



Association of Consulting Architects
The Business of Architecture

Clerks Private Sector Award 2010

Modern Award Number MA 000002

Applies to all employers from 1 January 2010
Wage rates applicable from 1 July 2018

an ACA member resource



prepared by Platinum Employee Relations

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Clerks—Private Sector Award 2010

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Part 1—Application and Operation of Award

1. Title

This award is the *Clerks—Private Sector Award 2010*.

2. Commencement and transitional

2.1 This award commences on 1 January 2010.

2.2 The monetary obligations imposed on employers by this award may be absorbed into overaward payments. Nothing in this award requires an employer to maintain or increase any overaward payment.

2.3 This award contains transitional arrangements which specify when particular parts of the award come into effect. Some of the transitional arrangements are in clauses in the main part of the award. There are also transitional arrangements in Schedule A. The arrangements in Schedule A deal with:

- minimum wages and piecework rates
- casual or part-time loadings
- Saturday, Sunday, public holiday, evening or other penalties
- shift allowances/penalties.

2.4 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.

2.5 The Fair Work Commission may review the transitional arrangements in this award and make a determination varying the award.

2.6 The Fair Work Commission may review the transitional arrangements:

- (a) on its own initiative; or
- (b) on application by an employer, employee, organisation or outworker entity covered by the modern award; or
- (c) on application by an organisation that is entitled to represent the industrial interests of one or more employers or employees that are covered by the modern award; or

- (d) in relation to outworker arrangements, on application by an organisation that is entitled to represent the industrial interests of one or more outworkers to whom the arrangements relate.

3. Definitions and interpretation

3.1 In this award, unless the contrary intention appears:

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

agreement-based transitional instrument has the meaning in the *Fair Work (Transitional Provisions and Consequential Amendments) Act 2009* (Cth)

award-based transitional instrument has the meaning in the *Fair Work (Transitional Provisions and Consequential Amendments) Act 2009* (Cth)

clerical work includes recording, typing, calculating, invoicing, billing, charging, checking, receiving and answering calls, cash handling, operating a telephone switchboard and attending a reception desk

default fund employee means an employee who has no chosen fund within the meaning of the *Superannuation Guarantee (Administration) Act 1992* (Cth)

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

Division 2B State award has the meaning in Schedule 3A of the *Fair Work (Transitional Provisions and Consequential Amendments) Act 2009* (Cth)

Division 2B State employment agreement has the meaning in Schedule 3A of the *Fair Work (Transitional Provisions and Consequential Amendments) Act 2009* (Cth)

employee means national system employee within the meaning of the Act

employer means national system employer within the meaning of the Act

enterprise award-based instrument has the meaning in the *Fair Work (Transitional Provisions and Consequential Amendments) Act 2009* (Cth)

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

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

standard rate means the minimum weekly wage for a Level 2, Year 1 in clause 16—Minimum weekly wages

transitional minimum wage instrument has the meaning in the *Fair Work (Transitional Provisions and Consequential Amendments) Act 2009* (Cth)

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

4. Coverage

4.1 This award covers employers in the private sector throughout Australia with respect to their employees engaged wholly or principally in clerical work, including administrative duties of a clerical nature, and to those employees. However, the award does not cover:

(a) an employer bound by a modern award that contains clerical classifications; or

(b) an employee excluded from award coverage by the Act.

4.2 The award does not cover employees who are covered by a modern enterprise award, or an enterprise instrument (within the meaning of the *Fair Work (Transitional Provisions and Consequential Amendments) Act 2009* (Cth)), or employers in relation to those employees.

4.3 The award does not cover employees who are covered by a State reference public sector modern award, or a State reference public sector transitional award (within the meaning of the *Fair Work (Transitional Provisions and Consequential Amendments) Act 2009* (Cth)), or employers in relation to those employees.

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

4.5 This award covers employers which provide group training services for trainees engaged in any of the occupations set out at Schedule B—Classifications 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.

4.6 Without limiting the generality of the foregoing this award does not cover employers covered by the following industry awards with respect to employees covered by the awards:

- the *Aged Care Award 2010*;

- the *Airline Operations—Ground Staff Award 2010*;
- the *Airport Employees Award 2010*;
- the *Alpine Resorts Award 2010*;
- the *Animal Care and Veterinary Services Award 2010*;
- the *Banking, Finance and Insurance Award 2010*;
- the *Black Coal Mining Industry Award 2010*;
- the *Business Equipment Award 2010*;
- the *Contract Call Centres Award 2010*;
- the *Educational Services (Post-Secondary Education) Award 2010*;
- the *Educational Services (Schools) General Staff Award 2010*;
- the *Fitness Industry Award 2010*;
- the *General Retail Industry Award 2010*;
- the *Health Professionals and Support Services Award 2010*;
- the *Higher Education Industry—General Staff—Award 2010*;
- the *Hospitality Industry (General) Award 2010*;
- the *Legal Services Award 2010*;
- the *Market and Social Research Award 2010*;
- the *Rail Industry Award 2010*;
- the *Restaurant Industry Award 2010*;
- the *Sporting Organisations Award 2010*; or
- the *Telecommunications Services Award 2010*.

4.7 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.

5. Access to the award and the National Employment Standards

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

6. The National Employment Standards and this award

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

7. Award flexibility

7.1 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.

7.2 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.

7.3 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 7.1; 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.

7.4 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.
- 7.5** The employer must give the individual employee a copy of the agreement and keep the agreement as a time and wages record.
- 7.6** Except as provided in clause 7.4(a) the agreement must not require the approval or consent of a person other than the employer and the individual employee.
- 7.7** 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.
- 7.8** 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 *Fair Work Act 2009* (Cth)).
- 7.9** The notice provisions in clause 7.8(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 7.8(a), subject to four weeks' notice of termination.
- 7.10** 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.

Part 2—Consultation and Dispute Resolution

8. Consultation

8.1 Consultation regarding major workplace change

(a) Employer 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) Employer 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 8.1(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 8.1(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.

8.2 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.

9. Dispute resolution

- 9.1** 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.
- 9.2** 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 9.1 have been taken, a party to the dispute may refer the dispute to the Fair Work Commission.
- 9.3** The parties may agree on the process to be utilised by the Fair Work Commission including mediation, conciliation and consent arbitration.
- 9.4** 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.
- 9.5** An employer or employee may appoint another person, organisation or association to accompany and/or represent them for the purposes of this clause.
- 9.6** 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.

Part 3—Types of Employment and Termination of Employment

10. Full-time employment

A full-time employee is an employee who is engaged to work the number of hours regarded as the full-time hours at the particular workplace. The full-time hours must be 38 or less per week.

11. Part-time employment

11.1 A part-time employee is an employee who is engaged to perform less than the full-time hours at the workplace on a reasonably predictable basis.

11.2 Part-time employees are entitled on a pro rata basis to equivalent pay and conditions to those of full-time employees.

11.3 At the time of engagement the employer and the part-time employee will agree in writing on a regular pattern of work, specifying at least the numbers of hours worked each day, which days of the week the employee will work and the actual starting and finishing times each day.

11.4 Changes in hours may only be made by agreement in writing between the employer and employee. Changes in days can be made by the employer giving one week's notice in advance of the changed hours.

11.5 An employer is required to roster a part-time employee for a minimum of three consecutive hours on any shift.

11.6 All time worked in excess of the hours as agreed under clause 11.3 or varied under clause 11.4 will be overtime and paid for at the rates prescribed in clause 27—Overtime rates and penalties (other than shiftworkers).

