


### PAY AND CONDITIONS GUIDE

**Wine Industry Award 2010 [MA000090]** ('modern award')  
replacing terms and conditions in or derived from

**Wine & Spirit Industry (South Australia) Award [AN150168]**  
('pre-modern award')

**(SA)**

Effective from 01 July 2011.

Published 30 June 2011 

#### **Background**

This guide was developed by the Fair Work Ombudsman to assist employers and employees covered by this modern award, pre-modern award and pay scales derived from this pre-modern award to identify minimum wages, penalties, loadings and allowances.

#### **Transitional arrangements**

Modern awards commenced operation on 01 January 2010. However, minimum wage, loading and penalty entitlements commence from 01 July 2010. Almost all modern awards include provisions to 'transition' employers and employees from their pre-modern award to the modern award system.

This modern award includes transitional provisions that provide for the 'phasing in' of increases or decreases in minimum wages, penalties and loadings in the modern award in 5 increments over 4 years from 01 July 2010. All other terms and conditions in this modern award apply in full from 01 January 2010.

The rates in this guide are current from the first pay period on or after 01 July 2011. The rates set out in this guide will change from the first full period on or after 01 July each year to take account of Fair Work Australia's annual wage review and transitional arrangements. The rates may also change as a result of a Fair Work Australia decision to vary the modern award or pay and condition entitlements of the modern award from time to time.

#### **Transitional arrangements for Division 2B State awards**

Division 2B State awards (other than Division 2B enterprise awards) terminate at the end of 31 December 2010 and, from 1 January 2011, employers and employees are covered by the relevant modern award. However, most modern awards provide that all the terms of Division 2B State awards continue to apply until the end of the full pay period which started before 1 February 2011.

The employers affected include sole traders, partnerships, other unincorporated entities and non-trading corporations in New South Wales, Queensland, South Australia and Tasmania who are covered by a Division 2B State award.

From the first full pay period starting on or after 1 February 2011, an employer who was covered by a Division 2B State award, must comply with all of the terms and conditions contained in their relevant modern award, and any transitional arrangements that apply. Transitional arrangements in most modern awards for Division 2B State award employers provide that from the first full pay period starting on or after 1 February 2011, they must pay at least the same minimum wage rates, penalties and loadings as national system employers who are transitioning from the equivalent NAPSA. There are some exceptions and special transitional arrangements that apply in certain situations. If you require help determining whether these exceptions or special transitional arrangements apply to you, please contact the Fair Work Infoline on 13 13 94.

Note: Modern awards are not intended to reduce an employee's take-home pay. An employee or his/her union can apply to Fair Work Australia for a take-home pay order to remedy any reduction in his/her overall take-home pay.

### **Who should use the guide?**

Employees and employers who were entitled to terms and conditions in or derived from this pre-modern award and who are now covered by this modern award.

The guide contains information from this modern award about:

- who the modern award covers;
- wage rates, including rates for casual employees, junior employees, trainees and apprentices;
- penalty rates for working at particular times or under particular arrangements;
- allowances; and
- other conditions of employment.

### **What if an agreement applies to employees covered by the modern award?**

Minimum wage entitlements in a modern award override lesser wage entitlements in an agreement or contract of employment at all times, including agreements and contracts that were made before the commencement of the *Fair Work Act 2009*. All employees covered by the modern award must not be paid less than the rate of pay in the modern award.

However, the penalty rates and allowances in the modern award do not apply to agreement-covered employees, unless the agreement is read in conjunction with the modern award (e.g. a pre-reform certified agreement (a type of collective agreement made before 27 March 2006)).

If you require assistance with any provisions of this guide please contact the **Fair Work Infoline** on **13 13 94**.

## **Coverage**

This industry award covers employers throughout Australia in the **wine industry** and their employees in the classifications in this award to the exclusion of any other award.

The **wine industry** means the industry of growing and processing wine grapes and includes:

- the preparation of land for the planting of wine grape vines, the planting of wine grape vines, the pruning of wine grape vines, the care, growing, treating, picking, harvesting and forwarding of wine grapes and other activities associated with a wine grape vineyard; and/or

- processing wine grapes, producing wine juice or grape spirit, the bottling, packaging, storage or dispatch of wine, brandy or other potable spirit, liqueurs, vinegar or grape juice and other activities associated with a winery or wine distillery including but not limited to cellar door sales, laboratory activities and making or repairing barrels, vats, casks and like articles; and/or

- packaging, storing and dispatching of wine or grape spirit from a warehouse facility or other place of storage associated with a winery or wine distillery.

This award does not cover an employee excluded from award coverage by the Act.

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

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

This award covers any employer which supplies labour on an on-hire basis in the industry set out in clause 4.1 in respect of on-hire employees in classifications covered by this award, and those on-hire employees, while engaged in the performance of work for a business in that industry. This subclause operates subject to the exclusions from coverage in this award.

This award covers employers which provide group services for apprentices and/or trainees engaged in the industry and/or parts of industry set out at clause 4.1 and those apprentices and/or 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.

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 the employee are covered by an award with occupational coverage.

## **Wages**

This modern award includes transitional arrangements that apply to minimum wage entitlements from the first pay period on or after 01 July 2010 until the first pay period on or after 01 July 2014 (when modern award wages commence in full).

The following wage tables set out base rates of pay for classifications under the modern award.

It also sets out how the modern award classification matches up with pre-modern award classification. If there is no classification match the employee may be covered by another pre-modern award, or another modern award, such as a modern award that covers the employee's occupation rather than the industry.

The base rates of pay in this guide include any applicable industry allowance. The base rates of pay also include any increase from Fair Work Australia's annual wage review. For more information about transitional arrangements for minimum wage entitlements, please visit [www.fairwork.gov.au](http://www.fairwork.gov.au)

## Casual employees

The rates for casual employees set in the table below are minimum rates for **ordinary hours** only.

Please visit [www.fairwork.gov.au](http://www.fairwork.gov.au) for information about penalty entitlements for casual employees.

### \*Post 26 March 2006 employer

Wage rates for casual employees of employers that became part of the national system after 26 March 2006 do not include annual leave loading because those employees did not have a pre-modern award entitlement to annual leave loading.

## Adult

The rates in this guide are current from the first pay period on or after 01 July 2011 until the final pay period before 01 July 2012 only.

