

Mining Industry Award 2010

The above award was first made on 19 December 2008 [[PR985121](#)]

This consolidated version of the award includes variations made on 11 September 2009 [[PR988358](#)]; 21 December 2009 [[PR992071](#)]; 1 March 2010 [[PR994050](#)]; 12 March 2010 [[PR994464](#)]; 4 June 2010 [[PR997772](#)]; 21 June 2010 [[PR998105](#)]; 21 June 2010 [[PR997891](#)]; 29 June 2010 [[PR998748](#)]; 6 December 2010 [[PR503613](#)]

NOTE: **Transitional provisions** may apply to certain clauses – see [clause 2](#) and [Schedule A](#)

To determine the transitional amount or loading, go to the version of this modern award in operation [prior to 1 July 2010](#) which does **not** include:

- (a) variations to minimum wages resulting from the Annual Wage Review 2009-10; or
- (b) variations in expense related allowances operative from 1 July 2010.

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[Varied by [PR994050](#), [PR994464](#)]

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Part 1—Application and Operation

1. Title

This award is the *Mining Industry 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.

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, Fair Work Australia may make any order it considers appropriate to remedy the situation.

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

2.6 Fair Work Australia 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

[Varied by [PR994464](#), [PR997772](#), [PR503613](#)]

3.1 In this award, unless the contrary intention appears:

[Definition of **Act** substituted by [PR994464](#) from 01Jan10]

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

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afternoon shift means any shift finishing after 7.00 pm and at or before midnight

[Definition of **agreement-based transitional instrument** inserted by [PR994464](#) from 01Jan10]

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

[Definition of **award-based transitional instrument** inserted by [PR994464](#) from 01Jan10]

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

base rate of pay has the meaning in the NES

[Definition of **Commission** deleted by [PR994464](#) from 01Jan10]

continuous shiftworker means an employee engaged in a continuous process who is rostered to work regularly on Sundays and public holidays

[Definition of **Division 2B State award** inserted by [PR503613](#) ppc 01Jan11]

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

[Definition of **Division 2B State employment agreement** inserted by [PR503613](#) ppc 01Jan11]

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

[Definition of **employee** substituted by [PR994464](#), [PR997772](#) from 01Jan10]

employee means national system employee within the meaning of the Act

[Definition of **employer** substituted by [PR994464](#), [PR997772](#) from 01Jan10]

employer means national system employer within the meaning of the Act

[Definition of **enterprise award** deleted by [PR994464](#) from 01Jan10]

[Definition of **enterprise award-based instrument** inserted by [PR994464](#) from 01Jan10]

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

full rate of pay has the meaning in the NES

minimum weekly rate means the minimum weekly rate of pay set out in clause 13—Classifications and minimum wage rates

[Definition of **NAPSA** deleted by [PR994464](#) from 01Jan10]

[Definition of **NES** substituted by [PR994464](#) from 01Jan10]

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

night shift means any shift finishing after midnight and at or before 8.00 am

remote work means work required to be performed in any location that is operated by the employer as a remote location, including but not limited to sites operating on a fly in/fly out, drive in/drive out or bus in/bus out basis

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shiftworker means an employee for the time being engaged to work in a system of shifts, being afternoon shifts, night shifts or both, or a continuous shiftworker

standard rate means the minimum weekly wage for a Level 3 employee in clause 13.1

[Definition of **transitional minimum wage instrument** inserted by [PR994464](#) from 01Jan10]

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

work cycle means a roster cycle made up of working and non-working days

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

4. Coverage

[Varied by [PR994464](#)]

[Numbered as 4.1 by [PR994464](#) from 01Jan10]

4.1 This industry award covers employers throughout Australia who are engaged in the mining industry in respect of work by their employees in a classification in this award and their employees engaged in the classifications listed in clause 13—Classifications and minimum wage rates, of this award, to the exclusion of any other modern award.

4.2 Definition of mining industry

[4.1 and 4.2 renumbered as 4.2 and 4.3 by [PR994464](#) from 01Jan10]

For the purposes of this clause **mining industry** means:

- (a) extracting any of the following from the earth by any manner or method including exploration, prospecting, development and land clearing, preparatory work and rehabilitation during the life of the mine:
 - (i) any metals, minerals or ores;
 - (ii) phosphates and gemstones;
 - (iii) mineral sands;
 - (iv) uranium and other radioactive substances;
- (b) the processing, smelting and refining of the metals, minerals, ores or substances covered by clause 4.2(a);
- (c) the transportation, handling and loading of any of the metals, minerals, ores or substances covered by clause 4.2(a) on a mining lease or tenement;
- (d) the transportation, handling and loading of any of the metals, minerals, ores or substances covered by clause 4.2(a) by the mine operator, a related company or an entity principally engaged by the mine operator to do such work, using the plant or infrastructure (including rail and/or ports) of the mine operator or a related company;

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- (e) the servicing, maintaining (including mechanical, electrical, fabricating or engineering) or repairing of plant and equipment used in the activities set out in clauses 4.2(a) to (d) by employees principally employed to perform work on an ongoing basis at a location where the activities described above are being performed; or
- (f) the provision of temporary labour services used in the activities set out in clauses 4.2(a) to (e), by temporary labour personnel principally engaged to perform work at a location where the activities described above are being performed.

4.3 Exclusions

This award does not cover:

[4.3(a) substituted by [PR994464](#) from 01Jan10]

- (a) an employee who is 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 such employee;

[4.3(b) inserted by [PR994464](#) from 01Jan10]

- (b) an employee who is 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 such an employee;

[4.3(b) to 4.3(f) renumbered as 4.3(c) to 4.3(g) by [PR994464](#) from 01Jan10]

- (c) an employee excluded from award coverage by the Act;
- (d) employers in respect of their operations or activities in the following industries or occupations:
 - (i) aluminium;
 - (ii) catering, accommodation, cleaning and incidental services (unless employed by a mine operator or a related company);
 - (iii) clerical or administrative;
 - (iv) information technology professionals, professional engineers, geologists and scientists;
 - (v) oil, gas and hydrocarbons;
 - (vi) quarrying of stone, crushed stone, sand and gravel, and land reclamation (including dredging);
 - (vii) salt;
 - (viii) security services (unless employed by a mine operator or a related company);
 - (ix) steel making;

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- (x) prospecting and resource assessment for the purposes of potential mine development, which is not on a mining lease or tenement;
- (xi) brown coal mining; and
- (xii) melting and smelting of metals in connection with manufacturing activities covered by the *Manufacturing and Associated Industries and Occupations Award 2010*;

[4.3(e) varied by [PR994464](#) from 01Jan10]

- (e) employers in respect of their operations or activities covered by the *Black Coal Mining Industry Award 2010*;
- (f) employers in respect of their operations or activities covered by the *Manufacturing and Associated Industries and Occupations Award 2010*, except for work covered by clause 4.2 above; and
- (g) persons employed in the head office or town office of an employer.

