

The Cotton Ginning Award—Exposure Draft was first published on 5 September 2014. Subsequent amendments to the draft are as follows:

Publication date	Reason for amendments	Clauses affected
13 February 2019	Incorporates change resulting from PR582992	23
	Incorporates changes resulting from [2017] FWCFB 3176, PR593819	17, Schedule D
	Incorporates changes resulting from [2017] FWCFB 3433	1.2, 4.1, 31, Schedule E
	Incorporates changes resulting from [2015] FWCFB 6656	1.5 (deleted)
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	Incorporates changes resulting from [2018] FWCFB 3936, PR609341	19A
	Incorporates changes resulting from [2018] FWCFB 4695, PR700651	11.4
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	Incorporates changes resulting from [2018] FWCFB 6863, PR701420	6
	Administrative changes by Modern Awards team	10.2 (deleted), 18
	Incorporate changes resulting from [2015] FWCFB 4658	18
	Incorporates changes resulting from [2018] FWCFB 4735, PR610055	18
	Incorporates changes resulting from [2018] FWCFB 4704 and PR610185	5, 32, 29, 30, 31
	Incorporates changes resulting from [2018] FWCFB 1548	7.2
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2 September 2019	Incorporating A clauses into the numbering of the exposure draft	6, 18, 30
	Incorporating changes resulting from [2015] FWCFB 4658 at [57]	19
	Incorporating changes resulting from [2019] FWCFB 1333 at [35]	1.5 (deleted)
	Incorporating changes resulting from [2019] FWCFB 2548, PR706942	33
	Incorporating changes resulting from AWR	17.1, 19.2(b)(i), 19.2(c),

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Publication date	Reason for amendments	Clauses affected
	2018–19 Decision [2019] FWCFB 3500 , PR707434 , PR707631 , PR709080	19.2(d), 19.2(e), 19.2(f)(i), Schedule A—Summary of Hourly Rates of Pay, Schedule B—Summary of Monetary Allowances, Schedule C—Supported Wage System
	Incorporating changes resulting from [2019] FWCFB 5144	27
	Administrative changes made by Modern Awards team to the document structure and Part and clause titles in accordance with [2019] FWCFB 5409 at [6] and Attachment A	Part 1—, 1.4 (deleted), 2, 4.2, 4.3, 4.4, 7.2, 8.1, 8.2, 9, 10, 11, 12, 14, 15, 17, 17.1, 17.4, 19, 19.1, 19.2(c), Part 5—, 21, 21.2, 21.4, Part 6—, 23, 23.2, 23.4, 23.5, 26, 27, Part 8—, 32, 33, Schedule A, Schedule B, Schedule D, Schedule E—National Training Wage (deleted), Schedule F—Definitions (moved)
	Incorporating changes resulting from [2019] FWCFB 5409	4.2, 4.3

EXPOSURE DRAFT

Cotton Ginning Award 20XX

This exposure draft has been prepared by staff of the Fair Work Commission based on the *Cotton Ginning Award 2010* (the Cotton Ginning award) as at 5 September 2014 and incorporates award updates up to 20 June 2019. This exposure draft does not seek to amend any entitlements under the Cotton Ginning award. Instead, it has been prepared to address some of the structural issues identified in modern awards and to apply plain language drafting principles and techniques.

The review of this award in accordance with section 156 of the *Fair Work Act 2009* is being dealt with in matter [AM2014/71](#). Additionally a number of common issues are being dealt with by the Commission which may affect this award. Some transitional provisions have been deleted as a result of decisions made during 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 of this Award

1. Title and commencement

Clause 1.4 deleted as a result of re-structure [2019] FWCFB 5409 at [6]. Clause 1.5 deleted in accordance with [2019] FWCFB 1333 at [35].

- 1.1 This award is the Cotton Ginning Award 20XX.
- 1.2 This modern award commenced operation on 1 January 2010. The terms of the award have been varied since that date.
- 1.3 A variation to this award does not affect any right, privilege, obligation or liability that a person acquired, accrued or incurred under the award as it existed prior to that variation.
- ~~1.4 Schedule E—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. 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 annual leave (see clause 19.2(a))

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)

leading hand means an employee who is required to supervise, direct or be in charge of another employee or employees

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

NES means the National Employment Standards as contained in ss.59 to 131 of the [Act](#)

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 the employee's classification specified in clause 17—Minimum rates, inclusive of the industry allowance. Where an employee is entitled to an additional all purpose allowance, this allowance forms part of that employee's ordinary hourly rate

standard rate means the minimum hourly base rate for classification level CG2 in clause 17.1

3. The National Employment Standards and this award

- 3.1 The [National Employment Standards](#) (NES) and this award contain the minimum conditions of employment for employees covered by this award.
- 3.2 Where this award refers to a condition of employment provided for in the [NES](#), the [NES](#) definition applies.
- 3.3 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.

4. Coverage

Clause 4.2 and 4.3 amended in accordance with [\[2019\] FWCFB 5409](#) at [118].

- 4.1 This industry award covers employers throughout Australia operating cotton ginneries and their employees in the classifications listed in clause 13—Classifications.
- 4.2 This award covers any employer which supplies labour on an on-hire basis in the [cotton ginning](#) industry ~~set out in clause 4.1~~ 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~~ Clause 4.2 operates subject to the exclusions from coverage in this award.
- 4.3 This award covers employers which provide group training services for trainees engaged in the [cotton ginning](#) industry and/or parts of [the cotton ginning](#) industry ~~set out in clause 4.1~~ and those trainees engaged by a group training service hosted by a company to perform work at a location where the activities described in clause 4.1 are being performed. ~~This subclause~~ Clause 4.3 operates subject to the exclusions from coverage in this award.
- 4.4 This award does not cover:
- (a) an employee excluded from award coverage by 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.

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

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.

5. Individual flexibility arrangements

5.1 Despite anything else in this award, an employer and an individual employee may agree to vary the application of the terms of this award relating to any of the following in order to meet the genuine needs of both the employee and the employer:

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

5.2 An agreement must be one that is genuinely made by the employer and the individual employee without coercion or duress.

5.3 An agreement may only be made after the individual employee has commenced employment with the employer.

5.4 An employer who wishes to initiate the making of an agreement must:

- (a) give the employee a written proposal; and
- (b) if the employer is aware that the employee has, or reasonably should be aware that the employee may have, limited understanding of written English, take reasonable steps (including providing a translation in an appropriate language) to ensure that the employee understands the proposal.

5.5 An agreement must result in the employee being better off overall at the time the agreement is made than if the agreement had not been made.

5.6 An agreement must do all of the following:

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- (a) state the names of the employer and the employee; and
- (b) identify the award term, or award terms, the application of which is to be varied; and
- (c) set out how the application of the award term, or each award term, is varied; and
- (d) set out how the agreement results in the employee being better off overall at the time the agreement is made than if the agreement had not been made; and
- (e) state the date the agreement is to start.

