

# Real Estate Industry Award 2010

NOTE: Transitional provisions may apply to certain clauses – see clause 2 and Schedule A

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## Part 1—Application and Operation

### 1. Title

This award is the *Real Estate 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. Some of the transitional arrangements are in clauses in the main part of the award. There are also transitional arrangements in Schedule A. The arrangements in Schedule A deal with:

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

2.4 Neither the making of this award nor the operation of any transitional arrangements is intended to result in a reduction in the take-home pay of employees covered by the award. On application by or on behalf of an employee who suffers a reduction in take-home pay as a result of the making of this award or the operation of any transitional arrangements, 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

#### 3.1 In this award, unless the contrary intention appears:

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

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

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

**conjunctive agent fee** means the proportion of commission received from a client from a sales or commercial leasing transaction and paid to a real estate agent external to the employer's business in respect of that transaction

**employee** means a national system employee as defined in sections [13](#) and [30C](#) of the Act

**employer** means a national system employer as defined in sections [14](#) and [30D](#) of the Act

**employer's gross commission** for a commission-only employee means the commission received by the employer from a client for a sales or leasing transaction less GST and conjunctive agent fees

**employer's net commission** for a commission-only employee means the employer's gross commission (as defined) less an amount of no greater than 10%

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

**exchange** in relation to a real estate sales transaction means that a contract for the sale of a property or business is a legally enforceable contract

**existing employee** means a person who was employed by the employer prior to 1 January 2010 and who is still employed on 1 January 2010

**legally-enforceable contract** means a contract of sale, lease or agreement to lease that is signed by both the property owner and the intending buyer or lessee

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

**on-hire** means the on-hire of an employee by their employer to a client, where such employee works under the general guidance and instruction of the client or a representative of the client

**operational employee** means an employee who is engaged under a property sales classification or a property or strata management classification, as defined in Schedule B—Classifications

**real estate industry** means the provisions of services associated with sales, acquisitions, leasing and/or management of residential, commercial, retail, industrial, recreational, hotel, retirement and any other leasehold or real property and/or businesses. Such services include:

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- real estate agency;
- business and hotel broking;
- strata and community title management (or similar service however described);
- stock and station agency;
- buyers agency; and
- real estate valuation.

**real estate law** means legislation enacted by a State or Territory government for the purposes of regulating the conduct of the real estate industry

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

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

## 4. Coverage

- 4.1 This award covers employers in Australia engaged in the real estate industry in respect to their employees engaged in classifications in clause 14—Minimum weekly wages to the exclusion of any other modern award.
- 4.2 This award does not cover employers and employees covered by the *Banking, Finance and Insurance Award 2010*.
- 4.3 The award does not cover an employee excluded from award coverage by the Act.
- 4.4 The award does not cover employees who are covered by a modern enterprise award, or an enterprise instrument (within the meaning of the *Fair Work (Transitional Provisions and Consequential Amendments) Act 2009* (Cth)), or employers in relation to those employees.
- 4.5 The award does not cover employees who are covered by a State reference public sector modern award, or a State reference public sector transitional award (within the meaning of the *Fair Work (Transitional Provisions and Consequential Amendments) Act 2009* (Cth)), or employers in relation to those employees.
- 4.6 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.
- 4.7 This award covers employers which provide group training or related temporary employment services for trainees engaged in the industry and/or parts of industry set out at clause 4.1 and those trainees engaged by a group training or related temporary employment 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.

- 4.8** 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**

- 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
- (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** The agreement between the employer and the individual employee must also:
- (a) be in writing, name the parties to the agreement and be signed by the employer and the individual employee and, if the employee is under 18 years of age, the employee's parent or guardian;
  - (b) state each term of this award that the employer and the individual employee have agreed to vary;
  - (c) detail how the application of each term has been varied by agreement between the employer and the individual employee;
  - (d) detail how the agreement results in the individual employee being better off overall in relation to the individual employee's terms and conditions of employment; and
  - (e) state the date the agreement commences to operate.
- 7.5** The employer must give the individual employee a copy of the agreement and keep the agreement as a time and wages record.
- 7.6** Except as provided in clause 7.4(a) the agreement must not require the approval or consent of a person other than the employer and the individual employee.
- 7.7** An employer seeking to enter into an agreement must provide a written proposal to the employee. Where the employee's understanding of written English is limited the employer must take measures, including translation into an appropriate language, to ensure the employee understands the proposal.
- 7.8** The agreement may be terminated:
- (a) by the employer or the individual employee giving 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**

- 9.1** In the event of a dispute about a matter under this award, or a dispute in relation to the NES, in the first instance the parties must attempt to resolve the matter at the workplace by discussions between the employee or employees concerned and the relevant supervisor. If such discussions do not resolve the dispute, the parties will endeavour to resolve the dispute in a timely manner by discussions between the employee or employees concerned and more senior levels of management as appropriate.
- 9.2** If a dispute about a matter arising under this award or a dispute in relation to the NES is unable to be resolved at the workplace, and all appropriate steps under clause 9.1 have been taken, a party to the dispute may refer the dispute to Fair Work Australia.
- 9.3** The parties may agree on the process to be utilised by Fair Work Australia including mediation, conciliation and consent arbitration.
- 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**

- 10.1** An employee may be engaged on a full-time, part-time or casual basis. Upon engagement, the employer will advise an employee in writing of the terms and conditions of their employment.

#### **10.2 Full-time employment**

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

#### **10.3 Part-time employment**

- (a) A part-time employee is an employee who works less than an average 38 hours per week.
- (b) **Payment for part-time employment**
- (i) Part-time employees will be entitled to the same entitlements as full-time employees on a proportionate basis.
- (ii) Part-time employees who are not commission-only employees will be paid no less than 1/38th of the minimum weekly rate of pay for their relevant classification for each ordinary hour worked.

#### **10.4 Casual employment**

- (a) A casual employee is an employee engaged and paid as such. The minimum engagement for a casual employee is three hours.
- (b) For each hour worked, a casual employee's minimum rate of pay will be 1/38th of the minimum weekly rate of pay for their classification, 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, paid personal/carer's leave, notice of termination, redundancy benefits and the other attributes of full-time or part-time employment.

### **11. Termination of employment**

- 11.1** Notice of termination is provided for in the NES.

## **11.2 Notice of termination by an employee**

An employee must give one week's notice to the employer to terminate employment. The employer may then elect to pay the employee one week's pay instead of notice. Unless the parties mutually agree in writing to a notice period greater than one week, employment will terminate one week from the date that the employee gives the employer notice to terminate employment. In the event that the required notice is not given, the employer may withhold from any monies due to the employee on termination an amount not exceeding the employee's full rate of pay in respect of the period of notice required by this clause, less any period of notice actually served 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**

**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.
- (b)** If the employee has been allowed paid leave for more than one day during the notice period for the purpose of seeking other employment, the employee must, at the request of the employer, produce proof of attendance at an interview or they will not be entitled to payment for the time absent. For this purpose a statutory declaration is sufficient.
- (c)** This entitlement applies instead of clause 11.3.

**12.5 Transitional provisions**

- (a) Subject to clause 12.5(b), an employee whose employment is terminated by an employer is entitled to redundancy pay in accordance with 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.

