

The Exposure Draft was first published on 18 December 2014. Subsequent amendments to the draft are as follows:

Publication date	Reason for amendments	Clauses affected
2 December 2015	Incorporate changes resulting from [2014] FWCFB 9412	1, 2, 3.5, 5.1, 13, 17, 18, 19, 20, 21, 22, 23, Schedule E, Schedule A
	Incorporate changes resulting from PR557581	Schedule F
	Incorporate changes resulting from [2015] FWCFB 3023 and PR567227	20.5
	Incorporate changes resulting from [2015] FWCFB 3500 , PR566715 , PR566853 and PR568050	10, 11, Schedule B, Schedule C, Schedule D
	Incorporate changes resulting from [2015] FWCFB 4658	1, 10, 13, 17, Schedule B, Schedule A
	Incorporate changes resulting from [2015] FWCFB 6656	1
	Parties agreed changes (Report to the Full Bench 30 November 2015)	3.5(a), 5.2, 6.4(a), 6.4(b), 6.4(e), 10.1, 13.4, 16.3, 16.4(b), 16.4(d), 16A 20.5(b), 20.5(d), B.2.1
31 October 2016	Correct error	22.2
	Incorporate changes resulting from PR580863	Schedule F
	Incorporate changes resulting from [2016] FWCFB 3500 , PR579810 , PR579548 and PR581528	10, 11, Schedule B, Schedule C, Schedule D
	Incorporate changes resulting from [2016] FWCFB 3953 , PR583096	5.2, 17, Schedule H, Schedule I
	Incorporate changes resulting from [2016] FWCFB 4579 , PR584170	5.2, 16.5, Schedule J
	Incorporate changes resulting from [2016] FWCFB 7254	3.5(a), 5.2, 6.4, 6.5(h), 10.1, 13.4, 16.3, 16.4, 16A, 20.5, B.2.1
Changes agreed to by parties appear in red text. Underlined text indicates new text that is to be included. Strikethrough text indicates existing text that is to be deleted.		

EXPOSURE DRAFT

Waste Management Award 2015

This exposure draft has been prepared by staff of the Fair Work Commission based on the **Waste Management Award 2010** (the Waste Management award) as at 18 December 2014. This exposure draft does not seek to amend any entitlements under the Waste Management award 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 [AM2014/216](#). 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.

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Part 1—Application and Operation

1. Title and commencement

- 1.1 This award is the *Waste Management Award 2015*.
- 1.2 This modern award, as varied, commenced operation on 1 January 2010.
- 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.

Schedule A Schedule A

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- 1.4 —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 this 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 industry award covers employers throughout Australia in the waste management industry and their employees in the classifications listed in clause 7—Classifications to the exclusion of any other modern award.
- 3.2 The **waste management industry** means the collection, transportation, handling, recycling and disposal of any waste material whatsoever (be it solid or liquid, organic, biological, medical, raw or natural, wholly or partly manufactured, decomposed or partly decomposed or in any other state or form and including all domestic, trade and industrial waste) and includes the operation of transfer stations, landfill sites, incinerators, recycling depots, yards or terminals, treatment plants, compost facilities, alternative waste treatment facilities and the operation of other facilities of the same kind.
- 3.3 This award covers any employer which supplies labour on an on-hire basis in the industry set out in clauses 3.1 and 3.2 in respect of on-hire employees in classifications covered by this award, and those on-hire employees, while engaged in the performance of work for a business in that industry. This subclause operates subject to the exclusions from coverage in this award.
- 3.4 This award covers employers which provide group training services for trainees engaged in the industry and/or parts of industry set out in clauses 3.1 and 3.2 and those trainees engaged by a group training service hosted by a company to perform work at a location where the activities described herein are being performed. This subclause operates subject to the exclusions from coverage in this award.
- 3.5 The award does not cover:

3.5 amended in accordance with para [221] of [2016] FWCFB 7254

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

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

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

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:

5.2 amended in accordance with PR583096 and PR584170; and para [221] of [2016] FWCFB 7254

Clause	Provision	Agreement between an employer and:
8.3(b)(i)	Providing for other than a rostered day off	The majority of employees
<u>8.6</u>	<u>Make-up time</u>	<u>An individual</u>
16.5	Time off instead of payment for overtime	An individual
17.3	<u>Annual leave in advance</u>	<u>An individual</u>
17.4	<u>Cashing out of annual leave</u>	<u>An individual</u>
20.4	Substitution of public holidays by agreement	The majority of employees

Part 2—Types of Employment and Classifications

6. Types of employment

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

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

This provision may be reviewed in [AM2014/216](#)

6.2 At the time of engagement, an employer will inform each employee in writing of the terms of their engagement and in particular, whether they are to be full-time, part-time or casual. This decision will then be recorded in the time and wages record.

6.3 Full-time employees

A full-time employee is engaged to work an average of 38 ordinary hours per week.

6.4 Part-time employees

6.4 amended in accordance with para [221] of [2016] FWCFB 7254

- (a) A part-time employee is engaged to work less than 38 ordinary hours per week.
- (b) The terms of this award apply pro rata to part-time employees on the basis that ordinary weekly hours for full-time employees are 38.
- (c) A part-time employee will be paid the ordinary hourly rate for the classification in which the employee is engaged with a minimum payment of four hours for each day.
- (d) Before commencing employment, the part-time employee and employer must agree upon:
 - (i) the hours to be worked by the employee,
 - (ii) the days upon which the hours will be worked;
 - (iii) the commencing and finishing times; and
 - (iv) the employee's classification.
- (e) The terms of the agreement made pursuant to 6.4(d) or any variation to it must be in writing and retained by the employer. The employer must provide a copy of the agreement, and any agreed variation to it, to the employee.
- (f) The employer must pay a part-time employee at overtime rates for all time worked:
 - (i) in excess of the daily or weekly hours agreed under clause (d); or
 - (ii) outside the spread of hours in clause 8.2.

6.5 Casual employees

- (a) A casual employee is
 - (i) an employee who is engaged and paid as a casual employee; and
 - (ii) paid by the hour.
- (b) At the time of engagement the employer must:
 - (i) inform the employee that they are to be employed as a casual, by whom they are to be employed and their classification, minimum wage and duties; and

- (ii) give the employee an indication of the actual or likely number of hours for which the employee will be required.
- (c) The indication given under clause 6.5(b)(ii) is not binding and does not constitute a guarantee.
- (d) The employer must notify a casual employee at the end of the day whether their services will be required on the next working day.
- (e) The minimum daily engagement of a casual is four hours.
- (f) **Casual loading**

For each ordinary hour worked, a casual employee must be paid:

- (i) the ordinary hourly rate; and
- (ii) a loading of 25% of the ordinary hourly rate,
for the classification in which they are employed.
- (g) The casual loading is paid instead of annual leave, paid personal/carer's leave, notice of termination, redundancy benefits and the other conditions of full-time or part-time employment.

6.5(h) amended in accordance with para [220] of [2016] FWCFB 7254

- (h) A casual employee working overtime or outside ordinary hours will be paid the overtime rate in clause 16—Overtime and an additional amount of 10% of the ordinary hourly rate loading for the work performed.

6.6 Casual conversion to full-time or part-time employment

This provision may be reviewed in [AM2014/197](#)

(a) Eligible casual employee

An eligible casual employee is a casual employee who has been engaged:

- (i) by a particular employer on a regular and systematic basis;
- (ii) for a sequence of periods of employment under this award during a period of 12 months.

