

The Exposure Draft was first published on 18 December 2015. Subsequent amendments to the draft are as follows:

Publication date	Reason for amendments	Clauses affected
18 December 2015	Exposure draft	
27 April 2016	As agreed in conference on 21 April 2016	10.2(f)(i), 10.2(f)(ii), 13.3(a), 16.3, A.1.2
1 June 2016	Updated as agreed in conference and in accordance to Report to Full Bench 26 May 2016	9.1, 10.2(a), 16.3, Schedule F
14 July 2017	Incorporates changes resulting from PR580863	Schedule E
	Incorporates changes resulting from [2016] FWCFB 3500 , PR579864 and PR581528	9, 10, Schedule A, Schedule C
	Incorporates changes resulting from PR582988	13, Schedule G, Schedule H
	Incorporates changes resulting from PR584090	12.4, Schedule I
	Incorporates changes resulting from [2017] FWCFB 3500 , PR592183 , PR592689 , PR593859	9, Schedule A, Schedule B, Schedule C, Schedule D
	Incorporates changes resulting from [2017] FWCFB 3433	1, 13, Schedule F
	Incorporates changes resulting from [2017] FWCFB 3541	6

Red text indicates changes made to the draft since the previous published version, or issues that remain unresolved. Underlined text indicates new text that is to be included. Strikethrough text indicates existing text that is to be deleted.

EXPOSURE DRAFT

Commercial Sales Award 2015

This exposure draft has been prepared by staff of the Fair Work Commission based on the **Commercial Sales Award 2010** as at 18 December 2015. This exposure draft does not seek to amend any entitlements under the Commercial Sales Award 2010 but has been prepared to address some of the structural issues identified in modern awards.

The review of this award in accordance with s.156 of the *Fair Work Act 2009* is being dealt with in matter [AM2014/221](#). Additionally a number of common issues are being dealt with by the Commission which may affect this award. Transitional provisions have not been included in this exposure draft pending the outcome of the review.

This draft does not represent the concluded view of the Commission in this matter.

No examples have been included in this exposure draft. Parties are asked to submit [examples](#) that clarify the operation of particular provisions.

Table of Contents

	Page
Part 1— Application and Operation	4
1. Title and commencement.....	4
2. The National Employment Standards and this award.....	4
3. Coverage	4
4. Award flexibility.....	5
5. Facilitative provisions.....	7
Part 2— Types of Employment.....	7
6. Types of employment	7
Part 3— Hours of Work	9
7. Ordinary hours of work and rostering.....	9
8. Breaks	9
Part 4— Wages and Allowances	9
9. Classifications and minimum wages.....	9
10. Allowances.....	11
11. Superannuation	12
Part 5— Penalties and Overtime	14
12. Overtime and penalty rates	14
Part 6— Leave, Public Holidays and Other NES Entitlements.....	16
13. Annual leave	16
14. Personal/carer’s leave and compassionate leave	20
15. Parental leave and related entitlements.....	20
16. Public holidays.....	20
17. Community service leave.....	21
18. Termination of employment	21
19. Redundancy	21
Part 7— Consultation and Dispute Resolution	22
20. Consultation.....	22
21. Dispute resolution.....	24

Schedule A —Summary of Hourly Rates of Pay	25
Schedule B —Summary of Monetary Allowances.....	28
Schedule C —Supported Wage System	29
Schedule D —National Training Wage	32
Schedule E —2016 Part-day Public Holidays	33
Schedule F —Definitions.....	35
Schedule G —Agreement to Take Annual Leave in Advance.....	37
Schedule H —Agreement to Cash Out Annual Leave	38
Schedule I —Agreement for Time Off Instead of Payment for Overtime	39

DRAFT

Part 1—Application and Operation

1. Title and commencement

1.1 This award is the *Commercial Sales Award 2015*.

Clause 1.2 amended in accordance with [\[2017\] FWCFB 3433](#) at [328].

1.2 ~~This modern award, as varied, commenced operation on 1 January 2010. This modern award commenced operation on 1 January 2010. The terms of the award have been varied since that date.~~

1.3 A variation to this award does not affect any right, privilege, obligation or liability that a person acquired, accrued or incurred under the award as it existed prior to that variation.

1.4 Schedule F—Definitions sets out definitions that apply in this award.

1.5 Neither the making of this award nor the operation of any transitional arrangements is intended to result in a reduction in the take-home pay of employees covered by the award. On application by or on behalf of an employee who suffers a reduction in take-home pay as a result of the making of this award or the operation of any transitional arrangements, the Fair Work Commission may make any order it considers appropriate to remedy the situation.

2. The National Employment Standards and this award

2.1 The [National Employment Standards](#) (NES) and this award contain the minimum conditions of employment for employees covered by this award.

2.2 Where this award refers to a condition of employment provided for in the NES, the NES definition applies.

2.3 The employer must ensure that copies of the award and the NES are available to all employees to whom they apply, either on a notice board which is conveniently located at or near the workplace or through accessible electronic means.

3. Coverage

3.1 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.

3.2 This award does not cover:

- (a) employers and employees covered by the *Clerks—Private Sector Award 2015*; the *Contract Call Centres Award 2015*; or the *Graphic Arts, Printing and Publishing Award 2015*;

- (b) employees excluded from award coverage by the *Fair Work Act 2009* (Cth) (the Act);
- (c) 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; or
- (d) 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.

3.3 This award covers any employer which supplies on-hire employees in occupations set out in clause 3.1 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.

3.4 This award covers employers which provide group training services for trainees engaged in any of the occupations set out at clause 3.1 and those trainees engaged by a group training service hosted by a company to perform work at a location where the activities described in clause 3.1 are being performed. This subclause operates subject to the exclusions from coverage in this award.

3.5 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.

4. Award flexibility

4.1 Notwithstanding any other provision of this award, an employer and an individual employee may agree to vary the application of certain terms of this award to meet the genuine individual needs of the employer and the individual employee. The terms the employer and the individual employee may agree to vary the application of, are those concerning:

- (a) arrangements for when work is performed;
- (b) overtime rates;
- (c) penalty rates;
- (d) allowances; and
- (e) leave loading.

4.2 The employer and the individual employee must have genuinely made the agreement without coercion or duress. An agreement under this clause can only be entered into after the individual employee has commenced employment with the employer.

4.3 The agreement between the employer and the individual employee must:

- (a) be confined to a variation in the application of one or more of the terms listed in clause 4.1; and
- (b) result in the employee being better off overall at the time the agreement is made than the employee would have been if no individual flexibility agreement had been agreed to.