## Full & Part Time

Modern award classification	Pre-modern award classification	Base rate of pay (hourly)
Grade 1	Bottling stream, Grade 1 (trainee)	\$15.73
Grade 1	Grade 1, 19 years	\$14.43
Grade 1	Grade 1, 20 years	\$15.73
Grade 1	Cellar stream, Grade 1 (trainee)	\$15.73
Grade 1	Cellar door sales stream, Grade 1 (trainee)	\$15.73
Grade 1	Laboratory stream, Grade 1 (trainee)	\$15.73
Grade 1	Vineyard stream, Grade 1 (trainee)	\$15.73
Grade 1	Warehouse & supply stream, Grade 1 (trainee)	\$15.73
Grade 1	Coopers stream, Grade 1 (trainee)	\$15.73
Grade 2	Bottling stream, Grade 2	\$16.41
Grade 2	Grade 2, 19 years	\$15.05
Grade 2	Grade 2, 20 years	\$16.41
Grade 2	Cellar stream, Grade 2	\$16.41
Grade 2	Cellar door sales stream, Grade 2	\$16.41
Grade 2	Laboratory stream, Grade 2	\$16.41
Grade 2	Vineyard stream, Grade 2	\$16.41
Grade 2	Warehouse & supply stream, Grade 2	\$16.41
Grade 2	Coopers stream, Grade 2	\$16.41
Grade 3	Bottling stream, Grade 3	\$17.09
Grade 3	Cellar stream, Grade 3	\$17.09
Grade 3	Grade 3, 19 years	\$15.66
Grade 3	Grade 3, 20 years	\$17.09

<b>Modern award classification</b>	<b>Pre-modern award classification</b>	<b>Base rate of pay (hourly)</b>
Grade 3	Cellar door sales stream, Grade 3	\$17.09
Grade 3	Laboratory stream, Grade 3	\$17.09
Grade 3	Vineyard stream, Grade 3	\$17.09
Grade 3	Warehouse & supply stream, Grade 3	\$17.09
Grade 3	Coopers stream, Grade 3	\$17.09
Grade 4	Bottling stream, Grade 4	\$18.06
Grade 4	Cellar stream, Grade 4	\$18.06
Grade 4	Grade 4, 19 years	\$16.55
Grade 4	Grade 4, 20 years	\$18.06
Grade 4	Cellar door sales stream, Grade 4	\$18.06
Grade 4	Laboratory stream, Grade 4	\$18.06
Grade 4	Vineyard stream, Grade 4	\$18.06
Grade 4	Warehouse & supply stream, Grade 4	\$18.06
Grade 4	Coopers stream, Grade 4	\$18.06
Grade 5	Bottling stream, Grade 5 (supervisor 1)	\$19.19
Grade 5	Bottling stream, Grade 6 (supervisor 2)	\$19.82
Grade 5	Cellar stream, Grade 5	\$19.19
Grade 5	Cellar stream, Grade 6	\$19.82
Grade 5	Grade 5, 19 years	\$17.58
Grade 5	Grade 5, 20 years	\$19.19
Grade 5	Laboratory stream, Grade 5 (supervision)	\$19.19
Grade 5	Laboratory stream, Grade 5 (technical)	\$19.19
Grade 5	Laboratory stream, Grade 6	\$19.82
Grade 5	Grade 6, 19 years	\$18.12
Grade 5	Grade 6, 20 years	\$19.82
Grade 5	Vineyard stream, Grade 5	\$19.19
Grade 5	Vineyard stream, Grade 6	\$19.82
Grade 5	Warehouse & supply stream, Grade 5	\$19.19
Grade 5	Warehouse & supply stream, Grade 6	\$19.82
Grade 5	Coopers stream, Grade 5	\$19.19
Grade 5	Coopers stream, Grade 6	\$19.82

### **Casual**

<b>Modern award classification</b>	<b>Pre-modern award classification</b>	<b>Base rate of pay (hourly)</b>
Grade 1	Bottling stream, Grade 1 (trainee)	\$19.19 (22.00%)
Grade 1	Grade 1, 19 years	\$17.60 (22.00%)
Grade 1	Grade 1, 20 years	\$19.19 (22.00%)
Grade 1	Cellar stream, Grade 1 (trainee)	\$19.19 (22.00%)

<b>Modern award classification</b>	<b>Pre-modern award classification</b>	<b>Base rate of pay (hourly)</b>
Grade 1	Cellar door sales stream, Grade 1 (trainee)	\$19.19 (22.00%)
Grade 1	Laboratory stream, Grade 1 (trainee)	\$19.19 (22.00%)
Grade 1	Vineyard stream, Grade 1 (trainee)	\$19.19 (22.00%)
Grade 1	Warehouse & supply stream, Grade 1 (trainee)	\$19.19 (22.00%)
Grade 1	Coopers stream, Grade 1 (trainee)	\$19.19 (22.00%)
Grade 2	Bottling stream, Grade 2	\$20.02 (22.00%)
Grade 2	Grade 2, 19 years	\$18.36 (22.00%)
Grade 2	Grade 2, 20 years	\$20.02 (22.00%)
Grade 2	Cellar stream, Grade 2	\$20.02 (22.00%)
Grade 2	Cellar door sales stream, Grade 2	\$20.02 (22.00%)
Grade 2	Laboratory stream, Grade 2	\$20.02 (22.00%)
Grade 2	Vineyard stream, Grade 2	\$20.02 (22.00%)
Grade 2	Warehouse & supply stream, Grade 2	\$20.02 (22.00%)
Grade 2	Coopers stream, Grade 2	\$20.02 (22.00%)
Grade 3	Bottling stream, Grade 3	\$20.85 (22.00%)
Grade 3	Cellar stream, Grade 3	\$20.85 (22.00%)
Grade 3	Grade 3, 19 years	\$19.11 (22.00%)
Grade 3	Grade 3, 20 years	\$20.85 (22.00%)
Grade 3	Cellar door sales stream, Grade 3	\$20.85 (22.00%)
Grade 3	Laboratory stream, Grade 3	\$20.85 (22.00%)
Grade 3	Vineyard stream, Grade 3	\$20.85 (22.00%)
Grade 3	Warehouse & supply stream, Grade 3	\$20.85 (22.00%)
Grade 3	Coopers stream, Grade 3	\$20.85 (22.00%)
Grade 4	Bottling stream, Grade 4	\$22.03 (22.00%)
Grade 4	Cellar stream, Grade 4	\$22.03 (22.00%)
Grade 4	Grade 4, 19 years	\$20.19 (22.00%)
Grade 4	Grade 4, 20 years	\$22.03 (22.00%)
Grade 4	Cellar door sales stream, Grade 4	\$22.03 (22.00%)
Grade 4	Laboratory stream, Grade 4	\$22.03 (22.00%)
Grade 4	Vineyard stream, Grade 4	\$22.03 (22.00%)
Grade 4	Warehouse & supply stream, Grade 4	\$22.03 (22.00%)
Grade 4	Coopers stream, Grade 4	\$22.03 (22.00%)
Grade 5	Bottling stream, Grade 5 (supervisor 1)	\$23.41 (22.00%)
Grade 5	Bottling stream, Grade 6 (supervisor 2)	\$24.18 (22.00%)
Grade 5	Cellar stream, Grade 5	\$23.41 (22.00%)
Grade 5	Cellar stream, Grade 6	\$24.18 (22.00%)
Grade 5	Grade 5, 19 years	\$21.45 (22.00%)
Grade 5	Grade 5, 20 years	\$23.41 (22.00%)

<b>Modern award classification</b>	<b>Pre-modern award classification</b>	<b>Base rate of pay (hourly)</b>
Grade 5	Laboratory stream, Grade 5 (supervision)	\$23.41 (22.00%)
Grade 5	Laboratory stream, Grade 5 (technical)	\$23.41 (22.00%)
Grade 5	Laboratory stream, Grade 6	\$24.18 (22.00%)
Grade 5	Grade 6, 19 years	\$22.10 (22.00%)
Grade 5	Grade 6, 20 years	\$24.18 (22.00%)
Grade 5	Vineyard stream, Grade 5	\$23.41 (22.00%)
Grade 5	Vineyard stream, Grade 6	\$24.18 (22.00%)
Grade 5	Warehouse & supply stream, Grade 5	\$23.41 (22.00%)
Grade 5	Warehouse & supply stream, Grade 6	\$24.18 (22.00%)
Grade 5	Coopers stream, Grade 5	\$23.41 (22.00%)
Grade 5	Coopers stream, Grade 6	\$24.18 (22.00%)

## **Junior**

The rates in this guide are current from the first pay period on or after 01 July 2011 until the final pay period before 01 July 2012 only.