11.7 A part-time employee employed under the provisions of this clause must be paid for ordinary hours worked at the rate of 1/38th of the weekly rate prescribed for the class of work performed.

12. Casual employment

12.1 A casual employee is an employee engaged as such.

12.2 A casual employee must be paid per hour at the rate of 1/38th of the weekly rate prescribed for the class of work performed, plus 25%. This loading is instead of entitlements to leave and other matters from which casuals are excluded by the terms of this award and the NES.

12.3 Casual employees must be paid at the termination of each engagement, or weekly or fortnightly in accordance with usual payment methods for full-time employees.

12.4 Casual employees are entitled to a minimum payment of three hours' work at the appropriate rate.

12.5 Right to request casual conversion

- (a) A person engaged by a particular employer as a regular casual employee may request that their employment be converted to full-time or part-time employment.
- (b) A **regular casual employee** is a casual employee who has in the preceding period of 12 months worked a pattern of hours on an ongoing basis which, without significant adjustment, the employee could continue to perform as a full-time employee or part-time employee under the provisions of this award.
- (c) A regular casual employee who has worked equivalent full-time hours over the preceding period of 12 months' casual employment may request to have their employment converted to full-time employment.
- (d) A regular casual employee who has worked less than equivalent full time hours over the preceding period of 12 months' casual employment may request to have their employment converted to part-time employment consistent with the pattern of hours previously worked.
- (e) Any request under this subclause must be in writing and provided to the employer.
- (f) Where a regular casual employee seeks to convert to full-time or part-time employment, the employer may agree to or refuse the request, but the request may only be refused on reasonable grounds and after there has been consultation with the employee.
- (g) Reasonable grounds for refusal include that:
 - (i) it would require a significant adjustment to the casual employee's hours of work in order for the employee to be engaged as a full-time or part-time employee in accordance with the provisions of this award – that is, the casual employee is not truly a regular casual employee as defined in clause 12.5(b);
 - (ii) it is known or reasonably foreseeable that the regular casual employee's position will cease to exist within the next 12 months;
 - (iii) it is known or reasonably foreseeable that the hours of work which the regular casual employee is required to perform will be significantly reduced in the next 12 months; or
 - (iv) it is known or reasonably foreseeable that there will be a significant change in the days and/or times at which the employee's hours of work are required to be performed in the next 12 months which cannot be accommodated within the days and/or hours during which the employee is available to work.

- (h) For any ground of refusal to be reasonable, it must be based on facts which are known or reasonably foreseeable.
- (i) Where the employer refuses a regular casual employee's request to convert, the employer must provide the casual employee with the employer's reasons for refusal in writing within 21 days of the request being made. If the employee does not accept the employer's refusal, this will constitute a dispute that will be dealt with under the dispute resolution procedure in clause **Error! Reference source not found.** Under that procedure, the employee or the employer may refer the matter to the Fair Work Commission if the dispute cannot be resolved at the workplace level.
- (j) Where it is agreed that a casual employee will have their employment converted to full-time or part-time employment as provided for in this clause, the employer and employee must discuss and record in writing:
 - (i) the form of employment to which the employee will convert – that is, full-time or part-time employment; and
 - (ii) if it is agreed that the employee will become a part-time employee, the matters referred to in clause 11.3.
- (k) The conversion will take effect from the start of the next pay cycle following such agreement being reached unless otherwise agreed.
- (l) Once a casual employee has converted to full-time or part-time employment, the employee may only revert to casual employment with the written agreement of the employer.
- (m) A casual employee must not be engaged and re-engaged (which includes a refusal to re-engage), or have their hours reduced or varied, in order to avoid any right or obligation under this clause.
- (n) Nothing in this clause obliges a regular casual employee to convert to full-time or part-time employment, nor permits an employer to require a regular casual employee to so convert.
- (o) Nothing in this clause requires an employer to increase the hours of a regular casual employee seeking conversion to full-time or part-time employment.
- (p) An employer must provide a casual employee, whether a regular casual employee or not, with a copy of the provisions of this subclause within the first 12 months of the employee's first engagement to perform work. In respect of casual employees already employed as at 1 October 2018, an employer must provide such employees with a copy of the provisions of this subclause by 1 January 2019.
- (q) A casual employee's right to request to convert is not affected if the employer fails to comply with the notice requirements in clause 12.5(p).

13. Termination of employment

13.1 Notice of termination is provided for in the NES.

13.2 Notice of termination by an employee

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

13.3 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.

14. Redundancy

14.1 Redundancy pay is provided for in the NES.

14.2 Transfer to lower paid duties

Where an employee is transferred to lower paid duties by reason of redundancy, the same period of notice must be given as the employee would have been entitled to if the employment had been terminated and the employer may, at the employer's option, make payment instead of an amount equal to the difference between the former ordinary time rate of pay and the ordinary time rate of pay for the number of weeks of notice still owing.

14.3 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.

14.4 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 13.3.

14.5 Transitional provisions – NAPSA employees

14.6 Transitional provisions – Division 2B State employees

Part 4—Minimum Wages, Classifications and Related Matters

15. Classifications

15.1 All employees covered by this award must be classified according to the structure set out in Schedule B—Classifications and paid the minimum wage in clause 16—Minimum weekly wages. Employers must advise their employees in writing of their classification and of any changes to their classification.

15.2 The classification by the employer must be according to the skill level or levels required to be exercised by the employee in order to carry out the principal functions of the employment as determined by the employer.

15.3 ‘Year’ in respect to the minimum weekly wages in clause 16 shall mean any service within the classification level of clerical work, including administrative duties of a clerical nature. The onus is on the employee to provide reasonable evidence to verify their service within the industry.

16. Minimum weekly wages

Classification	Per week \$
Level 1—Year 1	764.70
Level 1—Year 2	802.50
Level 1—Year 3	827.60
Level 2—Year 1	837.40
Level 2—Year 2	852.90
Level 3	884.50
Call centre principal customer contact	890.70

Classification	Per week \$
specialist	
Level 4	928.80
Level 5	966.50
Call centre technical associate	1058.70

17. Annualised salaries

17.1 Annual salary instead of award provisions

- (a) An employer may pay an employee an annual salary in satisfaction of any or all of the following provisions of the award:
- (i) clause 16—Minimum weekly wages;
 - (ii) clause 19—Allowances;
 - (iii) clauses 27 and 28—Overtime and penalty rates; and
 - (iv) clause 29.3—Annual leave loading.
- (b) Where an annual salary is paid the employer must advise the employee in writing of the annual salary that is payable and which of the provisions of this award will be satisfied by payment of the annual salary.

17.2 Annual salary not to disadvantage employees

- (a) The annual salary must be no less than the amount the employee would have received under this award for the work performed over the year for which the salary is paid (or if the employment ceases earlier over such lesser period as has been worked).
- (b) The annual salary of the employee must be reviewed by the employer at least annually to ensure that the compensation is appropriate having regard to the award provisions which are satisfied by the payment of the annual salary.

17.3 Base rate of pay for employees on annual salary arrangements

For the purposes of the NES, the base rate of pay of an employee receiving an annual salary under this clause comprises the portion of the annual salary equivalent to the relevant rate of pay in clause 16—Minimum weekly wages and excludes any incentive-based payments, bonuses, loadings, monetary allowances, overtime and penalties.

18. Juniors

Junior employees must be paid the following percentage of the appropriate wage rate in clause 16.