[New 4.4 inserted by [PR994464](#) from 01Jan10]

4.4 This award covers employers which provide group training services for apprentices and trainees engaged in the industry and/or parts of industry set out at clause 4.2 and those apprentices and 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.

[4.3 renumbered as 4.5 by [PR994464](#) from 01Jan10]

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

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

5. 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

[Varied by [PR994464](#)]

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.

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

[7.3(b) substituted by [PR994464](#) from 01Jan10]

- (b) result in the employee being better off overall than the employee would have been if no individual flexibility agreement had been agreed to.

[7.4 substituted by [PR994464](#) from 01Jan10]

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 deleted by [PR994464](#) from 01Jan10]

[7.6 renumbered as 7.5 by [PR994464](#) from 01Jan10]

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

[New 7.6 inserted by [PR994464](#) from 01Jan10]

- 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 four 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.
- 7.9** 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 regarding major workplace change

8.1 Employer to notify

- (a)** 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.
- (b)** **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.

8.2 Employer to discuss change

- (a)** The employer must discuss with the employees affected and their representatives, if any, the introduction of the changes referred to in clause 8.1, 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.

- (b) 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.
- (c) 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.

9. Dispute resolution

[Varied by [PR994464](#)]

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 varied by [PR994464](#) from 01Jan10]

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 Fair Work Australia.

[9.3 varied by [PR994464](#) from 01Jan10]

9.3 The parties may agree on the process to be utilised by Fair Work Australia including mediation, conciliation and consent arbitration.

[9.4 varied by [PR994464](#) from 01Jan10]

9.4 Where the matter in dispute remains unresolved, Fair Work Australia 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. Types of employment

An employee may be engaged on a full-time, part-time or casual basis.

10.1 Full-time employment

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

10.2 Part-time employment

- (a) A part-time employee is an employee who:
 - (i) is engaged to work an average of fewer than 38 ordinary hours per week; and
 - (ii) receives, on a pro rata basis, equivalent pay and conditions to those of full-time employees who do the same kind of work.
- (b) For each ordinary hour worked, a part-time employee will be paid no less than 1/38th of the minimum weekly rate of pay for the relevant classification in clause 13—Classifications and minimum wage rates.
- (c) An employer must inform a part-time employee of the ordinary hours of work and starting and finishing times. All time worked in excess of these hours will be paid at the appropriate overtime rate.

10.3 Casual employment

- (a) A casual employee is one engaged and paid as such. A casual employee's ordinary hours of work are the lesser of an average of 38 hours per week or the hours required to be worked by the employer.
- (b) For each hour worked, a casual employee will be paid no less than 1/38th of the minimum weekly rate of pay for their classification in clause 13—Classifications and minimum wage rates, plus a casual loading of 25%. The loading constitutes part of the casual employee's all purpose rate.
- (c) The casual loading is paid instead of annual leave, personal/carer's leave, notice of termination, redundancy benefits and the other attributes of full-time or part-time employment.

10.4 Probation period

An employer may initially engage a full-time or part-time employee for a period of probationary employment for the purpose of determining the employee's suitability for ongoing employment. The employee must be advised in advance that the employment is probationary and of the duration of the probation which is to be either:

- (a) three months or less; or

- (b) more than three months and is reasonable, having regard to the nature and circumstances of the employment.

11. Termination of employment

11.1 Notice of termination is provided for in the NES.

11.2 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.

11.3 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.

12. Redundancy

[Varied by [PR994464](#), [PR503613](#)]

12.1 Redundancy pay is provided for in the NES.

12.2 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.

12.3 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.

12.4 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.

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- (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 will be sufficient.
- (c) This entitlement applies instead of clause 11.3.

12.5 Transitional provisions – NAPSA employees

[12.5 substituted by [PR994464](#) from 01Jan10; renamed by [PR503613](#) ppc 01Jan11]

- (a) Subject to clause 12.5(b), an employee whose employment is terminated by an employer is entitled to redundancy pay in accordance with the terms of a notional agreement preserving a State award:
 - (i) that would have applied to the employee immediately prior to 1 January 2010, if the employee had at that time been in their current circumstances of employment and no agreement-based transitional instrument or enterprise agreement had applied to the employee; and
 - (ii) that would have entitled the employee to redundancy pay in excess of the employee's entitlement to redundancy pay, if any, under the NES.
- (b) The employee's entitlement to redundancy pay under the notional agreement preserving a State award is limited to the amount of redundancy pay which exceeds the employee's entitlement to redundancy pay, if any, under the NES.
- (c) This clause does not operate to diminish an employee's entitlement to redundancy pay under any other instrument.
- (d) Clause 12.5 ceases to operate on 31 December 2014.

12.6 Transitional provisions – Division 2B State employees

[12.6 inserted by [PR503613](#) ppc 01Jan11]

- (a) Subject to clause 12.6(b) an employee whose employment is terminated by an employer is entitled to redundancy pay in accordance with the terms of a Division 2B State award:
- (b) that would have applied to the employee immediately prior to 1 January 2011, if the employee had at that time been in their current circumstances of employment and no Division 2B State employment agreement or enterprise agreement had applied to the employee; and
- (c) that would have entitled the employee to redundancy pay in excess of the employee's entitlement to redundancy pay, if any, under the NES.
- (d) The employee's entitlement to redundancy pay under the Division 2B State award is limited to the amount of redundancy pay which exceeds the employee's entitlement to redundancy pay, if any, under the NES.
- (e) This clause does not operate to diminish an employee's entitlement to redundancy pay under any other instrument.
- (f) Clause 12.6 ceases to operate on 31 December 2014.

Part 4—Minimum Wages and Related Matters

13. Classifications and minimum wage rates

[Varied by [PR994464](#), [PR997891](#)]

13.1 Adult employees

[13.1(a) varied by [PR997891](#) ppc 01Jul10]

- (a) A full-time adult employee must be paid a minimum weekly rate for their classification as set out in the table below:

Level	Classification	Minimum weekly rate
		\$
Entry Level	Introductory	591.00
Level 1	Basic	620.00
Level 2	Intermediate	644.00
Level 3	Competent	663.60
Level 4	Advanced	708.00
Level 5	Advanced specialist	754.00
Level 6	Dual Trade	791.00
Level 7	Dual Trade Instrumentation	823.00

- (b) The classification structure and descriptors for the above classifications are contained in Schedule B—Classification and Structure.

13.2 Junior employees

Where the law permits junior employees to perform work in the mining industry, the junior employee will be entitled to the percentage of the applicable adult weekly wage (in the case of part-time or casual employees the hourly rate) for their classification as set out in the table below:

Age	% of adult rate
16 years or less	75
At 17 years	85
At 18 years	100

13.3 School-based apprentices

Arrangements for school-based apprentices are set out in Schedule C.