## **Full & Part Time**

<b>Modern award classification</b>	<b>Pre-modern award classification</b>	<b>Base rate of pay (hourly)</b>
<b>Grade 1</b>		
Under 17 years of age	Grade 1, 16 & 17 years	\$10.84
At 17 years of age	Grade 1, 16 & 17 years	\$11.54
At 18 years of age	Grade 1, 18 years	\$13.55
<b>Grade 2</b>		
Under 17 years of age	Grade 2, 16 & 17 years	\$11.31
At 17 years of age	Grade 2, 16 & 17 years	\$12.04
At 18 years of age	Grade 2, 18 years	\$14.13
<b>Grade 3</b>		
Under 17 years of age	Grade 3, 16 & 17 years	\$11.77
At 17 years of age	Grade 3, 16 & 17 years	\$12.53
At 18 years of age	Grade 3, 18 years	\$14.71
<b>Grade 4</b>		
Under 17 years of age	Grade 4, 16 & 17 years	\$12.43
At 17 years of age	Grade 4, 16 & 17 years	\$13.23
At 18 years of age	Grade 4, 18 years	\$15.54
<b>Grade 5</b>		
Under 17 years of age	Grade 5, 16 & 17 years	\$13.21
Under 17 years of age	Grade 6, 16 & 17 years	\$13.58
At 17 years of age	Grade 5, 16 & 17 years	\$14.05
At 17 years of age	Grade 6, 16 & 17 years	\$14.43
At 18 years of age	Grade 5, 18 years	\$16.51
At 18 years of age	Grade 6, 18 years	\$16.98

## **Casual**

Modern award classification	Pre-modern award classification	Base rate of pay (hourly)
<b>Grade 1</b>		
Under 17 years of age	Grade 1, 16 & 17 years	\$13.23 (22.00%)
At 17 years of age	Grade 1, 16 & 17 years	\$14.08 (22.00%)
At 18 years of age	Grade 1, 18 years	\$16.54 (22.00%)
<b>Grade 2</b>		
Under 17 years of age	Grade 2, 16 & 17 years	\$13.79 (22.00%)
At 17 years of age	Grade 2, 16 & 17 years	\$14.68 (22.00%)
At 18 years of age	Grade 2, 18 years	\$17.24 (22.00%)
<b>Grade 3</b>		
Under 17 years of age	Grade 3, 16 & 17 years	\$14.36 (22.00%)
At 17 years of age	Grade 3, 16 & 17 years	\$15.28 (22.00%)
At 18 years of age	Grade 3, 18 years	\$17.95 (22.00%)
<b>Grade 4</b>		
Under 17 years of age	Grade 4, 16 & 17 years	\$15.17 (22.00%)
At 17 years of age	Grade 4, 16 & 17 years	\$16.14 (22.00%)
At 18 years of age	Grade 4, 18 years	\$18.96 (22.00%)
<b>Grade 5</b>		
Under 17 years of age	Grade 5, 16 & 17 years	\$16.11 (22.00%)
Under 17 years of age	Grade 6, 16 & 17 years	\$16.57 (22.00%)
At 17 years of age	Grade 5, 16 & 17 years	\$17.14 (22.00%)
At 17 years of age	Grade 6, 16 & 17 years	\$17.61 (22.00%)
At 18 years of age	Grade 5, 18 years	\$20.14 (22.00%)
At 18 years of age	Grade 6, 18 years	\$20.72 (22.00%)

### **Apprentice**

The rates in this guide are current from the first pay period on or after 01 July 2011 until the final pay period before 01 July 2012 only.

### **Full & Part Time**

Modern award classification	Pre-modern award classification	Base rate of pay (hourly)
First year	Apprentices (Coopers stream), First year	\$7.58
Second year	Apprentices (Coopers stream), Second year	\$9.93
Third year	Apprentices (Coopers stream), Third year	\$13.54
Fourth year	Apprentices (Coopers stream), Fourth year	\$15.89

**Please note:** This modern award contains special provisions for school based apprentices; these rates are not set out in this guide. For information about transitional rates for these employees please visit [www.fairwork.gov.au](http://www.fairwork.gov.au) and/or contact the **Fair Work Infoline** on **13 13 94**.

### **Trainee**

This modern award incorporates trainee rates derived from the National Training Wage Schedule (NTW Sch.), as adjusted from time to time.

### **Supported Wage**

Please refer to clause 21 of the modern award.

For detail of the supported wage provisions see the full version of the modern award.

### **Penalties and Loadings (other than casual or part-time loadings for ordinary hours)**

Where an employee had an entitlement to a loading/penalty rate before 01 January 2010 that is exactly the same as the modern award loading/penalty entitlement the modern award loading/penalty applies in full from 01 January 2010.

### **Transitional arrangements**

This modern award includes transitional arrangements that apply to loading/penalty entitlements where there is a difference in modern award and pre-modern award loading/penalty entitlements. Transitional arrangements apply from the first pay period on or after 01 July 2010 until the first pay period on or after 01 July 2014 (when modern award loadings/penalties apply in full).

Different arrangements apply depending on whether the entitlements are "equivalent" or not.

- A pre-modern award loading/penalty will be "equivalent" to a modern award entitlement where the loading/penalty applies:
  - for the same purpose (e.g. Saturday penalty);
  - for the same time periods; and
  - in the same way#.
    - #A pre-modern award and modern award loading/penalty applies in the same way if the entitlements are both:
      - paid at the same frequency, such as per hour or per shift; and
      - paid as a percentage of the same amount (e.g. both penalties are paid as a percentage of the employee's classification rate, rather than as a percentage of a different amount or paid as a flat dollar amount).

Casual loadings and penalties also need to interact with each other in the same way in the pre-modern award and modern award to be equivalent (e.g. the loading and penalty rate are calculated on the base hourly rate in both instruments).

### **Equivalent entitlements**

If the pre-modern award loading/penalty rate is "equivalent" to the modern award loading/penalty rate the penalty rate is calculated as follows:

1. The difference between the two loading/penalty rates is referred to as a "transitional percentage". The transitional percentage stays the same every year.
2. A proportion of the transitional percentage is calculated each year as follows:

<b>First full pay period on or after</b>	<b>Proportion of transitional percentage</b>
01 July 2010	80%
01 July 2011	60%
01 July 2012	40%
01 July 2013	20%

01 July 2014	0%
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3. Where the modern award loading/penalty is higher, the penalty rate is obtained by subtracting the proportion of the transitional percentage.

*Example:*

The table below shows the percentage penalty rates that apply from the first full pay period on or after 01 July 2010 until the last full pay period before 01 July 2011 for common penalty rates.

Please note the below table is a guide **only** and can only be used when the entitlements are equivalent and the modern award penalty is higher.