4.4 The agreement between the employer and the individual employee must also:

- (a) be in writing, name the parties to the agreement and be signed by the employer and the individual employee and, if the employee is under 18 years of age, the employee's parent or guardian;
- (b) state each term of this award that the employer and the individual employee have agreed to vary;
- (c) detail how the application of each term has been varied by agreement between the employer and the individual employee;
- (d) detail how the agreement results in the individual employee being better off overall in relation to the individual employee's terms and conditions of employment; and
- (e) state the date the agreement commences to operate.

4.5 The employer must give the individual employee a copy of the agreement and keep the agreement as a time and wages record.

4.6 Except as provided in clause 4.4(a) the agreement must not require the approval or consent of a person other than the employer and the individual employee.

4.7 An employer seeking to enter into an agreement must provide a written proposal to the employee. Where the employee's understanding of written English is limited the employer must take measures, including translation into an appropriate language, to ensure the employee understands the proposal.

4.8 The agreement may be terminated:

- (a) by the employer or the individual employee giving 13 weeks' notice of termination, in writing, to the other party and the agreement ceasing to operate at the end of the notice period; or
- (b) at any time, by written agreement between the employer and the individual employee.

NOTE: If any of the requirements of [s.144\(4\)](#), which are reflected in the requirements of this clause, are not met then the agreement may be terminated by either the employee or the employer, giving written notice of not more than 28 days (see [s.145](#) of the Act).

4.9 The notice provisions in clause 4.8(a) only apply to an agreement entered into from the first full pay period commencing on or after 4 December 2013. An agreement entered into before that date may be terminated in accordance with clause 4.8(a), subject to four weeks' notice of termination.

4.10 The right to make an agreement pursuant to this clause is in addition to, and is not intended to otherwise affect, any provision for an agreement between an employer and an individual employee contained in any other term of this award.

5. Facilitative provisions

5.1 A facilitative provision provides that the standard approach in an award provision may be departed from by agreement between an employer and an individual employee, or an employer and the majority of employees in the enterprise or part of the enterprise concerned.

5.2 Facilitative provisions in this award are contained in the following clauses:

Clause	Provision	Agreement between an employer and:
12.4	Time off instead of payment for overtime	An individual
13.4	Conversion to hourly entitlement	A majority of employees
13.5	Annual leave in advance	An individual
16.2	Substitution of public holiday	An individual or majority of employees

Part 2—Types of Employment

6. Types of employment

6.1 Employees under this award will be employed in one of the following categories:

- (a) full-time;
- (b) part-time; or
- (c) casual.

6.2 Full-time employees

- (a) A full-time employee is engaged to work an average of 38 hours per week.
- (b) Any employee not specifically engaged as a part-time or casual employee is, for all purposes of this award, a full-time employee unless otherwise specified in the award.

6.3 Part-time employees

- (a) A part-time employee is engaged to work less than an average of 38 hours per week.
- (b) An employee may be employed on a regular part-time basis in any classification in this award.

- (c) Before starting part-time employment the employer and employee must agree on:
- (i) the number of hours to be worked by the employee;
 - (ii) the days on which they will be worked; and
 - (iii) the starting and finishing times for the work.
- (d) The terms of this agreement may be varied by consent and such variation will be in writing.
- (e) An employer is required to roster a part-time employee for a minimum of three consecutive hours on any shift.

6.4 Casual employees

Casual employment provisions may be affected by [AM2014/197](#)

A Full Bench found a model casual conversion clause should be inserted into modern awards without existing conversion clauses. Any further written submissions, including whether a conversion clause requires adaptation to meet the circumstances of particular awards, are to be filed by 2 August 2017. See [\[2017\] FWCFCB 3541](#) at [381]-[382].

A Full Bench expressed the provisional view that there was to be a 2 hour minimum engagement for casual employees in awards that do not contain daily minimum engagement. Any further written submissions concerning this view are to be filed on or by 2 August 2017. See [\[2017\] FWCFCB 3541](#) at [408].

- (a) A casual employee is an employee who is engaged and paid as a casual employee.
- (b) **Casual loading**
- (i) For each ordinary hour worked, a casual employee must be paid:
 - the minimum hourly rate; and
 - a loading of **25%** of the minimum hourly rate,for the classification in which they are employed.
 - (ii) The casual loading is paid instead of entitlements to leave and other matters from which casuals are excluded by the terms of this award and the NES.

6.5 Statement and terms of engagement

Within 14 days from the commencement of employment, the employer will provide to each employee a written statement containing the information set out below:

- (a) the remuneration payable;
- (b) the vehicle allowance payable or car supplied;
- (c) the rate or rates of commission payable;

- (d) the conditions and terms on which commission or any part thereof is payable or not payable;
- (e) deductions, if any, which are made or may be made to the commission payable; and
- (f) 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.

Part 3—Hours of Work

7. Ordinary hours of work and rostering

- 7.1 Maximum weekly hours and requests for flexible working arrangements are provided for in the NES.
- 7.2 The ordinary hours of work for a full-time employee are an average of 38 per week with a maximum of 152 hours over 28 consecutive days.
- 7.3 The ordinary hours of work may be worked on any days of the week.
- 7.4 The ordinary hours of work will not exceed 10 hours on any day.

8. Breaks

An employer will allow an employee reasonable time to have regular and normal meals on each day of the employee’s employment.

Part 4—Wages and Allowances

9. Classifications and minimum wages

Rates updated as a result of AWR 2017

- 9.1 An employer must pay an adult employee, other than those employees specified in clause 9.2, the following minimum wages for ordinary hours worked by the employee:

Classification level	Minimum weekly rate (full-time employees) \$	Minimum hourly rate \$
Probationary Traveller ¹	730.62	19.23
Merchandiser	753.40	19.83
Commercial Traveller / Advertising Sales Representative	811.80	21.36

Classification level	Minimum weekly rate (full-time employees) \$	Minimum hourly rate \$
¹ The minimum weekly rate for a Probationary Traveller is based on 90% of the minimum weekly rate for a Commercial Traveller/Advertising Sales Representative.		

See Schedule A for a summary of hourly rates of pay including overtime and penalties.

Clause 9.2 varied as per [PR593859](#).

9.2 The following adult employees are not entitled to the minimum wages set out in the table in clause 9.1:

- (a) an employee receiving a supported wage (refer to Schedule C—Supported Wage System); and
- (b) a trainee (~~refer to: Schedule D—National Training Wage~~).
 - (i) *Schedule E to the Miscellaneous Award 2010 sets out minimum wage rates and conditions for employees undertaking traineeships.*
 - (ii) *This award incorporates the terms of Schedule E to the Miscellaneous Award 2010 as at 1 July 2017. Provided that any reference to “this award” in Schedule E to the Miscellaneous Award 2010 is to be read as referring to the Commercial Sales Award 2010 and not the Miscellaneous Award 2010.*

9.3 Junior minimum wages

The minimum wages for a junior are the following percentages of the wage rate for Commercial Traveller/Advertising Sales Representative:

Age	% of Commercial Traveller / Advertising Sales Representative rate
Under 19 years	67.5
19 years	80
20 years	90

9.4 No Commercial Traveller (or Probationary Traveller) will be remunerated solely by commission payment, salary or retainer, that is lower than the minimum rate for a Commercial Traveller (or Probationary Traveller) in clause 9.1.