An eligible casual employee has the right to elect to have their contract of employment converted to full-time or part-time employment.

(b) Notice and election of casual conversion

- (i) The employer of an eligible casual employee must give the employee notice in writing of the provisions of clause 6.6(a) within four weeks of the right to elect accruing.
- (ii) The employee retains their right of election even if the employer fails to comply with clause 6.6(b)(i).

(iii) An eligible casual employee may give four weeks' notice in writing to the employer that they seek to elect to convert their contract of employment to full-time or part-time employment either:

- upon receiving notice under clause 6.5(b)(i); or
- after the expiry of the time for giving notice.

(iv) An eligible casual employee who does not elect to convert their contract of employment to full-time or part-time employment within four weeks of receiving written notice is deemed to have elected against any conversion.

(c) Full-time or part-time conversion

(i) An eligible casual employee who has worked on a full-time basis throughout their period of employment has the right to elect to convert their contract of employment to full-time employment.

(ii) An eligible casual employee who has worked on a part-time basis during the period of casual employment has the right to elect to convert their contract of employment to part-time employment, on the basis of the same number of hours and times of work as previously worked, unless other arrangements are agreed upon between the employer and employee.

(iii) If an eligible casual employee has elected to have their contract of employment converted to full-time or part-time employment in accordance with clause 6.6(b)(iii), the employer and employee must, subject to clauses 6.6(c)(i) and 6.6(c)(ii), discuss and agree on:

- which form of employment the employee will convert to, being full-time or part-time; and
- if the employee will become a part-time employee, the number of hours and the pattern of hours that will be worked, as set out in clause 6.4(d).

(d) Employer consent or refusal to casual conversion

(i) An eligible casual employee who has elected to convert to full-time or part-time employment in accordance with this clause may only revert to casual employment by written agreement with the employer.

7. Classifications

The classifications covered by this award are as follows:

7.1 Level 1

An employee engaged as a depot hand in training.

7.2 Level 2

An employee performing one or more of the following functions:

- (a) Labourer or depot hand at any waste management facility including but not limited to transfer stations, landfills, recycling centres, alternative waste treatment facilities and incinerators;
- (b) Waste treatment and/or handling and/or disposal facility attendant and/or process worker; and
- (c) Offsider (includes Runners) to a Driver in all waste management systems.

7.3 Level 3

An employee performing one or more of the following functions:

- (a) Weighbridge operator;
- (b) Trainee driver of vehicle up to and including 14 tonnes GVM; and
- (c) Driver (not elsewhere included) of a waste management vehicle up to and including 4.5 tonnes GVM.

7.4 Level 4

An employee performing one or more of the following functions:

- (a) Driver of a vehicle with a truck mounted loading crane;
- (b) Driver/operator of a mechanical road sweeper;
- (c) Incinerator operator;
- (d) Operator of earthmoving plant at a waste management facility up to and including 150 BHP (estimated 112kW);
- (e) Trainee driver of vehicle exceeding 14 tonnes GVM; and
- (f) Driver of a waste management vehicle exceeding 4.5 tonnes GVM and up to and including 14 tonnes GVM.

7.5 Level 5

An employee performing one or more of the following functions:

- (a) Driver of a waste management vehicle exceeding 14 tonnes GVM and up to and including 30 tonnes GVM being:
 - (i) Rear end loading vehicles;
 - (ii) Roll on/roll off vehicles including hook lift, dino and cable;
 - (iii) Side lift vehicles (commercial collections);
 - (iv) Liquid waste rigid vehicles;
 - (v) Lift on skip or morrell vehicles;
 - (vi) Pantehnicon; and
 - (vii) Vehicle carrying septic tanks, chemical closets, portaloos, etc.

7.6 Level 6

An employee performing one or more of the following functions:

- (a) Driver of an articulated vehicle;
- (b) Driver of a rigid vehicle exceeding 30 tonnes GVM;
- (c) Driver of a front lift vehicle; and
- (d) Driver of a vehicle collecting containers of solid waste and/or recyclable materials by means of a one-man side operated grab and lifting device (SOLO) in accordance with local government contracts.

7.7 Level 7

An employee performing the following functions:

- Driver/instructor (all systems).

7.8 Level 8

An employee performing one or more of the following functions:

- (a) Intermodal facility operator and tipping platform operator only;
- (b) Operator of earth moving plant at a waste management facility over 150 BHP (estimated 112 kW).

7.9 Level 9

Driver of a double articulated vehicle (B double).

Part 3—Hours of Work

8. Ordinary hours of work and rostering

8.1 The ordinary hours of work for full-time employees will be an average of 38 hours per week to be worked within a work cycle not exceeding 28 consecutive days.

8.2 Ordinary hours and roster cycles

- (a) Except as provided below, ordinary hours:
 - (i) are worked between 4.00 am and 5.00 pm, Monday to Friday; and
 - (ii) must not exceed eight hours per day and are to be worked continuously (except for meal breaks).

8.3 Method of working ordinary hours

Ordinary hours may be worked in either of the following methods:

(a) Providing for a rostered day off

- (i) An employee may work 19 days of eight hours each over a continuous four week period.
- (ii) A maximum of 10 rostered days off may be accumulated over a 40 week period, after which the employer may direct the employee to take the accumulated days.
- (iii) Rostered days off may be taken at the start of the roster cycle, provided that if the employee ceases employment with the employer before accruing credits to cover the time taken in advance, any time outstanding may be deducted from money owed to the employee on termination of employment.
- (iv) An employer may require an employee to forego a rostered day off due to operational requirements in which case the employee will be entitled to a substitute day off. Otherwise an employee's rostered day off may be changed during the roster period by agreement or on 48 hours' notice by the employer.
- (v) Payment will be for 7 hours 36 minutes per day and an employee will accumulate 24 minutes per day over the 19 work days in the 28 day period of the roster to cover payment for the rostered day off.
- (vi) Where an employer is required to service a particular client or clients and there has been a cessation of operations resulting from:
 - annual close-down;
 - industrial action;
 - compulsory closure as a result of a legislative direction; or
 - other circumstances beyond the control of the employer,the employer may require employees to take a rostered day or days off to coincide with the day or days that the operation is closed, up to a maximum of five days.
- (vii) A rostered day or days off taken in accordance with clause 8.3(a)(vi) which would normally become due to the employee will not become due for the number of days taken in accordance with clause 8.3(a).
- (viii) Where an employee is absent on workers compensation for more than five consecutive working days no entitlement to a rostered day off will accrue with respect to the period of the absence which exceeds five days.

(b) Providing for other than a rostered day off

An employer may require an employee to work ordinary hours over five days, Monday to Friday inclusive without a rostered day off, provided the daily hours are continuous (except for meal breaks), in any of the following circumstances:

- (i) where there is agreement between the employer and the majority of employees;
- (ii) where the employer operates three or fewer vehicles at a particular yard, depot or garage;
- (iii) where the employer has arrangements with a client for the provision of transport services on a permanent basis extending over each day of the week, Monday to Friday, and those arrangements would be prejudiced by the requirement for a rostered day off; or
- (iv) where the employer's operations are such that it is necessary for the employee to work on each day of the week Monday to Friday and those operations would be prejudiced if the employee was given a rostered day off.