5.7 An agreement must be:

- (a) in writing; and
- (b) signed by the employer and the employee and, if the employee is under 18 years of age, by the employee's parent or guardian.

5.8 Except as provided in clause 5.7(b), an agreement must not require the approval or consent of a person other than the employer and the employee.

5.9 The employer must keep the agreement as a time and wages record and give a copy to the employee.

5.10 The employer and the employee must genuinely agree, without duress or coercion to any variation of an award provided for by an agreement.

5.11 An agreement may be terminated:

- (a) at any time, by written agreement between the employer and the employee; or
- (b) by the employer or employee giving 13 weeks' written notice to the other party (reduced to 4 weeks if the agreement was entered into before the first full pay period starting on or after 4 December 2013).

NOTE: If an employer and employee agree to an arrangement that purports to be an individual flexibility arrangement under this award term and the arrangement does not meet a requirement set out in section 144 then the employee or the employer may terminate the arrangement by giving written notice of not more than 28 days (see section 145 of the [Act](#)).

5.12 An agreement terminated as mentioned in clause 5.11(b) ceases to have effect at the end of the period of notice required under that clause.

5.13 The right to make an agreement under clause 5 is additional to, and does not affect, any other term of this award that provides for an agreement between an employer and an individual employee.

6. Requests for flexible working arrangements

6.1 Employee may request change in working arrangements

Clause 6 applies where an employee has made a request for a change in working arrangements under section 65 of the [Act](#).

NOTE 1: Section 65 of the [Act](#) provides for certain employees to request a change in their working arrangements because of their circumstances, as set out in section 65(1A). Clause 6 supplements or deals with matters incidental to the [NES](#) provisions.

NOTE 2: An employer may only refuse a section 65 request for a change in working arrangements on 'reasonable business grounds' (see section 65(5) and (5A)).

NOTE 3: Clause 6 is an addition to section 65.

6.2 Responding to the request

Before responding to a request made under section 65, the employer must discuss the request with the employee and genuinely try to reach agreement on a change in working arrangements that will reasonably accommodate the employee's circumstances having regard to:

- (a) the needs of the employee arising from their circumstances;
- (b) the consequences for the employee if changes in working arrangements are not made; and
- (c) any reasonable business grounds for refusing the request.

NOTE 1: The employer must give the employee a written response to an employee's section 65 request within 21 days, stating whether the employer grants or refuses the request (section 65(4)).

NOTE 2: If the employer refuses the request, then the written response must include details of the reasons for the refusal (section 65(6)).

6.3 What the written response must include if the employer refuses the request

- (a) Clause 6.3 applies if the employer refuses the request and has not reached an agreement with the employee under clause 6.2.
- (b) The written response under section 65(4) must include details of the reasons for the refusal, including the business ground or grounds for the refusal and how the ground or grounds apply.
- (c) If the employer and employee could not agree on a change in working arrangements under clause 6.2, then the written response under section 65(4) must:
 - (i) state whether or not there are any changes in working arrangements that the employer can offer the employee so as to better accommodate the employee's circumstances; and

- (ii) if the employer can offer the employee such changes in working arrangements, set out those changes in working arrangements.

6.4 What the written response must include if a different change in working arrangements is agreed

If the employer and the employee reached an agreement under clause 6.2 on a change in working arrangements that differs from that initially requested by the employee, then the employer must provide the employee with a written response to their request setting out the agreed change(s) in working arrangements.

6.5 Dispute resolution

Disputes about whether the employer has discussed the request with the employee and responded to the request in the way required by clause 6, can be dealt with under clause 31—Dispute resolution.

7. Facilitative provisions

7.1 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.

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

Clause	Provision	Agreement between an employer and:
11.3	Payment to casual employees	An individual
16.2(b)	Paid rest breaks—day workers	The majority of employees
18	Payment of wages	The majority of employees
21.4	Time off instead of payment for overtime	An individual
23.3	Annual leave in advance	An individual
23.4	Cashing out of annual leave	An individual

Part 2—Types of Employment and Classifications

8. Types of employment

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

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

(d) seasonal.

8.2 At the time of engagement, an employer must advise each employee, other than casuals, in writing whether they are to be full-time, part-time or seasonal.

9. Full-time employees

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

10. Part-time employees

10.1 A part-time employee:

- (a) is engaged to work an average of less than 38 ordinary hours per week;
- (b) receives, on a pro rata basis, equivalent pay and conditions to those of full-time employees who do the same kind of work; and
- (c) is paid no less than the hourly rate for the relevant classification.

10.2 An employer must inform a part-time employee of their ordinary hours of work and starting and finishing times.

10.3 All time worked in excess of the part-time employee's mutually agreed ordinary hours will be overtime and paid for in accordance with clause 21—Overtime.

11. Casual employees

11.1 A casual employee is engaged and paid on an hourly basis.

11.2 Casual loading

- (a) 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.
- (b) In the case of a penalty rate and loading applying, the casual employee will only receive the penalty rate and not the loading. Further, in the case of more than one loading applying, a casual employee will receive only one loading and, where loadings are at a different rate, casual employees will receive the loading at the greater rate.

11.3 Casual work may, by mutual agreement, be paid for on the employer's normal pay day or on completion of each engagement. Casual employees will be paid during ordinary working hours.

11.4 A casual employee must be engaged and paid for at least 2 consecutive hours of work on each occasion they are required to attend work.

11.5 Casual conversion

This clause has been referred to the Plain language Full Bench, see [\[2018\] FWCFB 5602](#) at [20].

(a) Eligible casual employee

- (i) An **eligible casual employee** is a casual employee:
- who works on a regular and systematic basis;
 - who is employed for a sequence of periods under this award over 12 months; and
 - whose employment is to continue beyond the period of 12 months.
- (ii) An eligible casual employee has the right, after 12 months, to elect to have their contract of employment converted to full-time or part-time employment.

(b) Notice and election of casual conversion

- (i) An employer of an eligible casual employee will give the employee notice in writing of the provisions of clause 11.5 within ~~four~~4 weeks of the employee having reached the 12 month period.
- (ii) The employee retains their right of election under clause 11.5(b) if the employer fails to comply with clause 11.5(b)(i).
- (iii) An eligible casual employee may give ~~four~~4 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 11.5(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~~4 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 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.
- (iii) However, the employer and the employee may agree on an alternative arrangement.