**Part 4—Minimum Wages and Related Matters**

**13. Classifications**

- 13.1 Schedule B—Classifications to this award contains a definition for each classification in clause 14.1.
- 13.2 At the time of engagement the employer must advise the employee in writing of their classification and also at any time when there is a change to an employee's classification.

**14. Minimum weekly wages**

- 14.1 The minimum weekly wage for an adult employee engaged on a full-time basis is set out below:

<b>Classification</b>	<b>Minimum weekly wage</b>
	<b>\$</b>
Property Sales Associate—first six months of employment at this classification	543.90
Property Sales Associate—after six months of employment at this classification	563.90
Property Sales Representative	578.36
Property Sales Supervisor	669.18
Property Management Associate	583.30
Property Management Representative	617.88

<b>Classification</b>	<b>Minimum weekly wage</b>
Property Management Supervisor	713.26
Strata/Community Title Management Associate	583.30
Strata/Community Title Management Representative	617.88
Strata/Community Title Management Supervisor	713.26

**14.2** The minimum weekly wage in clause 14.1 is not payable to an employee engaged on a commission-only basis pursuant to clause 16—Commission-only employment.

**14.3 Junior employees**

(a) Where the law permits junior employees to perform the work covered by this award they will be entitled to the percentage of the applicable adult minimum weekly wage for their classification, as set out below:

<b>Age</b>	<b>% of adult rate</b>
At 18 years	60
At 19 years	70
At 20 years	80
At 21 years	100

(b) A junior employee may not be employed on a commission-only basis.

**14.4 Supported wage system**

See Schedule C

**14.5 National training wage**

See Schedule D

**15. Payment by wages with commission, bonus or incentive payments**

**15.1** Where the employer and the employee agree that, in addition to the minimum weekly wage, the employee will be entitled to a portion of the commission paid to the employer, then any method of calculation or any formula for calculating the amount of commission that will be payable to the employee must be evidenced in a written agreement between the employer and the employee.

**15.2** Where it has been agreed between the employer and the employee that the employee will be entitled to a bonus or an incentive payment (as opposed to commission under clause 15.1) particulars of the bonus or incentive payment entitlement must be evidenced in a written agreement between the employer and the employee.

**16. Commission-only employment**

**16.1** Subject to clause 16.2, an employee engaged in a property sales classification may agree with the employer to be paid on a commission-only basis. Such an employee is

considered a pieceworker, and is referred to in this award (and within the real estate industry) as a commission-only employee.

## **16.2 Minimum requirements for commission-only employment**

A person may only be a commission-only employee when all of the following conditions have been satisfied:

- (a) the employee has agreed in writing with the employer to be remunerated on a commission-only basis and has entered into a written agreement (commission-only agreement) with the employer that sets out the basis upon which the entitlement to commission will be calculated;
- (b) the employee has been issued with a real estate agent's licence or is registered or permitted to perform the duties of a real estate salesperson under real estate law;
- (c) the employee has been engaged as a real estate salesperson (with any licensed real estate agent) or was an active licensed real estate agent for an aggregate period of at least 12 months in the five years immediately prior to entering into the commission-only agreement;
- (d) the employee is at least 21 years of age;
- (e) the employee is not engaged as a casual, a junior, a property sales associate or a trainee; and
- (f) the employee can demonstrate (with the present or any past employer) that they had achieved the minimum income threshold in clause 16.3. Provided that the minimum income threshold will not need to have been achieved if the employee has operated their own real estate business within the last five years.

## **16.3 Minimum income threshold**

- (a) The minimum income threshold has been achieved if (and only if) the employee can establish that, if the lowest rate of commission to be applied under the commission-only agreement had been applied to the employee's real estate sales or commercial leasing transactions in any single 12 month period in the five years immediately prior to entering into the commission-only agreement, the employee would have been entitled to be paid the following amount:
  - (i) if the employee was not required to incur the costs of supplying and running a motor vehicle and/or the costs of supplying and using a mobile telephone, an amount at least equal to the employee's wage specified in clause 14—Minimum weekly wages, calculated as an annual amount, based on the minimum weekly wage for the employee's classification; or
  - (ii) if the employee was required to incur the costs of supplying and running a motor vehicle and/or the costs of supplying and using a mobile telephone, an amount at least equal to 110% of the employee's wage specified in clause 14—Minimum weekly wages, calculated as an annual amount, based on the minimum weekly wage for the employee's classification.

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- (b) The employer is entitled to rely on any data supplied by the employee from any past employer for the purpose of determining if the minimum income threshold has been achieved, provided that the employee provides the employer with a statutory declaration about the accuracy of such data.

**16.4** The following clauses of this award do not apply to a commission-only employee:

- (a) clause 10.3(b)—Payment for part-time employment;
- (b) clause 14.1—Minimum weekly wages;
- (c) clause 15—Payment by wages with commission, bonus or incentive payments;
- (d) clause 18—Allowances; and
- (e) clause 24—Overtime.

### **16.5 Minimum commission-only rate**

- (a) The minimum commission-only rate is calculated as 35% of the employer's net commission.
- (b) Subject to clauses 16.5(c) and (d), a commission-only employee is always entitled to at least the minimum commission-only rate for each sales or commercial leasing transaction for which the employee was responsible.
- (c) In the situation where:
  - (i) two or more employees are separately responsible for different components of a sales or commercial leasing transaction; and
  - (ii) the employee portion of the employer's net commission is to be split amongst the employees according to the component(s) for which the particular employee was responsible,

any commission-only employee responsible for one or more component(s) is entitled to at least the minimum commission-only rate proportionate to the value of each component.

- (d) With respect to clause 16.5(c):
  - (i) component(s) may include, but are not limited to:
    - commercial leasing of a property;
    - listing a property or business;
    - managing the listing of a property or business;
    - selling a property or business; and/or
    - nurturing a legally-enforceable contract to completion,
  - (ii) the proportionate value of each component will be as agreed in writing between the employer and the employee.

**16.6** Where it is agreed that an employee will also be entitled to a portion of the commission paid to the employer greater than the minimum commission-only rate

prescribed in clause 16.5 then any method of calculation, or any formula for calculating what amount of commission will be payable to the employee in excess of the minimum commission-only rate, must be evidenced in a written agreement between the employer and the employee.

## **17. Matters relating to commission, bonus or incentive payments**

### **17.1 Written agreements generally**

- (a) Once a written agreement has been made with respect to clause 15—Payment by wages with commission, bonus or incentive payments or clause 16—Commission-only employment, any subsequent agreement to vary the employee's commission, bonus or incentive payment arrangements must be evidenced in a further written agreement between the employer and the employee.
- (b) A signed copy of every written agreement regarding commission, bonus or incentive payment arrangements must be provided by the employer to the employee.

### **17.2 Account to employee**

The employer must account to the employee in written form for any commission, bonus or incentive payment-based entitlement as it becomes due and payable in accordance with the terms of any written agreement.

### **17.3 Entitlements after employment ends**

- (a) The employee is entitled to be credited with a portion of the commission paid to the employer, incentive payments or bonuses calculated in accordance with a written agreement, for any transaction where:
  - (i) there was an existing legally-enforceable contract either:
    - before the cessation of the employee's employment;
    - if the employer gave notice to the employee, during the notice period; or
    - if the employer asked the employee to waive the notice period and the employee agrees, during the notice period to which the employee would have been otherwise entitled; and
  - (ii) the employer is paid commission by the client in respect of the existing legally-enforceable contract referred to in clause 17.3(a)(i); and
  - (iii) the commission payment referred to in clause 17.3(a)(ii) is cleared into the employer's bank account.
- (b) Unless the written agreement specifies otherwise, the portion of the commission referred to in clause 17.3(a) must be the same as that with which the employee would have been entitled to be credited if employment had continued.