8.4 Starting and finishing times

- (a) Each employer must fix a regular starting and finishing time for each employee which must be the same on each day of the week.
- (b) An employer may alter an employee's starting and finishing times on seven days' notice.

8.5 Absences from duty

Where an employer makes a deduction from an employee's pay for an absence for which an employee is not entitled to be paid, a day's pay is to be calculated by dividing the employee's average weekly pay for ordinary hours by five and an hour's pay is to be calculated by dividing the employee's average weekly pay for ordinary hours by 38.

8.6 Make-up time

An employee may elect, with the consent of the employer, to work make-up time under which the employee takes time off during ordinary hours and works those hours at a later time, during the spread of ordinary hours provided in clause 8.2(a)(i).

9. Breaks

9.1 Unpaid meal breaks

- (a) An employee must be allowed an unpaid meal break of between 30 minutes and one hour within five and a quarter hours of commencing duty.
- (b) The employer and the employee will agree on the time and length of the meal break having regard, among other things, to the fatigue management regulations.

9.2 Overtime meal breaks

This provision may be reviewed in [AM2014/216](#)

- (a) An employee must be allowed an unpaid meal break of not less than 15 minutes and not more than 30 minutes after two hours of overtime.
- (b) The employee and the supervisor will agree on the time and length of the meal break having regard, among other things, to the fatigue management regulations.
- (c) An employee working overtime may be entitled to a meal allowance in accordance with clause 11.3(a).

Part 4—Minimum Wages and Allowances

10. Minimum wages

Rates updated as a result of AWR 2016

10.1 Adult rates

10.1 amended in accordance with para [221] of [2016] FWCFB 7254

Adult employees are entitled to the minimum weekly wage prescribed for the classification in which they are employed plus the industry allowance referred to in clause 11.2(b), as follows:

Classification	Minimum weekly wage \$	Minimum hourly rate \$
Level 1	712.40	18.75
Level 2	730.40	19.22
Level 3	739.40	19.46
Level 4	753.00	19.82
Level 5	762.30	20.06
Level 6	782.40	20.59
Level 7	838.90	22.08
Level 8	880.80	23.18
Level 9	889.40	23.41

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

10.2 Junior rates

- (a) The minimum wages to be paid to junior employees are the following percentages of the minimum wage for the relevant classification:

Age	% of relevant minimum wage
18 years and under	70

Age	% of relevant minimum wage
19 years	80
20 years	100

- (b) Where a junior employee aged 18 years or more is required to drive and be in sole charge of a motor vehicle, they will be paid the adult rate assigned to the class of driving work that they are required to perform.

10.3 Supported wage system

For employees who because of the effects of a disability are eligible for a supported wage, see Schedule D—Supported wage system.

10.4 National training wage

For employees undertaking a traineeship, see Schedule E—National training wage.

11. Allowances

Monetary amounts in this clause adjusted as a result of AWR 2016

- 11.1 Employers must pay to an employee the allowances the employee is entitled to under this clause. See Schedule C for a summary of monetary allowances and method of adjustment.

11.2 Wage related allowances

(a) All purpose allowances

Allowances paid for **all purposes** are included in the rate of pay of an employee who is entitled to the allowance, when calculating any penalties or loadings of payment while they are on leave. The industry allowance is paid for all purposes under this award (clause 11.2(b)).

(b) Industry allowance

- (i) A full-time employee must be paid an industry allowance of **\$86.06** per week in addition to the appropriate minimum wage. Part-time and casual employees must be paid the allowance pro rata.
- (ii) The industry allowance is for all purposes of this award, including overtime and calculation of shift loadings.
- (iii) The industry allowance is paid in total recognition of the unique features associated with the waste industry. These features, which may vary from workplace to workplace and between functions, include but are not restricted to the requirement to:
- work in areas regarded as unusually offensive and obnoxious;
 - handle obnoxious waste;
 - work in the open in all weather variables;

- be able to adapt to and handle hydraulic lifting apparatus and compaction units associated with waste vehicles; and
- work at times with waste product which has the potential to be dangerous and therefore the requirement to abide by correct safe operating procedures including the wearing of appropriate protective safety equipment.

(c) **Leading hand allowance**

A leading hand must be paid a weekly allowance based on the number of employees in the group they are supervising. The weekly allowance is to be paid as follows:

Leading hand in charge of	\$ per week
4–8 employees	21.12
9–15 employees	31.30
more than 15 employees	43.03

(d) **Boat allowance**

An employee required to use a boat must be paid a weekly allowance of **\$34.43**.

(e) **First aid allowance**

An employee appointed by the employer to perform first aid must be paid an allowance of **\$3.91** per day.

11.3 Expense related allowances

(a) **Meal allowance**

- (i) An employee who has not received prior notification and is required to work overtime for two hours or more will either be supplied with a suitable meal by the employer or paid a meal allowance of **\$15.74**.
- (ii) An employee required to commence work two hours or more prior to the normal agreed starting time must be paid a meal allowance of **\$15.74**.

(b) **Transport allowance**

An employee required to commence duty before 4.00 am is entitled to a transport allowance of **\$8.28** per day unless the employer provides transport.

12. Higher duties

12.1 Where an employee is required to perform work at more than one classification level on any one day the employee is to be paid the minimum wage for the highest level, calculated hourly, for the whole day.

- 12.2 An employee is not to be transferred to a lower classification level except on seven days' notice.

13. Payment of wages

- 13.1 All earnings, including overtime, must be paid in the employer's time on a day to be fixed by the employer. Once fixed, the day must not be altered more than once in three months.

Payment within a specific period after pay cycle is being considered in matter [AM2016/6](#)

- 13.2 All earnings, including overtime, must be paid within three days of the end of the week in which they accrue.

Payment of wages on termination is being considered in matter [AM2016/8](#), see [draft determination \(at attachment A of Statement\)](#)

- 13.3 Despite anything contained in this clause, the employer must pay to an employee who leaves or is dismissed all money due to the employee as soon as possible.

13.4 amended in accordance with para [221] of [2016] FWCFB 7254

- 13.4 The employer ~~at~~ may pay an employee by electronic funds transfer to a bank account nominated by the employee in question.

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.

14. Superannuation

14.1 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.

14.2 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.

14.3 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 14.2.
- (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 14.3(a) or (b) no later than 28 days after the end of the month in which the deduction authorised under clauses 14.3(a) or (b) was made.

14.4 Superannuation fund

Unless, to comply with superannuation legislation, the employer is required to make the superannuation contributions provided for in clause 14.2 to another superannuation fund that is chosen by the employee, the employer must make the superannuation contributions provided for in clause 14.2 and pay the amount authorised under clauses 14.3(a) or (b) to one of the following superannuation funds or its successor:

- (a) TWUSUPER;
- (b) 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
- (c) a superannuation fund or scheme which the employee is a defined benefit member of.

Part 5—Shiftwork and Overtime

15. Shiftwork

This provision may be reviewed in [AM2014/216](#)

15.1 Definitions

- (a) **Afternoon shift** means a shift where the ordinary hours worked finish after 6.30 pm but not later than 12.30 am.
- (b) **Night shift** means a shift where the ordinary hours worked finish after 12.30 am and at or before 8.30 am.