9.5 Payment of wages

- (a) Employees will be paid weekly, fortnightly or monthly.
- (b) Wages will be paid by cash, cheque or electronic funds transfer into the employee’s nominated bank account.

NOTE: Regulations 3.33(3) and 3.46(1)(g) of *Fair Work Regulations 2009* set out the requirements for pay records and the content of payslips including the requirement to separately identify any allowance paid.

10. Allowances

Rates updated as a result of AWR 2017

10.1 An employer must pay to an employee the allowances the employee is entitled to under this clause. See Schedule B for a summary of monetary allowances and method of adjustment.

10.2 Expense related allowances

(a) Weekend allowance

An allowance of **\$44.26** will be paid to an employee required by the employer to be away from home or headquarters for any weekend.

(b) Living away from home allowance

An employee required to remain away from their usual place of residence for two or more consecutive nights in any one week, Monday to Sunday inclusive, in servicing the employee's allocated area will be paid an additional allowance of **\$55.72** per week.

(c) 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 an allowance of:

- (i)** **\$0.78** per kilometre, for use of the employee's own motor car; and
- (ii)** **\$0.26** per kilometre for use of the employee's own motorcycle.

(d) Vehicle modification reimbursement

Where the employer requires the employee to alter or modify the employee's own vehicle, the employer will reimburse to the employee the full cost of such alterations or modifications.

(e) Telephone allowance

- (i)** Where an employee does not have a telephone, modem or broadband connection and, at the written request of the employer, the employee is required to have such equipment, the employer must reimburse the reasonable cost of purchase, installation and rental of this equipment.
- (ii)** Where an employee makes telephone calls in connection with their employment on the employee's private telephone at the direction of the employer, the employer must reimburse the reasonable cost of such calls. The employer may request details of all such calls claimed by the employee.

(f) Expenses and accommodation reimbursement

- (i)** In addition to the remuneration payable under clause 9—Classifications and minimum wages, all reasonable expenses actually and properly incurred by the employee in the course of their employment discharge of the duties will be reimbursed by the employer, including:

- approved entertainment expenses;
 - vehicle parking fees where actually and necessarily incurred;
 - three star class hotel/motel accommodation;
 - expenses for meals and morning or afternoon tea when the employee is required to be away overnight from the usual place of residence at the employee's usual time for taking such meal, in the course of their employment;
 - laundry expenses incurred by the employee after they have been away from their place of residence for more than one weekend in the course of their employment;
 - first class rail tickets with sleeping accommodation (if available) on overnight journeys, and economy class airline tickets where required; and
 - the cost of garaging by an employee entitled to the living away from home allowance in clause 10.2(b) when such is required by the employer.
- (ii) **Such** expenses that can be reasonably anticipated will be paid in advance.

(g) Injury or illness requiring transport

If an employee suffers an injury or illness requiring return to their usual place of residence or to a hospital or other place where the employee may receive medical care, the expenses actually incurred in travelling to any such location will be reimbursed by the employer.

(h) Change of residence

Any employee (other than a casual) who is directed or required by the employer, in writing, to relocate the employee's residence to another area, will be reimbursed reasonable costs for relocating personal and household effects and members of their immediate dependent family. Reasonable costs expressed in this clause are to be the amount agreed upon, in writing, between the employer and employee prior to any relocation.

(i) Training program

An employee required by the employer to undertake any course of instruction or training will have all fees and expenses reimbursed by the employer.

11. Superannuation

11.1 Superannuation legislation

- (a) Superannuation legislation, including the *Superannuation Guarantee (Administration) Act 1992* (Cth), the *Superannuation Guarantee Charge Act 1992* (Cth), the *Superannuation Industry (Supervision) Act 1993* (Cth) and the *Superannuation (Resolution of Complaints) Act 1993* (Cth), deals with the superannuation rights and obligations of employers and employees. Under

superannuation legislation individual employees generally have the opportunity to choose their own superannuation fund. If an employee does not choose a superannuation fund, any superannuation fund nominated in the award covering the employee applies.

- (b) The rights and obligations in these clauses supplement those in superannuation legislation.

11.2 Employer contributions

An employer must make such superannuation contributions to a superannuation fund for the benefit of an employee as will avoid the employer being required to pay the superannuation guarantee charge under superannuation legislation with respect to that employee.

11.3 Voluntary employee contributions

- (a) Subject to the governing rules of the relevant superannuation fund, an employee may, in writing, authorise their employer to pay on behalf of the employee a specified amount from the post-taxation wages of the employee into the same superannuation fund as the employer makes the superannuation contributions provided for in clause 11.2.
- (b) An employee may adjust the amount the employee has authorised their employer to pay from the wages of the employee from the first of the month following the giving of three months' written notice to their employer.
- (c) The employer must pay the amount authorised under clauses 11.3(a) or (b) no later than 28 days after the end of the month in which the deduction authorised under clauses 11.3(a) or (b) was made.

11.4 Superannuation fund

Unless, to comply with superannuation legislation, the employer is required to make the superannuation contributions provided for in clause 11.2 to another superannuation fund that is chosen by the employee, the employer must make the superannuation contributions provided for in clause 11.2 and pay the amount authorised under clauses 11.3(a) or (b) to one of the following superannuation funds or its successor:

- (a) AustralianSuper;
- (b) LUCRF Super;
- (c) CareSuper;
- (d) REST Superannuation;
- (e) Sunsuper;
- (f) MTAA Superannuation Fund;
- (g) any superannuation fund to which the employer was making superannuation contributions for the benefit of its employees before 12 September 2008, provided the superannuation fund is an eligible choice fund and is a fund that

offers a MySuper product or is an exempt public sector superannuation scheme; or

- (h) a superannuation fund or scheme which the employee is a defined benefit member of.

11.5 Absence from work

Subject to the governing rules of the relevant superannuation fund, the employer must also make the superannuation contributions provided for in clause 11.2 and pay the amount authorised under clauses 11.3(a) or (b):

- (a) **Paid leave**—while the employee is on any paid leave;
- (b) **Work-related injury or illness**—for the period of absence from work (subject to a maximum of 52 weeks) of the employee due to work-related injury or work-related illness provided that:
 - (i) the employee is receiving workers compensation payments or is receiving regular payments directly from the employer in accordance with the statutory requirements; and
 - (ii) the employee remains employed by the employer.