## 17.4 Disputes

Where there is a dispute between the employer and the employee as to whether all or any part of the commission is due to an employee pursuant to clauses 15—Payment by wages with commission, bonus or incentive payments or 16—Commission-only employment, the matter will be dealt with in accordance with clause 9—Dispute resolution.

## 17.5 Calculation of NES entitlements

- (a) Any commission entitlement calculated in accordance with a commission-only agreement may also allow for annual leave and personal carer's leave or any other entitlements under the NES to be paid in advance. Provided that the monetary component for each of those entitlements must always be in addition to the minimum commission-only rate.
- (b) Any inclusions as referred to in clause 17.5(a) must be clearly set out in a written agreement.
- (c) The base rate of pay in relation to entitlements under the NES for an employee, who is paid on a commission-only basis, is the minimum wage in clause 14.1 for the employee's classification level.
- (d) The full rate of pay in relation to entitlements under the NES for an employee, who is paid on a commission-only basis, is:
  - (i) the minimum wage in clause 14.1 for the employee's classification level; or
  - (ii) the employee's average weekly remuneration over the 12 months (or, if the employee has been employed less than 12 months, that period) immediately prior to when the full rate of pay is to be calculated,whichever is the greater.

## 18. Allowances

### 18.1 Motor vehicle allowance

- (a) Where the employer requires the employee to use the employee's own motor vehicle in the course of employment, the employee must be reimbursed for the use of their motor vehicle in accordance with clauses 18.1(b), (c), (d), (f) or clause 18.2.
- (b) **Vehicle up to five years of age**

An employee whose vehicle is up to five years of age must be paid a weekly standing charge allowance plus the amount per kilometre for the distance travelled in performing duties under this award as set out in the table below, calculated by reference to the engine capacity of the vehicle. Provided that where the employer and employee expressly agree in writing, a weekly lump sum payment as set out in the table calculated by reference to the engine capacity of the vehicle, may be applied instead of the standing charge and per kilometre rate.

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<b>Engine capacity</b>	<b>Allowance</b>	<b>Rate</b>
Up to and including 1600cc	Standing charge	\$76.25
	Per kilometre	\$0.12
	Lump sum	\$140.00
1601cc up to and including 2600cc	Standing charge	\$104.50
	Per kilometre	\$0.14
	Lump sum	\$180.00
Over 2600cc	Standing charge	\$108.75
	Per kilometre	\$0.16
	Lump sum	\$195.00

**(c) Vehicle over five years of age**

An employee whose vehicle is over five years of age must be paid a weekly standing charge allowance plus the amount per kilometre for the distance travelled in performing duties under this award, as set out in table below, calculated by reference to the engine capacity of the vehicle. Provided that where the employer and employee expressly agree in writing, a weekly lump sum payment as set out in the table, calculated by reference to the engine capacity of the vehicle, may be applied instead of the standing charge and per kilometre rate.

<b>Engine capacity</b>	<b>Allowance</b>	<b>Rate</b>
Up to and including 1600cc	Standing charge	\$38.75
	Per kilometre	\$0.12
	Lump sum	\$105.00
1601cc up to and including 2600cc	Standing charge	\$58.00
	Per kilometre	\$0.14
	Lump sum	\$135.00
Over 2600cc	Standing charge	\$63.25
	Per kilometre	\$0.18
	Lump sum	\$160.00

- (d)** Part-time and casual employees entitled to be paid a motor vehicle allowance in accordance with this clause, will have the entitlement calculated on the basis of one fifth of the appropriate standing charge or lump sum rate for each day worked.
- (e)** For the purpose of clauses 18.1(b) and (c), the age of the vehicle will be determined by reference to the date stamp on the compliance plate of the vehicle.
- (f)** Notwithstanding any other provision of clause 18.1, a full-time employee may be reimbursed for the use of their vehicle for the days only where the vehicle is required to be used to perform duties under this award. In such instances, the employee will be entitled to receive one fifth of the weekly lump sum rate in

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accordance with the above tables for each day the vehicle is used at the direction of the employer. Provided that, where the vehicle is used on three or more days in any week, the full weekly rate will be payable for that week.

### 18.2 Motor vehicle allowance—alternative

- (a) Instead of the provisions contained in clause 18.1, the employer may elect to pay the employee a \$0.74 per kilometre allowance for all use of the employee's own motor vehicle in the course of employment, to a maximum of 400 km per week.
- (b) Where the employee claims the motor vehicle allowance under this clause, the employee must keep a record of all such usage which will show:
  - (i) the date and odometer reading of the first such usage of the motor vehicle at the commencement of the log book;
  - (ii) the date and commencement and final odometer reading for each day on which the allowance is claimed;
  - (iii) total business kilometres each day;
  - (iv) the purpose of each usage; and
  - (v) the signature of the employee, certifying the usage.

### 18.3 Motor vehicle allowance not payable

The motor vehicle allowance under clauses 18.1 and/or 18.2 will not be payable in any of the following circumstances:

- (a) the employee is absent from duty without the consent of the employer;
- (b) the employee is on any period of paid and/or unpaid leave;
- (c) the employee is unable to use the motor vehicle due to loss of their driver's licence; or
- (d) the motor vehicle is unavailable due to accident or mechanical defect, provided that such payments will be payable for any day on which the employee provides an alternate motor vehicle for the purpose of performing their work-related duties.

### 18.4 Motor vehicle allowance—transitional provisions

Despite clauses 18.1 and 18.2, clause 18.4 applies until 31 December 2014:

- (a) No motor vehicle allowance is payable by an employer:
  - (i) to operational employees in the Australian Capital Territory, Northern Territory, Tasmania, Victoria or Western Australia;
  - (ii) to any employee engaged under a property sales classification in Queensland; or

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- (iii) to any employee engaged under a property management or strata and community title management classification, or as a commercial leasing employee, in South Australia.
- (b) The motor vehicle allowance for employees engaged under a property management or strata and community title management classification in Queensland will be as follows:
- (i) Where the employer requires the employee to use the employee's own motor vehicle in the course of employment the employer and employee will agree in writing on a method of payment for reimbursement of the costs of using that motor vehicle in the course of their employment.
- (ii) The agreement made in accordance with clause 18.4(b)(i) must be reasonable when considering the employee's use of their own motor vehicle for work-related duties.
- (iii) Until such time as a written agreement is in force the employee will be entitled to a \$0.74 per kilometre allowance for all use of the employee's own motor vehicle in the course of employment.
- (iv) The allowance in clause 18.4(b)(iii) is not limited as to the total number of kilometres.
- (v) Where the employee claims the motor vehicle allowance under clauses 18.4(b)(iii) and (iv) the employee must keep a record of all such usage which will show:
- the date and odometer reading of the first such usage of the motor vehicle at the commencement of the log book;
  - the date and commencement and final odometer reading for each day on which the allowance is claimed;
  - total work-related kilometres each day;
  - the purpose of each usage; and
  - the signature of the employee, certifying the usage.
- (vi) For the purpose of clause 18.4(b)(v), a global positioning system log of the employee's use of their own motor vehicle may be relied on to compile the required record.
- (vii) The minimum period of 12 continuous weeks every five years is deemed to be sufficient for the employee to claim motor vehicle allowance entitlements for the entire period of employment, based on the actual work related usage of the motor vehicle over the 12 week log book period.
- (viii) The motor vehicle allowance is payable during the entire period of employment, except when the employee is on unpaid leave.
- (ix) When the employee is on paid leave, the motor vehicle allowance is payable at a standing rate of 75% of the average of any separately

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identified motor vehicle allowance paid to the employee over the prior 12 months of employment (excluding periods of leave).