- (c) **Continuous work** means work carried on with continuous shifts of workers throughout the 24 hours on each of at least six consecutive days without interruption except during breakdowns or meal breaks or due to unavoidable causes beyond the control of the employer.
- (d) **Rostered shift** means a shift for which the employee concerned has had at least 48 hours' notice.
- (e) **Shiftwork** means work extending for at least five consecutive days and performed either in daily recurrent periods or in regular rotating periods falling within the limits defined for afternoon shift or night shift.

15.2 Shift rosters

- (a) The employer must post a shift roster in a prominent place in the workplace.
- (b) The shift roster must specify the start and finishing times of ordinary hours of respective shifts.
- (c) The roster must not be altered without seven days' notice.

15.3 Shift loadings

Shiftworkers must be paid the following rates for ordinary hours worked on shifts as follows:

	Weekly employees	Casual employees
	% of the ordinary hourly rate	
Afternoon shift	117.5%	142.5%
Night shift	130%	155%

15.4 Shiftwork—overtime

An employee engaged on shiftwork must be paid at overtime rates as provided for in clause 16—Overtime instead of the shift loading in clause 15.3 if:

- (a) the employee has not had at least 48 hours' notice of a shift; or
- (b) the shiftwork is not regular shiftwork (as defined in clause 15.1(e)); or
- (c) the shiftwork is performed outside ordinary hours or in excess of eight hours per shift.

15.5 Transfer to or from shiftwork

- (a) An employee may be transferred to or from shiftwork on 14 days' notice provided the employee has at least 10 hours off duty before commencing shiftwork.
- (b) Where 14 days' notice is not provided, the employee will be paid overtime rates for all work done outside previous ordinary working hours within 14 days of the time of notification of the change.

15.6 Work on Saturday, Sunday or public holiday

A shiftworker attending for work on a rostered shift, the major portion of which falls on a Saturday, Sunday or public holiday, must be paid the rates prescribed in clauses 0, 0 and 20.5 instead of the shift loading in clause 15.3.

15.7 Rate when shift extends beyond midnight

Despite any other provision of this clause each shift must be paid for at the rate applicable to the day on which the major portion of the shift is worked.

16. Overtime

16.1 Work done outside ordinary hours must be paid for at **150%** of the ordinary hourly rate calculated hourly for the first two hours and **200%** after two hours.

16.2 Except as provided in clauses 16.1 and 16.3, in computing overtime each day's work will stand alone.

16.3 amended in accordance with para [221] of [2016] FWCFB 7254

16.3 When overtime work is necessary it must, wherever reasonably practicable, be so arranged that employees have at least 10 consecutive hours off duty between the work of successive days.

(a) An employee (other than a casual employee) who has not had at least 10 consecutive hours off duty between finishing overtime and the commencement of ordinary hours the next day must, subject to this subclause, be given time off without loss of pay until 10 consecutive hours have elapsed.

(b) If, on the instruction of the employer, such an employee resumes or continues work without having had 10 consecutive hours off duty, the employee must be paid at 200% of the relevant minimum wage for such period, calculated hourly until released from duty, and is then entitled to be absent until 10 consecutive hours off duty have expired, without loss of pay for ordinary working time occurring during such absence.

16.4 Call-back

This provision may be reviewed in [AM2014/216](#)

16.4 amended in accordance with para [221] of [2016] FWCFB 7254

(a) An employee recalled to work overtime after leaving the employer's depot, yard or garage (whether notified before or after leaving the depot, yard or garage) is to be paid for a minimum of three hours' work for the first recall and a minimum of two hours for each subsequent recall.

(b) The employee is not to be required to work the full minimum hours referred to in clause 0 if the job the employee was recalled to perform is completed within a shorter period except in the case of unforeseen circumstances.

- (c) This clause does not apply in cases where it is customary for an employee to return to the employer's premises to perform a specific job outside ordinary hours, or where the overtime is continuous (subject to a reasonable meal break) with the completion or commencement of ordinary hours.
- (d) Overtime worked under clause 0 - (c) is not to be regarded as overtime for the purposes of clause 16.3(a) where the actual time worked is less than the minimum hours.

16.5 Time off instead of payment for overtime

16.5 substituted in accordance with [PR584170](#).

- (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 16.5.
- (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 J. There is no requirement to use the form of agreement set out at Schedule J. An agreement under clause 16.5 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 16.5 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 16.5 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 16.5 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 16.5 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 16.5 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 16.5.

16A inserted in accordance with para [221] of [2016] FWCFB 7254

16A. Saturday and Sunday work

16A.1 Subject to any custom now prevailing under which employees are required regularly to hold themselves in readiness for call-back, employees required to hold themselves in readiness for work after ordinary hours are to be paid at the relevant ordinary hourly rate for all such time.

16A.2 When an employee, after having worked overtime, finishes work at a time when reasonable means of transport are not available, the employer must provide transport home or pay the employee at the relevant minimum wage calculated hourly for the time reasonably taken to return home.

16A.3 Saturday work

An employee required to work overtime on a Saturday is to be paid for at least four hours at overtime rates unless the overtime is continuous with overtime which commenced on the previous day.

16A.4 Sunday work

All time of duty on any Sunday stands alone and must be paid for at **200%** of the ordinary hourly rate with a minimum payment of four hours.

Part 6—Leave, Public Holidays and Other NES Entitlements

17. Annual leave

17 amended in accordance with [PR583096](#). (17.3 - 17.7 inserted)

17.1 Annual leave is provided for in the NES. This clause contains additional provisions.

17.2 During a period of annual leave an employee will receive a loading calculated on the wage rate prescribed in clause 10—Minimum wages of this award. Annual leave loading payment is payable on leave accrued and taken but it is not payable on leave paid out on termination.

The loading is as follows:

(a) Day work

Employees who would have worked on day work only had they not been on leave—**17.5%** or the relevant weekend penalty rates, whichever is the greater but not both.

(b) Shiftwork

Employees who would have worked on shiftwork had they not been on leave—a loading of **17.5%** or the shift loading (including relevant weekend penalty rates) whichever is the greater but not both.

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).

17.3 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 17.3 is set out at Schedule H. There is no requirement to use the form of agreement set out at Schedule H.

- (c)** The employer must keep a copy of any agreement under clause 17.3 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 17.3, 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.

17.4 Cashing out of annual leave

- (a)** Paid annual leave must not be cashed out except in accordance with an agreement under clause 17.4.
- (b)** Each cashing out of a particular amount of paid annual leave must be the subject of a separate agreement under clause 17.4.
- (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 17.4 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 17.4 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 17.4 as an employee record.

Note 1: Under section 344 of the 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 17.4.

Note 2: Under section 345(1) of the 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 17.4.

Note 3: An example of the type of agreement required by clause 17.4 is set out at Schedule I. There is no requirement to use the form of agreement set out at Schedule I.

17.5 Excessive leave accruals: general provision

Note: Clauses 17.5 to 17.7 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 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 17.6 sets out how an employer may direct an employee who has an excessive leave accrual to take paid annual leave.
- (d) Clause 17.7 sets out how an employee who has an excessive leave accrual may require an employer to grant paid annual leave requested by the employee.

17.6 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 17.5(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 17.5, 17.6 or 17.7 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 17.6(b)(i).

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

17.7 Excessive leave accruals: request by employee for leave

- (a) Clause 17.7 comes into operation from 29 July 2017.
- (b) If an employee has genuinely tried to reach agreement with an employer under clause 17.5(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 17.6(a) that, when any other paid annual leave arrangements (whether made under clause 17.5, 17.6 or 17.7 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 17.5, 17.6 or 17.7

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. The employer must grant paid annual leave requested by a notice under paragraph (b).