Age	%
Under 16 years of age	45
16 years of age	50
17 years of age	60
18 years of age	70
19 years of age	80
20 years of age	90

19. Allowances

To view the current monetary amounts of work-related allowances refer to the [Allowances Sheet](#).

19.1 Transport of employees—shiftworkers

When an employee working shiftwork commences or finishes work at a time other than the employee's normal time of commencing or finishing and when reasonable means of transport is not available, the employer will reimburse the employee an amount equal to the cost of any transport which allows the employee to reach the employee's home by other means of transport, unless the employer provides suitable transport.

19.2 Clothing and footwear

- (a) The employer will reimburse employees engaged in work damaging to clothing (for example, the use, maintenance or running repairs of office machines or in the receiving and/or despatch of goods) an amount equal to the cost of uniforms and/or protective clothing, except where uniforms and/or protective clothing are provided free of charge by the employer.
- (b) The employer will reimburse employees who are constantly required to work under conditions which are wet and damaging to footwear, (e.g. on surfaces periodically hosed down or in wet or muddy conditions) an amount equal to the cost of appropriate protective footwear, except where appropriate protective footwear is provided free of charge by the employer.
- (c) When an employee is required to wear and launder a uniform any cost of the uniform must be reimbursed and the employee must be paid the following applicable allowance:
 - (i) For a full-time employee - \$3.55 for laundry expenses per week;

- (ii) For a part-time or casual employee – \$0.71 per shift.

19.3 Meal allowance

- (a) An employee required to work for more than one and a half hours of overtime without being given 24 hours' notice after the employee's ordinary time of ending work will be either provided with a meal or paid a meal allowance of \$15.45. Where such overtime work exceeds four hours a further meal allowance of \$12.37 will be paid.

19.4 Vehicle allowance

- (a) An employee required by the employer to use the employee's motor vehicle in the performance of duties must be paid the following allowances:

- (i) **Motor cars**

- \$0.78 per kilometre with a maximum payment as for 400 kilometres per week.

- (ii) **Motorcycles**

- \$0.26 per kilometre with a maximum payment as for 400 kilometres per week.

- (b) The employer must pay all expenses including registration, running and maintenance where an employer provides a motor vehicle which is used by an employee in the performance of the employee's duties.

19.5 Living away from home allowance

- (a) An employee, required by the employer to work temporarily for the employer away from the employee's usual place of employment, and who is required thereby to sleep away from the employee's usual place of residence, is entitled to the following:

- (i) the payment of an allowance to cover all fares to and from the place at which the employer requires the employee to work; and

- (ii) the payment of an allowance to cover all reasonable expenses incurred for board and lodging.

- (b) The allowances referred to in this clause are not payable where the fares and the board and lodging are provided by the employer.

- (c) In addition to the above, the employee must receive payment at ordinary rates of pay for all time spent in travelling between the employee's usual place of employment and the temporary location, such paid time not to exceed eight hours in 24 hours.

19.6 First aid allowance

An employee who has been trained to render first aid, is the current holder of appropriate first aid qualifications such as a certificate from St John Ambulance Australia or a similar body and is appointed by an employer to perform first aid duty must be paid a weekly allowance of 1.5% of the [standard rate](#).

19.7 Higher duties allowance

An employee, when required to perform any of the duties in a classification higher than their usual classification for more than one day must be paid at least the rate which would be applicable if such duties were performed on a permanent basis.

19.8 District allowances

19.8 Adjustment of expense related allowances

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.

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
Laundry allowance	Clothing and footwear group
Vehicle allowance	Private motoring sub-group

20. Accident make-up pay

21. Supported wage system

See Schedule C

22. National training wage

22.1 Schedule E to the *Miscellaneous Award 2010* sets out minimum wage rates and conditions for employees undertaking traineeships.

22.2 This award incorporates the terms of Schedule E to the *Miscellaneous Award 2010* as at 1 July 2017. Provided that any reference to “this award” in Schedule E to the

Miscellaneous Award 2010 is to be read as referring to the *Clerks—Private Sector Award 2010* and not the *Miscellaneous Award 2010*.

23. Payment of wages

23.1 Employees must be paid their wages weekly or fortnightly as determined by the employer or monthly if mutually agreed. Where payment is made monthly it must be on the basis of two weeks in advance and two weeks in arrears.

23.2 Method of payment

Wages must either be paid by cash, cheque or electronic funds transfer into the bank or financial institution account nominated by the employee.

23.3 Day off coinciding with payday

Where an employee is paid wages by cash or cheque and the employee is, by virtue of the arrangement of their ordinary hours, to take a day off on a day which coincides with payday, such employee must be paid no later than the working day immediately following payday. However, if the employer is able to make suitable arrangements, wages may be paid on the working day preceding payday.

23.4 Absences from duty under an averaging system

Where an employee's ordinary hours in a week are greater or less than 38 hours and such employee's pay is averaged to avoid fluctuating wage payments, the following applies:

- (a)** The employee will accrue a credit for each day the employee works ordinary hours in excess of the daily average.
- (b)** The employee will incur a debit for each day of absence from duty other than on annual leave, long service leave, public holidays, paid personal leave, workers compensation, paid compassionate leave, paid family leave, or jury service.
- (c)** An employee absent for part of a day (other than on annual leave, long service leave, public holidays, paid personal leave, workers compensation, paid compassionate leave, paid family leave, or jury service) will incur a proportion of the debit for the day, based upon the proportion of the working day that the employee was in attendance.

23.5 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) 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) allows the Commission to make an order delaying the requirement to make a payment under this clause. For example, the Commission could make an order delaying the requirement to pay redundancy pay if an employer makes an application under s.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 s.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.

24. Superannuation

24.1 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, the superannuation fund nominated in the award covering the employee applies.
- (b) The rights and obligations in these clauses supplement those in superannuation legislation.

24.2 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.

24.3 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 24.2.

- (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 24.3(a) or (b) no later than 28 days after the end of the month in which the deduction authorised under clauses 24.3(a) or (b) was made.

24.4 Superannuation fund

Unless, to comply with superannuation legislation, the employer is required to make the superannuation contributions provided for in clause 24.2 to another superannuation fund that is chosen by the employee, the employer must make the superannuation contributions provided for in clause 24.2 and pay the amount authorised under clauses 24.3(a) or (b) to one of the following superannuation funds or its successor:

- (a) CareSuper;
- (b) AustralianSuper;
- (c) SunSuper;
- (d) HESTA;
- (e) Statewide Superannuation;
- (f) Tasplan;
- (g) REI Super;
- (h) MTAA Superannuation Fund;
- (i) Kinetic Superannuation;
- (j) 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 scheme; or
- (k) a superannuation fund or scheme which the employee is a defined benefit member of.

24.5 Absence from work

Subject to the governing rules of the relevant superannuation fund, the employer must also make the superannuation contributions provided for in clause 24.2 and pay the amount authorised under clauses 24.3(a) or (b) in the following circumstances:

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

Part 5—Hours of Work and Related Matters

25. Ordinary hours of work (other than shiftworkers)

25.1 Weekly hours of work—day workers

- (a) The ordinary hours of work for day workers are to be an average of 38 per week but not exceeding 152 hours in 28 days, or an average of 38 over the period of an agreed roster cycle.
- (b) The ordinary hours of work may be worked from 7.00 am to 7.00 pm Monday to Friday and from 7.00 am to 12.30 pm Saturday. Provided that where an employee works in association with other classes of employees who work ordinary hours outside the spread prescribed by this clause, the hours during which ordinary hours may be worked are as prescribed by the modern award applying to the majority of the employees in the workplace.
- (c) Not more than 10 hours exclusive of meal breaks (except if paid for at overtime rates) are to be worked in any one day.