13.4 Apprentices and trainees

[13.4(a) varied by [PR994464](#) from 01Jan10]

- (a) The terms of this award apply to apprentices and trainees, subject to the provisions of an applicable contract of apprenticeship or training agreement operating under federal, state or territory apprenticeship or training legislation and Schedule D—National Training Wage.

[13.4(b) varied by [PR994464](#) from 01Jan10]

- (b) Trainees will be entitled to the percentage of the applicable adult weekly wage (in the case of part-time or casual employees the hourly rate) for their classification as set out in Schedule D.

[13.4(c) varied by [PR994464](#) from 01Jan10]

- (c) Apprentices will be entitled to the percentage of the applicable adult weekly wage for their classification as set out in the table below:

Year of apprenticeship	% of adult rate
1st year	45
2nd year	55
3rd year	75
4th year	88

13.5 Supported wage system

See Schedule E

14. Allowances

[Varied by [PR994464](#), [PR998105](#), [PR503613](#)]

- 14.1 Allowances are all purpose allowances only if expressly stated in this clause. Where an employee is paid by the hour, the allowance will be 1/38th of the weekly allowance.

14.2 Allowances for responsibilities or skills that are not taken into account in rates of pay

- (a) **Leading hand**

A leading hand must be paid a weekly allowance of:

In charge of	% of standard rate
3–10 employees	4.40
11–20 employees	5.60
More than 20 employees	7.53

(b) First aid allowance

An employee who holds first aid qualifications from St John Ambulance or an equivalent body, and who is appointed by the employer to participate in the emergency response team or otherwise to perform first aid duty, will be paid a first aid payment of 2% of the standard rate per week.

(c) Licence allowance—electricians

An employee who is required by their employer to hold an Electrical Technicians licence (or equivalent) will be paid an all purpose allowance of 4.55% of the standard rate per week.

(d) Rail allowance

Employees who are assessed as being mainline competent and appointed by their employer as Locomotive Drivers and required to operate on the mainline will receive a rail allowance of 30% of the ordinary hourly base rate of pay specified in this award.

14.3 Allowances for disabilities associated with the performance of particular tasks or work in particular conditions or locations

(a) Industry allowance

- (i) Employees will be paid an all purpose industry allowance of 3.7% of the standard rate per week.
- (ii) The industry allowance recognises and is in payment for all aspects of work in the industry, including but not limited to the location and nature of mining operations, clothing, dirt, wet, height, fumes, heat, cold, confined space, and all other disabilities not expressly dealt with under this clause.

(b) District allowances

(i) Northern Territory

[14.3(b)(i) substituted by [PR994464](#) from 01Jan10]

An employee in the Northern Territory is entitled to payment of a district allowance in accordance with the terms of an award made under the *Workplace Relations Act 1996* (Cth):

- that would have applied to the employee immediately prior to 1 January 2010, if the employee had at that time been in their current circumstances of employment and no agreement-based transitional instrument or enterprise agreement had applied to the employee; and
- that would have entitled the employee to payment of a district allowance.

(ii) Western Australia

[14.3(b)(ii) substituted by [PR994464](#) from 01Jan10]

An employee in Western Australia is entitled to payment of a district allowance in accordance with the terms of a notional agreement preserving a State award or an award made under the *Workplace Relations Act 1996* (Cth):

- that would have applied to the employee immediately prior to 1 January 2010, if the employee had at that time been in their current circumstances of employment and no agreement-based transitional instrument or enterprise agreement had applied to the employee; and
- that would have entitled the employee to payment of a district allowance.

(iii) This clause ceases to operate on 31 December 2014.

(iv) During the transitional period an employee is not entitled to payment of both the Industry allowance and the District allowance. The employee must be paid whichever allowance is the greater.

(c) Underground allowance

Employees, other than employees classified as underground miners, whilst required by their employer to work underground will be paid an allowance of 7% per hour calculated by reference to the standard rate.

(d) Drilling, prospecting and exploration allowances

The following allowances apply only to employees who are required to perform drilling, prospecting and exploration duties.

(i) Employees who are required to camp at remote locations (including remote from a mine site) and reasonable transport to and from their home is not provided by their employer, will be paid an allowance as follows:

- 3.39% of the standard rate per day, where meals are not provided by the employer; and
- 1.87% of the standard rate per day where meals are provided by the employer.

However, the allowance is not required to be paid where accommodation and meals are provided by the employer, or where the employer pays for, or reimburses the employee for, fares to return to and from home each weekend, or where the employee is engaged on a regular commute arrangement as part of a mining operation.

(ii) Employees who are classified as cooks and cooks assistants will be paid an all purpose allowance of 1.07% of the standard rate per week, whilst they are required by their employer to work broken shifts.

- (iii) Employees who are required by their employer to transfer from one place of employment to another place of employment or work away from their usual place of employment for a temporary period will be reimbursed for the cost of transport. Travelling time of up to eight hours will be paid at their ordinary hourly rate (provided that no reimbursement will be required to be made if the employer provides transport).

14.4 Reimbursement and expense related allowances

[14.4(a) varied by [PR998105](#) ppc 01Jul10]

(a) Meal allowance for overtime work

An employee will be paid a meal allowance of \$13.71 on each occasion that the employee is entitled to a rest break during overtime work, provided that an allowance is not required to be paid if the employer provides a meal or meal-making facilities or if the employee was notified no later than the previous day or shift that the employee would be required to work the overtime.

(b) Tool allowance

[14.4(b) varied by [PR998105](#) ppc 01Jul10]

An employee who is required by the employer to supply and maintain tools ordinarily required in the performance of work will be paid an allowance of \$14.65 per week.

14.5 Method of adjusting expense related allowances

[14.5 substituted by [PR994464](#) from 01Jan10]

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

Allowance	Applicable Consumer Price Index figure
Meal allowance	Take away and fast foods sub-group
Tool allowance	Tools component of the household appliances, utensils and tools sub-group

14.6 Accident pay

[14.6(a) varied by [PR994464](#); substituted by [PR503613](#) ppc 01Jan11]

- (a) Subject to clause 14.6(b), an employee is entitled to accident pay in accordance with the terms of an award made under the *Workplace Relations Act 1996* (Cth) that would have applied to the employee immediately prior to 27 March 2006, a notional agreement preserving a State award that would have applied to the employee immediately prior to 1 January 2010 or a Division 2B State

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award that would have applied to the employee immediately prior to 1 January 2011:

- (i) if the employee had at that time been in their current circumstances of employment and no agreement-based transitional instrument, enterprise agreement or Division 2B State employment agreement had applied to the employee; and
- (ii) that would have entitled the employee to accident pay in excess of the employee's entitlement to accident pay, if any, under any other instrument.