18. Personal/carer's leave and compassionate leave

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

19. Parental leave and related entitlements

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

20. Public holidays

20.1 Public holidays are provided for in the NES.

20.2 Where an employee works on a public holiday they will be paid in accordance with clause 20.5.

20.3 Where an employee's rostered day off falls on a public holiday, the employee is entitled, at the discretion of the employer, to either:

- (a) 7 hours and 36 minutes of pay at the appropriate minimum wage; or
- (b) 7 hours 36 minutes' extra annual leave; or
- (c) a substitute day off.

20.4 Substitution of public holidays by agreement

This provision may be reviewed in [AM2014/216](#)

The employer and the majority of employees in an enterprise may agree to substitute another day for a public holiday.

20.5 Payment for work on public holidays

- (a) All time worked by an employee on a public holiday must be paid for at the following rates, with a minimum payment of four hours:

Public holiday	% of the ordinary hourly rate	
	Weekly employee <u>Full-time or part-time employees</u>	Casual employee
Good Friday and Christmas Day	300%	325%
Public holiday other than Good Friday and Christmas Day	250%	275%

- (b) An employee required to work on a public holiday during hours which, if the day were not a public holiday, would be outside the range of ordinary working time as mentioned in ~~clause 8~~ clause 16, will be paid for all work at the following rates:

Public holiday	% of the ordinary hourly rate
Good Friday and Christmas Day	400%
Public holiday other than Good Friday and Christmas Day	350%

- (c) Where Christmas Day falls on a Saturday or Sunday and another day is observed as a public holiday in accordance with [ss.114–116](#) of the Act, a full-time worker who is regularly rostered to work ordinary hours on a Saturday or Sunday will be paid:

- (i) a loading of **50%** of the ordinary hourly rate; and
- (ii) the Saturday/Sunday rate,

for all ordinary hours worked on 25 December with a minimum of four hours pay.

- (d) An employee referred to in clause 20.5(c) will also be entitled to the substituted public holiday.

20.6 Where an employee is entitled to a public holiday but the employer requires the employee to work, the employer must notify the employee on the preceding working day. Otherwise the employee is entitled to be absent on the public holiday without deduction of pay.

20.7 Part-day public holidays

For provisions relating to part-day public holidays see Schedule F—2016 Part-day public holidays.

21. Community service leave

Community service leave is provided for in the NES.

22. Termination of employment

22.1 Notice of termination is provided for in the NES.

22.2 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 ~~money~~ 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.

22.3 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.

23. Redundancy

23.1 Redundancy pay is provided for in the NES.

23.2 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 if the employment had been terminated and the employer may, at the employer's option, make payment instead. The payment will be 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.

23.3 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.

23.4 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 22.3.

Part 7—Consultation and Dispute Resolution

24. Consultation

24.1 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 24.1(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 24.1(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.

24.2 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.

25. Dispute resolution

- 25.1** 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.
- 25.2** 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 25.1 have been taken, a party to the dispute may refer the dispute to the Fair Work Commission.
- 25.3** The parties may agree on the process to be utilised by the Fair Work Commission including mediation, conciliation and consent arbitration.
- 25.4** 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.
- 25.5** An employer or employee may appoint another person, organisation or association to accompany and/or represent them for the purposes of this clause.

25.6 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.

26. Dispute resolution training leave

26.1 An employee representative is entitled to leave with pay each calendar year, non-cumulative, to a maximum of five days per employee per year, to attend courses which are specifically directed towards effective resolution of disputes regarding industrial matters under this award and/or industrial issues which arise at the workplace. Union delegates and/or employee representatives are only entitled to leave in accordance with this clause for bona fide courses.

26.2 For the purposes of this clause, a **bona fide course** means a Dispute Resolution Training Leave Course conducted by or on behalf of a registered training organisation whose scope of registration includes industrial relations training. Nothing in this clause will prevent the employee representative and the employer from reaching agreement that such training can be provided by a union or other accredited training provider/s.

26.3 An employee representative must give the employer six weeks' notice of their intention to attend such courses and the leave to be taken, or such shorter period of notice as the employer may agree to accept.

26.4 The notice to the employer must include details of the type, content and duration of the course to be attended. Upon request, the course curriculum must be provided to the employer.

26.5 Leave is to be available according to the following scale for each yard, depot or garage of an employer:

No. of full and part-time employees covered by this award	Max. no. of employee representatives eligible to attend per year	Max. no. of days permitted per year
5–15	1	5
16–30	2	10
31–50	3	15
51–100	4	20
101 and over	5	25

26.6 An employer will not be liable for any additional expenses associated with an employee's attendance at a course other than the payment of ordinary time earnings for such absence. For the purposes of this clause ordinary time earnings are defined as the ordinary hourly rate and shiftwork loadings, where relevant, plus over award payment where applicable.

Exposure draft—Waste Management Award 2015

- 26.7** Leave of absence on training leave will be counted as service.
- 26.8** The employee must provide the employer with proof of attendance.

DRAFT

Schedule B—Summary of Hourly Rates of Pay

Rates updated as a result of AWR 2016

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

B.1 Ordinary hourly rate

Ordinary hourly rate includes the industry allowance (clause 11.2(b)) which is payable for all purposes.

B.2 Full-time and part-time employees

A.2.1 amended in accordance with para [221] of [2016] FWCFB 7254

B.2.1 Full-time and part-time employees—ordinary and penalty rates

	Ordinary hours	Public holiday	Good Friday & Christmas day
	% of ordinary hourly rate ¹		
	100%	250%	300%
	\$	\$	\$
Level 1	21.01	52.53	63.03
Level 2	21.48	53.70	64.44
Level 3	21.72	54.30	65.16
Level 4	22.08	55.20	66.24
Level 5	22.32	55.80	66.96
Level 6	22.85	57.13	68.55
Level 7	24.34	60.85	73.02
Level 8	25.44	63.60	76.32
Level 9	25.67	64.18	77.01

¹**Ordinary hourly rate** includes the industry allowance payable to all employees for all purposes.

B.2.2 Full-time and part-time shiftworkers—penalty rates

	Afternoon	Night	Saturday		Sunday
			First 2 hours	After 2 hours	
	% of ordinary hourly rate				
	117.5%	130%	150%	200%	200%
	\$	\$	\$	\$	\$
Level 1	24.69	27.31	31.52	42.02	42.02
Level 2	25.24	27.92	32.22	42.96	42.96

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	Afternoon	Night	Saturday		Sunday
			First 2 hours	After 2 hours	
% of ordinary hourly rate					
	117.5%	130%	150%	200%	200%
	\$	\$	\$	\$	\$
Level 3	25.52	28.24	32.58	43.44	43.44
Level 4	25.94	28.70	33.12	44.16	44.16
Level 5	26.23	29.02	33.48	44.64	44.64
Level 6	26.85	29.71	34.28	45.70	45.70
Level 7	28.60	31.64	36.51	48.68	48.68
Level 8	29.89	33.07	38.16	50.88	50.88
Level 9	30.16	33.37	38.51	51.34	51.34