- (iv) If a casual employee has elected to have their contract of employment converted to full-time or part-time employment in accordance with clause 11.5(c), the employer and employee must, subject to clause 11.5(c), discuss and agree on:
- whether the employee will convert to full-time or part-time employment; 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 10—Part-time .
- (v) Following agreement being reached, the employee converts to full-time or part-time employment.
- (d) **Employer consent or refusal to casual conversion**
- (i) The employer must consent to or refuse the election within ~~four~~ 4 weeks of receiving notice of the eligible casual employee's election. The employer must not unreasonably refuse consent to the election.
- (ii) Where an employer refuses an election to convert, the reasons for doing so must be fully stated and discussed with the employee concerned and a genuine attempt made to reach agreement.
- (iii) After an employee has converted to a full-time or part-time employee, they may only revert to casual employment by written agreement with the employer.
- (e) An employee must not be engaged and re-engaged, dismissed or replaced in order to avoid any obligation under this award.
- (f) Any dispute about the arrangements that apply to an employee converting from casual employment to full-time or part-time employment will be dealt with under clause 31—Dispute resolution.

12. Seasonal employees

A **seasonal employee** means an employee who is engaged from time to time to supplement the permanent workforce. Upon termination of employment, such employees will be entitled to payment of an amount equal to the value of the pro rata accumulation of benefits of a full-time employee for the period of the seasonal employment.

13. Classifications

13.1 Cotton ginning employee level 1 (CG1)

Employees at this level:

- (a) are general workers involved in the cleaning of the yard and gin, general delivery work or manual labour; and

- (b) require minimal training or experience to competently function in the role.

13.2 Cotton ginning employee level 2 (CG2)

Employees at this level:

- (a) are workers who are in charge of operating a piece of machinery (mobile plant or gin machinery) where greater OH&S considerations exist compared with CG1 roles; and
- (b) may require external tickets or internal assessment before operating this kind of machinery, excluding the requirement of a standard driver's licence.

13.3 Cotton ginning employee level 3 (CG3)

Employees at this level:

- (a) are machine operators (as per CG2) with ~~two~~2 or more seasons of experience at CG2 within the cotton industry including returning seasonal employees; or
- (b) are assistant/trainee ginners who are required to understand the use of and assist with the maintenance of the gin equipment and do not possess Certificate III in Ginning or equivalent experience.

13.4 Cotton ginning employee level 4 (CG4)

Employees at this level:

- (a) are weighbridge operators;
- (b) are assistant ginners who have completed the Certificate III in Ginning or possess the equivalent experience; or
- (c) are experienced and/or qualified maintenance people operating gin equipment.

13.5 Cotton ginning employee level 5 (CG5)

Employees at this level:

- (a) are ginners who are responsible for the operation of the gin; and
- (b) may supervise and run a team of employees.

Part 3—Hours of Work

14. Ordinary hours of work

14.1 Ordinary hours—day workers

- (a) Ordinary hours for day workers are worked in ~~five~~5 days each week between 6.00 am and 8.00 pm, Monday to Friday.
- (b) The ordinary hours of work must not exceed 38 hours per week worked in accordance with clause 14.1(c).

- (c) The ordinary hours of day work will be determined by the employer. They will be worked on either of the following bases:
 - (i) not to exceed ~~seven-7~~ hours and 36 minutes continuous per day; or
 - (ii) not to exceed ~~eight-8~~ hours continuous per day, provided that 24 minutes of that time will accrue toward a rostered day off (RDO).
- (d) All work done in excess of ordinary hours will be overtime and paid in accordance with clause 21—Overtime.
- (e) The ordinary hours of work for a part-time employee will be in accordance with clause 8—Types of employment.

14.2 Ordinary hours—night workers

- (a) Ordinary hours for night workers are worked in ~~five-5~~ nights each week between 6.00 pm and 8.00 am, Monday to Friday.
- (b) The ordinary hours of night work must not exceed 38 hours per week worked in accordance with clause 14.2(d).
- (c) The ordinary hours of work for a part-time employee will be in accordance with clause 8—Types of employment.
- (d) The ordinary hours of night work will be determined by the employer. They will be worked on either of the following bases:
 - (i) ~~seven-7~~ hours and 36 minutes continuous per night; or
 - (ii) ~~eight-8~~ hours continuous per night, provided 24 minutes of that time accrues toward a rostered day off.
- (e) All time worked in excess of ordinary hours will be overtime and paid in accordance with clause 21—Overtime.
- (f) Night work on Saturday or Sunday will be overtime and paid in accordance with clause 21—Overtime.

15. Rostering arrangements

15.1 Rostered days off

- (a) An employer may operate a system where rostered days off (RDOs) are accumulated, and paid at the ordinary rates when taken based on the following provisions:
 - (i) RDOs may be accrued on a time for time basis (not penalty rates). For example, one hour accrues for every additional hour worked;
 - (ii) RDOs may be taken from Monday to Friday;
 - (iii) RDOs may accumulate;
 - (iv) RDOs may be taken up to a maximum of ~~five-5~~ consecutive days; and

- (v) the RDO must be rostered as an RDO and agreed by the employer.
- (b) An employer must not require an employee to work on an RDO unless:
 - (i) the employer gives a clear ~~seven~~-7 days' notice and provides an alternative day within the next 20 working days or otherwise entitles that employee to accumulate the RDO;
 - (ii) where the employer fails to provide ~~seven~~-7 days' notice for whatever reason, the employee will be paid at overtime rates for all time worked on the RDO.
- (c) An employer will not require an RDO to be taken on a Saturday or Sunday or on a public holiday.
- (d) An RDO will be regarded as a day worked for accrual purposes.
- (e) Accrued days or payment for pro rata accruals will be paid out on termination on a time for time basis at the ordinary rate for pay.

16. Breaks

16.1 Unpaid meal breaks—day workers

An employee will not work for more than ~~five~~-5 hours without a meal break. The time without a meal break may be extended to ~~six~~-6 hours with the consent of the employee. Meal breaks will be no less than 30 minutes and are unpaid.

16.2 Paid rest breaks—day workers

- (a) A paid rest break (or breaks) must be provided as follows:

Rest break	Minimum rest break
Morning tea	10 minutes
Afternoon tea	10 minutes

- (b) The majority of employees and the employer may agree that:
 - (i) the morning and afternoon tea breaks be consolidated into one longer break; or
 - (ii) one or both rest breaks may be added to the meal break.

16.3 Paid meal breaks—night workers

Night workers will be allowed a paid meal break of at least 20 minutes, which will be counted as time worked.

16.4 Minimum break after ceasing work for the day

- (a) An employee is entitled to at least 10 hours break between finishing work on one day and commencing work on the next day.

- (b) If an employee is required to perform work without having had the 10 hour break, the employee must be paid overtime rates in accordance with clause 21—Overtime until the employee is released from duty and able to take the 10 hour break.

Part 4—Wages and Allowances

17. Minimum rates

Monetary amounts adjusted as a result of AWR 2019 – changes not tracked.

- 17.1 An employer must pay employees the following minimum ~~wages~~ rates for ordinary hours worked by the employee:

Employee classification	Minimum Weekly rate (full-time employees)	Minimum Hourly rate
	\$	\$
CG1	748.20	19.69
CG2	787.10	20.71
CG3	802.30	21.11
CG4	827.30	21.77
CG5	862.50	22.70

See Schedule A—Summary of Hourly Rates of Pay for a summary of hourly rates of pay including overtime and penalties.