<b>1/01/2010</b>	<b>1/07/2014</b>	<b>1/07/2010</b>
<b>Pre-modern award penalty</b>	<b>Modern award penalty</b>	<b>Penalty rate (phased)</b>
25%	50%	30%
50%	75%	55%
50%	100%	60%
75%	100%	80%

4. Where the modern award loading/penalty is lower, the penalty rate is obtained by adding the proportion of the transitional percentage.

*Example:*

The table below shows the percentage penalty rates that apply from the first full pay period on or after 01 July 2010 until the last full pay period before 01 July 2011 for common penalty rates.

Please note the below table is a guide **only** and can only be used when the entitlements are equivalent and the modern award penalty is lower.

<b>1/01/2010</b>	<b>1/07/2014</b>	<b>1/07/2010</b>
<b>Pre-modern award penalty</b>	<b>Modern award penalty</b>	<b>Penalty rate (phased)</b>
50%	25%	45%
75%	50%	70%
100%	50%	90%
100%	75%	95%

**Entitlements that are not equivalent**

If pre-modern award and modern award penalty rates are not "equivalent", the following approach applies:

1. Loadings/penalty rates from a modern award are phased in from zero in five instalments of 20% by multiplying the penalty rate by the following percentage:

<b>First full pay period on or after</b>	<b>Percent of modern award loading/penalty</b>
01 July 2010	20%
01 July 2011	40%
01 July 2012	60%
01 July 2013	80%
01 July 2014	100%

2. Pre-modern award loadings/penalty rates are phased out to zero in five instalments of 20% by multiplying the penalty rate by the following percentage:

First full pay period on or after	Percent of pre-modern award loading/ penalty
01 July 2010	80%
01 July 2011	60%
01 July 2012	40%
01 July 2013	20%
01 July 2014	0%

Please note that a pre-modern award penalty rate can be 'phased out' at the same time that a modern award penalty is 'phasing in' (i.e. where different entitlements apply in the same time period). This means that two different rates may apply for the same time period.

*Example:*

The table below shows the percentage penalty rates that apply from the first full pay period on or after 01 July 2010 until the last full pay period before 01 July 2011 for common penalty rates.

Please note the below table is a guide **only** and can only be used when the entitlements are not equivalent.

1/01/2014 Modern award penalty	1/07/2010 Penalty rate (phased) (20.00%)
10.00%	2.00%
20.00%	4.00%
25.00%	5.00%
50.00%	10.00%
75.00%	15.00%
100.00%	20.00%
120.00%	24.00%
125.00%	25.00%
130.00%	26.00%
150.00%	30.00%

1/01/2010 Pre-modern award penalty	1/07/2010 Penalty rate (phased) (80.00%)
10.00%	8.00%
20.00%	16.00%
25.00%	20.00%
50.00%	40.00%
75.00%	60.00%
100.00%	80.00%
120.00%	96.00%
125.00%	100.00%
130.00%	104.00%
150.00%	120.00%

**New entitlements**

Where an employee did not have a particular loading/penalty entitlement before 01 January 2010, the modern award loading/penalty is phased in from zero as a new entitlement from the first pay period on or after 01 July 2010 by multiplying the penalty rate by the following percentage:

First full pay period on or after	Percent of modern award loading/penalty
01 July 2010	20%
01 July 2011	40%
01 July 2012	60%
01 July 2013	80%
01 July 2014	100%

*Example:*

The table below shows the percentage penalty rates that apply from the first full pay period on or after 01 July 2010 until the last full pay period before 01 July 2011 for common penalty rates.

Please note the below table is a guide **only** and can only be used when the entitlements in the modern award are new.

<b>1/07/2014</b>	<b>1/07/2010</b>
<b>Modern award penalty</b>	<b>Penalty rate (phased)</b>
25%	5%
50%	10%
75%	15%
100%	20%

For more information about transitional arrangements for loading/penalty entitlements please visit [www.fairwork.gov.au](http://www.fairwork.gov.au) and/or contact the **Fair Work Infoline** on **13 13 94** for advice and assistance.

## **Allowances**

Allowances in modern awards apply in full from 01 January 2010 (although the rates may change from time to time).

### **All states covered by this instrument Full Time, Part Time, Casual**

<b>Clause</b>	<b>Allowance Type</b>	<b>Description</b>	<b>Effective Date</b>	<b>Rate</b>
23.2	Vehicle allowance	An employee who agrees with their employer to use their own motor vehicle on the employer's business, must be paid an allowance.	1/01/2010	\$0.7400 per kilometre
23.3	Meal allowance	An employee who works overtime must, in addition to the rates prescribed elsewhere in this award, be paid a meal allowance on each occasion they work overtime in excess of two hours following their ordinary day or shift. Provided that such meal allowance need not be made to an employee who can reasonably return home for a meal or who has been notified the day before that they will be required to work overtime.	1/07/2011	\$12.2400 per meal
23.5(a)(i)	Leading hand allowance	<u>Coopers stream leading hands</u>  A leading hand in charge of coopers stream employees, except an employee engaged in the Grade 5 classification, must be paid:  When in charge of 3-10 employees	1/07/2011	\$0.6519 per hour.  This weekly allowance has been converted to an hourly amount. It should be applied to all ordinary hours of work (up to a maximum of 38 hours per week). (3.61%)
23.5(a)(i)	Leading hand allowance	When in charge of 11-20 employees	1/07/2011	\$0.9860 per hour.

Clause	Allowance Type	Description	Effective Date	Rate
				<p>This weekly allowance has been converted to an hourly amount. It should be applied to all ordinary hours of work (up to a maximum of 38 hours per week). (5.46%)</p>
23.5(a)(i)	Leading hand allowance	When in charge of more than 20 employees	1/07/2011	<p>\$1.2659 per hour.</p> <p>This weekly allowance has been converted to an hourly amount. It should be applied to all ordinary hours of work (up to a maximum of 38 hours per week). (7.01%)</p>
23.5(a)(ii)	Leading hand allowance	<p><u>Other leading hands</u></p> <p>A leading hand in charge of other employees, except an employee engaged in the Grade 5 classification, must be paid:</p> <p>When in charge of 1-4 employees</p>	1/07/2011	<p>\$0.4388 per hour.</p> <p>This weekly allowance has been converted to an hourly amount. It should be applied to all ordinary hours of work (up to a maximum of 38 hours per week). (2.43%)</p>

Clause	Allowance Type	Description	Effective Date	Rate
23.5(a)(ii)	Leading hand allowance	When in charge of 5-10 employees	1/07/2011	\$0.7061 per hour.  This weekly allowance has been converted to an hourly amount. It should be applied to all ordinary hours of work (up to a maximum of 38 hours per week). (3.91%)
23.5(a)(ii)	Leading hand allowance	When in charge of more than 10 employees	1/07/2011	\$1.0817 per hour.  This weekly allowance has been converted to an hourly amount. It should be applied to all ordinary hours of work (up to a maximum of 38 hours per week). (5.99%)
23.5(b)	Other	<b>Mobile crane operations</b>  An employee engaged in operating a mobile crane must be paid an allowance while they are engaged on such work.	1/07/2011	\$0.2167 per hour (1.20%)
23.5(c)	First aid allowance	An employee who is the current holder of appropriate first aid qualifications, such as a certificate from the St John Ambulance or similar body and is appointed by the employer to perform first aid duty must be paid an allowance per week.	1/07/2011	\$0.3594 per hour.  This weekly allowance has been converted to an hourly amount. It