B.2.3 Full-time and part-time employees—overtime

	Monday to Saturday		Sunday	Public holiday ¹	Good Friday & Christmas Day ¹
	First 2 hours	After 2 hours			
% of ordinary hourly rate					
	150%	200%	200%	250%	300%
	\$	\$	\$	\$	\$
Level 1	31.52	42.02	42.02	52.53	63.03
Level 2	32.22	42.96	42.96	53.70	64.44
Level 3	32.58	43.44	43.44	54.30	65.16
Level 4	33.12	44.16	44.16	55.20	66.24
Level 5	33.48	44.64	44.64	55.80	66.96
Level 6	34.28	45.70	45.70	57.13	68.55
Level 7	36.51	48.68	48.68	60.85	73.02
Level 8	38.16	50.88	50.88	63.60	76.32
Level 9	38.51	51.34	51.34	64.18	77.01

¹ Work outside ordinary hours on a public holiday (see clause 20.5)

B.3 Casual employees

B.3.1 Casual employees—ordinary and public holiday penalty rates

	Ordinary hours	Public holiday	Good Friday & Christmas day
	% of ordinary hourly rate		
	125%	275%	325%
	\$	\$	\$
Level 1	26.26	57.78	68.28
Level 2	26.85	59.07	69.81
Level 3	27.15	59.73	70.59
Level 4	27.60	60.72	71.76
Level 5	27.90	61.38	72.54
Level 6	28.56	62.84	74.26
Level 7	30.43	66.94	79.11
Level 8	31.80	69.96	82.68
Level 9	32.09	70.59	83.43

B.3.2 Casual shiftworkers—shiftwork penalty rates

	Afternoon	Night	Saturday		Sunday
			First 2 hours	After 2 hours	
	% of ordinary hourly rate				
	142.5%	155%	175%	225%	225%
	\$	\$	\$	\$	\$
Level 1	29.94	32.57	36.77	47.27	47.27
Level 2	30.61	33.29	37.59	48.33	48.33
Level 3	30.95	33.67	38.01	48.87	48.87
Level 4	31.46	34.22	38.64	49.68	49.68
Level 5	31.81	34.60	39.06	50.22	50.22
Level 6	32.56	35.42	39.99	51.41	51.41
Level 7	34.68	37.73	42.60	54.77	54.77
Level 8	36.25	39.43	44.52	57.24	57.24
Level 9	36.58	39.79	44.92	57.76	57.76

Schedule C—Summary of Monetary Allowances

Monetary amounts in this clause adjusted as a result of AWR 2016

See clause 11 for full details of allowances payable under this award.

C.1 Wage related allowances

The wage related allowances in this award are based on the standard rate as defined in Schedule A as the minimum weekly wage for Level 6 in clause 10.1 = \$782.40

Allowance	Clause	% of standard rate \$782.40	\$ per week unless stated otherwise
Industry allowance ¹	11.2(b)	11.0	86.06
Leading hand in charge of	11.2(c)		
4 to 8 employees		2.7	21.12
9 to 15 employees		4.0	31.30
More than 15 employees		5.5	43.03
Boat allowance	11.2(d)	4.4	34.43
First aid allowance	11.2(e)	0.5	3.91 per day
¹ This allowance applies for all purposes of this award			

C.1.1 Adjustment of wage related allowances

Wage related allowances are adjusted in accordance with increases to wages and are based on a percentage of the standard rate as specified.

C.2 Expense related allowances

The expense related allowances in this award will be payable to employees in accordance with clause 11.3:

Allowance	Clause	\$
Meal allowance	11.3(a)	15.74 per occasion
Transport allowance	11.3(b)	8.28 per day

C.2.1 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.

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- (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
Meal allowance	Take away and fast foods sub-group
Transport allowance	Transport group

DRAFT

Schedule D—Supported Wage System

Schedule C updated in accordance with [PR581528](#)

D.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.

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

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

D.3 Eligibility criteria

D.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.

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 applicable percentage of the relevant minimum wage according to the following schedule:

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

D.4.2 Provided that the minimum amount payable must be not less than \$82 per week.

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

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 union which the employee is eligible to join.

D.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.

D.6 Lodgement of SWS wage assessment agreement

D.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.

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 certified mail 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

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.

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 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.

D.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.

D.10 Trial period

- D.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.
- D.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.
- D.10.3** The minimum amount payable to the employee during the trial period must be no less than \$82 per week.
- D.10.4** Work trials should include induction or training as appropriate to the job being trialled.
- D.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 D.5.

Schedule E—National Training Wage

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

Rates updated in accordance with AWR 2016

E.1 Title

This is the *National Training Wage Schedule*.

E.2 Definitions

In this schedule:

adult trainee is a trainee who would qualify for the highest minimum wage in Wage Level A, B or C if covered by that wage level

approved training means the training specified in the training contract

Australian Qualifications Framework (AQF) is a national framework for qualifications in post-compulsory education and training

out of school refers only to periods out of school beyond Year 10 as at the first of January in each year and is deemed to:

- (a) include any period of schooling beyond Year 10 which was not part of or did not contribute to a completed year of schooling;
- (b) include any period during which a trainee repeats in whole or part a year of schooling beyond Year 10; and
- (c) not include any period during a calendar year in which a year of schooling is completed

relevant State or Territory training authority means the bodies in the relevant State or Territory which exercise approval powers in relation to traineeships and register training contracts under the relevant State or Territory vocational education and training legislation

relevant State or Territory vocational education and training legislation means the following or any successor legislation:

Australian Capital Territory: *Training and Tertiary Education Act 2003*;

New South Wales: *Apprenticeship and Traineeship Act 2001*;

Northern Territory: *Northern Territory Employment and Training Act 1991*;

Queensland: *Vocational Education, Training and Employment Act 2000*;

South Australia: *Training and Skills Development Act 2008*;

Tasmania: *Vocational Education and Training Act 1994*;

Victoria: *Education and Training Reform Act 2006*; or

Western Australia: *Vocational Education and Training Act 1996*

trainee is an employee undertaking a traineeship under a training contract

traineeship means a system of training which has been approved by the relevant State or Territory training authority, which meets the requirements of a training package developed by the relevant Industry Skills Council and endorsed by the National Quality Council, and which leads to an AQF certificate level qualification

training contract means an agreement for a traineeship made between an employer and an employee which is registered with the relevant State or Territory training authority

training package means the competency standards and associated assessment guidelines for an AQF certificate level qualification which have been endorsed for an industry or enterprise by the National Quality Council and placed on the National Training Information Service with the approval of the Commonwealth, State and Territory Ministers responsible for vocational education and training, and includes any relevant replacement training package

year 10 includes any year before Year 10

E.3 Coverage

- E.3.1** Subject to clauses E.3.2 to E.3.6 of this schedule, this schedule applies in respect of an employee covered by this award who is undertaking a traineeship whose training package and AQF certificate level is allocated to a wage level by clause E.7 to this schedule or by clause E.5.4 of this schedule.
- E.3.2** This schedule only applies to AQF Certificate Level IV traineeships for which a relevant AQF Certificate Level III traineeship is listed in clause E.7 to this schedule.
- E.3.3** This schedule does not apply to:
- (a) the apprenticeship system;
 - (b) qualifications not identified in training packages; or
 - (c) qualifications in training packages which are not identified as appropriate for a traineeship.
- E.3.4** This schedule does not apply to qualifications not identified in training packages or to qualifications in training packages which are not identified as appropriate for a traineeship.
- E.3.5** Where the terms and conditions of this schedule conflict with other terms and conditions of this award dealing with traineeships, the other terms and conditions of this award prevail.
- E.3.6** At the conclusion of the traineeship, this schedule ceases to apply to the employee.