17.2 Higher duties

- (a) An employee required by the employer to perform the duties of a position at a higher classification level for ~~four~~ 4 hours in any one day or longer will be paid the rate applicable for that higher level for the whole day.
- (b) If the work is less than ~~four~~ 4 hours, the employee will be paid the higher rate for the actual time worked at the higher level.
- (c) An employee who is required to perform work for which a lower rate is paid will not have their own rate of pay reduced.

17.3 Supported wage system

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

17.4 National training wage

- (a) Schedule E to the *Miscellaneous Award 2010* sets out minimum ~~wage~~ rates and conditions for employees undertaking traineeships.
- (b) This award incorporates the terms of Schedule E to the *Miscellaneous Award 2010* as at ~~1 July 2018~~ 1 July 2019. Provided that any reference to “this award” in Schedule E to the *Miscellaneous Award 2010* is to be read as referring to the *Cotton Ginning Award 2010* and not the *Miscellaneous Award 2010*.

18. Payment of wages

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.

- 18.1 Wages will be paid weekly in the employer’s time. If the majority of employees and the employer agree, wages may be paid fortnightly.
- 18.2 One day of each pay period will be recognised as pay day.
- 18.3 At the option of the employer, the method of payment will be by cash, electronic funds transfer or cheque drawn on an account with a local bank.

18.4 Payment on termination of employment

- (a) The employer must pay an employee no later than 7 days after the day on which the employee’s employment terminates:
 - (i) the employee’s wages under this award for any complete or incomplete pay period up to the end of the day of termination; and
 - (ii) all other amounts that are due to the employee under this award and the [NES](#).
- (b) The requirement to pay wages and other amounts under ~~paragraph (a)~~ clause 18.4(a) is subject to further order of the Commission and the employer making deductions authorised by this award or the [Act](#).

NOTE 1: Section 117(2) of the [Act](#) provides that an employer must not terminate an employee’s employment unless the employer has given the employee the required minimum period of notice or “has paid” to the employee payment instead of giving notice.

NOTE 2: ~~Paragraph (b)~~ Clause 18.4(b) allows the Commission to make an order delaying the requirement to make a payment under ~~this~~ clause 18.4. For example, the Commission could make an order delaying the requirement to pay redundancy pay if an employer makes an application under section 120 of the [Act](#) for the Commission to reduce the amount of redundancy pay an employee is entitled to under the [NES](#).

NOTE 3: State and Territory long service leave laws or long service leave entitlements under section 113 of the [Act](#), may require an employer to pay an

employee for accrued long service leave on the day on which the employee’s employment terminates or shortly after.

19. Allowances

Monetary amounts adjusted as a result of AWR 2019 – changes not tracked.
Note inserted in accordance with [2015] FWCFB 4658 at [57].

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.

19.1 Employers must pay to an employee such allowances as the employee is entitled to under this clause. See Schedule B—Summary of Monetary Allowances for a summary of monetary allowances.

19.2 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, loadings or payment while they are on annual leave. The following allowances are paid for all purposes under this award:

- (i) Disabilities allowance (clause 19.2(b)); and
- (ii) Leading hand allowance (clause 19.2(c)).

(b) Disabilities allowance

- (i) Employees will be paid an allowance of **\$28.58** per week. This allowance will be in compensation for all disabilities experienced in this particular industry.
- (ii) This amount will be in addition to all other amounts payable, and is payable for all purposes under this award.

(c) Leading hand allowance

An employee who is appointed by the employer to be a leading hand will be paid an allowance each week as follows. This allowance is payable for all purposes.

In charge of	\$ per week
3–10 employees	34.38
11–20 employees	51.36
more than 20 employees	65.44

(d) **First aid allowance**

An employee who has been trained to provide first aid and who is the current holder of appropriate first aid qualifications such as a certificate from the St John Ambulance or similar body must be paid an additional amount of **\$15.53** per week if appointed by their employer to perform first aid duty.

(e) **Special allowance—bulk liquid tanks**

A special allowance of **\$0.62** per hour will be paid to employees who are required to work in bulk liquid tanks. This special allowance will be paid for the purposes of confined space and will be paid for a minimum of ~~four~~ **4** hours.

(f) **Special contingency payment**

(i) A special contingency payment will be made each week to full-time and seasonal employee as follows:

	Full-time employees	Seasonal employees
Location	\$ per week	\$ per week
Moura and Cecil Plains	49.50	14.85
Emerald and St George	71.86	21.56

(ii) Part-time employees will be paid the allowance on a pro rata basis

(iii) Employees engaged as seasonal workers will be paid 30% of the special contingency payment for full-time employees.

(iv) The payment will be a flat payment.

19.3 Expense-related allowances

(a) **Meal allowance**

A meal allowance of **\$13.82** per meal will be paid where an employee is required to work overtime for more than one hour after their ordinary finishing time and where that employee has not been notified the day before.

20. Superannuation

20.1 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.

20.2 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.

20.3 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 20.2.
- (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 20.3(a) or 20.3(b) no later than 28 days after the end of the month in which the deduction authorised under clauses 20.3(a) or 20.3(b) was made.

20.4 Superannuation fund

Unless, to comply with superannuation legislation, the employer is required to make the superannuation contributions provided for in clause 20.2 to another superannuation fund that is chosen by the employee, the employer must make the superannuation contributions provided for in clause 20.2, and pay the amount authorised under clauses 20.3(a) or 20.3(b), to one of the following superannuation funds or its successor:

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

Part 5—Overtime and Penalty Rates

21. Overtime

21.1 Definition of overtime

- (a) For a full-time employee or casual employee, overtime is any time worked:
 - (i) in excess of the employee's ordinary hours on any one day; or
 - (ii) outside the employee's span of ordinary hours set out in clauses 14.1 and 14.2.
- (b) For a part-time employee, hours worked in excess of the employee's ordinary hours (in accordance with clauses 10.2) will be paid at the appropriate overtime rate.

21.2 Overtime rates

- (a) Where an employee works overtime the employer must pay to the employee the overtime rates as follows:

For overtime worked on	Overtime rate % of ordinary hourly rate
Monday to Saturday—first 2 hours	150
Monday to Saturday—after 2 hours	200
Sunday all day	200
Public holiday all day	250

See Schedule A—Summary of Hourly Rates of Pay contains a summary of hourly rates of pay including overtime.

- (b) For the purpose of determining the overtime rate, each day stands alone.
- (c) For overtime worked on a Sunday or public holiday, the employee will be paid a minimum payment of ~~four~~ 4 hours.
- (d) A casual employee working overtime receives the overtime rate instead of the loading prescribed in clause 11.2(a)(ii).