Clause	Allowance Type	Description	Effective Date	Rate
				should be applied to all ordinary hours of work (up to a maximum of 38 hours per week). (1.99%)
23.5(c)	First aid allowance	Alternatively, per day	1/07/2011	\$2.7267 per day (15.10%)
23.6(a)	Disabilities allowance	<u>Boilers and flues</u>  An employee engaged in washing out and chipping boilers or in cleaning flues must be paid the following allowance while they are engaged in such work.  Grade 1	1/07/2011	\$7.8671 per hour (50.00%)
23.6(a)	Disabilities allowance	<u>Boilers and flues</u>  An employee engaged in washing out and chipping boilers or in cleaning flues must be paid the following allowance while they are engaged in such work.  Grade 2	1/07/2011	\$8.2066 per hour (50.00%)
23.6(a)	Disabilities allowance	<u>Boilers and flues</u>  An employee engaged in washing out and chipping boilers or in cleaning flues must be paid the following allowance while they are engaged in such work.  Grade 3	1/07/2011	\$8.5474 per hour (50.00%)

Clause	Allowance Type	Description	Effective Date	Rate
23.6(a)	Disabilities allowance	<p><u>Boilers and flues</u></p> <p>An employee engaged in washing out and chipping boilers or in cleaning flues must be paid the following allowance while they are engaged in such work.</p> <p>Grade 4</p>	1/07/2011	\$9.0289 per hour (50.00%)
23.6(a)	Disabilities allowance	<p><u>Boilers and flues</u></p> <p>An employee engaged in washing out and chipping boilers or in cleaning flues must be paid the following allowance while they are engaged in such work.</p> <p>Grade 5</p>	1/07/2011	\$9.5961 per hour (50.00%)
23.6(b)	Disabilities allowance	<p><u>Wet work</u></p> <p>An employee who on any day works in a <b>wet place</b> must be paid an allowance, unless provided with adequate protective clothing. <b>Wet place</b> means a place where the employee's clothing becomes wet or where the employee has to stand in water or slush so that the employee's feet become wet.</p>	1/07/2011	\$4.0811 per day (22.60%)
23.6(c)	Disabilities allowance	<p><u>Wine vats</u></p> <p>An employee engaged in burning and/or waxing closed wine vats must be paid an allowance.</p>	1/07/2011	\$0.7584 per hour (4.20%)
23.6(d)	Disabilities allowance	<p><u>Confined places</u></p> <p>An employee working in a <b>confined space</b> as a cooper must be paid an allowance. <b>Confined space</b> means an enclosed or</p>	1/07/2011	\$0.2528 per hour (1.40%)

Clause	Allowance Type	Description	Effective Date	Rate
		partially enclosed space that is at atmospheric pressure during occupancy and is not intended or designed primarily as a place of work and is liable at any time to have an atmosphere which contains potentially harmful levels of contaminant or to have an oxygen deficiency or excess, or to cause engulfment, and which also could have restricted means for entry and exit.		
23.6(e)	Disabilities allowance	<u>Dirty work</u> An employee performing work as a cooper which is of an unusually dirty or offensive nature must be paid an allowance.	1/07/2011	\$0.1445 per hour (0.80%)
23.6(f)	Disabilities allowance	<u>Cask firing</u> An employee engaged in the cask firing as a cooper must be paid an allowance, to a maximum of \$20.00 per week.	1/07/2011	\$4.2978 per day or part thereof (23.80%)

### **Other Conditions**

The following conditions in the modern award apply in full from 1 January 2010. Please note that the below table is a summary of commonly applicable entitlements in the modern award, there may be other entitlements in the modern award that are relevant to particular employers or employees. Please refer to the modern award for full details.

**Note:** The National Employment Standards (**NES**) operate together with modern awards to provide minimum conditions of employment for employers and employees in the national system. The NES sets out ten minimum statutory entitlements that apply to all employees, including leave and termination of employment entitlements.

For more information about the NES, please visit [www.fairwork.gov.au](http://www.fairwork.gov.au)

### **All states covered by this instrument**

Clause	Conditions Type	Description
7	Award flexibility (Instrument)	<p>An employer and an individual employee may agree to vary the following terms of this award to meet the genuine needs of the employer and the individual employee with respect to:</p> <ul style="list-style-type: none"> <li>- arrangements for when work is performed</li> <li>- overtime rates</li> <li>- penalty rates</li> <li>- allowances</li> <li>- leave loading.</li> </ul> <p>Other conditions concerning award flexibility are contained within the Fair Work Act 2009.</p>
8	Consultation (Instrument)	<p>The award contains information on the employer's responsibility to consult regarding major workplace change including the:</p> <ul style="list-style-type: none"> <li>- duty to notify, and</li> <li>- duty to discuss change.</li> </ul>
9	Dispute resolution (Instrument)	<p>The award sets out a dispute resolution procedure for dealing with disputes in relation to a matter under the award or the National Employment Standards (NES).</p>
12	Part-time conditions (Instrument)	<p>A part-time employee is an employee who:</p> <ul style="list-style-type: none"> <li>- works up to 38 hours per week; and</li> <li>- receives on a pro rata basis, equivalent pay and terms and conditions of employment to those of a full-time employee who does the same kind of work.</li> </ul> <p>At the time of engagement the employer and the part-time employee must agree in writing to a pattern of work. Any agreed variation to the pattern of work must be recorded in writing.</p> <p>A part-time employee must be paid for ordinary hours worked at the rate of 1/38th of the minimum weekly wage prescribed for the work performed.</p> <p>A part-time employee must be paid overtime rates in accordance with the overtime provisions of the award for all time worked:</p>

Clause	Conditions Type	Description
		<ul style="list-style-type: none"> <li>- outside of the spread of ordinary hours; and/or</li> <li>- in excess of 38 ordinary hours per week; and/or</li> <li>- in excess of the ordinary hours provided for in the award.</li> </ul>
13.1-13.4	Casual conditions (Instrument)	<p>A casual employee is an employee who is engaged and paid by the hour.</p> <p>A casual employee for working ordinary time must be paid an hourly rate calculated on the basis of 1/38th of the minimum weekly wage prescribed for the work being performed plus a casual loading of 25%.</p> <p>On each occasion a casual employee is required to attend work the employee must be paid for a minimum of four hours' work.</p> <p>A casual employee must be paid overtime rates in accordance with the overtime provisions of the award for all time worked:</p> <ul style="list-style-type: none"> <li>- outside of the spread of ordinary hours; and/or</li> <li>- in excess of 38 ordinary hours per week; and/or</li> <li>- in excess of the ordinary hours provided for in the award.</li> </ul> <p>The overtime rates for a casual employee must be applied to 1/38th of the minimum weekly wage prescribed for the work being performed. The casual loading of 25% must also be paid for overtime on a Sunday or public holiday.</p>
13.5	Casual conditions (Instrument)	<p><b>Casual conversion to full-time or part-time employment</b></p> <p>A casual employee, other than an <b>irregular casual employee</b>, who has been engaged by a particular employer for a sequence of periods of employment under this award during a period of 12 months, thereafter has the right to elect to have their contract of employment converted to full-time or part-time employment if the employment is to continue beyond the conversion process.</p> <p>The employer must give written notice of this right to the relevant employee within four weeks of the employee having attained such period of 12 months. The employee retains their right of election even if the employer fails to provide notice.</p>