[14.6(b) substituted by [PR994464](#), [PR503613](#) ppc 01Jan11]

- (b) The employee's entitlement to accident pay under the award, the notional agreement preserving a State award or the Division 2B State award is limited to the amount of accident pay which exceeds the employee's entitlement to accident pay, if any, under any other instrument.
- (c) This clause does not operate to diminish an employee's entitlement to accident pay under any other instrument.
- (d) This clause ceases to operate on 31 December 2014.

15. Payment of wages

- 15.1** The employer will pay the employees wages, penalties and allowances at a frequency of not longer than monthly by electronic funds transfer into the employee's bank (or other recognised financial institution) nominated by the employee.
- 15.2** An employer may deduct from any amount required to be paid to an employee under this clause the amount of any overpayment of wages or allowances.

Part 5—Hours of Work and Related Matters

16. Annualised salaries

16.1 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:
 - clause 13—Classifications and minimum wage rates;
 - clause 14—Allowances;
 - clause 19—Overtime and penalty rates; and
 - clause 22.4—Payment for annual leave.
- (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.

16.2 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.

16.3 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 13—Classifications and minimum wage rates and excludes any incentive-based payments, bonuses, loadings, monetary allowances, overtime and penalties.

17. Ordinary hours of work

17.1 A full-time employee's ordinary hours of work will be an average of 38 hours per week. The ordinary hours of part-time and casual employees will be in accordance with clause 10—Types of employment.

17.2 Employees other than shiftworkers

- (a) Subject to clause 17.2(c) employees, other than shiftworkers, may be required to work up to 10 ordinary hours per day, between the hours of 6.00 am and 6.00 pm, Monday to Sunday.
- (b) An employer may agree with a majority of affected employees to alter the spread of hours in clause 17.2(a) and/or to increase the ordinary hours per day to a maximum of 12.
- (c) Where employees were required to work 12 hour shifts under roster and working hours arrangements which were in place before 1 January 2010 those arrangements may continue to operate in respect to both existing employees and new employees.

17.3 Shiftworkers

- (a) Subject to clause 17.3(c) shiftworkers may be required to work a shift of up to 10 consecutive ordinary hours (including meal breaks). Shiftwork may be worked on any or all days of the week.
- (b) An employer may agree with a majority of affected employees to alter the spread of hours in clause 17.3(a) and/or to increase the ordinary hours per day to a maximum of 12.
- (c) Where employees were required to work 12 hour shifts under roster and working hours arrangements which were in place before 1 January 2010 those arrangements may continue to operate in respect to both existing employees and new employees.

17.4 Special arrangements for cycle work

Notwithstanding any other provision of this award, the following arrangements apply to employees who are required to undertake a work cycle:

- (a) Employees may be engaged to work on a work cycle made up of working and non-working days. The total ordinary hours of work during a work cycle must not exceed 38 hours multiplied by the total number of working (on-duty period) and non-working (off-duty period) days in the cycle divided by seven.
- (b) The on-duty period commences at the time the employee reports to the point designated by the employer for commencement of work at the workplace. The off-duty period commences at the conclusion of the employee's last rostered shift.

18. Maximum weekly hours

18.1 This clause of the award provides industry specific detail and supplements the NES which deals with maximum weekly hours.

18.2 For the purposes of the NES an employee's weekly hours may be averaged over a period of up to 26 weeks.

19. Overtime and penalty rates

[Varied by [PR994464](#)]

19.1 Overtime payments—employees other than continuous shiftworkers

- (a) Except where provided otherwise in this clause, an employee (other than a continuous shiftworker) will be paid the following additional payments for all work done in addition to their ordinary hours:
 - (i) 50% of the ordinary hourly base rate of pay for the first three hours and 100% of ordinary hourly base rate of pay thereafter, for overtime worked from Monday until noon Saturday;
 - (ii) 100% of the ordinary hourly base rate of pay for overtime worked after noon on a Saturday or at any time on a Sunday; and
 - (iii) 150% of the ordinary hourly base rate of pay for overtime worked on a public holiday.
- (b) An employee recalled to work overtime after leaving the employer's premises (whether notified before or after leaving the premises) will be engaged to work for a minimum of four hours or will be paid for a minimum of four hours' work in circumstances where the employee is engaged for a lesser period.

19.2 Overtime—continuous shiftworkers

A continuous shiftworker will be paid an additional payment for all work done in addition to ordinary hours of 100% of the ordinary hourly base rate of pay.

19.3 Method of calculation

- (a) When computing overtime payments, each day or shift worked will stand alone.
- (b) Any payments under this clause are in substitution of any other loadings or penalty rates.

19.4 Time off instead of payment for overtime

[19.4 substituted by [PR994464](#) from 01Jan10]

- (a) An employee may elect, with the consent of the employer, to take time off instead of payment for overtime at a time or times agreed with the employer.
- (b) The employee may take one hour of time off for each hour of overtime, paid at the employee's ordinary hourly base rate of pay.

19.5 Shiftwork penalties

- (a) A shiftworker or continuous shiftworker whilst on afternoon shift or night shift must be paid a loading of 15% of the ordinary hourly base rate of pay.
- (b) A shiftworker or continuous shiftworker whilst on permanent night shift must be paid a loading of 30% of the ordinary hourly base rate of pay.

19.6 Weekend work

An employee will be paid the following loadings for ordinary hours worked on a Saturday or Sunday:

- (a) 50% of the ordinary hourly base rate of pay for the first three hours and 100% of ordinary hourly base rate of pay thereafter, for ordinary hours worked before noon on a Saturday; and
- (b) 100% of the ordinary hourly base rate of pay, for hours worked after noon on a Saturday or at any time on a Sunday.

19.7 Public holidays

An employee will be paid a loading of 150% of the ordinary hourly base rate of pay, for any ordinary hours worked on a public holiday.

20. Rostering

20.1 An employer may vary an employee's days of work or start and finish times to meet the needs of the business by giving at least 48 hours' notice, or such shorter period as is agreed between the employer and an individual employee.

20.2 Where an employee is performing shiftwork, the employer may change shift rosters or require an employee to work a different shift roster upon 48 hours' notice. These time periods may be reduced where agreed by the employer and the employee or at the direction of the employer where operational circumstances require.

20.3 The employer must consult with directly affected employees about any changes made under this clause.

20.4 Emergency arrangements

Notwithstanding anything elsewhere contained in this clause, an employer may vary or suspend any roster arrangement immediately in the case of an emergency.