21.3 Where an employee is required to work overtime for more than one hour after ordinary ceasing time and where the employee is not notified the day before, they will be paid a meal allowance as set out in clause 19.3(a).

21.4 Time off instead of payment for overtime

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

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- (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 21.4.
- (c) An agreement must state each of the following:
 - (i) the number of overtime hours to which it applies and when those hours were worked;
 - (ii) that the employer and employee agree that the employee may take time off instead of being paid for the overtime;
 - (iii) that, if the employee requests at any time, the employer must pay the employee, for overtime covered by the agreement but not taken as time off, at the overtime rate applicable to the overtime when worked;
 - (iv) that any payment mentioned in ~~subparagraph (iii)~~ clause 21.4(c)(iii) must be made in the next pay period following the request.

NOTE: An example of the type of agreement required by clause 21.4(c) is set out at Schedule D—Agreement for Time Off Instead of Payment for Overtime. There is no requirement to use the form of agreement set out at Schedule D—Agreement for Time Off Instead of Payment for Overtime. An agreement under clause 21.4 can also be made by an exchange of emails between the employee and employer, or by other electronic means.

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

EXAMPLE: By making an agreement under clause 21.4 an employee who worked 2 overtime hours is entitled to 2 hours' time off.

- (e) Time off must be taken:
 - (i) within the period of 6 months after the overtime is worked; and
 - (ii) at a time or times within that period of 6 months agreed by the employee and employer.
- (f) If the employee requests at any time, to be paid for overtime covered by an agreement under clause 21.4 but not taken as time off, the employer must pay the employee for the overtime, in the next pay period following the request, at the overtime rate applicable to the overtime when worked.
- (g) If time off for overtime that has been worked is not taken within the period of 6 months mentioned in ~~paragraph (e)~~ clause 21.4(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 21.4 as an employee record.

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- (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 21.4 will apply, including the requirement for separate written agreements under ~~paragraph~~ ~~(b)~~ clause 21.4(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 21.4 applies has not been taken, the employer must pay the employee for the overtime at the overtime rate applicable to the overtime when worked.

NOTE: Under section 345(1) of the [Act](#), a person must not knowingly or recklessly make a false or misleading representation about the workplace rights of another person under clause 21.4.

22. Penalty rates

- 22.1 An employee will be paid the following penalty rates for all ordinary hours worked by the employee during the following periods.

Ordinary hours worked:		Penalty rate	Casual penalty rate
		% of ordinary hourly rate (100%)	% of ordinary hourly rate (incl. casual loading)
Night work – 6.00 pm to 8.00 am	Monday to Friday	115%	125%
Public holiday	All hours	250%	250%

See Schedule A—Summary of Hourly Rates of Pay for a summary of hourly rates of pay including penalties.

- 22.2 An employee who works on a public holiday must be paid for a minimum of ~~four~~ 4 hours.
- 22.3 Penalty rates are not payable for overtime hours worked by the employee.

Part 6—Leave and Public Holidays

23. Annual leave

23.1 Annual leave entitlement

Annual leave entitlements are provided for in the [NES](#). This clause 23 supplements those entitlements and provides industry specific detail.

23.2 Payment for annual leave

- (a) During a period of annual leave, the employer must pay the employee at the employee's base rate of pay for the employee's ordinary hours of work in the period.
- (b) In addition, the employer must pay the employee a loading of 17.5% calculated at the employee's ordinary hourly rate including any leading hands allowance and/or any disabilities allowance. This loading is paid instead of a night work loading.

NOTE: Where an employee is receiving over-award 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 sections 16 and 90 of the [Act](#)).

23.3 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 23.3 is set out at Schedule E—Agreement to Take Annual Leave in Advance. There is no requirement to use the form of agreement set out at Schedule E—Agreement to Take Annual Leave in Advance.

- (c) The employer must keep a copy of any agreement under clause 23.3 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 23.3, 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.

23.4 Cashing out of annual leave

- (a) Paid annual leave must not be cashed out except in accordance with an agreement under clause 23.4.
- (b) Each cashing out of a particular amount of paid annual leave must be the subject of a separate agreement under clause 23.4.
- (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 23.4 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 23.4 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 23.4 as an employee record.

NOTE 1: Under section 344 of the [Act](#), an employer must not exert undue influence or undue pressure on an employee to make, or not make, an agreement under clause 23.4.

NOTE 2: 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 23.4.

NOTE 3: An example of the type of agreement required by clause 23.4 is set out at Schedule F—Agreement to Cash Out Annual Leave. There is no requirement to use the form of agreement set out at Schedule F—Agreement to Cash Out Annual Leave.

23.5 Excessive leave accruals: general provision

NOTE: Clauses 23.5 to 23.7 contain provisions, additional to the [NES](#), about the taking of paid annual leave as a way of dealing with the accrual of excessive paid annual leave. See Part 2.2, Division 6 of the [Act](#).

- (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 23.6 sets out how an employer may direct an employee who has an excessive leave accrual to take paid annual leave.
- (d) Clause 23.7 sets out how an employee who has an excessive leave accrual may require an employer to grant paid annual leave requested by the employee.

23.6 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 23.5(b) 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 clause~~ 23.6(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 23.5, 23.6 or 23.7 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 clause~~ 23.6(a) that is in effect.
- (d) An employee to whom a direction has been given under ~~paragraph clause~~ 23.6(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 clause~~ 23.6(d) may result in the direction ceasing to have effect. See clause 23.6(b)(i).

NOTE 2: Under section 88(2) of the [Act](#), the employer must not unreasonably refuse to agree to a request by the employee to take paid annual leave.

23.7 Excessive leave accruals: request by employee for leave

- (a) If an employee has genuinely tried to reach agreement with an employer under clause 23.5(b) 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.

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- (b) However, an employee may only give a notice to the employer under ~~paragraph clause~~ 23.7(a) 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 23.6(a) that, when any other paid annual leave arrangements (whether made under clause 23.5, 23.6 or 23.7 or otherwise agreed by the employer and employee) are taken into account, would eliminate the employee's excessive leave accrual.
- (c) A notice given by an employee under ~~paragraph clause~~ 23.7(a) 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 23.5, 23.6 or 23.7 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.
- (d) An employee is not entitled to request by a notice under ~~paragraph clause~~ 23.7(b) more than 4 weeks' paid annual leave in any period of 12 months.
- (e) The employer must grant paid annual leave requested by a notice under ~~paragraph clause~~ 23.7(a).

24. Personal/carer's leave and compassionate leave

Personal/carer's leave and compassionate leave are provided for in the [NES](#).

25. Parental leave and related entitlements

Parental leave and related entitlements are provided for in the [NES](#).

26. Community service leave

Community service leave is provided for in the [NES](#)

27. Unpaid family and domestic violence leave

Clause 27 inserted in accordance with [\[2019\] FWCFB 5144](#) at [13].