Part 5—Penalties and Overtime

12. Overtime and penalty rates

12 amended in accordance with [PR584090](#) (12.4 renamed and substituted)

12.1 Overtime

An employee directed by the employer to perform any work after 6.00 pm Monday to Friday inclusive, or in excess of the ordinary hours of work provided in clause 7 – Ordinary hours of work and rostering, will be paid at a rate of **150%** of the applicable minimum hourly rate set out in clause 9.

12.2 Saturday work

An employee directed by the employer to perform any work on a Saturday will be paid at a rate of **150%** of the applicable minimum hourly rate set out in clause 9, with a minimum payment of two hours.

12.3 Sunday work

An employee directed by the employer to perform any work on a Sunday will be paid at a rate of **200%** of the applicable minimum hourly rate set out in clause 9, with a minimum payment of three hours.

12.4 Time off instead of payment for overtime

- (a) An employee and employer may agree in writing to the employee taking time off instead of being paid for a particular amount of overtime that has been worked by the employee.

- (b) Any amount of overtime that has been worked by an employee in a particular pay period and that is to be taken as time off instead of the employee being paid for it must be the subject of a separate agreement under clause 12.4.
- (c) An agreement must state each of the following:
 - (i) the number of overtime hours to which it applies and when those hours were worked;
 - (ii) that the employer and employee agree that the employee may take time off instead of being paid for the overtime;
 - (iii) that, if the employee requests at any time, the employer must pay the employee, for overtime covered by the agreement but not taken as time off, at the overtime rate applicable to the overtime when worked;
 - (iv) that any payment mentioned in subparagraph (iii) must be made in the next pay period following the request.

Note: An example of the type of agreement required by this clause is set out at Schedule I. There is no requirement to use the form of agreement set out at Schedule I. An agreement under clause 12.4 can also be made by an exchange of emails between the employee and employer, or by other electronic means.

- (d) The period of time off that an employee is entitled to take is the same as the number of overtime hours worked.

EXAMPLE: By making an agreement under clause 12.4 an employee who worked 2 overtime hours is entitled to 2 hours' time off.

- (e) Time off must be taken:
 - (i) within the period of 6 months after the overtime is worked; and
 - (ii) at a time or times within that period of 6 months agreed by the employee and employer.
- (f) If the employee requests at any time, to be paid for overtime covered by an agreement under clause 12.4 but not taken as time off, the employer must pay the employee for the overtime, in the next pay period following the request, at the overtime rate applicable to the overtime when worked.
- (g) If time off for overtime that has been worked is not taken within the period of 6 months mentioned in paragraph (e), the employer must pay the employee for the overtime, in the next pay period following those 6 months, at the overtime rate applicable to the overtime when worked.
- (h) The employer must keep a copy of any agreement under clause 12.4 as an employee record.
- (i) An employer must not exert undue influence or undue pressure on an employee in relation to a decision by the employee to make, or not make, an agreement to take time off instead of payment for overtime.
- (j) An employee may, under section 65 of the Act, request to take time off, at a time or times specified in the request or to be subsequently agreed by the

employer and the employee, instead of being paid for overtime worked by the employee. If the employer agrees to the request then clause 12.4 will apply, including the requirement for separate written agreements under paragraph (b) for overtime that has been worked.

Note: If an employee makes a request under section 65 of the Act for a change in working arrangements, the employer may only refuse that request on reasonable business grounds (see section 65(5) of the Act).

- (k) If, on the termination of the employee's employment, time off for overtime worked by the employee to which clause 12.4 applies has not been taken, the employer must pay the employee for the overtime at the overtime rate applicable to the overtime when worked.

Note: Under section 345(1) of the Act, a person must not knowingly or recklessly make a false or misleading representation about the workplace rights of another person under clause 12.4.

Part 6—Leave, Public Holidays and Other NES Entitlements

13. Annual leave

13 amended in accordance with [PR582988](#). (13.5 and 13.6 renamed and substituted; 13.7 - 13.10 inserted)

13.1 Annual leave is provided for in the NES.

13.2 Annual leave does not apply to a casual employee.

13.3 Leave loading

- (a) During a period of annual leave an employee who does not receive commission must also be paid a loading of **17.5%** calculated on the employee's minimum rate of pay as prescribed by clause 9—Classifications and minimum wages.
- (b) Where the employee receives commission, such employee will, in addition to their ordinary pay, receive either the average of the commission payments earned over the preceding 12 months or the loading prescribed in clause 13.3(a), whichever is the greater.

NOTE: Where an employee is receiving overaward payments such that the employee's base rate of pay is higher than the rate specified under this award, the employee is entitled to receive the higher rate while on a period of paid annual leave (see ss.16 and 90 of the Act).

13.4 Conversion to hourly entitlement

An employer may reach agreement with the majority of employees concerned to convert the annual leave entitlement in s.87 of the Act to an hourly entitlement for administrative ease.

13.5 Annual leave in advance

- (a) An employer and employee may agree in writing to the employee taking a period of paid annual leave before the employee has accrued an entitlement to the leave.
- (b) An agreement must:
 - (i) state the amount of leave to be taken in advance and the date on which leave is to commence; and
 - (ii) be signed by the employer and employee and, if the employee is under 18 years of age, by the employee's parent or guardian.

Note: An example of the type of agreement required by clause 13.5 is set out at Schedule G. There is no requirement to use the form of agreement set out at Schedule G.

- (c) The employer must keep a copy of any agreement under clause 13.5 as an employee record.
- (d) If, on the termination of the employee's employment, the employee has not accrued an entitlement to all of a period of paid annual leave already taken in accordance with an agreement under clause 13.5, the employer may deduct from any money due to the employee on termination an amount equal to the amount that was paid to the employee in respect of any part of the period of annual leave taken in advance to which an entitlement has not been accrued.

13.6 Close-down

An employer may require an employee to take annual leave as part of a close-down of its operations, by giving at least four weeks' notice.

References to Fair Work Act changed to 'Act'. See [\[2017\] FWCFB 3433](#) at [350].

13.7 Excessive leave accruals: general provision

Note: Clauses 13.7 to 13.9 contain provisions, additional to the National Employment Standards, about the taking of paid annual leave as a way of dealing with the accrual of excessive paid annual leave. See [Part 2.2, Division 6 of the Act Fair Work Act](#).