E.4 Types of Traineeship

The following types of traineeship are available under this schedule:

- E.4.1** a full-time traineeship based on 38 ordinary hours per week, with 20% of ordinary hours being approved training; and
- E.4.2** a part-time traineeship based on less than 38 ordinary hours per week, with 20% of ordinary hours being approved training solely on-the-job or partly on-the-job and partly off-the-job, or where training is fully off-the-job.

E.5 Minimum Wages

E.5.1 Minimum wages for full-time traineeships

(a) Wage Level A

Subject to clause E.5.3 of this schedule, the minimum wages for a trainee undertaking a full-time AQF Certificate Level I–III traineeship whose training package and AQF certificate levels are allocated to Wage Level A by clause E.7.1 are:

	Highest year of schooling completed		
	Year 10	Year 11	Year 12
	per week	per week	per week
	\$	\$	\$
School leaver	302.20	332.80	396.50
Plus 1 year out of school	332.80	396.50	461.40
Plus 2 years out of school	396.50	461.40	537.00
Plus 3 years out of school	461.40	537.00	614.80
Plus 4 years out of school	537.00	614.80	
Plus 5 or more years out of school	614.80		

(b) Wage Level B

Subject to clause E.5.3 of this schedule, the minimum wages for a trainee undertaking a full-time AQF Certificate Level I–III traineeship whose training package and AQF certificate levels are allocated to Wage Level B by clause E.7.2 are:

	Highest year of schooling completed		
	Year 10	Year 11	Year 12
	per week	Per week	per week
	\$	\$	\$
School leaver	302.20	332.80	385.80
Plus 1 year out of school	332.80	385.80	443.80
Plus 2 years out of school	385.80	443.80	520.40
Plus 3 years out of school	443.80	520.40	593.60

	Highest year of schooling completed		
	Year 10	Year 11	Year 12
	per week	Per week	per week
	\$	\$	\$
Plus 4 years out of school	520.40	593.60	
Plus 5 or more years out of school	593.60		

(c) Wage Level C

Subject to clause E.5.3 of this schedule, the minimum wages for a trainee undertaking a full-time AQF Certificate Level I–III traineeship whose training package and AQF certificate levels are allocated to Wage Level C by clause E.7.3 are:

	Highest year of schooling completed		
	Year 10	Year 11	Year 12
	per week	per week	per week
	\$	\$	\$
School leaver	302.20	332.80	385.80
Plus 1 year out of school	332.80	385.80	434.30
Plus 2 years out of school	385.80	434.30	485.20
Plus 3 years out of school	434.30	485.20	540.60
Plus 4 years out of school	485.20	540.60	
Plus 5 or more years out of school	540.60		

(d) AQF Certificate Level IV traineeships

(i) Subject to clause E.5.3 of this schedule, the minimum wages for a trainee undertaking a full-time AQF Certificate Level IV traineeship are the minimum wages for the relevant full-time AQF Certificate Level III traineeship with the addition of 3.8% to those minimum wages.

(ii) Subject to clause E.5.3 of this schedule, the minimum wages for an adult trainee undertaking a full-time AQF Certificate Level IV traineeship are as follows, provided that the relevant wage level is that for the relevant AQF Certificate Level III traineeship:

Wage level	First year of traineeship	Second and subsequent years of traineeship
	per week	per week
	\$	\$
Wage Level A	638.50	663.20
Wage Level B	616.00	639.70
Wage Level C	560.60	581.80

E.5.2 Minimum wages for part-time traineeships

(a) Wage Level A

Subject to clauses E.5.2(f) and E.5.3 of this schedule, the minimum wages for a trainee undertaking a part-time AQF Certificate Level I–III traineeship whose training package and AQF certificate levels are allocated to Wage Level A by clause E.7.1 are:

	Highest year of schooling completed		
	Year 10	Year 11	Year 12
	per hour	per hour	per hour
	\$	\$	\$
School leaver	9.94	10.96	13.05
Plus 1 year out of school	10.96	13.05	15.19
Plus 2 years out of school	13.05	15.19	17.66
Plus 3 years out of school	15.19	17.66	20.21
Plus 4 years out of school	17.66	20.21	
Plus 5 or more years out of school	20.21		

(b) Wage Level B

Subject to clauses E.5.2(f) and E.5.3 of this schedule, the minimum wages for a trainee undertaking a part-time AQF Certificate Level I–III traineeship whose training package and AQF certificate levels are allocated to Wage Level B by clause E.7.2 are:

	Highest year of schooling completed		
	Year 10	Year 11	Year 12
	per hour	per hour	per hour
	\$	\$	\$
School leaver	9.94	10.96	12.70
Plus 1 year out of school	10.96	12.70	14.60
Plus 2 years out of school	12.70	14.60	17.13
Plus 3 years out of school	14.60	17.13	19.54
Plus 4 years out of school	17.13	19.54	
Plus 5 or more years out of school	19.54		

(c) Wage Level C

Subject to clauses E.5.2(f) and E.5.3 of this schedule, the minimum wages for a trainee undertaking a part-time AQF Certificate Level I–III traineeship whose training package and AQF certificate levels are allocated to Wage Level C by clause E.7.3 are:

	Highest year of schooling completed		
	Year 10	Year 11	Year 12
	per hour	per hour	per hour
	\$	\$	\$
School leaver	9.94	10.96	12.70
Plus 1 year out of school	10.96	12.70	14.28
Plus 2 years out of school	12.70	14.28	15.95
Plus 3 years out of school	14.28	15.95	17.78
Plus 4 years out of school	15.95	17.78	
Plus 5 or more years out of school	17.78		

(d) School-based traineeships

Subject to clauses E.5.2(f) and E.5.3 of this schedule, the minimum wages for a trainee undertaking a school-based AQF Certificate Level I–III traineeship whose training package and AQF certificate levels are allocated to Wage Levels A, B or C by clause E.7 are as follows when the trainee works ordinary hours:

Year of schooling	
Year 11 or lower	Year 12
per hour	per hour
\$	\$
9.94	10.96

(e) AQF Certificate Level IV traineeships

(i) Subject to clauses E.5.2(f) and E.5.3 of this schedule, the minimum wages for a trainee undertaking a part-time AQF Certificate Level IV traineeship are the minimum wages for the relevant part-time AQF Certificate Level III traineeship with the addition of 3.8% to those minimum wages.

(ii) Subject to clauses E.5.2(f) and E.5.3 of this schedule, the minimum wages for an adult trainee undertaking a part-time AQF Certificate Level IV traineeship are as follows, provided that the relevant wage level is that for the relevant AQF Certificate Level III traineeship:

Wage level	First year of traineeship	Second and subsequent years of traineeship
	per hour	per hour
	\$	\$
Wage Level A	21.00	21.82
Wage Level B	20.24	21.03
Wage Level C	18.44	19.15

(f) Calculating the actual minimum wage

- (i) Where the full-time ordinary hours of work are not 38 or an average of 38 per week, the appropriate hourly minimum wage is obtained by multiplying the relevant minimum wage in clauses E.5.2(a)–(e) of this schedule by 38 and then dividing the figure obtained by the full-time ordinary hours of work per week.
- (ii) Where the approved training for a part-time traineeship is provided fully off-the-job by a registered training organisation, for example at school or at TAFE, the relevant minimum wage in clauses E.5.2(a)–(e) of this schedule applies to each ordinary hour worked by the trainee.
- (iii) Where the approved training for a part-time traineeship is undertaken solely on-the-job or partly on-the-job and partly off-the-job, the relevant minimum wage in clauses E.5.2(a)–(e) of this schedule minus 20% applies to each ordinary hour worked by the trainee.