- (c) The motor vehicle allowance for property sales classifications in South Australia:
  - (i) for any employee engaged under a property sales classification (other than a property sales trainee) is \$140.00 per week, provided that a property sales associate may be paid in accordance with clauses 18.2(a);
  - (ii) for a property sales trainee is \$110.00 per week; and
  - (iii) will be pro rated for part-time and casual salespeople at the rate of 1/38th of the relevant motor vehicle allowance for each ordinary hour (or part thereof), capped at the rates prescribed in clauses 18.4(c)(i) and (ii).

### **18.5 Employer's motor vehicles**

- (a) Where the employer provides a motor vehicle for the use of the employee when performing work-related duties, the expenses arising out of the provision, maintenance and lawful operation of such vehicle will be met by the employer.
- (b) The employee must adhere to the employer's lawful directions, conditions or policies in relation to the use of the employer's vehicle.

### **18.6 Mobile telephone allowance**

- (a) Where the employer requires the employee to use the employee's own mobile telephone in the course of employment the employer and employee must, either when this award comes into operation or upon commencement of employment, agree in writing on a method of payment for reimbursement of the costs of using that mobile telephone in the course of their employment.
- (b) Without limiting an agreed method of payment for reimbursement an employee's salary in excess of the minimum weekly wage may be inclusive of reimbursement providing the reimbursement component of the salary is identified in the agreement.
- (c) The agreement made in accordance with clauses 18.6(a) and/or (b) must be reasonable when considering the employee's use of their mobile telephone for work-related duties.
- (d) If a written agreement is not made as prescribed in clauses 18.6(a) and/or (b) and use of a mobile telephone is a requirement of the position, the employer must cover all the costs of ownership, network access, maintenance and payment of work-related accounts for this telephone.
- (e) The mobile telephone allowance is payable during the entire period of employment, except when the employee is on leave.

### **18.7 Mobile telephone allowance—transitional provisions**

- (a) Clause 18.7 applies until 31 December 2014.
- (b) In the situation where:

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- (i) an employer is faced with clause 18.6 as being the first prescription in an industrial instrument to provide an existing employee with a mobile telephone allowance; and
- (ii) the parties had no written agreement in place prior to 1 January 2010 on a method of payment for reimbursement of the existing employee for using their own mobile phone,

the parties may, in any new written agreement made pursuant to clauses 18.6(a) to (c), agree to offset the mobile phone usage reimbursement against any commission, bonus or incentive payment entitlements.

### 18.8 Uniforms

- (a) If the employer requires the employee to wear a uniform, the employer will either provide it or pay for it.
- (b) The basis on which the uniform is provided, including what constitutes the uniform, will be at the discretion of the employer.
- (c) The uniform will remain the property of the employer and be returned upon termination of employment.
- (d) The care, laundering and dry cleaning of a uniform will be the responsibility of the employee.

### 18.9 Adjustment of expense related allowances

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

<b>Allowance</b>	<b>Applicable Consumer Price Index figure</b>
Motor vehicle allowance	Private motoring sub-group

## 19. Expenses

- 19.1 An employee who incurs any work-related expenses at the request of the employer will be reimbursed by the employer. Where reasonably practicable, expenses will be paid in advance.
- 19.2 Provided that this clause will not apply where this award prescribes an allowance for any such expense.

## 20. Stand-by and call-out

- 20.1 Where the employer requires an employee under a property management or strata and community and title management classification to be on stand-by and/or to be

called out outside of ordinary hours of work, the employer and employee must, upon commencement of employment, or when this award comes into operation, agree in writing on a method of payment for due compensation for the employee being on stand-by and/or call-out.

**20.2** Without limiting an agreed method of payment for due compensation, an employee's salary in excess of the minimum weekly wage may be inclusive of due compensation provided that the due compensation component of the salary is identified in the agreement.

**20.3** The agreement made in accordance with this clause must be reasonable when considering the extent to which the employee is required to be on stand-by and/or call-out.

**20.4** If the employee is on stand-by and/or call-out outside of ordinary hours of work and:

- (a) the employer and employee have agreed in writing under clauses 20.1 and 20.2 for the employee to be paid due compensation for being on stand-by and/or call-out, the time during which the employee is on stand-by and/or call-out will not count towards an accrual of ordinary hours of work;
- (b) the employer and employee have not agreed in writing under clauses 20.1 and 20.2 for the employee to be paid due compensation for being on stand-by and/or call-out,

the time during which the employee is on stand-by and/or call-out will count towards an accrual of ordinary hours of work.

**20.5 Stand-by and call-out—transitional provisions**

- (a) Clause 20.5 applies until 31 December 2014.
- (b) In the situation where:
  - (i) an employer is faced with this clause as being the first prescription in an industrial instrument to provide an existing employee with compensation for being on stand-by or call-out; and
  - (ii) the parties had no written agreement in place prior to 1 January 2010 for compensation to the existing employee for being on stand-by or call-out,

the parties may, in any new written agreement made under clauses 20.1 to 20.4(a) (inclusive), agree to offset the stand-by or call-out compensation against any commission, bonus or incentive payment entitlements.

**21. Payment of wages**

**21.1 Frequency of payment**

- (a) Except as provided in clause 21.1(c), wages and allowances will be paid by the employer on a weekly, fortnightly or monthly cycle.
- (b) A casual employee will be paid at the end of the employer's usual pay cycle unless the parties agree to payment being made upon conclusion of the employee's shift.

- (c) Where an employee has become entitled to receive any commission, bonus or incentive payment in accordance with a written agreement made under either clauses 15—Payment by wages with commission, bonus or incentive payments or 16—Commission-only employment, payment to the employee must be made within 14 days of the entitlement becoming payable. Provided that the employee's entitlement to commission, bonus or incentive payment only becomes payable once the employer has received cleared funds from its client for the transaction(s) to which the employee's entitlement relates.

**21.2** Payment by the employer to the employee may be made by cash, cheque or electronic funds transfer (EFT), at the discretion of the employer.

## **22. Superannuation**

### **22.1 Superannuation legislation**

- (a) Superannuation legislation, including the *Superannuation Guarantee (Administration) Act 1992* (Cth), the *Superannuation Guarantee Charge Act 1992* (Cth), the *Superannuation Industry (Supervision) Act 1993* (Cth) and the *Superannuation (Resolution of Complaints) Act 1993* (Cth), deals with the superannuation rights and obligations of employers and employees. Under superannuation legislation individual employees generally have the opportunity to choose their own superannuation fund. If an employee does not choose a superannuation fund, any superannuation fund nominated in the award covering the employee applies.
- (b) The rights and obligations in these clauses supplement those in superannuation legislation.