- (a) An employee has an **excessive leave accrual** if the employee has accrued more than 8 weeks' paid annual leave.
- (b) If an employee has an excessive leave accrual, the employer or the employee may seek to confer with the other and genuinely try to reach agreement on how to reduce or eliminate the excessive leave accrual.
- (c) Clause 13.8 sets out how an employer may direct an employee who has an excessive leave accrual to take paid annual leave.
- (d) Clause 13.9 sets out how an employee who has an excessive leave accrual may require an employer to grant paid annual leave requested by the employee.

13.8 Excessive leave accruals: direction by employer that leave be taken

- (a) If an employer has genuinely tried to reach agreement with an employee under clause 13.7(a) but agreement is not reached (including because the employee refuses to confer), the employer may direct the employee in writing to take one or more periods of paid annual leave.
- (b) However, a direction by the employer under paragraph (a):
 - (i) is of no effect if it would result at any time in the employee's remaining accrued entitlement to paid annual leave being less than 6 weeks when any other paid annual leave arrangements (whether made under clause 13.7, 13.8 or 13.9 or otherwise agreed by the employer and employee) are taken into account; and
 - (ii) must not require the employee to take any period of paid annual leave of less than one week; and
 - (iii) must not require the employee to take a period of paid annual leave beginning less than 8 weeks, or more than 12 months, after the direction is given; and
 - (iv) must not be inconsistent with any leave arrangement agreed by the employer and employee.
- (c) The employee must take paid annual leave in accordance with a direction under paragraph (a) that is in effect.
- (d) An employee to whom a direction has been given under paragraph (a) may request to take a period of paid annual leave as if the direction had not been given.

Note 1: Paid annual leave arising from a request mentioned in paragraph (d) may result in the direction ceasing to have effect. See clause 13.8(b)(i).

Note 2: Under section 88(2) of the ~~Act Fair Work Act~~, the employer must not unreasonably refuse to agree to a request by the employee to take paid annual leave.

13.9 Excessive leave accruals: request by employee for leave

- (a) Clause 13.9 comes into operation from 29 July 2017.
- (b) If an employee has genuinely tried to reach agreement with an employer under clause 13.7(a) but agreement is not reached (including because the employer refuses to confer), the employee may give a written notice to the employer requesting to take one or more periods of paid annual leave.
- (c) However, an employee may only give a notice to the employer under paragraph (b) if:
 - (i) the employee has had an excessive leave accrual for more than 6 months at the time of giving the notice; and
 - (ii) the employee has not been given a direction under clause 13.8(a) that, when any other paid annual leave arrangements (whether made under clause 13.7, 13.8 or 13.9 or otherwise agreed by the employer and employee) are taken into account, would eliminate the employee's excessive leave accrual.

- (d) A notice given by an employee under paragraph (b) must not:
 - (i) if granted, result in the employee's remaining accrued entitlement to paid annual leave being at any time less than 6 weeks when any other paid annual leave arrangements (whether made under clause 13.7, 13.8 or 13.9 or otherwise agreed by the employer and employee) are taken into account; or
 - (ii) provide for the employee to take any period of paid annual leave of less than one week; or
 - (iii) provide for the employee to take a period of paid annual leave beginning less than 8 weeks, or more than 12 months, after the notice is given; or
 - (iv) be inconsistent with any leave arrangement agreed by the employer and employee.
- (e) An employee is not entitled to request by a notice under paragraph (b) more than 4 weeks' paid annual leave in any period of 12 months.
- (f) The employer must grant paid annual leave requested by a notice under paragraph (b).

13.10 Cashing out of annual leave

- (a) Paid annual leave must not be cashed out except in accordance with an agreement under clause 13.10.
- (b) Each cashing out of a particular amount of paid annual leave must be the subject of a separate agreement under clause 13.10.
- (c) An employer and an employee may agree in writing to the cashing out of a particular amount of accrued paid annual leave by the employee.
- (d) An agreement under clause 13.10 must state:
 - (i) the amount of leave to be cashed out and the payment to be made to the employee for it; and
 - (ii) the date on which the payment is to be made.
- (e) An agreement under clause 13.10 must be signed by the employer and employee and, if the employee is under 18 years of age, by the employee's parent or guardian.
- (f) The payment must not be less than the amount that would have been payable had the employee taken the leave at the time the payment is made.
- (g) An agreement must not result in the employee's remaining accrued entitlement to paid annual leave being less than 4 weeks.
- (h) The maximum amount of accrued paid annual leave that may be cashed out in any period of 12 months is 2 weeks.
- (i) The employer must keep a copy of any agreement under clause 13.10 as an employee record.

Note 1: Under section 344 of the ~~Act Fair Work Act~~, an employer must not exert undue influence or undue pressure on an employee to make, or not make, an agreement under clause 13.10.

Note 2: Under section 345(1) of the ~~Act Fair Work Act~~, a person must not knowingly or recklessly make a false or misleading representation about the workplace rights of another person under clause 13.10.

Note 3: An example of the type of agreement required by clause 13.10 is set out at Schedule H. There is no requirement to use the form of agreement set out at Schedule H.

14. Personal/carer's leave and compassionate leave

Personal/carer's leave and compassionate leave are provided for in the NES.

15. Parental leave and related entitlements

Parental leave and related entitlements are provided for in the NES.

16. Public holidays

Public holidays provisions may be affected by [AM2014/301](#)

16.1 Public holiday entitlements are provided for in the NES.

16.2 Substitution of public holidays by agreement at the enterprise

(a) By agreement between the employer and the majority of employees in the enterprise or part of the enterprise concerned, an alternative day may be taken as the public holiday instead of any of the prescribed days.

(b) 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.

16.3 All work done by an employee **in soliciting orders** at the request of the employer on a public holiday or a substitute day will be paid at the rate of **250%** of the minimum hourly rate with a minimum payment of three hours. Provided that instead of such payment, two and a half days' leave with pay may be granted in respect of each such holiday, at a time mutually agreed between the employer and the employee.

16.4 All travelling in connection with work by an employee at the request of the employer on a public holiday or a substitute day will be paid for at the rate of **150%** of the minimum hourly rate with a minimum payment as for three hours' travelling. Provided that instead of such payment, one and a half days' leave with pay may be granted in respect of each holiday, at a time mutually agreed between the employer and the employee.

16.5 Part-day public holidays

16.5 inserted on 16 September 2016

For provisions relating to part-day public holidays see Schedule E—2016 Part-day Public Holidays

17. Community service leave

Community service leave is provided for in the NES.

18. Termination of employment

18.1 Notice of termination is provided for in the NES.

18.2 Notice of termination by an employee

The notice of termination required to be given by an employee is the same as that required of an employer except that there is no requirement on the employee to give additional notice based on the age of the employee concerned. If an employee fails to give the required notice the employer may withhold from any monies due to the employee on termination under this award or the NES, an amount not exceeding the amount the employee would have been paid under this award in respect of the period of notice required by this clause less any period of notice actually given by the employee.