Clause	Conditions Type	Description
		<p>If the relevant employee does not make an election within four weeks of receiving the notice the employee is deemed to have elected against any such conversion.</p> <p>A relevant employee on receiving the notice or after the expiry of the time for giving such notice, may give four weeks' notice in writing to the employer that they seek to elect to convert their contract of employment to full-time or part-time employment.</p> <p>Within four weeks of receiving such notice the employer must consent to or refuse the election but must not unreasonably so refuse.</p> <p>Once a casual employee has elected to become and been converted to a full-time or part-time employee, the employee may only revert to casual employment by written agreement with the employer.</p> <p>If a casual employee has elected to have their contract of employment converted to full-time or part-time employment, the employer and employee must discuss and agree on:</p> <ul style="list-style-type: none"> <li>- which form of employment the employee will convert to, being full-time or part-time; and</li> <li>- if it is agreed that the employee will become a part-time employee, the number of hours and the pattern of hours that will be worked, as set out in clause 12—Part-time employment.</li> </ul> <p>An employee who has worked on a full-time basis throughout the period of casual employment has the right to elect to convert their contract of employment to full-time employment and an employee who has worked on a part-time basis during the period of casual employment has the right to elect to convert their contract of employment to part-time employment, on the basis of the same number of hours and times of work as previously worked, unless other arrangements are agreed on between the employer and employee.</p> <p>Following such agreement being reached, the employee converts to full-time or part-time employment.</p> <p>Where, an employer refuses an election to convert, the reasons for doing so must be fully stated to and discussed with the employee concerned and a genuine attempt made to reach agreement.</p> <p>An <b>irregular casual employee</b> is one who has been engaged to perform work on an occasional or non-systematic or irregular basis.</p>

<b>Clause</b>	<b>Conditions Type</b>	<b>Description</b>
13.6	Other (Instrument)	An employee must not be engaged and re-engaged to avoid any obligation under this award.
14.2	Termination of employment - notice of termination by an employee (Instrument)	The notice of termination required to be given by an employee is the same as an employer except there is no requirement to give additional notice based on age. If an employee fails to give the required notice the employer may withhold from any monies due on termination, the difference between the amount of notice required and the amount of notice actually given.
14.3	Termination of employment - job search entitlement (Instrument)	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.
15.2	Redundancy - transfer to lower paid duties (Instrument)	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. Alternatively, the employer may choose to pay the employee the difference between the former ordinary time rate of pay and the new ordinary time rate of pay for the number of weeks of notice still owing.
15.3	Redundancy - employee leaving during notice period (Instrument)	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 had they remained in employment until the expiry of the notice, but is not entitled to payment instead of notice.
15.4	Redundancy - job search entitlement (Instrument)	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.  If the employee has been allowed paid leave for more than one day, the employee must, by request, produce proof of attendance at an interview or they will not be entitled to payment for the time absent. For this purpose a statutory declaration is sufficient.
15.5	Redundancy - transitional provisions (Instrument)	An employee is entitled to redundancy pay in accordance with the NAPSA 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 redundancy pay in excess of the employee's entitlement under the NES. This includes employees engaged after 1 January 2010.

Clause	Conditions Type	Description
		The entitlement to redundancy pay under the NAPSA is limited to the amount which exceeds the entitlement under the NES.
22	Other (Instrument)	<p><b>Piecework rates</b></p> <p>An employer and a full-time, part-time or casual employee may enter into an agreement for the employee to be paid a piecework rate. An employee on a piecework rate is a pieceworker.</p> <p>The piecework rate fixed by agreement between the employer and the employee must enable an employee of average capacity to earn at least 20% more per hour than the minimum hourly wage for ordinary hours of work which is prescribed in this award for the type of employment and the classification level of the employee. The piecework rate agreed is to be paid for all work performed in accordance with the piecework agreement.</p> <p>An agreed piecework rate is paid instead of the minimum wages specified in the award.</p> <p>The following clauses of this award do not apply to an employee on a piecework rate:</p> <ul style="list-style-type: none"> <li>- clause 23.3—Meal allowance;</li> <li>- clause 27—Ordinary hours of work and rostering;</li> <li>- clause 29—Overtime and penalty rates.</li> </ul> <p>The employer and the individual employee must have genuinely made the piecework agreement without coercion or duress.</p> <p>The piecework agreement between the employer and the individual employee must:</p> <ul style="list-style-type: none"> <li>- 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;</li> <li>- detail the piecework rate;</li> <li>- set out that the piecework rate will be paid instead of the minimum wages specified in clause 16—Classifications and adult minimum wages of the Wine Industry Award 2010;</li> <li>- set out that the following clauses of the Wine Industry Award 2010 do not apply to the employee as the employee is on a piecework rate: <ul style="list-style-type: none"> <li>(i) clause 23.3—Meal allowance; and</li> </ul> </li> </ul>

Clause	Conditions Type	Description
		<p>(ii) clause 27—Ordinary hours of work and rostering; and            (iii) clause 29—Overtime and penalty rates; and            - state the date the agreement commences to operate.</p> <p>The employer must give the individual employee a copy of the piecework agreement and keep it as a time and wages record.</p> <p>Except as provided in relation to employees under 18 years of age, the piecework agreement must not require the approval or consent of a person other than the employer and the individual employee.</p> <p>An employer seeking to enter into a piecework agreement with an employee must provide the proposed written agreement 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 proposed piecework agreement.</p> <p>Nothing in this award guarantees an employee on a piecework rate will earn at least the minimum ordinary time weekly or hourly wage in this award for the type of employment and the classification level of the employee, as the employee’s earnings are contingent on their productivity.</p> <p>The base rate of pay in relation to entitlements under the National Employment Standards for an employee on a piecework rate is the minimum wage prescribed by the award for the employee’s classification level.</p> <p>The full rate of pay in relation to entitlements under the National Employment Standards for an employee on a piecework rate is the minimum wage prescribed by the award for the employee’s classification level plus a loading of 20%.</p>
23.1	Other (Instrument)	<p><b>Travel and expenses</b></p> <p>Where an employee is required by the employer to travel from one place of work to another:</p> <ul style="list-style-type: none"> <li>- the time occupied in such travel must be counted as time worked and paid for as such; and</li> <li>- the transport and fares for such travel must be provided by the employer or the expense incurred by the employee for such travel must be reimbursed by the employer.</li> </ul>

Clause	Conditions Type	Description
		<p>An employee compelled by their duties to spend the night away from their home or the property on which they are employed, must be fully reimbursed for all fares and other expenses incurred during the period they are away from their usual place of residence.</p> <p>When an employee finishes overtime or shiftwork at any time when their usual means of transport is not available, the employer must reimburse the employee for the cost of transport for the employee to get home.</p>
23.4	Other (Instrument)	<p><b>Loss or damage of tools</b></p> <p>An employer must compensate an employee for the loss or damage caused by fire on the employer's property of tools owned by an employee which are used by the employee in the course of their employment.</p>
23.7	District allowance (Instrument)	<p>An employee in the Northern Territory or Western Australia is entitled to payment of a district allowance in accordance with the provisions of an award or NAPSA under the Workplace Relations Act 1996</p> <p>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.</p> <p>This clause ceases to operate on 31 December 2014.</p>
23.8	Accident pay (Instrument)	<p>An employee is entitled to accident pay in accordance with the terms of:</p> <ul style="list-style-type: none"> <li>- a NAPSA that would have applied to the employee immediately prior to 1 January 2010 or an award made under the Workplace Relations Act 1996 (Cth) that would have applied to the employee immediately prior to 27 March 2006, 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</li> <li>- 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.</li> </ul>