### **22.2 Employer contributions**

An employer must make such superannuation contributions to a superannuation fund for the benefit of an employee as will avoid the employer being required to pay the superannuation guarantee charge under superannuation legislation with respect to that employee.

### **22.3 Voluntary employee contributions**

- (a) Subject to the governing rules of the relevant superannuation fund, an employee may, in writing, authorise their employer to pay on behalf of the employee a specified amount from the post-taxation wages of the employee into the same superannuation fund as the employer makes the superannuation contributions provided for in clause 22.2.
- (b) An employee may adjust the amount the employee has authorised their employer to pay from the wages of the employee from the first of the month following the giving of three months' written notice to their employer.
- (c) The employer must pay the amount authorised under clauses 22.3(a) or (b) no later than 28 days after the end of the month in which the deduction authorised under clauses 22.3(a) or (b) was made.

## 22.4 Superannuation fund

Unless, to comply with superannuation legislation, the employer is required to make the superannuation contributions provided for in clause 22.2 to another superannuation fund that is chosen by the employee, the employer must make the superannuation contributions provided for in clause 22.2 and pay the amount authorised under clauses 22.3(a) or (b) to one of the following superannuation funds or its successor:

- (a) REI Super;
- (b) Asset Super;
- (c) Tasplan; or
- (d) any superannuation fund to which the employer was making superannuation contributions for the benefit of its employees before 12 September 2008, provided the superannuation fund is an eligible choice fund.

## Part 5—Hours of Work and Related Matters

### 23. Ordinary hours of work and rostering

23.1 Subject to clause 23.3, the ordinary hours of work will be 38 per week and may be worked on any day of the week.

23.2 An employee, other than a casual, will be allowed either one and a half or two rostered days free of duty each week. Such rostered days off may be taken in one of the following ways:

- (a) one consecutive period;
- (b) two periods; or
- (c) three periods comprising one day and two half days.

### 23.3 Averaging of hours of work

Hours of work may be averaged over an eight week period. The average weekly hours over the period must not exceed:

- (a) for a full-time employee—38 hours; or
- (b) for an employee who is not a full-time employee—the lesser of:
  - (i) 38 hours; and
  - (ii) the employee's ordinary hours of work in a week.

### 23.4 Meal break

(a) No employee will be required to work more than five hours without an unpaid meal break of not less than 30 minutes duration. Provided that if the employee's rostered hours are no longer than six hours the employee may elect, with the employer's approval, to waive a meal break.

- (b) Meal breaks will not be regarded as time worked.

## **24. Overtime**

### **24.1 Payment for overtime**

- (a) Hours worked at the specific direction of the employer in excess of those prescribed in clause 23—Ordinary hours of work and rostering on an employee's rostered day or half day off work will be paid at time and a half for the first two hours and double time thereafter or taken as time off instead of payment for overtime as prescribed in clause 24.2.
- (b) Hours worked at the specific direction of the employer in excess of those prescribed in clause 23 other than on an employee's rostered day or half day off work will be paid at the hourly rate of pay or taken as time off instead of payment for overtime as prescribed in clause 24.2.
- (c) For the purpose of this clause, **specific direction** means that the employee was given an express instruction to perform work in excess of the hours prescribed under clause 23.
- (d) For avoidance of doubt, where the employee works hours in excess of those prescribed under clause 23 at their own initiative (i.e. without any express instruction from the employer to do so) the employee will not be entitled to payment in accordance with this clause.

### **24.2 Time off instead of payment for overtime**

- (a) The employee may elect, with the consent of the employer, to take time off instead of payment for overtime that would otherwise be payable under clause 24.1, at a time or times agreed with the employer.
- (b) Overtime taken as time off during ordinary time hours must be taken at the ordinary time rate; that is, an hour for each hour worked.
- (c) Where time off instead of payment for overtime has not been taken within four weeks of accrual the employer must, if requested by the employee, pay the employee for any overtime worked, at the rate provided for the payment of overtime in clause 24.1.

## **Part 6—Leave and Public Holidays**

### **25. Annual leave**

**25.1** Annual leave is provided for in the NES. This clause contains additional and supplementary provisions.

### **25.2 Taking leave**

- (a) The employer and employee may agree when and for what period the employee is to take the employee's accrued annual leave, having regard to the personal circumstances of the employee and the operational requirements of

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the employer. Provided that the employer must not unreasonably refuse to agree to a request by the employee to take accrued annual leave.

- (b) Annual leave should be taken by the employee in the employee's anniversary year in which the entitlement accrues, except if agreed otherwise.
- (c) The employer may require the employee to take any portion of annual leave that has accrued in excess of four weeks. In such circumstances the employer must give the employee at least four weeks' notice of the requirement to take the excess period of accrued annual leave.
- (d) If the employer has a business shut-down (which may include a partial shut-down) during the year, the employer may require the employee to take any or all accrued annual leave during the period of the shut-down.
- (e) In the event that the employee has insufficient accrued annual leave for the period of the shut-down, the employee may be granted annual leave in advance by the employer.

### 25.3 Payment for annual leave

Subject to clause 17.5, payment for annual leave will be made either at the time the employee takes annual leave or on the employee's normal pay day(s) throughout the period of leave.

### 25.4 Annual leave loading

- (a) During a period of annual leave the employee will receive a loading of 17.5% calculated on the minimum weekly wage for the employee's classification under this award.
- (b) Annual leave loading is:
  - (i) only payable on leave accrued and not when leave is taken in advance; and
  - (ii) not payable to commission-only employees.

### 25.5 Annual leave loading—transitional provisions

Despite clause 25.4, until 31 December 2014 annual leave loading is not payable by an employer to an employee in the Australian Capital Territory, Northern Territory, South Australia, Victoria or Western Australia.

## 26. Personal/carer's leave and compassionate leave

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

## 27. Community service leave

Community service leave is provided for in the NES.

**28. Public holidays**

**28.1** Public holidays are provided for in the NES.

**28.2** Subject to the Act, the employer may require the employee to work on a public holiday.

**28.3** An employee who works on a public holiday at the direction of the employer will be entitled to be paid at double time for the hours so worked, with a minimum payment for three hours work.

**28.4 Public holidays in Queensland—transitional provisions**

Despite clause 28.3, until 31 December 2014 an employee in Queensland who works on a public holiday at the direction of the employer will be entitled to be paid at double time and a half for the hours so worked, with a minimum payment for four hours work.

## **Schedule A—Transitional Provisions**

### **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.

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

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

**First full pay period on or after**

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

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

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

**A.3 Minimum wages – existing minimum wage higher**

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

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

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

**A.3.2** In this clause minimum wage includes:

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

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

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

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

**First full pay period on or after**

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

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

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

**A.4 Loadings and penalty rates**

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

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

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

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

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

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

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

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

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

**First full pay period on or after**

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

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

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

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

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

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

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

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

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

**First full pay period on or after**

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

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

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

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

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

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

**First full pay period on or after**

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

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

## **Schedule B—Classifications**

### **B.1 Property Sales Classifications**

#### **B.1.1 Property Sales Associate**

**(a) Role definition**

The Property Sales Associate is engaged to assist Property Sales Representative(s) in the listing and/or sale of real property or businesses and/or alternatively, in the leasing of commercial, industrial or retail property.