21. Breaks

21.1 Meal breaks and rest breaks

- (a) An employee, other than a shiftworker, is entitled to an unpaid meal break of not less than 30 minutes after every five hours worked.
- (b) A shiftworker working 10 hours or less will be entitled to a paid meal break of 20 minutes per shift.
- (c) A shiftworker working for longer than 10 hours will be entitled to paid meal breaks totalling 40 minutes per shift.
- (d) Breaks will be scheduled by the employee's supervisor based upon operational requirements so as to ensure continuity of operations. The employer will not require an employee to work more than five hours before the first meal is taken or between subsequent meal breaks if any.

21.2 Rest breaks during overtime

- (a) An employee may take a paid rest break of 20 minutes after each four hours of overtime worked, if the employee is required to continue work after the rest break.
- (b) The employer and an employee may agree to any variation of this clause to meet the circumstances of the workplace, provided that the employer is not required to make any payment in excess of or less than what would otherwise be required under this clause.

21.3 Minimum break between work on successive day or shifts

(a) Employees other than shiftworkers

- (i) When overtime work is necessary it must, wherever reasonably practicable, be arranged so that employees have at least 10 consecutive hours off work between work on successive working days.
- (ii) An employee (other than a casual employee) who works so much overtime between the termination of ordinary work on one day and the commencement of ordinary work on the next day that the employee has not had at least 10 consecutive hours off work between those times must be released after completion of the overtime until the employee has had 10 consecutive hours off work without loss of pay for ordinary working time occurring during such absence.
- (iii) If on the instructions of the employer an employee resumes or continues work without having had the 10 consecutive hours off work, the employee must be paid at the relevant overtime rate until released from work for such period. The employee is then entitled to be absent until

they have had 10 consecutive hours off work without loss of pay for ordinary working time occurring during the absence.

(b) Shiftworkers

For shiftworkers, the required period of consecutive hours off work is eight hours. Other arrangements are as per clauses 21.3(a)(i) to 21.3(a)(iii) above.

Part 6—Leave and Public Holidays

22. Annual leave

[Varied by [PR994464](#)]

22.1 This clause of the award supplements the provisions of the NES which deal with annual leave. Annual leave does not apply to casual employees.

22.2 For the purposes of the provisions of the NES which deal with annual leave, shiftworker means a continuous shiftworker.

22.3 Arrangements for taking leave

(a) Where an employee works in a remote location or on cycle work made up of working days and non-working days, a period of paid annual leave includes working and non-working days during the period.

(b) Where an employee works in a remote location or on cycle work made up of working days (on-duty period) and non-working days (off-duty period), an employer may reasonably require that:

(i) any period or periods of annual leave taken by the employee must be a multiple of the on-duty period and/or off-duty period under the employee's work cycle roster; or

(ii) the employee take annual leave in accordance with the roster cycle.

22.4 Payment for annual leave

The amount to be paid to an employee prior to going on leave must be worked out on the basis of the greater of:

(a) the amount the employee would have been paid for working ordinary hours during the period of annual leave, including loadings, penalties and allowances paid for all purposes (but excluding payments in respect of overtime, or any other payment which might have been payable to the employee as a reimbursement for expenses incurred); or

(b) the employee's minimum rate of pay for ordinary hours under clause 13—Classifications and minimum wage rates of this award plus an annual leave loading of 17.5%.

[22.5—Annual leave loading heading deleted by [PR994464](#) from 01Jan10]

22.5 Taking of annual leave during shut downs

[22.6 to 22.9 renumbered as 22.5 to 22.8 by [PR994464](#) from 01Jan10]

An employer may direct an employee to take paid annual leave during all or part of a period where the employer shuts down the business or part of the business where the employee works. If an employee does not have sufficient accrued annual leave for the period of the shut down, then the employee may be required to take leave without pay.

22.6 Taking of annual leave on excessive accrual

An employer may direct an employee to take paid annual leave if the employee has accrued more than eight weeks or, in the case of continuous shiftworkers 10 weeks, paid annual leave, and the employer and employee are unable to reach agreement on the taking of the leave. An employer must give an employee at least 28 days' notice prior to the date the employee is required to commence the leave.

22.7 Taking of annual leave over an extended period

An employer and employee may agree that the employee can take a period of paid leave over a longer period. Where this occurs, the payment for the leave will be reduced in proportion to the period of extension. For example, it may be agreed that the leave period is doubled and taken on half pay.

22.8 Leave in advance

- (a) An employee may agree with their employer to take annual leave in advance of an entitlement accruing under the NES. Where this occurs, the employee's leave balance will be reduced by an amount equivalent to the leave taken in advance as the employee's entitlement to paid annual leave accrues.
- (b) The employer may deduct from the employee's termination payments, leave taken in advance where the entitlement to that leave has not accrued as at the date of termination.

23. Personal/carer's leave and compassionate leave

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

24. Community service leave

Community service leave is provided for in the NES.

25. Public holidays

25.1 Employees are entitled to public holidays in accordance with the NES.

25.2 Substitution of public holidays

An employer and a majority of affected employees or an individual employee may reach agreement in writing to substitute a day or part-day for a day or part-day that would otherwise be a public holiday under terms of the NES.

Schedule A—Transitional Provisions

[Sched A inserted by [PR994050](#) ppc 1Mar10; varied by [PR503613](#)]

A.1 General

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.

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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.

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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 Former Division 2B employers

[A.8 inserted by [PR503613](#) ppc 01Jan11]

A.8.1 This clause applies to an employer which, immediately prior to 1 January 2011, was covered by a Division 2B State award.

A.8.2 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.8.3 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.8.4 Despite clause A.8.3, 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.8.5 Despite clause A.8.3, 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.8.6 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—Classification and Structure

[Sched A renumbered as Sched B by [PR994050](#) ppc 1Mar10]

B.1 Classification and progression principles

B.1.1 Classification

In each of the classifications under this award it is a requirement that an employee must:

- (a) perform work in a fully flexible manner as reasonably required by the employer and in accordance with the employee's ability and competence;
- (b) acquire any skills as reasonably requested by the employer and, where necessary, undertake required training and assist with the training of others; and
- (c) use such tools and equipment as may be required, subject to the limit of the employee's skills and competence and provided that the employee has been properly trained in the use of such tools and equipment.

B.1.2 Progression

An employee will progress through the classification levels subject to:

- (a) possessing the applicable skills for the level; and
- (b) being required by the employer to perform work at that level.

Progression from Level 4 and above will be subject to the employee being appointed by the employer.

B.2 Classification groups

B.2.1 Mining Industry Services Employees

A Mining Industry Services Employee is designated as such by their employer and performs all tasks as directed by their employer which include but are not limited to: labouring; assisting work crews and tradespersons; operation of plant and equipment (including mobile plant); maintenance work on plant, equipment or buildings; performance of general plant, stores, workshop, warehouse, packaging, and marine interface tasks, resource assessment (including prospecting, drilling and exploration); preparing and cleaning equipment and materials; and on site catering cleaning and security.