Unpaid family and domestic violence leave is provided for in the NES.

NOTE 1: Information concerning an employee's experience of family and domestic violence is sensitive and if mishandled can have adverse consequences for the employee. Employers should consult with such employees regarding the handling of this information.

NOTE 2: Depending upon the circumstances, evidence that would satisfy a reasonable person of the employee's need to take family and domestic violence leave may include a document issued by the police service, a court or family violence support service, or a statutory declaration.

28. Public holidays

28.1 Public holidays are provided for in the [NES](#).

28.2 Where an employee works on a public holiday they will be paid in accordance with clauses 21—Overtime and 22—Penalty rates.

Part 7—Consultation and Dispute Resolution

29. Consultation about major workplace change

29.1 If an employer makes a definite decision to make major changes in production, program, organisation, structure or technology that are likely to have significant effects on employees, the employer must:

- (a) give notice of the changes to all employees who may be affected by them and their representatives (if any); and
- (b) discuss with affected employees and their representatives (if any):
 - (i) the introduction of the changes; and
 - (ii) their likely effect on employees; and
 - (iii) measures to avoid or reduce the adverse effects of the changes on employees; and
- (c) commence discussions as soon as practicable after a definite decision has been made.

29.2 For the purposes of the discussion under clause 29.1(b), the employer must give in writing to the affected employees and their representatives (if any) all relevant information about the changes including:

- (a) their nature; and
- (b) their expected effect on employees; and

(c) any other matters likely to affect employees.

29.3 Clause 29.2 does not require an employer to disclose any confidential information if its disclosure would be contrary to the employer's interests.

29.4 The employer must promptly consider any matters raised by the employees or their representatives about the changes in the course of the discussion under clause 29.1(b).

29.5 In clause 29 **significant effects**, on employees, includes any of the following:

- (a) termination of employment; or
- (b) major changes in the composition, operation or size of the employer's workforce or in the skills required; or
- (c) loss of, or reduction in, job or promotion opportunities; or
- (d) loss of, or reduction in, job tenure; or
- (e) alteration of hours of work; or
- (f) the need for employees to be retrained or transferred to other work or locations; or
- (g) job restructuring.

29.6 Where this award makes provision for alteration of any of the matters defined at clause 29.5, such alteration is taken not to have significant effect.

30. Consultation about changes to rosters or hours of work

30.1 Clause 30 applies if an employer proposes to change the regular roster or ordinary hours of work of an employee, other than an employee whose working hours are irregular, sporadic or unpredictable.

30.2 The employer must consult with any employees affected by the proposed change and their representatives (if any).

30.3 For the purpose of the consultation, the employer must:

- (a) provide to the employees and representatives mentioned in clause 30.2 information about the proposed change (for example, information about the nature of the change and when it is to begin); and
- (b) invite the employees to give their views about the impact of the proposed change on them (including any impact on their family or caring responsibilities) and also invite their representative (if any) to give their views about that impact.

30.4 The employer must consider any views given under clause 30.3(b).

30.5 Clause 30 is to be read in conjunction with any other provisions of this award concerning the scheduling of work or the giving of notice.

31. Dispute resolution

- 31.1 Clause 31 sets out the procedures to be followed if a dispute arises about a matter under this award or in relation to the [NES](#).
- 31.2 The parties to the dispute must first try to resolve the dispute at the workplace through discussion between the employee or employees concerned and the relevant supervisor.
- 31.3 If the dispute is not resolved through discussion as mentioned in clause 31.2, the parties to the dispute must then try to resolve it in a timely manner at the workplace through discussion between the employee or employees concerned and more senior levels of management, as appropriate.
- 31.4 If the dispute is unable to be resolved at the workplace and all appropriate steps have been taken under clauses 31.2 and 31.3, a party to the dispute may refer it to the Fair Work Commission.
- 31.5 The parties may agree on the process to be followed by the Fair Work Commission in dealing with the dispute, including mediation, conciliation and consent arbitration.
- 31.6 If the dispute remains unresolved, the Fair Work Commission may use any method of dispute resolution that it is permitted by the [Act](#) to use and that it considers appropriate for resolving the dispute.
- 31.7 A party to the dispute may appoint a person, organisation or association to support ~~and~~ or represent them in any discussion or process under clause 31.
- 31.8 While procedures are being followed under clause 31 in relation to a dispute:
- (a) work must continue in accordance with this award and the [Act](#); and
 - (b) an employee must not unreasonably fail to comply with any direction given by the employer about performing work, whether at the same or another workplace, that is safe and appropriate for the employee to perform.
- 31.9 Clause 31.8 is subject to any applicable work health and safety legislation.

Part 8—Termination of Employment and Redundancy

32. Termination of employment

NOTE: The [NES](#) sets out requirements for notice of termination by an employer. See sections 117 and 123 of the [Act](#).

32.1 Notice of termination by an employee

- (a) Clause 32.1 applies to all employees except those identified in sections 123(1) and 123(3) of the [Act](#).

An employee must give the employer notice of termination in accordance with **Table 1—Period of notice**

- (b) of at least the period specified in column 2 according to the period of continuous service of the employee specified in column 1.

Table 1—Period of notice

Column 1 Employee’s period of continuous service with the employer at the end of the day the notice is given	Column 2 Period of notice
Not more than 1 year	1 week
More than 1 year but not more than 3 years	2 weeks
More than 3 years but not more than 5 years	3 weeks
More than 5 years	4 weeks

NOTE: The notice of termination required to be given by an employee is the same as that required of an employer except that the employee does not have to give additional notice based on the age of the employee.

- (c) In ~~paragraph (b)~~ clause 32.1(b) **continuous service** has the same meaning as in section 117 of the [Act](#).
- (d) If an employee who is at least 18 years old does not give the period of notice required under ~~paragraph (b)~~ clause 32.1(b), then the employer may deduct from wages due to the employee under this award an amount that is no more than one week’s wages for the employee.
- (e) If the employer has agreed to a shorter period of notice than that required under ~~paragraph (b)~~ clause 32.1(b), then no deduction can be made under ~~paragraph (d)~~ clause 32.1(d).
- (f) Any deduction made under ~~paragraph (d)~~ clause 32.1(d) must not be unreasonable in the circumstances.

32.2 Job search entitlement

- (a) Where an employer has given notice of termination to an employee, the employee must be allowed time off without loss of pay of up to one day for the purpose of seeking other employment.
- (b) The time off under clause 32.2 is to be taken at times that are convenient to the employee after consultation with the employer.

33. Redundancy

Clause 33 amended in accordance with [\[2019\] FWCFB 2548](#) at [6] and [PR706942](#).

NOTE: Redundancy pay is provided for in the NES. See sections 119 to 123 of the Act.

