in a shift which finishes after 6.00pm and at or before 12.00 midnight, Monday to Friday (see clause 22.1).

² **Night shift** means hours in a rotating roster shift which finishes after 12.00 midnight and at or before 8.00am Monday to Friday (see clause 22.2).

³ **Casual ordinary hourly rate** includes the casual loading payable for all purposes. Any all-purpose allowances applicable need to be added to these rates, see clauses B.1.1 and B.1.2.

12. By deleting Schedule D—Supported Wage System and inserting the following:

Schedule D—Supported Wage System

D.1 This schedule defines the conditions which will apply to an employee who meets the eligibility criteria in clause D.3 and who is the subject of a wage assessment using the Supported Wage System under clause 15.4(a).

D.2 In this schedule:

approved assessor means a person accredited by the management unit established by the Commonwealth under the supported wage system to perform assessments of an individual’s productive capacity within the supported wage system

assessment instrument means the tool provided for under the supported wage system that records the assessment of the productive capacity of the person to be employed under the supported wage system

relevant minimum wage means the minimum wage prescribed in this award for the class of work for which an employee is engaged

supported wage system (SWS) means the Commonwealth Government system to promote employment for people who cannot work at full award wages because of a disability, as documented in the Supported Wage System Handbook. The Handbook is available from the following website: www.jobaccess.gov.au

SWS wage assessment agreement means the document in the form required by the Department of Social Services that records the employee's productive capacity and agreed wage rate

workplace data means data collected by an employer with respect to an employee's productive capacity in accordance with the Supported Wage System Handbook

D.3 Eligibility criteria

D.3.1 This schedule applies to employees with a disability who are unable to perform at the required productive capacity because of the effects of a disability.

D.3.2 This schedule does not apply to any existing employee who has a claim against the employer which is subject to the provisions of workers compensation legislation or any provision of this award relating to the rehabilitation of employees who are injured in the course of their employment.

D.4 Supported wage rates

D.4.1 Employees to whom this schedule applies will be paid the higher of the following amounts:

- (a) a percentage of the relevant minimum hourly rate of pay equal to the assessed productive capacity of the employee determined in accordance with clause D.5 rounded to the nearest whole percentage; and
- (b) \$2.75 per hour.

D.4.2 For the avoidance of doubt, there is no minimum amount payable to an employee per week.

D.5 Assessment of capacity

D.5.1 For the purpose of establishing the percentage of the relevant minimum wage, the productive capacity of the employee will be assessed in accordance with the Supported Wage System by an approved assessor, having consulted the employer and employee and, if the employee so desires, a person identified in clause 31.3.

D.5.2 The productivity benchmark(s) used for the conduct of an SWS assessment must:

- (a) take into account the major task(s) performed by the employee; and
- (b) be independently verified by an SWS assessor as being valid and appropriate.

MA000103 PRXXXXXX

D.5.3 All assessments made under Schedule D—Supported Wage System must be documented in an SWS wage assessment agreement, and retained by the employer as a time and wages record in accordance with the Act.

D.5.4 The approved assessor will assess the productive capacity of the employee having regard to:

- (a) where an employer has collected workplace data with respect to an employee:
 - (i) the workplace data—50% weighting; and
 - (ii) the data collected by the approved assessor in accordance with the Supported Wage System—50% weighting;
- (b) otherwise—the data collected by the approved assessor in accordance with the Supported Wage System.

D.5.5 Where, in undertaking an assessment in accordance with clause D.5.4(a), there is a disparity of greater than 20% between the overall productivity percentage calculated from the workplace data and the overall productivity percentage calculated from the data collected by the approved assessor, the employee, employer and approved assessor may agree to collect additional data. The additional data should be collected as soon as practicable and added to the existing data with respect to the employee for the purpose of undertaking the assessment in clause D.5.4(a).

D.5.6 In addition to an employee's general right to access clause 31—Dispute resolution in relation to the process or outcome of a wage assessment, an employee or an employer may:

- (a) raise a dispute in accordance with the dispute processes outlined in the Supported Wage System Handbook; and
- (b) after exhausting the process provided in clause D.5.6(a), raise a dispute in relation to the assessment of the employee's assessed productive capacity in accordance with clause 30—Dispute resolution. In those circumstances, the Commission may, in exercising its powers under clause 30.6, make a determination as to the employee's productive capacity, having regard to the reasonableness of the workplace data and the data collected by the approved assessor and fairness between the parties in all of the circumstances.