This classification group also encompasses work performed by Laboratory Assistants, who do not hold tertiary qualifications.

B.2.2 Mining Industry Surface Mining and Haulage Employees

A Mining Industry Surface Mining and Haulage Employee is designated as such by their employer and performs all tasks as directed by their employer which include but are not limited to: open cut mining activities (including labouring, sampling, spotting); operating all forms of mining industry plant and equipment (including

mobile plant); operating equipment used in the transportation handling and loading (or discharge) of ores, metals, minerals and/or product (including rail activities); and all tasks associated with drilling and blasting.

B.2.3 Mining Industry Processing Employees

A Mining Industry Processing Employee is designated as such by their employer and performs all tasks as directed by their employer which include but are not limited to: operating and adjusting all plant equipment (and associated control panels) utilised in mining industry production, processing, smelting and refining operations; and issuing clearances and permits as required.

B.2.4 Mining Industry Underground Mine Employees

A Mining Industry Underground Mine Employee is designated as such by their employer and performs all tasks as directed by their employer which include but are not limited to: underground mining activities (including labouring, sampling, drilling, blasting, mine ventilation, ground control and shaft activities); and operation and maintenance of underground mining plant and equipment (including mobile plant).

B.2.5 Mining Industry Maintenance Trades Employees

A Mining Industry Maintenance Trades Employee is designated as such by their employer, performs all tasks on the surface or underground as directed by their employer and is trade qualified.

B.3 Classification Structure

B.3.1 Entry Level—Introductory

An employee at this level is undertaking the standard induction training required for the operation or business. Such training covers: conditions of employment; mine and plant safety; first aid procedures; movement around the site; work and documentation procedures; quality control and quality assurance; and introduction to supervisors and fellow workers. Employees at this level perform routine duties under direct supervision.

This level applies to the following classification groups:

- Mining Industry Services Employees; Mining Industry Surface Mining and Haulage Employees; Mining Industry Processing Employees; and Mining Industry Underground Mine Employees.

B.3.2 Level 1—Basic

An employee at this level will have completed the standard induction training and have been assessed to be able to competently carry out the basic and semi-skilled work required for this level.

This level applies to the following classification groups:

- Mining Industry Services Employees; Mining Industry Surface Mining and Haulage Employees; Mining Industry Processing Employees; and Mining Industry Underground Mine Employees.

B.3.3 Level 2—Intermediate

An employee at this level will have been assessed as being competent to carry out semi-skilled work on a broad range of plant and equipment functions. The employee exercises discretion within their level of skill and is responsible for the quality of the work subject to routine supervision.

This level applies to the following classification groups:

- Mining Industry Services Employees; Mining Industry Surface Mining and Haulage Employees; Mining Industry Processing Employees; and Mining Industry Underground Mine Employees.

B.3.4 Level 3—Competent

An employee at this level will have been assessed as being competent to apply skills and knowledge in complex but routine situations where discretion and judgment are involved. The skills and knowledge are acquired through the completion of a trade certificate, or through practical experience, which has equipped the employee with an equivalent level of skills and knowledge.

An employee at this level can plan tasks, select equipment and appropriate procedures from known alternatives and takes responsibility for the work of others. An employee at this level requires only limited supervision or guidance.

An employee at this level: understands and applies quality control techniques; exercises discretion within the scope of this level; performs work under limited supervision; operates all equipment incidental to the work; and assists in the provision of on-the-job training.

This level applies to the following classification groups:

- Mining Industry Surface Mining and Haulage Employees; Mining Industry Processing Employees; Mining Industry Underground Mine Employees; and Mining Industry Maintenance Trades Employees.

B.3.5 Level 4—Advanced

An employee at this level will have met the requirements for Level 3 and been assessed as being competent to perform tasks which require in depth skill or knowledge, or the employee is assessed as having the integration of a broad range of skills. The work may be of a non-routine nature requiring the application of the relevant skills and knowledge to new but predictable situations.

The level of skills or knowledge required to perform this work will involve the completion of a post trade training appropriate for this level, or through the acquisition of practical skills and knowledge which has equipped the employee with the equivalent level of skills and knowledge.

An employee at this level will provide guidance and assistance to others.

This level applies to the following classification groups:

- Mining Industry Surface Mining and Haulage Employees; Mining Industry Processing Employees; Mining Industry Underground Mine Employees; and Mining Industry Maintenance Trades Employees.

B.3.6 Level 5— Advanced Specialist

An employee at this level will have met the requirements for Level 4 and holds a trade qualification used in the operation and has acquired additional knowledge by having satisfactorily completed a prescribed post trade course appropriate for this level or the achievement to the satisfaction of the employer of a comparable standard of skill and knowledge by other means including in-plant training or on-the-job experience.

An employee at this level will provide guidance and assistance to others.

This level applies to the following classification groups:

- Mining Industry Underground Mine Employees; and Mining Industry Maintenance Trades Employees.

B.3.7 Level 6—Dual Trade

An employee at this level will have met the requirements for Level 5 and holds a dual trade qualification or equivalent prescribed post trade course used in the operation and has acquired additional knowledge enabling the employee to apply dual trade skills or an equivalent level of high precision specialised trade skills in one area.

An employee at this level: has high precision trade skills in more than one area; is qualified to work on machinery or equipment with complex mechanical, hydraulic, electrical circuitry or controls; and meets the skills requirements for Tradespersons in accordance with the *Manufacturing and Associated Industries and Occupations Award 2010* for this level.

This level applies to Mining Industry Maintenance Trades Employees.

B.3.8 Level 7—Dual Trade Instrument Technician

An employee at this level will have met the requirements for Level 6 and have acquired further additional knowledge by having satisfactorily completed a prescribed post trades course or an advanced trade equivalent enabling the employee to apply advanced dual trade instrument electrical technician skills.

This level applies to Mining Industry Maintenance Trades Employees.