18.3 Job search entitlement

Where an employer has given notice of termination to an employee, an employee must be allowed up to one day's time off without loss of pay for the purpose of seeking other employment. The time off is to be taken at times that are convenient to the employee after consultation with the employer.

19. Redundancy

19.1 Redundancy pay is provided for in the NES.

19.2 Transfer to lower paid duties

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 and the employer may, at the employer's option, make payment instead of an amount equal to the difference between the former ordinary time rate of pay and the ordinary time rate of pay for the number of weeks of notice still owing.

19.3 Employee leaving during notice period

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 under this clause had they remained in employment until the expiry of the notice, but is not entitled to payment instead of notice.

19.4 Job search entitlement

- (a) 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.
- (b) If the employee has been allowed paid leave for more than one day during the notice period for the purpose of seeking other employment, the employee must, at the request of the employer, 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.
- (c) This entitlement applies instead of clause 18.3.

Part 7—Consultation and Dispute Resolution

20. Consultation

20.1 Consultation regarding major workplace change

- (a) **Employers to notify**
 - (i) Where an employer has made a definite decision to introduce major changes in production, program, organisation, structure or technology that are likely to have significant effects on employees, the employer must notify the employees who may be affected by the proposed changes and their representatives, if any.
 - (ii) **Significant effects** include termination of employment; major changes in the composition, operation or size of the employer's workforce or in the skills required; the elimination or diminution of job opportunities, promotion opportunities or job tenure; the alteration of hours of work; the need for retraining or transfer of employees to other work or locations; and the restructuring of jobs. Provided that where this award makes provision for alteration of any of these matters an alteration is deemed not to have significant effect.
- (b) **Employers to discuss change**
 - (i) The employer must discuss with the employees affected and their representatives, if any, the introduction of the changes referred to in clause 20.1(a), the effects the changes are likely to have on employees and measures to avert or mitigate the adverse effects of such changes on employees and must give prompt consideration to matters raised by the employees and/or their representatives in relation to the changes.
 - (ii) The discussions must commence as early as practicable after a definite decision has been made by the employer to make the changes referred to in clause 20.1(a).
 - (iii) For the purposes of such discussion, the employer must provide in writing to the employees concerned and their representatives, if any, all relevant information about the changes including the nature of the

changes proposed, the expected effects of the changes on employees and any other matters likely to affect employees provided that no employer is required to disclose confidential information the disclosure of which would be contrary to the employer's interests.

20.2 Consultation about changes to rosters or hours of work

- (a)** Where an employer proposes to change an employee's regular roster or ordinary hours of work, the employer must consult with the employee or employees affected and their representatives, if any, about the proposed change.
- (b)** The employer must:
 - (i)** provide to the employee or employees affected and their representatives, if any, information about the proposed change (for example, information about the nature of the change to the employee's regular roster or ordinary hours of work and when that change is proposed to commence);
 - (ii)** invite the employee or employees affected and their representatives, if any, to give their views about the impact of the proposed change (including any impact in relation to their family or caring responsibilities); and
 - (iii)** give consideration to any views about the impact of the proposed change that are given by the employee or employees concerned and/or their representatives.
- (c)** The requirement to consult under this clause does not apply where an employee has irregular, sporadic or unpredictable working hours.
- (d)** These provisions are to be read in conjunction with other award provisions concerning the scheduling of work and notice requirements.

21. Dispute resolution

- 21.1** In the event of a dispute about a matter under this award, or a dispute in relation to the NES, in the first instance the parties must attempt to resolve the matter at the workplace by discussions between the employee or employees concerned and the relevant supervisor. If such discussions do not resolve the dispute, the parties will endeavour to resolve the dispute in a timely manner by discussions between the employee or employees concerned and more senior levels of management as appropriate.
- 21.2** If a dispute about a matter arising under this award or a dispute in relation to the NES is unable to be resolved at the workplace, and all appropriate steps under clause 21.1 have been taken, a party to the dispute may refer the dispute to the Fair Work Commission.
- 21.3** The parties may agree on the process to be utilised by the Fair Work Commission including mediation, conciliation and consent arbitration.
- 21.4** Where the matter in dispute remains unresolved, the Fair Work Commission may exercise any method of dispute resolution permitted by the Act that it considers appropriate to ensure the settlement of the dispute.
- 21.5** An employer or employee may appoint another person, organisation or association to accompany and/or represent them for the purposes of this clause.
- 21.6** While the dispute resolution procedure is being conducted, work must continue in accordance with this award and the Act. Subject to applicable occupational health and safety legislation, an employee must not unreasonably fail to comply with a direction by the employer to perform work, whether at the same or another workplace, that is safe and appropriate for the employee to perform.

Schedule A—Summary of Hourly Rates of Pay

Rates updated as a result of AWR 2017

NOTE: Employers who meet their obligations under this schedule are meeting their obligations under the award.

A.1 Full-time and part-time adult employees

A.1.1 Full-time and part-time employees—ordinary and penalty rates

	Ordinary hours	Saturday	Sunday	Public holiday	
				Soliciting orders	Travelling for work
	% of minimum hourly rate				
	100%	150%	200%	250%	150%
	\$	\$	\$	\$	\$
Probationary Traveller	19.23	28.85	38.46	48.08	28.85
Merchandiser	19.83	29.75	39.66	49.58	29.75
Commercial Traveller / Advertising Sales Representative	21.36	32.04	42.72	53.40	32.04

A.1.2 Full-time and part-time employees—overtime rates

	Monday to Friday ¹	Saturday	Sunday	Public holidays	
				Soliciting orders	Travelling for work
	% of minimum hourly rate				
	150%	150%	200%	250%	150%
	\$	\$	\$	\$	\$
Probationary Traveller	28.85	28.85	38.46	48.08	28.85
Merchandiser	29.75	29.75	39.66	49.58	29.75
Commercial Traveller / Advertising Sales Representative	32.04	32.04	42.72	53.40	32.04

¹ After 6.00 pm or in excess of ordinary hours.

A.2 Casual adult employees

A.2.1 Casual employees—ordinary and penalty rates

	Ordinary hours	Saturday	Sunday	Public holiday	
				Soliciting orders	Travelling for work
	% of minimum hourly rate				
	125%	175%	225%	275%	175%
		\$	\$	\$	\$
Probationary Traveller	24.04	33.65	43.27	52.88	33.65
Merchandiser	24.79	34.70	44.62	54.53	34.70
Commercial Traveller/Advertising Sales Representative	26.70	37.38	48.06	58.74	37.38

A.3 Junior employees

The **junior hourly rate** is based on a percentage of the adult Commercial Traveller/Advertising Sales Representative in accordance with clause 9.3 as specified. Adult rates apply from 21 years of age in accordance with clause 9.3.