Clause	Conditions Type	Description
		<p>The employee's entitlement to accident pay under the NAPSA or award is limited to the amount of accident pay which exceeds the employee's entitlement to accident pay, if any, under any other instrument.</p> <p>This clause does not reduce an employee's entitlement to accident pay under any other instrument and ceases to operate on 31 December 2014.</p>
24	Higher duties (Instrument)	An employee engaged for two or more hours during one day on duties carrying a higher minimum wage than the employee's ordinary classification must be paid the higher minimum wage for the day. If engaged for less than two hours during the day on higher duties, the employee must be paid the higher minimum wage for the time so worked.
26	Superannuation (Instrument)	<p>The award contains information on:</p> <ul style="list-style-type: none"> <li>- the employers responsibility to make superannuation contributions to a superannuation fund</li> <li>- the ability for an employee to authorise their employer to pay on their behalf contributions to a superannuation fund</li> <li>- the employers responsibility to make superannuation contributions to another superannuation fund that is chosen by the employee.</li> </ul>
27.2	Hours of work (Instrument)	<p><b>Ordinary hours of work—day workers</b></p> <p>The ordinary hours of work for a day worker are an average of 38 per week.</p> <p>The ordinary hours of work are to be worked continuously, except for meal breaks, between the hours of 6.00 am and 6.00 pm, Monday to Friday, with the following exceptions:</p> <ul style="list-style-type: none"> <li>- The ordinary hours of work for an employee rostered to perform work in the cellar door are to be worked continuously, except for meal breaks, between the hours of 6.00 am and 6.00 pm, Monday to Friday, and 8.00 am and 6.00 pm Saturday to Sunday.</li> <li>- From 1 November to 30 April, the ordinary hours of work for an employee rostered to perform work in the vineyard are to be worked continuously, except for meal breaks, between the hours of 5.00 am and 6.00 pm Monday to Saturday.</li> </ul>

Clause	Conditions Type	Description
		<p>The spread of hours may be varied by agreement between an employer and the majority of employees in the relevant workplace or the section or sections of it.</p> <p>The ordinary hours of work must not exceed 10 hours on any day, provided that the ordinary hours of work may extend to 12 hours on any day by agreement between the employer and the majority of employees in the relevant workplace or the section or sections of it.</p>
27.3	Shiftwork (Instrument)	<p><b>Ordinary hours of work—shiftworkers</b></p> <p>The ordinary hours of work for a shiftworker are an average of 38 per week.</p> <p>The ordinary hours of work are to be worked continuously, except for meal breaks.</p> <p>For the purposes of this award:</p> <ul style="list-style-type: none"> <li>- <b>afternoon shift</b> means any shift finishing after 6.00 pm and at or before midnight; and</li> <li>- <b>night shift</b> means any shift finishing after midnight and at or before 8.00 am.</li> </ul> <p>The ordinary hours of work must not exceed 10 hours on any shift, provided that the ordinary hours of work may extend to 12 hours on any day by agreement between the employer and the majority of employees in the relevant workplace or section or sections of it.</p>
27.4	Rostering (Instrument)	<p><b>Methods of arranging ordinary working hours</b></p> <p>The method of working the 38 hour week must be agreed between the employer and the majority of employees in the relevant workplace or section or sections of it and may be worked in one of the following arrangements:</p> <ul style="list-style-type: none"> <li>- 19 days of eight hours in each four week period, with either a fixed or rostered day off;</li> <li>- nine days of eight hours and one day of four hours in each fortnight with either a fixed half-day off or a rostered half-day off at the beginning or end of the working week;</li> <li>- four days of eight hours and one day of six hours in each week, with the six hour day being at the beginning or end of the working week; or</li> <li>- any other arrangement agreed to by the employer and the majority of employees directly affected.</li> </ul>

Clause	Conditions Type	Description
27.5	Daylight saving (Instrument)	<p>Where by reason of State or Territory legislation summer time is prescribed as being in advance of the standard time in that state, the length of any shift commencing before the time prescribed by the relevant legislation for the commencement of a summer time period or commencing on or before the time prescribed by the relevant legislation for the termination of a summer time period, is deemed to be the number of hours represented by the difference between the time recorded by the clock at the beginning of the shift and the time so recorded at the end of the shift. The time of the clock in each case is to be set to the time fixed by the relevant legislation.</p> <p>The terms <b>standard time</b> and <b>summer time</b> have the same meaning as in the relevant State or Territory legislation.</p>
27.6	Other (Instrument)	<p><b>Make-up time</b></p> <p>An employee may elect, with the consent of the employer, to work make-up time, under which the employee takes times off during ordinary hours and works those hours at a later time, during the spread of ordinary hours provided for in clause 27, provided that on each occasion the employee elects to use this provision the resulting agreement is recorded in the time and wages records at the time when the agreement is made.</p>
28.1-28.3	Breaks - meal (Instrument)	<p>A day worker must not be required to work for more than five hours without an unpaid meal break of between 30 and 60 minutes.</p> <p>A shiftworker must not be required to work for more than four and a half hours without a paid meal break of 30 minutes, provided that up to six hours may be worked without the paid meal break by agreement with the employee concerned:</p> <ul style="list-style-type: none"> <li>- where the shiftworker is a casual employee or a part-time employee engaged to work no more than six hours in any one shift; or</li> <li>- where the shiftworker is working their ordinary hours on the basis of a short day each week.</li> </ul> <p>In addition to the meal break provisions above, an employee required to work more than two hours overtime immediately after the completion of their ordinary hours on a day or shift must be given a paid meal break of 30 minutes prior to the commencement of the overtime and after each four hours of overtime worked thereafter. The meal break prior to the commencement of overtime must be paid at the</p>

Clause	Conditions Type	Description
		rate then applying to the employee for ordinary hours of work and subsequent meal breaks must be paid at the overtime rate then applying to the employee for overtime work.
28.5	Breaks - rest (Instrument)	In addition to the meal break provisions an employee must be given a paid tea break of ten minutes on each day or shift.
29.4(a)	Break between work periods (Instrument)	An employee who works so much overtime between the termination of their ordinary hours on one day and the commencement of their ordinary hours on the next day that the employee has not had at least 10 consecutive hours off duty between those times must be released after completion of the overtime until the employee has had 10 consecutive hours off duty without loss of pay for ordinary hours occurring during such absence.
29.5	Call-back (Instrument)	Any employee recalled to work overtime after leaving the employer's premises must be paid for a minimum of four hours' work at the appropriate overtime rate, except where it is customary for an employee to return to their employer's premises to perform a specific task outside their ordinary working hours or where the overtime commences, subject to a meal break, at the completion or before the commencement of ordinary working time.
29.6	Overtime – time off in lieu (Instrument)	<p>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, provided that:</p> <ul style="list-style-type: none"> <li>- overtime taken as time off during ordinary hours must be taken at the ordinary time rate, that is an hour for each hour worked; and</li> <li>- an employer must, if requested by an employee, provide payment at the rate provided for the payment of overtime in this award, for any overtime worked which has not been taken as time off instead of payment for overtime within four weeks of accrual.</li> </ul>
30.2	Annual leave (Instrument)	<p>For the purposes of the additional week of annual leave provided for in the National Employment Standards, a <b>shiftworker</b> is a seven day shiftworker who is regularly rostered on Sundays and public holidays.</p> <p>Where an employee with 12 months continuous service is engaged for part of the 12 month period as a seven day shiftworker, that employee must have their annual leave increased by half a day for each month the employee is continuously engaged as a seven day shiftworker.</p>