Schedule C—School-based Apprentices

[Sched B renumbered as Sched C by [PR994050](#) ppc 1Mar10]

[Sched C substituted by [PR994464](#) from 01Jan10]

- C.1** This schedule applies to school-based apprentices. A school-based apprentice is a person who is undertaking an apprenticeship in accordance with this schedule while also undertaking a course of secondary education.
- C.2** A school-based apprenticeship may be undertaken in the trades covered by this award under a training agreement or contract of training for an apprentice declared or recognised by the relevant State or Territory authority.
- C.3** The relevant minimum wages for full-time junior and adult apprentices provided for in this award, calculated hourly, will apply to school-based apprentices for total hours worked including time deemed to be spent in off-the-job training.
- C.4** For the purposes of clause C.3, where an apprentice is a full-time school student, the time spent in off-the-job training for which the apprentice must be paid is 25% of the actual hours worked each week on-the-job. The wages paid for training time may be averaged over the semester or year.
- C.5** A school-based apprentice must be allowed, over the duration of the apprenticeship, the same amount of time to attend off-the-job training as an equivalent full-time apprentice.
- C.6** For the purposes of this schedule, off-the-job training is structured training delivered by a Registered Training Organisation separate from normal work duties or general supervised practice undertaken on the job.
- C.7** The duration of the apprenticeship must be as specified in the training agreement or contract for each apprentice but must not exceed six years.
- C.8** School-based apprentices progress through the relevant wage scale at the rate of 12 months progression for each two years of employment as an apprentice.
- C.9** The apprentice wage scales are based on a standard full-time apprenticeship of four years (unless the apprenticeship is of three years duration). The rate of progression reflects the average rate of skill acquisition expected from the typical combination of work and training for a school-based apprentice undertaking the applicable apprenticeship.
- C.10** If an apprentice converts from school-based to full-time, all time spent as a full-time apprentice will count for the purposes of progression through the relevant wage scale in addition to the progression achieved as a school-based apprentice.
- C.11** School-based apprentices are entitled pro rata to all of the other conditions in this award.

Schedule D—National Training Wage

[Sched D inserted by [PR994464](#), varied by [PR997891](#)]

D.1 Title

This is the *National Training Wage Schedule*.

D.2 Definitions

In this schedule:

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

approved training means the training specified in the training contract

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

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

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

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

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

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

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

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

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

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

Tasmania: *Vocational Education and Training Act 1994*;

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

Western Australia: *Vocational Education and Training Act 1996*

trainee is an employee undertaking a traineeship under a training contract

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

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

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

year 10 includes any year before Year 10

D.3 Coverage

D.3.1 Subject to clauses D.3.2 to D.3.6 of this schedule, this schedule applies in respect of an employee covered by this award who is undertaking a traineeship whose training package and AQF certificate level is allocated to a wage level by Appendix D1 to this schedule or by clause D.5.4 of this schedule.

D.3.2 This schedule only applies to AQF Certificate Level IV traineeships for which a relevant AQF Certificate Level III traineeship is listed in Appendix D1 to this schedule.

D.3.3 This schedule does not apply to the apprenticeship system or to any training program which applies to the same occupation and achieves essentially the same training outcome as an existing apprenticeship in an award as at 25 June 1997.

D.3.4 This schedule does not apply to qualifications not identified in training packages or to qualifications in training packages which are not identified as appropriate for a traineeship.

D.3.5 Where the terms and conditions of this schedule conflict with other terms and conditions of this award dealing with traineeships, the other terms and conditions of this award prevail.

D.3.6 At the conclusion of the traineeship, this schedule ceases to apply to the employee.

D.4 Types of Traineeship

The following types of traineeship are available under this schedule:

D.4.1 a full-time traineeship based on 38 ordinary hours per week, with 20% of ordinary hours being approved training; and

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

D.5 Minimum Wages

[D.5 substituted by [PR997891](#) ppc 01Jul10]

D.5.1 Minimum wages for full-time traineeships

(a) Wage Level A

Subject to clause D.5.3 of this schedule, the minimum wages for a trainee undertaking a full-time AQF Certificate Level I–III traineeship whose training package and AQF certificate levels are allocated to Wage Level A by Appendix D1 are:

	Highest year of schooling completed		
	Year 10 per week \$	Year 11 per week \$	Year 12 per week \$
School leaver	256.00	282.00	336.00
Plus 1 year out of school	282.00	336.00	391.00
Plus 2 years out of school	336.00	391.00	455.00
Plus 3 years out of school	391.00	455.00	521.00
Plus 4 years out of school	455.00	521.00	
Plus 5 or more years out of school	521.00		

(b) Wage Level B

Subject to clause D.5.3 of this schedule, the minimum wages for a trainee undertaking a full-time AQF Certificate Level I–III traineeship whose training package and AQF certificate levels are allocated to Wage Level B by Appendix D1 are:

	Highest year of schooling completed		
	Year 10 per week \$	Year 11 per week \$	Year 12 per week \$
School leaver	256.00	282.00	327.00
Plus 1 year out of school	282.00	327.00	376.00
Plus 2 years out of school	327.00	376.00	441.00
Plus 3 years out of school	376.00	441.00	503.00
Plus 4 years out of school	441.00	503.00	
Plus 5 or more years out of school	503.00		

(c) Wage Level C

Subject to clause D.5.3 of this schedule, the minimum wages for a trainee undertaking a full-time AQF Certificate Level I–III traineeship whose training package and AQF certificate levels are allocated to Wage Level C by Appendix D1 are:

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	Highest year of schooling completed		
	Year 10	Year 11	Year 12
	per week	per week	per week
	\$	\$	\$
School leaver	256.00	282.00	327.00
Plus 1 year out of school	282.00	327.00	368.00
Plus 2 years out of school	327.00	368.00	411.00
Plus 3 years out of school	368.00	411.00	458.00
Plus 4 years out of school	411.00	458.00	
Plus 5 or more years out of school	458.00		

(d) AQF Certificate Level IV traineeships

- (i) Subject to clause D.5.3 of this schedule, the minimum wages for a trainee undertaking a full-time AQF Certificate Level IV traineeship are the minimum wages for the relevant full-time AQF Certificate Level III traineeship with the addition of 3.8% to those minimum wages.
- (ii) Subject to clause D.5.3 of this schedule, the minimum wages for an adult trainee undertaking a full-time AQF Certificate Level IV traineeship are as follows, provided that the relevant wage level is that for the relevant AQF Certificate Level III traineeship:

Wage level	First year of	Second and
	traineeship	subsequent years of
	per week	per week
	\$	\$
Wage Level A	541.00	562.00
Wage Level B	522.00	542.00
Wage Level C	475.00	493.00

D.5.2 Minimum wages for part-time traineeships

(a) Wage Level A

Subject to clauses D.5.2(f) and D.5.3 of this schedule, the minimum wages for a trainee undertaking a part-time AQF Certificate Level I–III traineeship whose training package and AQF certificate levels are allocated to Wage Level A by Appendix D1 are:

	Highest year of schooling completed		
	Year 10	Year 11	Year 12
	per hour	per hour	per hour
	\$	\$	\$
School leaver	8.42	9.28	11.05
Plus 1 year out of school	9.28	11.05	12.86
Plus 2 years out of school	11.05	12.86	14.97
Plus 3 years out of school	12.86	14.97	17.14
Plus 4 years out of school	14.97	17.14	
Plus 5 or more years out of school	17.14		