A.3.1 Junior employees (Commercial Traveller/Advertising Sales Representative)—ordinary and penalty rates

Age	Junior hourly rate—ordinary hours	Saturday	Sunday	Public holidays	
				Soliciting orders	Travelling for work
	% of junior hourly rate				
	100%	150%	200%	250%	150%
	\$	\$	\$	\$	\$
Under 19 years	14.42	21.63	28.84	36.05	21.63
19 years	17.09	25.64	34.18	42.73	25.64
20 years	19.22	28.83	38.44	48.05	28.83

A.3.2 Junior employees (Commercial Traveller/Advertising Sales Representative)—overtime

Age	Monday to Friday	Saturday	Sunday	Public holidays	
				Soliciting orders	Travelling for work
	% of junior hourly rate				
	150%	150%	200%	250%	150%
	\$	\$	\$	\$	\$
Under 19 years	21.63	21.63	28.84	36.05	21.63

Age	Monday to Friday	Saturday	Sunday	Public holidays	
				Soliciting orders	Travelling for work
	% of junior hourly rate				
	150%	150%	200%	250%	150%
	\$	\$	\$	\$	\$
19 years	25.64	25.64	34.18	42.73	25.64
20 years	28.83	28.83	38.44	48.05	28.83

A.3.3 Junior employees (Commercial Traveller/Advertising Sales Representative)—casual employees—ordinary and penalty rates

Age	Casual junior rate—ordinary hours	Saturday	Sunday	Public holidays	
				Soliciting orders	Travelling for work
	% of junior hourly rate				
	125%	175%	225%	275%	175%
	\$	\$	\$	\$	\$
Under 19 years	18.03	25.24	32.45	39.66	25.24
19 years	21.36	29.91	38.45	47.00	29.91
20 years	24.03	33.64	43.25	52.86	33.64

Schedule B—Summary of Monetary Allowances

Rates updated as a result of AWR 2017

See clause 10 for full details of allowances payable under this award.

B.1 Expense related allowances

The following expense related allowances will be payable to employees in accordance with clause 10.2:

Allowance	Clause	\$
Weekend allowance	10.2(a)	44.26 per weekend
Living away from home allowance	10.2(b)	55.72 per week
Vehicle allowance:		
Motor car	10.2(c)(i)	0.78 per km
Motorcycle	10.2(c)(ii)	0.26 per km

B.2 Adjustment of expense related allowances

- (a) At the time of any adjustment to the [standard rate](#), each expense related allowance will be increased by the relevant adjustment factor. The relevant adjustment factor for this purpose is the percentage movement in the applicable index figure most recently published by the Australian Bureau of Statistics since the allowance was last adjusted.
- (b) The applicable index figure is the index figure published by the Australian Bureau of Statistics for the Eight Capitals Consumer Price Index (Cat No. 6401.0), as follows:

Allowance	Applicable Consumer Price Index figure
Vehicle allowance	Private motoring sub-group
Living away from home allowance	Domestic holiday travel and accommodation sub-group
Weekend allowance	Domestic holiday travel and accommodation sub-group

Schedule C—Supported Wage System

Schedule updated in accordance with [PR592689](#).

C.1 This schedule defines the conditions which will apply to employees who because of the effects of a disability are eligible for a supported wage under the terms of this award.

C.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

disability support pension means the Commonwealth pension scheme to provide income security for persons with a disability as provided under the *Social Security Act 1991* (Cth), as amended from time to time, or any successor to that scheme

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

C.3 Eligibility criteria

C.3.1 Employees covered by this schedule will be those who are unable to perform the range of duties to the competence level required within the class of work for which the employee is engaged under this award, because of the effects of a disability on their productive capacity and who meet the impairment criteria for receipt of a disability support pension.

C.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.

C.4 Supported wage rates

C.4.1 Employees to whom this schedule applies will be paid the applicable percentage of the relevant minimum wage according to the following schedule:

Assessed capacity (clause C.5)	Relevant minimum wage
%	%
10	10
20	20
30	30
40	40
50	50
60	60
70	70
80	80
90	90

C.4.2 Provided that the minimum amount payable must be not less than **\$84** per week.

C.4.3 Where an employee’s assessed capacity is 10%, they must receive a high degree of assistance and support.

C.5 Assessment of capacity

C.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 union which the employee is eligible to join.

C.5.2 All assessments made under this schedule 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.

C.6 Lodgement of SWS wage assessment agreement

C.6.1 All SWS wage assessment agreements under the conditions of this schedule, 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.

C.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 certified mail and the agreement will take effect unless an objection is notified to the Fair Work Commission within 10 working days.

C.7 Review of assessment

The assessment of the applicable percentage should be subject to annual or more frequent review on the basis of a reasonable request for such a review. The process of review must be in accordance with the procedures for assessing capacity under the supported wage system.

C.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 this schedule will be entitled to the same terms and conditions of employment as other workers covered by this award on a pro rata basis.

C.9 Workplace adjustment

An employer wishing to employ a person under the provisions of this schedule 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.

C.10 Trial period

C.10.1 In order for an adequate assessment of the employee's capacity to be made, an employer may employ a person under the provisions of this schedule for a trial period not exceeding 12 weeks, except that in some cases additional work adjustment time (not exceeding four weeks) may be needed.

C.10.2 During that trial period the assessment of capacity will be undertaken and the percentage of the relevant minimum wage for a continuing employment relationship will be determined.

C.10.3 The minimum amount payable to the employee during the trial period must be no less than **\$84** per week.

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

C.10.5 Where the employer and employee wish to establish a continuing employment relationship following the completion of the trial period, a further contract of employment will be entered into based on the outcome of assessment under clause C.5.

Schedule D—National Training Wage

This schedule is being reviewed in matter [AM2016/17](#).

The schedule was deleted by [PR593859](#).

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Schedule E—2016 Part-day Public Holidays

The part-day holidays schedule may be affected by [AM2014/301](#)

Schedule E amended in accordance with [PR580863](#)

This schedule operates where this award otherwise contains provisions dealing with public holidays that supplement the NES.