25.2 Altering spread of hours

The ordinary hours of work are to be worked continuously, except for meal breaks, at the discretion of the employer. The spread of hours may be altered by up to one hour at either end of the spread, by agreement between an employer and the majority of employees concerned or in appropriate circumstances, between the employer and an individual employee.

25.3 Notice of rostered days off

Where an employee is entitled to a rostered day off during the employee's work cycle, the employer must give the employee four weeks' notice in advance of the weekday the employee is to take off.

25.4 Substitute days

- (a)** An employer may substitute the day an employee is to take off for another day in case of a break down in machinery or a failure or shortage of electric power or to meet the requirements of the business in the event of rush orders or some other emergency situation.
- (b)** An individual employee, with the agreement of the employer, may substitute the day the employee is to take off for another day.
- (c)** Where the working of the 38 hour week is agreed to in accordance with this clause, an employee and the employer may agree to a banking system of up to a maximum of five rostered days off. An employee would therefore work on what would normally have been the employee's rostered day off and accrue an entitlement to bank a rostered day off to be taken at a mutually convenient time for both the employee and the employer, provided not less than five days' notice is given before taking the banked rostered day(s) off.
- (d)** No payments or penalty payments are to be made to employees working under this substitute banked rostered day off. However the employer will maintain a record of the number of rostered days banked and will apply the average pay system during the weeks when an employee elects to take a banked rostered day off.
- (e)** Employees terminating prior to taking any banked rostered day(s) off must receive one fifth of average weekly pay over the previous six months multiplied by the number of banked substitute days.
- (f)** Employees who work on a rostered day off basis each 20 day cycle are entitled to 12 rostered days off in a 12 month period.

26. Breaks

26.1 Meal break

Subject to the provisions of clause 28—Shiftwork of this award, a meal period of not less than 30 minutes and not more than 60 minutes must be allowed to each employee. Such meal period must be taken not later than five hours after commencing work and after the resumption of work from a previous meal break. Employees required to work through meal breaks must be paid double time for all time so worked until a meal break is allowed.

26.2 Rest break

- (a)** An employee must be allowed two 10 minute rest intervals to be counted as time worked on each day that the employee is required to work not less than eight ordinary hours. Each rest interval should be taken at a time suitable to the employer taking into account the needs of the business. If suitable to business operations, the first rest interval should be allowed between the time of commencing work and the usual

meal interval and the second rest interval should be allowed between the usual meal and the time of ceasing work for the day.

- (b) An employee must be allowed one 10 minute rest interval to be counted as time worked on each day that the employee is required to work more than three but less than eight ordinary hours. The rest interval should be taken at a time suitable to the employer taking into account the needs of the business.
- (c) An employee who works more than four hours overtime on a Saturday morning must be allowed a rest interval of 10 minutes without loss of pay between the time of commencing work and finishing work.

27. Overtime rates and penalties (other than shiftworkers)

27.1 Payment for working overtime

- (a) Employees working overtime:
 - (i) within the hours fixed in clause 25—Ordinary hours of work (other than shiftworkers), of this award but in excess of the hours fixed for an ordinary week's work; or
 - (ii) outside the hours fixed in clause 25 of this award;

must be paid time and a half for the first two hours and double time thereafter calculated on a daily basis.

- (b) For the purposes of this clause hours fixed for an ordinary week's work means the hours of work fixed in an establishment in accordance with clause 25 of this award or varied in accordance with the relevant clauses of this award.
- (c) For the purposes of administering the provisions contained in this clause, the minimum period for which an employee must be paid overtime is one half hour per week.
- (d) An employee who works 38 hours Monday to Friday must be paid a minimum of three hours at overtime rates for work performed on a Saturday, provided that such employee is ready, willing and available to work such overtime.

27.2 Payment for working Saturdays and Sundays

- (a) Work within the spread of ordinary hours on Saturday will be paid at the rate of time and a quarter.
- (b) All work done on a Sunday must be paid for at the rate of double time.
- (c) An employee required to work on a Sunday is entitled to not less than four hours' pay at penalty rates provided the employee is available for work for four hours.

27.3 Rest period after overtime

- (a)** 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.
- (b)** An employee (other than a casual employee) who works so much overtime between the termination of the employee's ordinary work on one day and the commencement of the employee's ordinary work on the next day that the employee has not had at least 10 consecutive hours off duty between those times must, subject to this clause, be released after completion of such overtime until the employee has had 10 consecutive hours off duty without loss of pay for ordinary working time occurring during such absence.
- (c)** If on the instructions of the employer such an employee resumes or continues work without having had such 10 consecutive hours off duty the employee must be paid at double the ordinary time rate of pay until the employee is released from duty for such period and the employee is then entitled to be absent until the employee has had 10 consecutive hours off duty without loss of pay for ordinary working time occurring during such absence.
- (d)** Overtime worked in the circumstances specified in clause 27.4 must not be regarded as overtime for the purpose of this clause.
- (e)** The provisions of this clause apply in the case of shiftworkers as if eight hours were substituted for 10 hours when overtime is worked:
 - (i)** for the purposes of changing shift rosters;
 - (ii)** where a shiftworker does not report for duty and a day worker or a shiftworker is required to replace such shiftworker; or
 - (iii)** where a shift is worked by arrangement between the employees themselves.
- (f)** When an employee has not substituted nor banked the rostered day off and therefore works overtime on the rostered day off, the rate of pay must be calculated in accordance with the provisions of clause 27.1.

27.4 Return to duty

Where an employee is required to return to duty after the usual finishing hour of work for that day the employee must be paid at the overtime rates prescribed in clause 27.1(a) but must receive a minimum payment as for three hours' work. Provided that this clause does not apply where the work is continuous (subject to a meal break of not more than one hour) with the completion or commencement of ordinary working time.

27.5 Time off instead of overtime

- (a)** An employee may elect, with the consent of the employer, to take time off instead of payment for overtime that would otherwise be payable under this clause at a time or times agreed with the employer.
- (b)** Overtime taken as time off during ordinary time hours must be taken at the ordinary time rate that is an hour for each hour worked.
- (c)** An employer must, if requested by an employee, provide payment, at the rate provided for the payment of overtime in the award, for any overtime worked under this clause where such time has not been taken within four weeks of accrual.

27.6 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 the award.

28. Shiftwork

28.1 Definitions

In this clause:

- (a) Afternoon shift** means any shift finishing after 7.00 pm and at or before midnight.
- (b) Night shift** means any shift finishing after midnight, and at or before 7.00 am.
- (c) Permanent night shift** means a night shift which does not rotate with another shift or shifts or day work and which continues for a period of not less than four consecutive weeks.

28.2 Altering span of hours

By agreement between the employer and the majority of employees concerned or in appropriate cases an individual employee, the span of hours over which shifts may be worked may be altered by up to one hour at either end of the span.

28.3 Ordinary hours of work

- (a)** The ordinary hours of work for shiftworkers are to be an average of 38 hours per week and must not exceed 152 hours in 28 consecutive days.
- (b)** By agreement between the employer and the majority of employees concerned, a roster system may operate on the basis that the weekly

average of 38 ordinary hours is allowed over a period which exceeds 28 consecutive days but does not exceed 12 months.

- (c) Not more than 10 ordinary hours are to be worked in any one day.