Clause	Conditions Type	Description
30.3	Annual leave (Instrument)	<p><b>Conversion to hourly entitlement</b></p> <p>An employer may reach agreement with the majority of employees in the relevant workplace or a section or sections of it to convert the annual leave entitlement in s.87 of the National Employment Standard to an hourly entitlement for administrative ease (e.g. 152 hours for a full-time employee entitled to four weeks of annual leave).</p>
30.4	Annual leave loading (Instrument)	<p>During a period of annual leave an employee must be paid a loading, in addition to their base rate of pay] as referred to in s.90(1) of the National Employment Standard, as follows:</p> <p><u>Day work</u> An employee who would have worked on day work only had they not been on leave must be paid a loading equal to 17.5% of their base rate of pay as referred to in s.90(1) of the National Employment Standard or the relevant weekend penalty rates, whichever is the greater but not both.</p> <p><u>Shiftwork</u> An employee who would have worked on shiftwork had they not been on leave must be paid a loading equal to 17.5% of their base rate of pay as referred to in s.90(1) of the National Employment Standard or the shift loading including relevant weekend penalty rates, whichever is the greater but not both.</p> <p><u>Piecework</u> An employee on a piecework rate must be paid a loading equal to 20% of their base rate of pay.</p>
30.5	Annual leave - excessive leave (Instrument)	<p>If an employer has genuinely tried to reach agreement with an employee as to the timing of taking annual leave, the employer can require the employee to take annual leave by giving not less than four weeks' notice of the time when such leave is to be taken if:</p> <ul style="list-style-type: none"> <li>- at the time the direction is given, the employee has eight weeks or more of annual leave accrued; and</li> <li>- the amount of annual leave the employee is directed to take is less than or equal to a quarter of the amount of leave accrued.</li> </ul>
30.6	Annual leave - paid leave in advance of accrued entitlement (Instrument)	<p>By agreement between an employer and an employee a period of annual leave may be taken in advance of the entitlement accruing. Provided that if leave is taken in advance and the employment terminates before the entitlement has accrued, the employer may make a corresponding deduction from any money due to the employee on termination.</p>

Clause	Conditions Type	Description
30.7	Annual leave - close-down (Instrument)	<p>An employer may close down an enterprise or part of it for the purpose of allowing annual leave to all or the majority of the employees in the relevant workplace or the section or sections of it, provided that:</p> <ul style="list-style-type: none"> <li>- the employer gives not less than four weeks' notice of the intention to do so; and</li> <li>- an employee who has accrued sufficient leave to cover the period of the close down, is allowed leave and also paid for that leave at the appropriate rate in accordance with s.90(1) of the National Employment Standard and clause 30.4; and</li> <li>- an employee who has not accrued sufficient leave to cover part or all of the close down, is allowed paid annual leave for the period for which they have accrued sufficient annual leave and given untaken accrued rostered days off, time off instead of unpaid accrued overtime or unpaid leave for the remainder of the closedown; and</li> <li>- any leave taken by an employee as a result of a close down also counts as service by the employee with their employer; and</li> <li>- the employer may only close down the relevant workplace or the section or sections of it pursuant to this provision for one or two separate periods in a year; and</li> <li>- if the employer closes down the relevant workplace or the section or sections of it pursuant to this provision in two separate periods, one of the periods must be for a period of at least 14 consecutive days including non-working days; and</li> <li>- the employer may close down the relevant workplace or the section or sections of it for a period of at least 14 days including non-working days and allow the balance of any annual leave to be taken in one continuous period in accordance with a roster.</li> </ul>
30.9	Other (Instrument)	<p><b>Transfer of business</b></p> <p>Where a business is transferred from one employer to another, the period of continuous service that an employee had with the old employer must be deemed to be service with the new employer and taken into account when calculating annual leave. However an employee is not entitled to leave or payment instead for any period in respect of which leave has been taken or paid for.</p>

Clause	Conditions Type	Description
33.2	Public holidays (Instrument)	<p><b>Substitution of certain public holidays by agreement at the enterprise</b></p> <p>By agreement between the employer and the majority of employees in the relevant workplace or the section or sections of it, an alternative day may be taken as the public holiday instead of any of the prescribed days.</p>
33.3	Public holidays (Instrument)	<p><b>Rostered day off falling on public holiday</b></p> <p>Except as provided for below and where the rostered day off falls on a Saturday or a Sunday, where a full-time employee's ordinary hours of work are structured to include a day off and such day off falls on a public holiday, the employee is entitled, at the discretion of the employer, to either:</p> <ul style="list-style-type: none"> <li>- 7.6 hours of pay at the ordinary time rate; or</li> <li>- 7.6 hours of extra annual leave; or</li> <li>- a substitute day off on an alternative week day.</li> </ul> <p>Where an employee has credited time accumulated pursuant to clause 27.4, then such credited time should not be taken as a day off on a public holiday.</p> <p>If an employee is rostered to take credited time accumulated pursuant to clause 27.4 as a day off on a week day and such week day is prescribed as a public holiday after the employee was given notice of the day off, then the employer must allow the employee to take the time off on an alternative week day.</p>

## **Frequency of Payment**

Wages must be paid either weekly or fortnightly. Alternative intervals of payment may be used for so long as the employee agrees in writing.

Wages must be paid by cash or electronic funds transfer (EFT) into the employee's nominated bank or other recognised financial institution account.

On termination of the employment, wages due to an employee must be paid on the day of such termination or be forwarded to the employee on the next working day.

**IMPORTANT NOTE: Disclaimer**

The Fair Work Ombudsman (FWO) is committed to providing useful, reliable information to help you understand your rights and obligations under workplace laws. The Pay and Conditions Guides are provided for that purpose.

There are factors that may affect the information contained in these Guides. These include:

- changes to pay rates, allowances, penalties or modern award provisions; eg after FWA's annual wage review which takes effect on 1 July each year
- changes to the Fair Work Act or other relevant legislation
- decisions of courts or Fair Work Australia, in particular regarding the effect of provisions in modern awards and pre-modern awards where those differ from the approach taken by the FWO.

The FWO will consider these matters and where appropriate update the Guides.

It is your responsibility to comply with workplace laws and industrial instruments that apply to you.

The information contained in these Pay and Conditions Guides is:

- general in nature and may not deal with all aspects of the law that are relevant to your specific situation; and
- not legal advice.

Therefore you may wish to seek your own independent professional advice to ensure all the factors relevant to your circumstances are properly considered.