33.1 Transfer to lower paid duties on redundancy

- (a) Clause 33.1 applies if, because of redundancy, an employee is transferred to new duties to which a lower ordinary rate of pay applies.

(b) The employer may:

- (i) give the employee notice of the transfer of at least the same length as the employee would be entitled to under section 117 of the Act as if it were a notice of termination given by the employer; or
 - (ii) transfer the employee to the new duties without giving notice of transfer or before the expiry of a notice of transfer, provided that the employer pays the employee as set out in clause 33.1(c).
- (c) If the employer acts as mentioned in clause 33.1(b)(ii), the employee is entitled to a payment of an amount equal to the difference between the ordinary rate of pay of the employee (inclusive of all-purpose allowances, shift rates and penalty rates applicable to ordinary hours) for the hours of work the employee would have worked in the first role, and the ordinary rate of pay (also inclusive of all-purpose allowances, shift rates and penalty rates applicable to ordinary hours) of the employee in the second role for the period for which notice was not given.

33.2 Employee leaving during redundancy notice period

- (a) An employee given notice of termination in circumstances of redundancy may terminate their employment during the minimum period of notice prescribed by section 117(3) of the Act.
- (b) The employee is entitled to receive the benefits and payments they would have received under clause 33 or under sections 119 to 123 of the Act had they remained in employment until the expiry of the notice.
- (c) However, the employee is not entitled to be paid for any part of the period of notice remaining after the employee ceased to be employed.

33.3 Job search entitlement

- (a) Where an employer has given notice of termination to an employee in circumstances of redundancy, the employee must be allowed time off without loss of pay of up to one day each week of the minimum period of notice prescribed by section 117(3) of the Act for the purpose of seeking other employment.
- (b) If an employee is allowed time off without loss of pay of more than one day under clause 33.3(a), the employee must, at the request of the employer, produce proof of attendance at an interview.
- (c) A statutory declaration is sufficient for the purpose of clause 33.3(b).
- (d) An employee who fails to produce proof when required under clause 33.3(b) is not entitled to be paid for the time off.
- (e) This entitlement applies instead of clause 32.2.

Schedule A—Summary of Hourly Rates of Pay

Monetary amounts adjusted as a result of AWR 2019 – changes not tracked.

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

See also clause 17—Minimum rates, clause 21—Overtime and clause 22—Penalty rates.

Additional allowances may be payable; see clause 19—Allowances.

A.1 Ordinary hourly rate

A.1.1 Ordinary hourly rate includes the disabilities allowance (clause 19.2(b)) which is payable for all purposes.

A.1.2 Where an additional allowance is payable for all purposes in accordance with clause 19.2(c), this forms part of the employee’s ordinary hourly rate and must be added to the ordinary hourly rate prior to calculating penalties and overtime.

A.2 Full-time and part-time employees

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

	Ordinary hours	Night work (Monday – Friday)	Public holiday
	% of ordinary hourly rate ¹		
	100%	115%	250%
	\$	\$	\$
CG1	20.44	23.51	51.10
CG2	21.46	24.68	53.65
CG3	21.86	25.14	54.65
CG4	22.52	25.90	56.30
CG5	23.45	26.97	58.63

¹Ordinary hourly rate includes the industry allowance payable to all employees for all purposes. Any additional all-purpose allowances applicable need to be added to these rates.

A.2.2 Full-time and part-time employees—overtime rates

	Monday to Saturday – first 2 hours	Monday to Saturday – after 2 hours	Sunday – all day	Public holiday – all day
	% of ordinary hourly rate ¹			
	150%	200%	200%	250%
	\$	\$	\$	\$
CG1	30.66	40.88	40.88	51.10
CG2	32.19	42.92	42.92	53.65

Commented [FWC1]: (Weekly rate ÷ 38) in cl 17.1 + hourly disabilities allowance (all purpose allowance) in cl 19.2(b).

Commented [FWC2]: Base hourly rate (inclusive of all purpose allowance) increases by relevant percentage in cl 22.1.

Commented [FWC3]: Weekly rate ÷ 38) in cl 17.1 + hourly disabilities allowance (all purpose allowance) in cl 19.2(b).

Commented [FWC4]: Base hourly rate (inclusive of all purpose allowance) increases by relevant percentage in cl 21.2(a).

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	Monday to Saturday – first 2 hours	Monday to Saturday – after 2 hours	Sunday – all day	Public holiday – all day
	% of ordinary hourly rate ¹			
	150%	200%	200%	250%
	\$	\$	\$	\$
CG3	32.79	43.72	43.72	54.65
CG4	33.78	45.04	45.04	56.30
CG5	35.18	46.90	46.90	58.63

Commented [FWC3]: Weekly rate ÷ 38) in cl 17.1 + hourly disabilities allowance (all purpose allowance) in cl 19.2(b).

Commented [FWC4]: Base hourly rate (inclusive of all purpose allowance) increases by relevant percentage in cl 21.2(a).

¹Ordinary hourly rate includes the industry allowance payable to all employees for all purposes. Any additional all-purpose allowances applicable need to be added to these rates.

A.3 Casual employees

A.3.1 Casual employees—ordinary and penalty rates

	Ordinary hours	Night work (Monday – Friday)	Public holiday
	% of ordinary hourly rate ¹		
	125%	125%	250%
	\$	\$	\$
CG1	25.55	25.55	51.10
CG2	26.83	26.83	53.65
CG3	27.33	27.33	54.65
CG4	28.15	28.15	56.30
CG5	29.31	29.31	58.63

Commented [FWC5]: The casual hourly rate of pay was obtained by applying the casual loading (25%) to the base hourly rate of pay inclusive of hourly disabilities allowance (all purpose allowance) for ordinary hours and penalty rates.

Commented [FWC6]: (Weekly rate ÷ 38) in cl 17.1 + hourly disabilities allowance (all purpose allowance) in cl 19.2(b) + 25% loading.

Commented [FWC7]: Base hourly rate (inclusive of all purpose allowance) + 25% casual loading

Commented [FWC8]: Casual employees receive penalty rate instead of 25% loading on public holidays – see cl 11.2(b)

Commented [FWC9]: Base hourly rate (inclusive of all purpose allowance) increases by relevant percentage in cl 21.1

¹Ordinary hourly rate includes the industry allowance payable to all employees for all purposes. Any additional all-purpose allowances applicable need to be added to these rates.

A.3.2 Casual employees—overtime rates

	Monday to Saturday – first 2 hours	Monday to Saturday – after 2 hours	Sunday – all day	Public holiday
	% of ordinary hourly rate ¹			
	150%	200%	200%	250%
	\$	\$	\$	\$
CG1	30.66	40.88	40.88	51.10
CG2	32.19	42.92	42.92	53.65
CG3	32.79	43.72	43.72	54.65

Commented [FWC10]: Casual employees receive overtime rate instead of 25% casual loading for working overtime and public holidays – see cl 21.2(c).