**(b) Indicative tasks**

The indicative tasks for a Property Sales Associate are as follows:

- (i)** Follow-up enquiries with sellers or buyers of real property, or property owners or potential tenants of commercial property;
- (ii)** Prepare contracts of sale, commercial leases or agreements to enter into commercial leases;
- (iii)** Prepare correspondence with sellers or buyers;
- (iv)** Assist with property inspections including placement of sign boards, maintaining attendee lists from property inspections, opening and closing homes after inspection;
- (v)** Assist with auctions of real property or businesses to the extent permitted under real estate law;
- (vi)** Organise advertising for properties for sale or commercial lease;
- (vii)** Sale process follow-up activities including building and pest inspections, searches and progress of the conveyance process; and
- (viii)** Provide general operational support under the direction of authorised personnel such as Property Sales Representative(s).

#### **B.1.2 Property Sales Representative**

**(a) Role definition**

- (i)** A Property Sales Representative is engaged in the listing and/or sale of real property or businesses, either by way of private treaty, auction or tender.
- (ii)** The Property Sales Representative may alternatively be responsible for the leasing of commercial, industrial or retail property, or act on behalf of a buyer of real property.

**(b) Indicative tasks**

The indicative tasks for a Property Sales Representative are as follows:

- (i) Perform market appraisals for sales of real property, businesses or commercial leasing;
- (ii) Use personal initiative, source prospective sellers or buyers of real property or businesses, or prospective property owners or tenants in relation to the leasing of commercial property;
- (iii) Supervise the necessary listing and sales documentation for real property or businesses, or leases or agreements to lease associated with commercial property;
- (iv) Conduct market research and provide marketing advice to customers of the real estate business;
- (v) Conduct negotiations between the prospective buyer and seller of real property or businesses, or between a prospective tenant and the property owner;
- (vi) Conduct inspections with interested parties for real property or businesses that are for sale (including open homes), or commercial property that is for lease;
- (vii) Organise advertising, sign boards, searches, etc.;
- (viii) Conduct auction(s) of real property; and
- (ix) Liaise with conveyancers or solicitors involved in the sale or commercial leasing process.

**B.1.3 Property Sales Supervisor**

**(a) Role definition**

- (i) A Property Sales Supervisor is employed to perform a broad range of skilled applications and the provision of leadership and guidance to others engaged in Property Sales classifications.
- (ii) The role involves significant initiative, judgment, decision-making and problem solving in relation to the listing, marketing and selling or commercial leasing of real property or businesses.
- (iii) This person is responsible for the overall leadership and supervision of a sales team in accordance with legislative and business requirements.
- (iv) The position may also involve contribution towards the development of a broad business plan/strategies and budgets and having the accountability and responsibility for self and others in achieving the outcomes.

**(b) Indicative tasks**

The indicative tasks for a Property Sales Supervisor are as follows:

- (i) Provide leadership in the workplace;

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- (ii) Supervise and/or manage work team(s);
- (iii) Ensure compliance with the various obligations imposed under relevant real estate law;
- (iv) Implement and/or supervise quality customer service;
- (v) Develop and/or supervise operational plans;
- (vi) Manage personal work priorities and professional development of self and others in the work team(s);
- (vii) Facilitate change and innovation;
- (viii) Resolve customer complaints;
- (ix) Develop and implement customer service strategies;
- (x) Involvement in selling of real property or businesses, or leasing of commercial property; and
- (xi) Responsibility for the overall supervision of the office as a licensed real estate agent and as required under real estate law.

## **B.2 Property Management Classifications**

### **B.2.1 Property Management Associate**

In this classification, the term more senior person means a Property or Strata Management Supervisor or Property Management Representative, or the employer.

#### **(a) Role definition**

- (i) A Property Management Associate works under the supervision of, and assists and/or carries out duties and functions as directed by a more senior person, in the management of real property.
- (ii) The Property Management Associate may be responsible for a single function (e.g. property inspections, or organisation of repairs).

#### **(b) Indicative tasks**

The indicative tasks for a Property Management Associate are as follows:

- (i) Provide support to a more senior person in a range of functions associated with the tenancy and maintenance of property, in accordance with property owners' instructions;
- (ii) Respond to general enquiries from potential tenants;
- (iii) Under instruction from a more senior person, conduct single portfolio tasks;
- (iv) Prepare property condition reports (ingoing, outgoing and periodic) under the direction of a more senior person;
- (v) Prepare and confirm tenancy agreements;

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- (vi) Act as liaison between tenants and property owners regarding prospective tenants, agreements, repairs and tenancy termination;
- (vii) Collect rents from tenants and issue rental receipts;
- (viii) Investigate and arrange for the collection of rental arrears;
- (ix) In consultation with a more senior person, arrange maintenance and repairs to properties under management;
- (x) Generate property status reports as required by a more senior person;
- (xi) Prepare and update rental lists and websites; and
- (xii) Prepare advertising material and brochures for properties to be tenanted.

### B.2.2 Property Management Representative

#### (a) Role definition

- (i) A Property Management Representative is engaged, on behalf of the employer, in the management of a portfolio of properties (either residential, commercial, industrial or retail).
- (ii) The person carries out duties under limited supervision and is responsible and accountable for their work under the broad scrutiny and direction of the employer, or a Property Management Supervisor.
- (iii) The Property Management Representative would need to possess a sound knowledge of the applicable State or Territory real estate legislation in relation to property management.

#### (b) Indicative tasks

The indicative tasks for a Property Management Representative are as follows:

- (i) Prospect for and secure new property managements;
- (ii) Complete documentation including agency agreements, tenancy agreements and rental bond documents;
- (iii) Organise property repairs and maintenance, including property condition reports;
- (iv) Provide advice to property owners and tenants on preventative and planned maintenance;
- (v) Assess and process tenancy applications;
- (vi) Control tenancies;
- (vii) Collect rents;
- (viii) Account for rents and expenses to property owners;
- (ix) Manage rental arrears;

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- (x) Conduct property inspections and prepare inventory and condition reports;
- (xi) Appear before, and provide advice to property owners on, Residential Tenancy Tribunal matters (including termination of tenancies);
- (xii) Liaise with and report to property owners;
- (xiii) Attend and/or conduct strata management meetings;
- (xiv) Complete strata management documentation; and
- (xv) Carry out all duties and functions required for strata management.

### B.2.3 Property Management Supervisor

#### (a) Role definition

- (i) A Property Management Supervisor is responsible, on behalf of the employer, for supervising Property Management Representatives and the overall supervision of a rent roll or portfolio of strata title managements.
- (ii) The role involves significant initiative, judgment, decision making and problem solving in relation to landlord and tenant or strata title management matters.
- (iii) It may also involve contribution towards the development of departmental business plans or strategies and budgets, and/or having the accountability and responsibility for self and others in achieving the outcomes.

#### (b) Indicative tasks

The indicative tasks for a Property Management Supervisor are as follows:

- (i) Provide leadership in the workplace;
- (ii) Supervise and/or manage work team(s);
- (iii) Ensure compliance with the various obligations imposed under relevant real estate law;
- (iv) Implement and/or supervise quality customer service;
- (v) Develop and/or supervise operational plans;
- (vi) Manage personal work priorities and professional development of self and others in the work team(s);
- (vii) Facilitate change and innovation;
- (viii) Resolve customer complaints;
- (ix) Develop and implement customer service strategies; and
- (x) Supervise a portfolio of rental properties.