(b) Wage Level B

Subject to clauses D.5.2(f) and D.5.3 of this schedule, the minimum wages for a trainee undertaking a part-time AQF Certificate Level I–III traineeship whose training package and AQF certificate levels are allocated to Wage Level B by Appendix D1 are:

	Highest year of schooling completed		
	Year 10	Year 11	Year 12
	per hour	per hour	per hour
	\$	\$	\$
School leaver	8.42	9.28	10.76
Plus 1 year out of school	9.28	10.76	12.37
Plus 2 years out of school	10.76	12.37	14.51
Plus 3 years out of school	12.37	14.51	16.55
Plus 4 years out of school	14.51	16.55	
Plus 5 or more years out of school	16.55		

(c) Wage Level C

Subject to clauses D.5.2(f) and D.5.3 of this schedule, the minimum wages for a trainee undertaking a part-time AQF Certificate Level I–III traineeship whose training package and AQF certificate levels are allocated to Wage Level C by Appendix D1 are:

	Highest year of schooling completed		
	Year 10	Year 11	Year 12
	per hour	per hour	per hour
	\$	\$	\$
School leaver	8.42	9.28	10.76
Plus 1 year out of school	9.28	10.76	12.11
Plus 2 years out of school	10.76	12.11	13.52
Plus 3 years out of school	12.11	13.52	15.07

	Highest year of schooling completed		
	Year 10 per hour \$	Year 11 per hour \$	Year 12 per hour \$
Plus 4 years out of school	13.52	15.07	
Plus 5 or more years out of school	15.07		

(d) School-based traineeships

Subject to clauses D.5.2(f) and D.5.3 of this schedule, the minimum wages for a trainee undertaking a school-based AQF Certificate Level I–III traineeship whose training package and AQF certificate levels are allocated to Wage Levels A, B or C by Appendix D1 are as follows when the trainee works ordinary hours:

Year of schooling	
Year 11 or lower per hour \$	Year 12 per hour \$
8.42	9.28

(e) AQF Certificate Level IV traineeships

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

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

Wage level	First year of traineeship per hour \$	Second and subsequent years of traineeship per hour \$
Wage Level A	17.80	18.49
Wage Level B	17.17	17.83
Wage Level C	15.63	16.22

(f) Calculating the actual minimum wage

(i) Where the full-time ordinary hours of work are not 38 or an average of 38 per week, the appropriate hourly minimum wage is obtained by multiplying the relevant minimum wage in clauses D.5.2(a)–(e) of this schedule by 38 and then dividing the figure obtained by the full-time ordinary hours of work per week.

- (ii) Where the approved training for a part-time traineeship is provided fully off-the-job by a registered training organisation, for example at school or at TAFE, the relevant minimum wage in clauses D.5.2(a)–(e) of this schedule applies to each ordinary hour worked by the trainee.
- (iii) Where the approved training for a part-time traineeship is undertaken solely on-the-job or partly on-the-job and partly off-the-job, the relevant minimum wage in clauses D.5.2(a)–(e) of this schedule minus 20% applies to each ordinary hour worked by the trainee.

D.5.3 Other minimum wage provisions

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

D.5.4 Default wage rate

The minimum wage for a trainee undertaking an AQF Certificate Level I–III traineeship whose training package and AQF certificate level are not allocated to a wage level by Appendix D1 is the relevant minimum wage under this schedule for a trainee undertaking an AQF Certificate to Level I–III traineeship whose training package and AQF certificate level are allocated to Wage Level B.

D.6 Employment conditions

- D.6.1** A trainee undertaking a school-based traineeship may, with the agreement of the trainee, be paid an additional loading of 25% on all ordinary hours worked instead of paid annual leave, paid personal/carer's leave and paid absence on public holidays, provided that where the trainee works on a public holiday then the public holiday provisions of this award apply.
- D.6.2** A trainee is entitled to be released from work without loss of continuity of employment and to payment of the appropriate wages to attend any training and assessment specified in, or associated with, the training contract.
- D.6.3** Time spent by a trainee, other than a trainee undertaking a school-based traineeship, in attending any training and assessment specified in, or associated with, the training contract is to be regarded as time worked for the employer for the purposes of calculating the trainee's wages and determining the trainee's employment conditions.
- D.6.4** Subject to clause D.3.5 of this schedule, all other terms and conditions of this award apply to a trainee unless specifically varied by this schedule.

Appendix D1: Allocation of Traineeships to Wage Levels

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

D1.1 Wage Level A

Training package	AQF certificate level
Aeroskills	II
Aviation	I II III
Beauty	III
Business Services	I II III
Chemical, Hydrocarbons and Refining	I II III
Civil Construction	III
Coal Training Package	II III
Community Services	II III
Construction, Plumbing and Services Integrated Framework	I II III
Correctional Services	II III
Drilling	II III
Electricity Supply Industry—Generation Sector	II III (in Western Australia only)
Electricity Supply Industry—Transmission, Distribution and Rail Sector	II
Electrotechnology	I II III (in Western Australia only)
Financial Services	I II III
Floristry	III
Food Processing Industry	III

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

D1.2 Wage Level B

Training package	AQF certificate level
Animal Care and Management	I II III
Asset Maintenance	I II III
Australian Meat Industry	I II III
Automotive Industry Manufacturing	II III
Automotive Industry Retail, Service and Repair	I II III
Beauty	II
Caravan Industry	II III
Civil Construction	I
Community Recreation Industry	III
Entertainment	I II III
Extractive Industries	II III
Fitness Industry	III
Floristry	II
Food Processing Industry	I II
Forest and Forest Products Industry	I II III
Furnishing	I II III
Gas Industry	I II
Health	II III
Local Government (Operational Works)	I II

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

D1.3 Wage Level C

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

Schedule E—Supported Wage System

[Sched E inserted by [PR994464](#), varied by [PR998748](#)]

E.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.

E.2 In this schedule:

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

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

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

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

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

SWS wage assessment agreement means the document in the form required by the Department of Education, Employment and Workplace Relations that records the employee's productive capacity and agreed wage rate

E.3 Eligibility criteria

E.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.

E.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.

E.4 Supported wage rates

E.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 E.5)	Relevant minimum wage
%	%
10	10
20	20
30	30
40	40
50	50
60	60
70	70
80	80
90	90

[E.4.2 varied by [PR998748](#) ppc 01Jul10]

E.4.2 Provided that the minimum amount payable must be not less than \$73 per week.

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

E.5 Assessment of capacity

E.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.

E.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.

E.6 Lodgement of SWS wage assessment agreement

E.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 Fair Work Australia.

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

E.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.

E.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.

E.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.

E.10 Trial period

E.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.

E.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.

[E.10.3 varied by [PR998748](#) ppc 01Jul10]

E.10.3 The minimum amount payable to the employee during the trial period must be no less than \$73 per week.

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

E.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 E.5.