- E.1** Where a part-day public holiday is declared or prescribed between 7.00 pm and midnight on Christmas Eve (24 December 2016) or New Year's Eve (31 December 2016) the following will apply on Christmas Eve and New Year's Eve and will override any provision in this award relating to public holidays to the extent of the inconsistency:
- (a) All employees will have the right to refuse to work on the part-day public holiday if the request to work is not reasonable or the refusal is reasonable as provided for in the NES.
 - (b) Where a part-time or full-time employee is usually rostered to work ordinary hours between 7.00 pm and midnight but as a result of exercising their right under the NES does not work, they will be paid their ordinary rate of pay for such hours not worked.
 - (c) Where a part-time or full-time employee is usually rostered to work ordinary hours between 7.00 pm and midnight but as a result of being on annual leave does not work, they will be taken not to be on annual leave between those hours of 7.00 pm and midnight that they would have usually been rostered to work and will be paid their ordinary rate of pay for such hours.
 - (d) Where a part-time or full-time employee is usually rostered to work ordinary hours between 7.00 pm and midnight, but as a result of having a rostered day off (RDO) provided under this award, does not work, the employee will be taken to be on a public holiday for such hours and paid their ordinary rate of pay for those hours.
 - (e) Excluding annualised salaried employees to whom clause E.1(f) applies, where an employee works any hours between 7.00 pm and midnight they will be entitled to the appropriate public holiday penalty rate (if any) in this award for those hours worked.
 - (f) Where an employee is paid an annualised salary under the provisions of this award and is entitled under this award to time off in lieu or additional annual leave for work on a public holiday, they will be entitled to time off in lieu or pro-rata annual leave equivalent to the time worked between 7.00 pm and midnight.
 - (g) An employee not rostered to work between 7.00 pm and midnight, other than an employee who has exercised their right in accordance with clause E.1(a), will not be entitled to another day off, another day's pay or another day of annual leave as a result of the part-day public holiday.

Exposure draft – Commercial Sales Award 2015

This schedule is not intended to detract from or supplement the NES.

This schedule is an interim provision and subject to further review.

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Schedule F—Definitions

Placement of the *definitions* to be determined by Plain Language Process. See [\[2017\] FWCFCB 3433](#) at [333].

In this award, unless the contrary intention appears:

Act means the *Fair Work Act 2009* (Cth)

Advertising Sales Representative means a person employed, substantially away from the employer’s place of business, in soliciting orders, obtaining sales leads or appointments or otherwise promoting sales for, or selling advertising space or time of any kind

Commercial Traveller means a person employed, substantially away from the employer’s place of business, for the purpose of soliciting orders for, or selling articles, goods, wares or merchandise or material for wholesale sale, for resale, or for use in or in connection with the production and/or preparation and/or distribution of commodities for sale by the customer

commission means any financial incentive payment, financial bonus or financial reward directly related to the soliciting or obtaining of orders or business by an individual Commercial Traveller, but will not be deemed to include any incentive payment, bonus or reward periodically made by the employer on the basis of profitability or performance of the employee, or any section, group or division thereof

defined benefit member has the meaning given by the *Superannuation Guarantee (Administration) Act 1992* (Cth)

employee means national system employee within the meaning of the Act

employer means national system employer within the meaning of the Act

exempt public sector superannuation scheme has the meaning given by the *Superannuation Industry (Supervision) Act 1993* (Cth)

~~**headquarters** means the employer's usual place of residence or the office to which the employee most frequently reports or otherwise takes instruction in the usual course of employment~~

home means the employee’s usual place of residence

Merchandiser means a person who is employed away from, or substantially away from, the employer’s place of business in promoting the employer’s products, re-ordering stock and preparing display units and gondola ends, and who in conjunction with these principal functions may solicit orders as a minor feature of the employee’s work

MySuper product has the meaning given by the *Superannuation Industry (Supervision) Act 1993* (Cth)

NES means the National Employment Standards as contained in [sections 59 to 131](#) of the *Fair Work Act 2009* (Cth)

on-hire means the on-hire of an employee by their employer to a client, where such employee works under the general guidance and instruction of the client or a representative of the client

Probationary Traveller means an Advertising Sales Representative or Commercial Traveller who has less than three months' service with the employer

standard rate means the minimum weekly rate for a Commercial Traveller in clause 9.1

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Schedule G—Agreement to Take Annual Leave in Advance

Schedule G—Agreement to Take Annual Leave in Advance inserted in accordance with [PR582988](#)

Link to PDF copy of [Agreement to Take Annual Leave in Advance](#).

Name of employee: _____

Name of employer: _____

The employer and employee agree that the employee will take a period of paid annual leave before the employee has accrued an entitlement to the leave:

The amount of leave to be taken in advance is: ____ hours/days

The leave in advance will commence on: ____/____/20____

Signature of employee: _____

Date signed: ____/____/20____

Name of employer representative: _____

Signature of employer representative: _____

Date signed: ____/____/20____

[If the employee is under 18 years of age - include:]

I agree that:

if, on termination of the employee's employment, the employee has not accrued an entitlement to all of a period of paid annual leave already taken under this agreement, then the employer may deduct from any money due to the employee on termination an amount equal to the amount that was paid to the employee in respect of any part of the period of annual leave taken in advance to which an entitlement has not been accrued.

Name of parent/guardian: _____

Signature of parent/guardian: _____

Date signed: ____/____/20____

Schedule H—Agreement to Cash Out Annual Leave

Schedule H—Agreement to Cash Out Annual Leave inserted in accordance with [PR582988](#)

Link to PDF copy of [Agreement to Cash Out Annual Leave](#).

Name of employee: _____

Name of employer: _____

The employer and employee agree to the employee cashing out a particular amount of the employee's accrued paid annual leave:

The amount of leave to be cashed out is: _____ hours/days

The payment to be made to the employee for the leave is: \$_____ subject to deduction of income tax/after deduction of income tax (strike out where not applicable)

The payment will be made to the employee on: ____/____/20____

Signature of employee: _____

Date signed: ____/____/20____

Name of employer representative: _____

Signature of employer representative: _____

Date signed: ____/____/20____

Include if the employee is under 18 years of age:

Name of parent/guardian: _____

Signature of parent/guardian: _____

Date signed: ____/____/20____

Schedule I—Agreement for Time Off Instead of Payment for Overtime

Schedule I— Agreement for time off instead of payment for overtime inserted in accordance with [PR584090](#).

Link to PDF copy of [Agreement for Time Off Instead of Payment for Overtime](#).

Name of employee: _____

Name of employer: _____

The employer and employee agree that the employee may take time off instead of being paid for the following amount of overtime that has been worked by the employee:

Date and time overtime started: ___/___/20___ am/pm

Date and time overtime ended: ___/___/20___ am/pm

Amount of overtime worked: _____ hours and _____ minutes

The employer and employee further agree that, if requested by the employee at any time, the employer must pay the employee for overtime covered by this agreement but not taken as time off. Payment must be made at the overtime rate applying to the overtime when worked and must be made in the next pay period following the request.

Signature of employee: _____

Date signed: ___/___/20___

Name of employer representative: _____

Signature of employer representative: _____

Date signed: ___/___/20___