Commented [FWC11]: Base hourly rate (inclusive of all purpose allowance) increases by relevant percentage in cl 21.2(a).

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	Monday to Saturday – first 2 hours	Monday to Saturday – after 2 hours	Sunday – all day	Public holiday
	% of ordinary hourly rate ¹			
	150%	200%	200%	250%
	\$	\$	\$	\$
CG4	33.78	45.04	45.04	56.30
CG5	35.18	46.90	46.90	58.63

¹Ordinary hourly rate includes the industry allowance payable to all employees for all purposes. Any additional all-purpose allowances applicable need to be added to these rates.

Commented [FWC10]: Casual employees receive overtime rate instead of 25% casual loading for working overtime and public holidays – see cl 21.2(c).

Commented [FWC11]: Base hourly rate (inclusive of all purpose allowance) increases by relevant percentage in cl 21.2(a).

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Schedule B—Summary of Monetary Allowances

Monetary amounts adjusted as a result of AWR 2019 – changes not tracked.

See clause 19—Allowances for full details of allowances payable under this award.

B.1 Wage-related allowances

B.1.1 The wage-related allowances in this award are based on the [standard rate](#) as defined in ~~Schedule E—clause 2~~—Definitions as the minimum hourly base rate for classification level CG2 in clause 17.1 = **\$20.71**.

Allowance	Clause	% of standard rate	\$	Payable
Disabilities allowance ¹	19.2(b)	138	28.58	per week
Leading hand ¹ in charge of:	19.2(c)			
3 to 10 employees		166	34.38	per week
11 to 20 employees		248	51.36	per week
more than 20 employees		316	65.44	
First aid allowance	19.2(d)	75	15.53	per week
Special allowance—bulk liquid tanks	19.2(e)	3	0.62	per hour
Special contingency payment—full-time employees ²	19.2(f)			
Moura and Cecil Plains		239	49.50	per week
Emerald and St George		347	71.86	per week

¹ This allowance applies for all purposes of this award

² Seasonal employees will be paid 30% of the relevant full-time special contingency rate

B.1.2 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.

B.2 Expense-related allowances

Allowance	Clause	\$	Payable
Meal allowance	19.3(a)	13.82	per meal

B.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.
- (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

Schedule C—Supported Wage System

Monetary amounts in this clause adjusted as a result of AWR 2019 – changes not tracked.

- C.1** This schedule defines the conditions which will apply to employees who because of the effects of a disability are eligible for a supported wage under the terms of this award.
- C.2** In this schedule:
- approved assessor** means a person accredited by the management unit established by the Commonwealth under the supported wage system to perform assessments of an individual's productive capacity within the supported wage system
- assessment instrument** means the tool provided for under the supported wage system that records the assessment of the productive capacity of the person to be employed under the supported wage system
- disability support pension** means the Commonwealth pension scheme to provide income security for persons with a disability as provided under the *Social Security Act 1991* (Cth), as amended from time to time, or any successor to that scheme
- relevant minimum wage** means the minimum wage prescribed in this award for the class of work for which an employee is engaged
- supported wage system** (SWS) means the Commonwealth Government system to promote employment for people who cannot work at full award wages because of a disability, as documented in the Supported Wage System Handbook. The Handbook is available from the following website: www.jobaccess.gov.au
- SWS wage assessment agreement** means the document in the form required by the Department of Social Services that records the employee's productive capacity and agreed wage rate
- C.3 Eligibility criteria**
- C.3.1** Employees covered by this schedule will be those who are unable to perform the range of duties to the competence level required within the class of work for which the employee is engaged under this award, because of the effects of a disability on their productive capacity and who meet the impairment criteria for receipt of a disability support pension.
- C.3.2** This schedule does not apply to any existing employee who has a claim against the employer which is subject to the provisions of workers compensation legislation or any provision of this award relating to the rehabilitation of employees who are injured in the course of their employment.
- C.4 Supported wage rates**
- C.4.1** Employees to whom this schedule applies will be paid the applicable percentage of the relevant minimum wage according to the following schedule:

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

- C.4.2** Provided that the minimum amount payable must be not less than **\$87** per week.
- C.4.3** Where an employee's assessed capacity is 10%, they must receive a high degree of assistance and support.
- C.5 Assessment of capacity**
- C.5.1** For the purpose of establishing the percentage of the relevant minimum wage, the productive capacity of the employee will be assessed in accordance with the SWS by an approved assessor, having consulted the employer and employee and, if the employee so desires, a union which the employee is eligible to join.
- C.5.2** All assessments made under this schedule must be documented in an SWS wage assessment agreement, and retained by the employer as a time and wages record in accordance with the [Act](#).
- C.6 Lodgement of SWS wage assessment agreement**
- C.6.1** All SWS wage assessment agreements under the conditions of this schedule, including the appropriate percentage of the relevant minimum wage to be paid to the employee, must be lodged by the employer with the Fair Work Commission.
- C.6.2** All SWS wage assessment agreements must be agreed and signed by the employee and employer parties to the assessment. Where a union which has an interest in the award is not a party to the assessment, the assessment will be referred by the Fair Work Commission to the union by certified mail and the agreement will take effect unless an objection is notified to the Fair Work Commission within 10 working days.

C.7 Review of assessment

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

C.8 Other terms and conditions of employment

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

C.9 Workplace adjustment

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

C.10 Trial period

C.10.1 In order for an adequate assessment of the employee's capacity to be made, an employer may employ a person under the provisions of this schedule for a trial period not exceeding 12 weeks, except that in some cases additional work adjustment time (not exceeding ~~four~~ 4 weeks) may be needed. |

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

C.10.3 The minimum amount payable to the employee during the trial period must be no less than \$87 per week.

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

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

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

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

Name of employee: _____

Name of employer: _____

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

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

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

Amount of overtime worked: _____ hours and _____ minutes

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

Signature of employee: _____

Date signed: ___/___/20___

Name of employer representative: _____

Signature of employer representative: _____

Date signed: ___/___/20___

Schedule E—Agreement to Take Annual Leave in Advance

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

Name of employee: _____

Name of employer: _____

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

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

The leave in advance will commence on: ___/___/20__

Signature of employee: _____

Date signed: ___/___/20__

Name of employer representative: _____

Signature of employer representative: _____

Date signed: ___/___/20__

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

I agree that:

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

Name of parent/guardian: _____

Signature of parent/guardian: _____

Date signed: ___/___/20__

Schedule F—Agreement to Cash Out Annual Leave

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

Name of employee: _____

Name of employer: _____

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

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

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

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

Signature of employee: _____

Date signed: ____/____/20____

Name of employer representative: _____

Signature of employer representative: _____

Date signed: ____/____/20____

Include if the employee is under 18 years of age:

Name of parent/guardian: _____

Signature of parent/guardian: _____

Date signed: ____/____/20____