28.4 Hours, shift allowances, special rates, meal interval

- (a) Notwithstanding any other provisions of this award an employee may be employed on shifts, in which case the ordinary hours for a week's work are to be 38, and must be performed in shifts not exceeding six shifts of 10 hours each. A Sunday may be included.
- (b) Times of beginning and ending the shift of an employee may in any case be varied by agreement between the employer and the employee or in the absence of agreement may be varied by at least one week's notice given by the employer to the employee.
- (c) A shiftworker employed on an afternoon shift or a night shift must, for work done during the ordinary hours of any such shift, be paid ordinary rates plus an additional 15% for afternoon or night shift, or an additional 30% for a permanent night shift.
- (d) A shiftworker whose ordinary working period includes a Saturday, a Sunday or a public holiday (as prescribed in Division 10 of the NES) as an ordinary working day must be paid at the rate of time and a half for such ordinary time as occurs on such Saturday, Sunday or public holiday.
- (e) Where ordinary shift hours commence between 11.00 pm and midnight on a Sunday or public holiday, the ordinary time so worked before midnight does not entitle the shiftworker to the Sunday or public holiday rate. Provided that the ordinary time worked by a shiftworker on a shift commencing before midnight on the day preceding a Sunday or public holiday and extending into a Sunday or public holiday is regarded as ordinary time worked on such Sunday or public holiday.
- (f) Twenty minutes must be allowed to a shiftworker for a meal during each shift before the expiration of five hours. Such meal break must be counted as time worked.

28.5 Overtime

A shiftworker for all time worked:

- (a) in excess of the ordinary weekly hours fixed in this clause must be paid time and a half for the first three hours and double time thereafter; or
- (b) in excess of ordinary daily hours on an ordinary shift must be paid time and a half for the first two hours and double time thereafter.

Clause 27.5—Time off instead of overtime and clause 27.6—Make-up time, apply to shiftworkers as well as day workers.

28.6 Work on Saturday, Sunday or public holiday

A shiftworker whose ordinary working period does not include a Saturday, a Sunday or a public holiday (as prescribed in Division 10 of the NES) as an ordinary working day must, if required to work on any such day be paid double time for work done with a minimum payment of four hours at double time if the employee is available for work during such four hours. This provision for minimum payment does not apply where the work on such day is continuous with the commencement or completion of the employee's ordinary shift.

28.7 Special rates not cumulative

The special rates prescribed are in substitution for and not in addition to the shift allowances prescribed.

28A Requests for flexible working arrangements

28A. Employee may request change in working arrangements

Clause 28A applies where an employee has made a request for a change in working arrangements under s.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 s.65(1A).

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

Note 3: Clause 28A is an addition to s.65.

28A.2 Responding to the request

Before responding to a request made under s.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 s.65 request within 21 days, stating whether the employer grants or refuses the request (s.65(4)).

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

28A.3 What the written response must include if the employer refuses the request

Clause 28A.3 applies if the employer refuses the request and has not reached an agreement with the employee under clause 28A.2.

- (a) The written response under s.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.
- (b) If the employer and employee could not agree on a change in working arrangements under clause 28A.2, the written response under s.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.

28A.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 28A.2 on a change in working arrangements that differs from that initially requested by the employee, the employer must provide the employee with a written response to their request setting out the agreed change(s) in working arrangements.

28A.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 28A, can be dealt with under clause 10—Dispute Resolution.

- B. This determination comes into operation from 1 December 2018. In accordance with s.165(3) of the Fair Work Act 2009 this determination does not take effect until the start of the first full pay period that starts on or after 1 December 2018.

Part 6—Leave and Public Holidays

29. Annual leave

29.1 Annual leave is provided for in the NES.

29.2 Definition of shiftworker

For the purpose of the additional week of annual leave provided for in the NES, a **shiftworker** is a seven day shiftworker who is regularly rostered to work on Sundays and public holidays in a business in which shifts are continuously rostered 24 hours a day for seven days a week.

29.3 Annual leave loading

(a) During a period of annual leave an employee will receive a loading calculated on the rate of wage prescribed in clause 16—Minimum weekly wages. Annual leave loading payment is payable on leave accrued.

(b) The loading is as follows:

(i) 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.

(ii) 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.

29.4 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 29.4 is set out at 0. There is no requirement to use the form of agreement set out at 0.

- (c) The employer must keep a copy of any agreement under clause 29.4 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 29.4, 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.

29.5 Close-down

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

29.6 Excessive leave accruals: general provision

Note: Clauses 29.6 to 29.8 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 (or 10 weeks' paid annual leave for a shiftworker, as defined by clause 29.2).
- (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 29.7 sets out how an employer may direct an employee who has an excessive leave accrual to take paid annual leave.
- (d) Clause 29.8 sets out how an employee who has an excessive leave accrual may require an employer to grant paid annual leave requested by the employee.

29.7 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 29.6(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 (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 29.6, 29.7 or 29.8 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 29.7(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.

29.8 Excessive leave accruals: request by employee for leave

- (a) Clause 29.8 comes into operation from 29 July 2017.
- (b) If an employee has genuinely tried to reach agreement with an employer under clause 29.6(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.
- (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 29.7(a) that, when any other paid annual leave arrangements (whether made under clause 29.6, 29.7 or 29.8 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 29.6, 29.7 or 29.8 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 (or 5 weeks' paid annual leave for a shiftworker, as defined by clause 29.2) in any period of 12 months.
- (f) The employer must grant paid annual leave requested by a notice under paragraph (b).

29.9 Cashing out of annual leave

- (a) Paid annual leave must not be cashed out except in accordance with an agreement under clause 29.9.
- (b) Each cashing out of a particular amount of paid annual leave must be the subject of a separate agreement under clause 29.9.
- (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 29.9 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 29.9 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 29.9 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 29.9.

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 29.9.

Note 3: An example of the type of agreement required by clause 29.9 is set out at 0. There is no requirement to use the form of agreement set out at 0.

30. Personal/carer's leave and compassionate leave

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

30.2 Personal/carer's leave for casual employees

(a) Casual employees are entitled to be not available for work or to leave work to care for a person who is sick and requires care and support or who requires care due to an emergency.

(b) Such leave is unpaid. A maximum of 48 hours absence is allowed by right with additional absence by agreement.

31. Public holidays

31.1 Public holidays are provided for in the NES.

31.2 An employer and the employees may by agreement substitute another day for a public holiday.

31.3 Work on a public holiday or a substituted day must be paid at double time and a half. Where both a public holiday and substitute day are worked public holiday penalties are payable on one of those days at the election of the employee. An employee required to work on a public holiday is entitled to not less than four hours pay at penalty rates provided the employee is available to work for four hours.

32. Community service leave

Community service leave is provided for in the NES.

Schedule A—Transitional Provisions

A.1.1 The provisions of this schedule deal with minimum obligations only.

A.1.2 The provisions of this schedule are to be applied:

- (a) when there is a difference, in money or percentage terms, between a provision in a relevant transitional minimum wage instrument (including the transitional default casual loading) or award-based transitional instrument on the one hand and an equivalent provision in this award on the other;
- (b) when a loading or penalty in a relevant transitional minimum wage instrument or award-based transitional instrument has no equivalent provision in this award;
- (c) when a loading or penalty in this award has no equivalent provision in a relevant transitional minimum wage instrument or award-based transitional instrument; or
- (d) when there is a loading or penalty in this award but there is no relevant transitional minimum wage instrument or award-based transitional instrument.