E.5.3 Other minimum wage provisions

- (a) An employee who was employed by an employer immediately prior to becoming a trainee with that employer must not suffer a reduction in their minimum wage per week or per hour by virtue of becoming a trainee. Casual loadings will be disregarded when determining whether the employee has suffered a reduction in their minimum wage.
- (b) If a qualification is converted from an AQF Certificate Level II to an AQF Certificate Level III traineeship, or from an AQF Certificate Level III to an AQF Certificate Level IV traineeship, then the trainee must be paid the next highest minimum wage provided in this schedule, where a higher minimum wage is provided for the new AQF certificate level.

E.5.4 Default wage rate

The minimum wage for a trainee undertaking an AQF Certificate Level I–III traineeship whose training package and AQF certificate level are not allocated to a wage level by clause E.7 is the relevant minimum wage under this schedule for a trainee undertaking an AQF Certificate to Level I–III traineeship whose training package and AQF certificate level are allocated to Wage Level B.

E.6 Employment conditions

- E.6.1** A trainee undertaking a school-based traineeship may, with the agreement of the trainee, be paid an additional loading of 25% on all ordinary hours worked instead of paid annual leave, paid personal/carer's leave and paid absence on public holidays, provided that where the trainee works on a public holiday then the public holiday provisions of this award apply.
- E.6.2** A trainee is entitled to be released from work without loss of continuity of employment and to payment of the appropriate wages to attend any training and assessment specified in, or associated with, the training contract.
- E.6.3** Time spent by a trainee, other than a trainee undertaking a school-based traineeship, in attending any training and assessment specified in, or associated with, the training

contract is to be regarded as time worked for the employer for the purposes of calculating the trainee’s wages and determining the trainee’s employment conditions.

Note: The time to be included for the purpose of calculating the wages for part-time trainees whose approved training is fully off-the-job is determined by clause E.5.2(f)(ii) and not by this clause.

E.6.4 Subject to clause E.3.5 of this schedule, all other terms and conditions of this award apply to a trainee unless specifically varied by this schedule.

E.7 Allocation of Traineeships to Wage Levels

The wage levels applying to training packages and their AQF certificate levels are:

E.7.1 Wage Level A

Training package	AQF certificate level
Aeroskills	II
Aviation	I, II, III
Beauty	III
Business Services	I, II, III
Chemical, Hydrocarbons and Refining	I, II, III
Civil Construction	III
Coal Training Package	II, III
Community Services	II, III
Construction, Plumbing and Services Integrated Framework	I, II, III
Correctional Services	II, III
Drilling	II, III
Electricity Supply Industry—Generation Sector	II, III (III in Western Australia only)
Electricity Supply Industry—Transmission, Distribution and Rail Sector	II
Electrotechnology	I, II, III (III in Western Australia only)
Financial Services	I, II, III
Floristry	III
Food Processing Industry	III
Gas Industry	III
Information and Communications Technology	I, II, III
Laboratory Operations	II, III
Local Government (other than Operational Works Cert I and II)	I, II, III

Training package	AQF certificate level
Manufactured Mineral Products	III
Manufacturing	I, II, III
Maritime	I, II, III
Metal and Engineering (Technical)	II, III
Metalliferous Mining	II, III
Museum, Library and Library/Information Services	II, III
Plastics, Rubber and Cablemaking	III
Public Safety	III
Public Sector	II, III
Pulp and Paper Manufacturing Industries	III
Retail Services (including wholesale and Community pharmacy)	III
Telecommunications	II, III
Textiles, Clothing and Footwear	III
Tourism, Hospitality and Events	I, II, III
Training and Assessment	III
Transport and Distribution	III
Water Industry (Utilities)	III

E.7.2 Wage Level B

Training package	AQF certificate level
Animal Care and Management	I, II, III
Asset Maintenance	I, II, III
Australian Meat Industry	I, II, III
Automotive Industry Manufacturing	II, III
Automotive Industry Retail, Service and Repair	I, II, III
Beauty	II
Caravan Industry	II, III
Civil Construction	I
Community Recreation Industry	III
Entertainment	I, II, III
Extractive Industries	II, III
Fitness Industry	III
Floristry	II

Training package	AQF certificate level
Food Processing Industry	I, II
Forest and Forest Products Industry	I, II, III
Furnishing	I, II, III
Gas Industry	I, II
Health	II, III
Local Government (Operational Works)	I, II
Manufactured Mineral Products	I, II
Metal and Engineering (Production)	II, III
Outdoor Recreation Industry	I, II, III
Plastics, Rubber and Cablemaking	II
Printing and Graphic Arts	II, III
Property Services	I, II, III
Public Safety	I, II
Pulp and Paper Manufacturing Industries	I, II
Retail Services	I, II
Screen and Media	I, II, III
Sport Industry	II, III
Sugar Milling	I, II, III
Textiles, Clothing and Footwear	I, II
Transport and Logistics	I, II
Visual Arts, Craft and Design	I, II, III
Water Industry	I, II

E.7.3 Wage Level C

Training package	AQF certificate level
Agri-Food	I
Amenity Horticulture	I, II, III
Conservation and Land Management	I, II, III
Funeral Services	I, II, III
Music	I, II, III
Racing Industry	I, II, III
Rural Production	I, II, III
Seafood Industry	I, II, III

Schedule F—2016 Part-day public holidays

This provision is being reviewed in [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.

F.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 F.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 F.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.

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

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

DRAFT

Schedule G—Definitions

In this award, unless the contrary intention appears:

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

all purposes means the payment will be included in the rate of pay of an employee who is entitled to the allowance, when calculating any penalties or loadings or payment while they are on leave or payment while they are on annual leave (see clause 11.2(b))

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)

fatigue management regulations means the fatigue management regulations made by the National Transport Commission from time to time

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

ordinary hourly rate means the hourly rate for an employee's classification specified in clause 10.1, inclusive of the industry allowance

standard rate means the minimum weekly wage for Level 6 in clause 10.1

waste management industry means the collection, transportation, handling, recycling and disposal of any waste material whatsoever (be it solid or liquid, organic, biological, medical, raw or natural, wholly or partly manufactured, decomposed or partly decomposed or in any other state or form and including all domestic, trade and industrial waste) and includes the operation of transfer stations, landfill sites, incinerators, recycling depots, yards or terminals, treatment plants, compost facilities, alternative waste treatment facilities and the operation of other facilities of the same kind

Schedule H—Agreement to Take Annual Leave in Advance

Schedule G—Agreement to Take Annual Leave in Advance inserted in accordance with [PR583096](#)

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 I—Agreement to Cash Out Annual Leave

Schedule H—Agreement to Cash Out Annual Leave inserted in accordance with [PR583096](#)

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 J—Agreement for time off instead of payment for overtime

Schedule I— Agreement for time off instead of payment for overtime inserted in accordance with [PR584170](#).

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___