## **B.3 Strata and Community Title Management Classifications**

Strata and Community Title Management employees are concerned with the day-to-day operations and management of common property on behalf of owner's corporations or bodies corporate under relevant community title and/or strata schemes legislation. They are not real estate property managers in the context of real estate agency practice.

### **B.3.1 Strata/Community Title Management Associate**

In this classification, the term **more senior person** means a Strata/Community Title Management Supervisor or Strata/Community Title Management Representative, or the employer.

**(i) Role definition**

**(ii)** A Strata/Community Title Management Associate works under the supervision of, and assists and/or carries out duties and functions as directed by a more senior person, in the management of owners' corporations' common property.

**(iii)** The Strata/Community Title Management Associate may be responsible for strata management function (e.g. collecting and processing information, monitoring building facilities or and assisting with organisation of maintenance issues). They would need to possess a basic knowledge of the applicable State or Territory strata and community titles legislation and other specific property related disciplines.

**(b) Indicative tasks**

The indicative tasks for a Strata/Community Title Management Associate are as follows:

**(i)** Provide support to a more senior person in a range of functions associated with strata and community title management, in accordance with owners' corporations instructions;

**(ii)** Respond to general enquiries from the owner's corporation of strata and community title schemes;

**(iii)** Under instruction from a more senior person, conduct various tasks to meet clients needs and expectations;

**(iv)** Assist in the preparation of Strata/Community Title management agreements etc;

**(v)** Investigate and arrange for the collection of maintenance and sinking fund arrears;

**(vi)** In consultation with a more senior person, arrange maintenance and repairs to properties under strata management;

**(vii)** Assist with organising and conducting strata management meetings including meetings of owner's corporation(s);

- (viii) Collect and process property information and reports as required by a more senior person; and
- (ix) Maintain business resources.

### **B.3.2 Strata/Community Title Management Representative**

#### **(a) Role definition**

- (i) A Strata/Community Title Management Representative is engaged, on behalf of the employer, in the management of a portfolio of owners' corporations, strata and or community title common properties (residential, commercial, industrial, retail, special use and resort accommodation, etc).
- (ii) The person carries out duties under limited supervision and is responsible and accountable for their work under the broad scrutiny and direction of the employer, or a Strata/Community Title Management Supervisor.
- (iii) The Strata/Community Title Management Representative would need to possess a sound knowledge of the applicable State or Territory strata and community titles legislation and other specific property related disciplines.

#### **(b) Indicative tasks**

The indicative tasks for a Strata/Community Title Management Representative are as follows:

- (i) Prospect for and secure new strata/community title schemes;
- (ii) Implement compliance with the various obligations imposed under relevant strata and community title legislation and associated legislation;
- (iii) Assess and implement strata/community management agreements;
- (iv) Coordinate maintenance and repairs of properties and facilities;
- (v) Implement and monitor procurement processes;
- (vi) Participate in developing and establishing property and facilities contracts;
- (vii) Liaise with and report to owners corporations executives;
- (viii) Facilitate and report on meetings;
- (ix) Complete strata management documentation;
- (x) Carry out all duties and functions required for strata/community management;
- (xi) Manage conflicts and disputes;
- (xii) Select and appoint contractors;
- (xiii) Monitor and report on financial activities and maintain business records; and

- (xiv) Implement customer service strategies.

### **B.3.3 Strata/Community Title Management Supervisor**

#### **(a) Role definition**

- (i) A Strata/Community Title Management Supervisor is responsible, on behalf of the employer, for supervising Strata/Community Title Management Representative(s) and the overall supervision of a portfolio of strata and community title managements.
- (ii) The role involves significant initiative, judgment, decision making and problem solving in relation to owners corporations strata and or community title management matters.
- (iii) It may also involve contribution towards the development of organisational business plans or strategies and budgets, and/or having the accountability and responsibility for self and others in achieving the outcomes.
- (iv) The Strata/Community Title Management Supervisor would need to possess in depth knowledge of the applicable State or Territory strata and community titles legislation and other specific property related disciplines, and those affecting general business practices.

#### **(b) Indicative tasks**

The indicative tasks for a Strata/Community Management Supervisor are as follows:

- (i) Provide leadership in the workplace;
- (ii) Supervise and/or manage work team(s);
- (iii) Ensure and manage compliance with the various obligations imposed under relevant strata and community title legislation and associated legislation;
- (iv) Manage the owners corporation processes for legislative compliance;
- (v) Implement and/or supervise quality customer service;
- (vi) Develop and/or supervise operational plans;
- (vii) Manage and develop teams and individuals;
- (viii) Plan and manage business finances for the organization and clients;
- (ix) Manage and resolve customer complaints;
- (x) Develop and implement customer service strategies;
- (xi) Supervise and manage a portfolio of strata/community title schemes;
- (xii) Establish business networks;
- (xiii) Develop and manage property or facilities contracts, etc;

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- (xiv) Manage and monitor safe workplace practices; and
- (xv) Develop and manage an ethical framework for business operations.

## Schedule C—Supported Wage System

**C.1** This schedule defines the conditions which will apply to employees who because of the effects of a disability are eligible for a supported wage under the terms of this award.

**C.2** In this schedule:

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

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

**disability support pension** means the Commonwealth pension scheme to provide income security for persons with a disability as provided under the *Social Security Act 1991* (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](http://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

### **C.3 Eligibility criteria**

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

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

## **C.4 Supported wage rates**

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

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

**C.4.2** Provided that the minimum amount payable must be not less than \$71 per week.

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

## **C.5 Assessment of capacity**

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

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

## **C.6 Lodgement of SWS wage assessment agreement**

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

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

## **C.7 Review of assessment**

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

## **C.8 Other terms and conditions of employment**

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

## **C.9 Workplace adjustment**

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

## **C.10 Trial period**

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

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

**C.10.3** The minimum amount payable to the employee during the trial period must be no less than \$71 per week.

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

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

## Schedule D—National Training Wage

### 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.3.4 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.5.1 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:

	<b>Highest year of schooling completed</b>		
	<b>Year 10</b>	<b>Year 11</b>	<b>Year 12</b>
	<b>per week</b>	<b>per week</b>	<b>per week</b>
	<b>\$</b>	<b>\$</b>	<b>\$</b>
School leaver	245.00	270.00	323.00
Plus 1 year out of school	270.00	323.00	375.00
Plus 2 years out of school	323.00	375.00	437.00
Plus 3 years out of school	375.00	437.00	500.00
Plus 4 years out of school	437.00	500.00	
Plus 5 or more years out of school	500.00		

**(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:

	<b>Highest year of schooling completed</b>		
	<b>Year 10</b>	<b>Year 11</b>	<b>Year 12</b>
	<b>per week</b>	<b>per week</b>	<b>per week</b>
	<b>\$</b>	<b>\$</b>	<b>\$</b>
School leaver	245.00	270.00	313.00
Plus 1 year out of school	270.00	313.00	360.00
Plus 2 years out of school	313.00	360.00	423.00
Plus 3 years out of school	360.00	423.00	482.00
Plus 4 years out of school	423.00	482.00	
Plus 5 or more years out of school	482.00		