A.2 Minimum wages – existing minimum wage lower

A.2.1 The following transitional arrangements apply to an employer which, immediately prior to 1 January 2010:

- (a) was obliged,
- (b) but for the operation of an agreement-based transitional instrument or an enterprise agreement would have been obliged, or
- (c) if it had been an employer in the industry or of the occupations covered by this award would have been obliged

by a transitional minimum wage instrument and/or an award-based transitional instrument to pay a minimum wage lower than that in this award for any classification of employee.

A.2.2 In this clause minimum wage includes:

- (a) a minimum wage for a junior employee, an employee to whom training arrangements apply and an employee with a disability;
- (b) a piecework rate; and
- (c) any applicable industry allowance.

A.2.3 Prior to the first full pay period on or after 1 July 2010 the employer must pay no less than the minimum wage in the relevant transitional minimum wage instrument and/or award-based transitional instrument for the classification concerned.

A.2.4 The difference between the minimum wage for the classification in this award and the minimum wage in clause A.2.3 is referred to as the transitional amount.

A.2.5 From the following dates the employer must pay no less than the minimum wage for the classification in this award minus the specified proportion of the transitional amount:

First full pay period on or after

1 July 2010	80%
1 July 2011	60%
1 July 2012	40%
1 July 2013	20%

A.2.6 The employer must apply any increase in minimum wages in this award resulting from an annual wage review.

A.2.7 These provisions cease to operate from the beginning of the first full pay period on or after 1 July 2014.

A.3 Minimum wages – existing minimum wage higher

A.3.1 The following transitional arrangements apply to an employer which, immediately prior to 1 January 2010:

- (a) was obliged,
- (b) but for the operation of an agreement-based transitional instrument or an enterprise agreement would have been obliged, or
- (c) if it had been an employer in the industry or of the occupations covered by this award would have been obliged

by a transitional minimum wage instrument and/or an award-based transitional instrument to pay a minimum wage higher than that in this award for any classification of employee.

A.3.2 In this clause minimum wage includes:

- (a) a minimum wage for a junior employee, an employee to whom training arrangements apply and an employee with a disability;
- (b) a piecework rate; and
- (c) any applicable industry allowance.

A.3.3 Prior to the first full pay period on or after 1 July 2010 the employer must pay no less than the minimum wage in the relevant transitional minimum wage instrument and/or award-based transitional instrument for the classification concerned.

A.3.4 The difference between the minimum wage for the classification in this award and the minimum wage in clause A.3.3 is referred to as the transitional amount.

A.3.5 From the following dates the employer must pay no less than the minimum wage for the classification in this award plus the specified proportion of the transitional amount:

First full pay period on or after

1 July 2010	80%
1 July 2011	60%
1 July 2012	40%
1 July 2013	20%

A.3.6 The employer must apply any increase in minimum wages in this award resulting from an annual wage review. If the transitional amount is equal to or less than any increase in minimum wages resulting from the 2010 annual wage review the transitional amount is to be set off against the increase and the other provisions of this clause will not apply.

A.3.7 These provisions cease to operate from the beginning of the first full pay period on or after 1 July 2014.

A.4 Loadings and penalty rates

For the purposes of this schedule loading or penalty means a:

- casual or part-time loading;
- Saturday, Sunday, public holiday, evening or other penalty;
- shift allowance/penalty.

A.5 Loadings and penalty rates – existing loading or penalty rate lower

A.5.1 The following transitional arrangements apply to an employer which, immediately prior to 1 January 2010:

- (a) was obliged,
- (b) but for the operation of an agreement-based transitional instrument or an enterprise agreement would have been obliged, or
- (c) if it had been an employer in the industry or of the occupations covered by this award would have been obliged

by the terms of a transitional minimum wage instrument or an award-based transitional instrument to pay a particular loading or penalty at a lower rate than the equivalent loading or penalty in this award for any classification of employee.

A.5.2 Prior to the first full pay period on or after 1 July 2010 the employer must pay no less than the loading or penalty in the relevant transitional minimum wage instrument or award-based transitional instrument for the classification concerned.

A.5.3 The difference between the loading or penalty in this award and the rate in clause A.5.2 is referred to as the transitional percentage.

A.5.4 From the following dates the employer must pay no less than the loading or penalty in this award minus the specified proportion of the transitional percentage:

First full pay period on or after

1 July 2010	80%
1 July 2011	60%
1 July 2012	40%
1 July 2013	20%

A.5.5 These provisions cease to operate from the beginning of the first full pay period on or after 1 July 2014.

A.6 Loadings and penalty rates – existing loading or penalty rate higher

A.6.1 The following transitional arrangements apply to an employer which, immediately prior to 1 January 2010:

- (a) was obliged,
- (b) but for the operation of an agreement-based transitional instrument or an enterprise agreement would have been obliged, or
- (c) if it had been an employer in the industry or of the occupations covered by this award would have been obliged

by the terms of a transitional minimum wage instrument or an award-based transitional instrument to pay a particular loading or penalty at a higher rate than the equivalent loading or penalty in this award, or to pay a particular loading or penalty and there is no equivalent loading or penalty in this award, for any classification of employee.

A.6.2 Prior to the first full pay period on or after 1 July 2010 the employer must pay no less than the loading or penalty in the relevant transitional minimum wage instrument or award-based transitional instrument.

A.6.3 The difference between the loading or penalty in this award and the rate in clause A.6.2 is referred to as the transitional percentage. Where there is no equivalent loading or penalty in this award, the transitional percentage is the rate in A.6.2.

A.6.4 From the following dates the employer must pay no less than the loading or penalty in this award plus the specified proportion of the transitional percentage:

First full pay period on or after

1 July 2010	80%
1 July 2011	60%
1 July 2012	40%
1 July 2013	20%

A.6.5 These provisions cease to operate from the beginning of the first full pay period on or after 1 July 2014.

A.7 Loadings and penalty rates – no existing loading or penalty rate

A.7.1 The following transitional arrangements apply to an employer not covered by clause A.5 or A.6 in relation to a particular loading or penalty in this award.

A.7.2 Prior to the first full pay period on or after 1 July 2010 the employer need not pay the loading or penalty in this award.

A.7.3 From the following dates the employer must pay no less than the following percentage of the loading or penalty in this award:

First full pay period on or after

1 July 2010	20%
1 July 2011	40%
1 July 2012	60%
1 July 2013	80%

A.7.4 These provisions cease to operate from the beginning of the first full pay period on or after 1 July 2014.

A.8 Exemption clauses

A.8.1 This provision applies to an employer which, immediately prior to 1 January 2010:

- (a) was entitled,
- (b) but for the operation of an agreement-based transitional instrument would have been entitled, or
- (c) if it had been an employer in the industry or of the occupations covered by this award would have been entitled

by a term in an award-based transitional instrument (the exemption clause) to not apply certain provisions of the instrument to an employee paid above a specified rate of pay.

A.8.2 Until 30 June 2010 the exemption clause will continue to apply to an employer of the kind in clause A.8.1 as if the clause were a term of this award and operated in relation to the corresponding provisions of this award rather than the provisions of the instrument.

A.9 Former Division 2B employers

A.9.1 This clause applies to an employer which, immediately prior to 1 January 2011, was covered by a Division 2B State award.

A.9.2 All of the terms of a Division 2B State award applying to a Division 2B employer are continued in effect until the end of the full pay period commencing before 1 February 2011.

A.9.3 Subject to this clause, from the first full pay period commencing on or after 1 February 2011 a Division 2B employer must pay no less than the minimum wages, loadings and penalty rates which it would be required to pay under this Schedule if it had been a national system employer immediately prior to 1 January 2010.