D.6 Lodgment of SWS wage assessment agreement

D.6.1 All SWS wage assessment agreements under the conditions of Schedule D—Supported Wage System, including the appropriate percentage of the relevant minimum wage to be paid to the employee, must be lodged by the employer with the Fair Work Commission.

D.6.2 All SWS wage assessment agreements must be agreed and signed by the employee and employer parties to the assessment. Where a union which has an interest in the award is not a party to the assessment, the assessment will be referred by the Fair Work

Commission to the union by email to the union's nominated email address and the agreement will take effect unless an objection is notified to the Fair Work Commission within 10 working days.

D.7 Review of assessment

For the purpose of clause 15.4(a):

- D.7.1** the wage assessment of each employee will be reviewed after 2 years' service with the employer since the initial assessment, and the rate of pay adjusted accordingly;
- D.7.2** subsequently, the wage assessment of each employee will be reviewed within a period not exceeding 5 years' service with the employer since the previous assessment, and the rate of pay adjusted accordingly; and
- D.7.3** a wage assessment may be reviewed at the initiative of either the employee or the employer, once every six months and not more than four times every three years, and the rate of pay adjusted accordingly. Such a review may only be initiated in circumstances where an employee has changed jobs or the processes involved in the work undertaken by the employee have changed.

D.8 Other terms and conditions of employment

Where an assessment has been made, the applicable percentage will apply to the relevant minimum wage only. Employees covered by the provisions of Schedule D—Supported Wage System will be entitled to the same terms and conditions of employment as other workers covered by this award on a pro rata basis.

D.9 Workplace adjustment

An employer wishing to employ a person under the provisions of Schedule D—Supported Wage System must take reasonable steps to make changes in the workplace to enhance the employee's capacity to do the job. Changes may involve re-design of job duties, working time arrangements and work organisation in consultation with other workers in the area.

D.10 Trial period

- D.10.1** In order for an adequate assessment of the employee's capacity to be made, an employer will employ a person under the provisions of Schedule D—Supported Wage System for a trial period of at least 13 weeks, but no longer than 26 weeks.
- D.10.2** During that trial period the assessment of capacity will be undertaken and the percentage of the relevant minimum hourly rate of pay for a continuing employment relationship will be determined in accordance with clause D.4 and clause D.5.
- D.10.3** The employee must be paid at least **\$2.75** per hour for each hour worked during the trial period.

MA000103 PRXXXXXX

D.10.3 Once an assessment of capacity has been undertaken pursuant to clause D.5 and the employee's rate of pay is determined in accordance with clause D.4, the employer will apply any higher rate of pay determined in accordance with clause D.4.1 with effect from thirteen weeks after the commencement of the trial period.

D.10.4 Work trials should include induction or training as appropriate to the job being trialled.

13. By inserting Schedule I—Transitional Arrangements as follows:

Schedule I—Transitional Arrangements

I.1 No reduction in hourly wage rate

An employer shall not reduce the hourly wage of any employee employed as at 1 January 2023 by reason of their:

- I.1.1** classification or reclassification into Grade A or B; or
- I.1.2** initial SWS assessment in the period from 1 May 2023 to 1 May 2026.

I.2 Initial SWS assessment during the transition period

- I.2.1** This clause applies to any employee employed as at 1 May 2023 (to whom Schedule D—Supported Wage System applies) who has not been the subject of a SWS assessment prior to 1 May 2023.
- I.2.2** The employee must be subject to an initial SWS wage assessment before 1 May 2026. Despite clause D.7.1, once this is done no further SWS wage assessment is required for a period of three years following this unless clause D.7.3 applies.
- I.2.3** Until a SWS wage assessment occurs, despite clause 15.2 an employee shall remain on their current wage rate provided that the rate is adjusted by the same percentage amount and at the same time as any adjustment to the Grade 2 rate in this award as a result of any Annual Wage Review.
- I.2.4** Any new employee must be subject to a SWS wage assessment in accordance with clause D.10.

14. By updating the table of contents and cross-references accordingly.

B. This determination comes into operation on 1 May 2023. In accordance with s165(3) and s.166(5) of the *Fair Work Act 2009* this determination does not take effect in relation to a particular employee until the start of the employee's first full pay period that starts on or after 1 May 2023.

VICE PRESIDENT