**(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:

	Highest year of schooling completed		
	Year 10 per week \$	Year 11 per week \$	Year 12 per week \$
School leaver	245.00	270.00	312.00
Plus 1 year out of school	270.00	312.00	351.00
Plus 2 years out of school	312.00	351.00	392.00
Plus 3 years out of school	351.00	392.00	437.00
Plus 4 years out of school	392.00	437.00	
Plus 5 or more years out of school	437.00		

**(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 traineeship	Second and subsequent years of traineeship
	per week \$	per week \$
Wage Level A	519.00	539.00
Wage Level B	500.00	519.00
Wage Level C	454.00	471.00

**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:

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	<b>Highest year of schooling completed</b>		
	<b>Year 10</b>	<b>Year 11</b>	<b>Year 12</b>
	<b>per hour</b>	<b>per hour</b>	<b>per hour</b>
	<b>\$</b>	<b>\$</b>	<b>\$</b>
School leaver	8.06	8.88	10.63
Plus 1 year out of school	8.88	10.63	12.34
Plus 2 years out of school	10.63	12.34	14.38
Plus 3 years out of school	12.34	14.38	16.45
Plus 4 years out of school	14.38	16.45	
Plus 5 or more years out of school	16.45		

**(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:

	<b>Highest year of schooling completed</b>		
	<b>Year 10</b>	<b>Year 11</b>	<b>Year 12</b>
	<b>per hour</b>	<b>per hour</b>	<b>per hour</b>
	<b>\$</b>	<b>\$</b>	<b>\$</b>
School leaver	8.06	8.88	10.30
Plus 1 year out of school	8.88	10.30	11.84
Plus 2 years out of school	10.30	11.84	13.91
Plus 3 years out of school	11.84	13.91	15.86
Plus 4 years out of school	13.91	15.86	
Plus 5 or more years out of school	15.86		

**(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:

	<b>Highest year of schooling completed</b>		
	<b>Year 10</b>	<b>Year 11</b>	<b>Year 12</b>
	<b>per hour</b>	<b>per hour</b>	<b>per hour</b>
	<b>\$</b>	<b>\$</b>	<b>\$</b>
School leaver	8.06	8.88	10.26
Plus 1 year out of school	8.88	10.26	11.55
Plus 2 years out of school	10.26	11.55	12.89
Plus 3 years out of school	11.55	12.89	14.38

	Highest year of schooling completed		
	Year 10 per hour \$	Year 11 per hour \$	Year 12 per hour \$
Plus 4 years out of school	12.89	14.38	
Plus 5 or more years out of school	14.38		

**(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 \$
8.06	8.88

**(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	17.07	17.73
Wage Level B	16.45	17.07
Wage Level C	14.93	15.49

**(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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<b>Training package</b>	<b>AQF certificate level</b>
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**

<b>Training package</b>	<b>AQF certificate level</b>
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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<b>Training package</b>	<b>AQF certificate level</b>
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 B**

<b>Training package</b>	<b>AQF certificate level</b>
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—Transitional Provisions for Written Agreements**

### **E.1 Application of Schedule E**

**E.1.1** This Schedule applies to:

- (a) employers in New South Wales and Queensland and those of their employees who are employed under a Property or Strata Management classification or a Property Sales classification; and
- (b) employers in South Australia and those of their employees who are employed under a Property Sales classification.

### **E.2 Explanation of Schedule E**

**E.2.1** The State awards for property management employees and property salespeople in New South Wales and Queensland, and for property salespeople in South Australia contain provisions for the registration of employment agreements or letters of appointment.

**E.2.2** The intent of these provisions will continue under the Federal award until 31 December 2014, but in an amended form to suit the purposes of this award.

### **E.3 Registration of written agreements**

**E.3.1** The following will be registered as set out in clauses E.3.3 to E.3.6 (inclusive):

- (a) a written agreement that is required to be made by clauses 15.1 or 16.2(a); or
- (b) if no written agreement is required to be made by clauses 15.1 or 16.2(a) a written agreement specifying that the employee is not entitled to any form of bonus, commission or incentive payment.

**E.3.2** Variations to any written agreement must also be registered in the same manner as set out in clause E.3.1, but only if the variation applies to commission, incentive payment or bonus arrangements.

#### **E.3.3 New South Wales**

- (a) An employer cited in clause E.1.1(a) will, for each employee cited in clause E.1.1(a), send two signed copies of a written agreement to the Real Estate Employers' Federation of New South Wales, Level 6, 99 Bathurst Street, Sydney NSW 2000.
- (b) An administration fee as specified in clause E.3.6(a) is payable as follows:
  - (i) one half to Real Estate Employers' Federation of New South Wales (REEF); and
  - (ii) one half to Real Estate Association of New South Wales (REA NSW). This fee may be recovered by the employer from the employee's commission, incentive payment or bonus.

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- (c) In New South Wales, clause E.3.6(a) does not apply to a written agreement registered under clause E.3.2.

### E.3.4 Queensland

- (a) An employer cited in clause E.1.1(a) will, for each employee cited in clause E.1.1(a), send one copy of the written agreement to the Queensland Property Industry Registry (QPIR), PO Box 274, Rochedale South QLD 4123.
- (b) QPIR is jointly administered by the Property Sales Association of Queensland and the Queensland Real Estate Industrial Organisation of Employers.
- (c) An administration fee as specified in clause E.3.6(a) is payable to QPIR.
- (d) One half of the above administration fee may be recovered by the employer from the employee's commission, incentive payment or bonus.
- (e) Until a written agreement is registered with QPIR:
  - (i) a person may not be a commission-only employee; and
  - (ii) the employer must pay on a weekly basis, in addition to any payment of commission, bonus or other incentive payments, not less than the minimum weekly wage specified in clause 14.1.

### E.3.5 South Australia

- (a) An employer cited in clause E.1.1(b) will, for each employee cited in clause E.1.1(b), send one copy of the written agreement to the Real Estate Employers' Federation of South Australia, REI House, 249 Greenhill Road, Dulwich SA 5065, and one copy of the same agreement to the Real Estate Salespersons' Association, PO Box 678, St Agnes SA 5097.
- (b) An administration fee as specified in clause E.3.6(a) is payable as follows:
  - (i) one half to Real Estate Employers' Federation of South Australia (REEF); and
  - (ii) one half to Real Estate Salespersons' Association (RESA). This fee may be recovered by the employer from the employee's commission, incentive payment or bonus.

### E.3.6 Administration

- (a) Each written agreement submitted for registration in accordance with clause E.3.1 is to be accompanied by an administration fee, as set by the entity(s) with which the written agreement is to be registered.
- (b) The administration fee payable under clause E.3.6(a) may not exceed \$150.00 (as adjusted annually from the index figure published by the Australian Bureau of Statistics for the All Groups Consumer Price Index (Cat No. 6401.0)) per agreement.
- (c) The entity(s) with which the written agreement is to be registered may:
  - (i) agree to a lesser administration fee than that specified in clause E.3.6(b); and

- (ii) create and provide an Application to Register Written Agreement pro-forma, to facilitate the agreement registration process.

#### **E.4 Cease to operate**

Schedule E ceases to operate on 31 December 2014.