A.9.4 Despite clause A.9.3, where a minimum wage, loading or penalty rate in a Division 2B State award immediately prior to 1 February 2011 was lower than the corresponding minimum wage, loading or penalty rate in this award, nothing in this Schedule requires a Division 2B employer to pay more than the minimum wage, loading or penalty rate in this award.

A.9.5 Despite clause A.9.3, where a minimum wage, loading or penalty rate in a Division 2B State award immediately prior to 1 February 2011 was higher than the corresponding minimum wage, loading or penalty rate in this award, nothing in this Schedule requires a Division 2B employer to pay less than the minimum wage, loading or penalty rate in this award.

A.9.6 In relation to a Division 2B employer this Schedule commences to operate from the beginning of the first full pay period on or after 1 January 2011 and ceases to operate from the beginning of the first full pay period on or after 1 July 2014.

Schedule B—Classifications

The classification criteria in this schedule provides guidelines to determine the appropriate classification level of persons employed pursuant to this award. In determining the appropriate level, consideration must be given to both the characteristics and typical duties/skills. The characteristics are the primary guide to classification as they indicate the level of basic knowledge, comprehension of issues, problems and procedures required and the level of supervision or accountability of the position. The totality of the characteristics must be read as a whole to obtain a clear understanding of the essential features of any particular level and the competency required. The typical duties/skills are a non-exhaustive list of duties/skills that may be comprehended within the particular level. They are an indicative guide only and at any particular level employees may be expected to undertake duties of any level lower than their own. Employees at any particular level may perform/utilise one such duty/skill, or many of them, depending on the particular work allocated.

The key issue to be looked at in properly classifying an employee is the level of competency and skill that the employee is required to exercise in the work they perform, not the duties they perform per se. It will be noted that some typical duties/skills appear in more than one level, however when assigning a classification to an employee this needs to be done by reference to the specific characteristics of the level. For example, whilst word processing and copy typing are first specifically mentioned at Level 2 in terms of typical duty/skill, it does not mean that as soon as an employee operates a word processor or typewriter they automatically become Level 2. They would achieve a Level 2 classification when they have achieved the level of skill and competency envisaged by the characteristics and the relevant indicative duty(ies)/skill(s) of a Level 2. Level 1 in this structure is to be viewed as the level at which employees learn and gain competence in the basic clerical skills required by the employer, which in most cases would lead to progression through the classification structure as their competency and skills increase and are utilised.

B.1 Level 1

B.1.1 Characteristics

Employees at this level may include the initial recruit who may have limited relevant experience. Initially work is performed under close direction using established practices, procedures and instructions.

Such employees perform routine clerical and office functions requiring an understanding of clear, straightforward rules or procedures and may be required to operate certain office equipment. Problems can usually be solved by reference to established practices, procedures and instructions.

Employees at this level are responsible and accountable for their own work within established routines, methods and procedures and the less experienced employees' work may be subject to checking at all stages. The more experienced employee may be required to give assistance to less experienced employees in the same classification.

B.1.2 Typical duties/skills

Indicative typical duties and skills at this level may include:

- (i) Reception/switchboard, e.g. directing telephone callers to appropriate staff, issuing and receiving standard forms, relaying internal information and initial greeting of visitors.
- (ii) Maintenance of basic records.
- (iii) Filing, collating, photocopying, etc.
- (iv) Handling or distributing mail including messenger service.
- (v) Recording, matching, checking and batching of accounts, invoices, orders, store requisitions, etc.
- (vi) The operation of keyboard and other allied equipment in order to achieve competency as prescribed in Level 2.
- (vii) Call centre customer contact trainee—customer contact functions with direct supervision.

B.2 Level 2

B.2.1 Characteristics

This level caters for the employees who have had sufficient experience and/or training to enable them to carry out their assigned duties under general direction.

Employees at this level are responsible and accountable for their own work which is performed within established guidelines. In some situations detailed instructions may be necessary. This may require the employee to exercise limited judgment and initiative within the range of their skills and knowledge.

The work of these employees may be subject to final checking and as required, progress checking. Such employees may be required to check the work and/or provide guidance to other employees at a lower level and/or provide assistance to less experienced employees at the same level.

B.2.2 Typical duties/skills

Indicative typical duties and skills at this level may include:

- (i) Reception/switchboard duties as in Level 1 and in addition responding to enquiries as appropriate, consistent with the acquired knowledge of the organisation's operations and services, and/or where presentation, and use of interpersonal skills are a key aspect of the position.
- (ii) Operation of computerised radio/telephone equipment, micro personal computer, printing devices attached to personal computer, dictaphone equipment, typewriter.

- (iii)** Word processing, e.g. the use of a word processing software package to create, format, edit, correct, print and save text documents, e.g. standard correspondence and business documents.
- (iv)** Stenographer/person solely employed to take shorthand and to transcribe by means of appropriate keyboard equipment.
- (v)** Copy typing and audio typing.
- (vi)** Maintenance of records and/or journals including initial processing and recording relating to the following:

 - reconciliation of accounts to balance;
 - incoming/outgoing cheques;
 - invoices;
 - debit/credit items;
 - payroll data;
 - petty cash imprest system; and
 - letters etc.
- (vii)** Computer application involving use of a software package which may include one or more of the following functions:

 - create new files and records;
 - spreadsheet/worksheet;
 - graphics;
 - accounting/payroll file; and
 - following standard procedures and using existing models/fields of information.
- (viii)** Arrange routine travel bookings and itineraries, make appointments.
- (ix)** Provide general advice and information on the organisation's products and services, e.g. front counter/telephone.
- (x)** Call centre customer contact officer grade 1 is employed to:

 - use known routines and procedures;
 - have some accountability for quality of outcomes;
 - receive calls;
 - use common call centre technology;

- enter and retrieve data;
- work in a team;
- manage own work under guidance; and
- provide at least one specialised service (sales and advice for products and services, complaints or fault enquiries or data collection surveys).

An employee who holds a Certificate II in Telecommunications (Customer Contact) or equivalent is to be classified at this level when employed to perform the functions defined.

B.3 Level 3

B.3.1 Characteristics

Employees at this level have achieved a standard to be able to perform specialised or non-routine tasks or features of the work. Employees require only general guidance or direction and there is scope for the exercise of limited initiative, discretion and judgment in carrying out their assigned duties.

Such employees may be required to give assistance and/or guidance (including guidance in relation to quality of work and which may require some allocation of duties) to employees in Levels 1 and 2 and would be able to train such employees by means of personal instruction and demonstration.

B.3.2 Typical duties/skills

Indicative typical duties and skills at this level may include:

- (i) Prepare cash payment summaries, banking report and bank statements; calculate and maintain wage and salary records; follow credit referral procedures; apply purchasing and inventory control requirements; post journals to ledger.
- (ii) Provide specialised advice and information on the organisation's products and services; respond to client/public/supplier problems within own functional area utilising a high degree of interpersonal skills.
- (iii) * Apply one or more computer software packages developed for a micro personal computer or a central computer resource to either:
 - create new files and records;
 - maintain computer based records management systems;
 - identify and extract information from internal and external sources; or
 - use of advanced word processing/keyboard functions.

- (iv) Arrange travel bookings and itineraries; make appointments; screen telephone calls; respond to invitations; organise internal meetings on behalf of executive(s); establish and maintain reference lists/personal contact systems for executive(s).
- (v) Application of specialist terminology/processes in professional offices.
- (vi) Call centre customer contact office grade 2 is employed to:
 - perform a broader range of skilled operations than grade 1;
 - exercise some discretion and judgment in the selection of equipment, services or contingency measures;
 - work within known time constraints;
 - provide multiple specialised services to customers (including complex sales, service advice for a range of products or services, and difficult complaint and fault inquiries);
 - deployment of service staff using multiple technologies; and
 - exercise a limited amount of leadership over less experienced employees.

An employee who holds a Certificate III (Customer Contact) or equivalent is to be classified at this level when employed to perform the functions defined.

* Note: These typical duties/skills may be either at Level 3 or Level 4 dependent upon the characteristics of that particular level.

B.4 Call centre principal customer contact specialist

Employees at this level are employed to:

- perform a broad range of skilled applications;
- provide leadership as a coach, mentor or senior staff member, and provide guidance in the application and planning of skills;
- work with a high degree of autonomy with the authority to take decisions in relation to specific customer contact matters; and
- take responsibility for the outcomes of customer contact and resolve complex situations.

B.5 Level 4

B.5.1 Characteristics

Employees at this level will have achieved a level of organisation or industry specific knowledge sufficient for them to give advice and/or information to the organisation and clients in relation to specific areas of their responsibility.

They would require only limited guidance or direction and would normally report to more senior staff as required. Whilst not a pre-requisite a principal feature of this level is supervision of employees in lower levels in terms of responsibility for the allocation of duties, co-ordinating work flow, checking progress, quality of work and resolving problems.

They exercise initiative, discretion and judgment at times in the performance of their duties.

They are able to train employees in Levels 1–3 by personal instruction and demonstration.

B.5.2 Typical duties/skills

Indicative typical duties and skills at this level may include:

- (i)** Secretarial/executive support services which may include the following: maintaining executive diary; attending executive/organisational meetings and taking minutes; establishing and/or maintaining current working and personal filing systems for executive; answering executive correspondence from verbal or handwritten instructions.
- (ii)** Able to prepare financial/tax schedules, calculating costings and/or wage and salary requirements; completing personnel/payroll data for authorisation; reconciliation of accounts to balance.
- (iii)** Advising on/providing information on one or more of the following:
 - employment conditions;
 - workers compensation procedures and regulations; and
 - superannuation entitlements, procedures and regulations.
- (iv)** *Applying one or more computer software packages, developed for a micro personal computer or a central computer resource to either:
 - creating new files and records;
 - maintaining computer based management systems;
 - identifying and extract information from internal and external sources; or
 - using of advanced word processing/keyboard functions.
- (v)** Call centre customer contact team leader is employed to:
 - perform a broad range of skilled applications;
 - evaluate and analyse current practices;

- develop new criteria and procedures for performing current practices;
- provide leadership in a team leader role and provide guidance to others in the application and planning of skills; and
- work with a high degree of autonomy and exercise authority to take decisions in relation to specific customer contact matters.

An employee who holds a Certificate IV (Customer Contact) or equivalent is to be classified at this level when employed to perform the functions defined.

* Note: These typical duties/skills may be either at Level 3 or Level 4 dependent upon the characteristics of that particular level.

B.6 Level 5

B.6.1 Characteristics

Employees at this level are subject to broad guidance or direction and would report to more senior staff as required.

Such employees will typically have worked or studied in a relevant field and will have achieved a standard of relevant and/or specialist knowledge and experience sufficient to enable them to advise on a range of activities and features and contribute, as required, to the determination of objectives, within the relevant field(s) of their expertise.

They are responsible and accountable for their own work and may have delegated responsibility for the work under their control or supervision, including, scheduling workloads, resolving operations problems, monitoring the quality of work produced and counselling staff for performance and work related matters.

They would also be able to train and to supervise employees in lower levels by means of personal instruction and demonstration. They would also be able to assist in the delivery of training courses. They would often exercise initiative, discretion and judgment in the performance of their duties.

The possession of relevant post secondary qualifications may be appropriate but are not essential.

B.6.2 Typical duties/skills

Indicative typical duties and skills at this level may include:

- (i) Apply knowledge of organisation's objectives, performance, projected areas of growth, product trends and general industry conditions.
- (ii) Application of computer software packages within either a micro personal computer or a central computer resource including the

integration of complex word processing/desktop publishing, text and data documents.

(iii) Provide reports for management in any or all of the following areas:

- account/financial;
- staffing;
- legislative requirements; and
- other company activities.

(iv) Administer individual executive salary packages, travel expenses, allowances and company transport; administer salary and payroll requirements of the organisation.

(v) Call centre principal customer contact leader is employed to:

- apply a significant range of fundamental principles and complex techniques across a wide and unpredictable variety of contexts in either varied or highly specialised functions;
- co-ordinate the work of a number of teams within a call centre environment; and
- have a number of specialists/supervisors reporting to them.

An employee who holds a Diploma—Front Line Management or equivalent is to be classified at this level when employed to perform the functions defined.

B.7 Call centre technical associate

A call centre technical associate is employed to:

- apply a significant range of fundamental principles and complex techniques across a wide and unpredictable variety of contexts in relation to either varied or highly specialised functions;
- contribute to the development of a broad plan, budget or strategy;
- work with a high degree of autonomy and be accountable and responsible for themselves and others in achieving outcomes (some supervision may be required);
- be involved in the design, installation and management of telecommunications computer equipment and system development;
- assess installation requirements;
- design systems;
- plan and perform installations; and

- install and manage data communications equipment and find faults.

Schedule C—Supported Wage System

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

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

C.3 Eligibility criteria

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

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

C.4 Supported wage rates

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

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

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

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

C.5 Assessment of capacity

C.5.1 For the purpose of establishing the percentage of the relevant minimum wage, the productive capacity of the employee will be assessed in accordance with the Supported Wage System by an approved assessor, having consulted the employer and employee and, if the employee so desires, a union which the employee is eligible to join.

C.5.2 All assessments made under this schedule must be documented in an SWS wage assessment agreement, and retained by the employer as a time and wages record in accordance with the Act.

C.6 Lodgement of SWS wage assessment agreement

C.6.1 All SWS wage assessment agreements under the conditions of this schedule, including the appropriate percentage of the relevant minimum wage to be paid to the employee, must be lodged by the employer with the Fair Work Commission.

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

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

C.7 Review of assessment

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

C.8 Other terms and conditions of employment

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

C.9 Workplace adjustment

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

C.10 Trial period

- C.10.1** In order for an adequate assessment of the employee's capacity to be made, an employer may employ a person under the provisions of this schedule for a trial period not exceeding 12 weeks, except that in some cases additional work adjustment time (not exceeding four weeks) may be needed.
- C.10.2** During that trial period the assessment of capacity will be undertaken and the percentage of the relevant minimum wage for a continuing employment relationship will be determined.
- C.10.3** The minimum amount payable to the employee during the trial period must be no less than \$82 per week.
- C.10.4** Work trials should include induction or training as appropriate to the job being trialled.
- C.10.5** Where the employer and employee wish to establish a continuing employment relationship following the completion of the trial period, a further contract of employment will be entered into based on the outcome of assessment under clause C.5.

Schedule D—National Training Wage

Schedule E—2016 Part-day Public Holidays

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

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

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

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

Schedule F—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 G—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___

Include if the employee is under 18 years of age:

Name of parent/guardian: _____

Signature of parent/guardian: _____

Date signed: ___/___/20___

Schedule H-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___