

Dredging Industry Award 2010

This Fair Work Commission consolidated modern award incorporates all amendments up to and including 21 November 2018 ([PR701683](#), [PR701488](#)).

Clause(s) affected by the most recent variation(s):

22A—Requests for flexible working arrangements

Schedule B—Part-day Public Holidays

Current review matter(s): [AM2014/47](#); [AM2014/190](#); [AM2014/196](#); [AM2014/197](#); [AM2014/223](#); [AM2014/301](#); [AM2015/2](#); [AM2016/8](#); [AM2016/15](#); [AM2016/17](#)

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[Varied by [PR991594](#), [PR532631](#), [PR544519](#), [PR546288](#), [PR546068](#), [PR557581](#), [PR573679](#), [PR588746](#), [PR609409](#), [PR701488](#)]

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Part 1—Application and Operation

1. Title

This award is the *Dredging Industry Award 2010*.

2. Commencement and transitional

[Varied by [PR991594](#), [PR542205](#)]

2.1 This award commences on 1 January 2010.

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

2.3 This award contains transitional arrangements which specify when particular parts of the award come into effect.

[2.4 varied by [PR542205](#) ppc 04Dec13]

2.4 Neither the making of this award nor the operation of any transitional arrangements is intended to result in a reduction in the take-home pay of employees covered by the award. On application by or on behalf of an employee who suffers a reduction in take-home pay as a result of the making of this award or the operation of any transitional arrangements, the Fair Work Commission may make any order it considers appropriate to remedy the situation.

[2.5 varied by [PR542205](#) ppc 04Dec13]

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

[2.6 varied by [PR542205](#) ppc 04Dec13]

2.6 The Fair Work Commission may review the transitional arrangements:

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

3. Definitions and interpretation

[Varied by [PR994444](#), [PR997772](#), [PR546068](#)]

3.1 In this award, unless the contrary intention appears:

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

[Definition of **agreement-based transitional instrument** inserted by [PR994444](#) from 01Jan10]

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

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

barge means either a propelled or non-propelled barge engaged in the carriage of dredge spoil, marine stores including fuel and/or dredging equipment

continuous operation means 24 hours per day operation

meaning of the *Superannuation Guarantee (Administration) Act 1992* (Cth)

day means the 24 hours midnight to midnight

day worker means an employee who works day work in accordance with this award and does not include a shiftworker on day shift

[Definition of **default fund employee** inserted by [PR546068](#) ppc 01Jan14]

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

[Definition of **defined benefit member** inserted by [PR546068](#) ppc 01Jan14]

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

dredge means a self-propelled vessel or a non-propelled vessel as defined which is engaged in or in association with dredging or dredging work. Under this definition:

- (a) **self-propelled vessel** means a dredging vessel used specifically for dredging or dredging work which is powered under its own steam; and
- (b) **non-propelled vessel** means a dredging vessel used specifically for dredging or dredging work which is not powered under its own steam and is required to be pushed or pulled into its position of operation.

dredging industry means:

- (a) the operation of vessels in dredging or sluicing work generally and including such work in relation to land reclamation, metalliferous and other mining, and oil and gas projects; and

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- (b) the operation of vessels, barges, self-propelled dredges, tugs or other self-propelled vessels, used in the dredging of ports, harbours, bays, estuaries, rivers and channels requiring travelling to or from a dumping area, or whilst moving from port to port

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

employee means national system employee within the meaning of the Act

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

employer means national system employer within the meaning of the Act

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

free passage means: for travel by rail—first class including sleeper berth when so provided; for travel by air—commercial aircraft, economy class

fully operational means the period between the time employees go on to 12 hour shifts for the mobilisation of a vessel until the completion of the demobilisation period. Such period includes the preparation on site for operations, dredging operations, running repairs and maintenance carried out during the course of the contract but does not include scheduled breaks in the contract program where the vessel is not required.

home port means the port at which the employee is originally engaged or the port mutually agreed upon between the employer and the employee concerned

laid up means all times when a vessel is not fully operational as defined and includes periods when a vessel is laid up out of commission, or laid up under repair and maintenance between dredging contracts, or during scheduled breaks in the contract program where the vessel is not required, but does not include essential repairs and maintenance if required at the conclusion of a project

launch means a self-propelled vessel engaged in hydro-graphic survey and/or the carriage of passengers or stores between other vessels and shore facilities

month means a calendar month

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

[Definition of **on-hire** inserted by [PR994444](#) from 01Jan10]

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

port includes a bay, river and/or area prescribed as being within harbour limits

senior assistant driller means an assistant driller with nine months' service or more with the employer on a drill rig

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shiftworker means an employee who works shiftwork in accordance with this award as part of a two or three shift system

shipkeeping means being on board and available for the performance of any duty

standard rate means the minimum weekly rate for the classification of able seaman in clause 14.2

STCW 95 means the *International Convention on Standards of Training, Certification and Watchkeeping for Seafarers, 1978* as amended in 1995

[Definition of **transitional minimum wage instrument** inserted by [PR994444](#) from 01Jan10]

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

[Varied by [PR994444](#)]

4.1 This industry award covers employers throughout Australia in the dredging industry and their employees in the classifications within clause 14—Minimum wages to the exclusion of any other modern award.

4.2 The award does not cover employers covered by the following awards:

- (a) the *Coal Export Terminals Award 2010*;
- (b) the *Marine Towage Award 2010*;
- (c) the *Maritime Offshore Oil and Gas Award 2010*;
- (d) the *Ports, Harbours and Enclosed Water Vessels Award 2010*;
- (e) the *Port Authorities Award 2010*;
- (f) the *Seagoing Industry Award 2010*; and
- (g) the *Stevedoring Industry Award 2010*,

with respect to any employee who is covered by that award.

4.3 The award does not cover maintenance contractors covered by the *Manufacturing and Associated Industries and Occupations Award 2010*.

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

4.5 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.

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[New 4.6, 4.7 and 4.8 inserted by [PR994444](#) from 01Jan10]

- 4.6** 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.
- 4.7** 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.
- 4.8** This award covers employers which provide group training 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 service hosted by a company to perform work at a location where the activities described herein are being performed. This subclause operates subject to the exclusions from coverage in this award.

[4.6 renumbered as 4.9 by [PR994444](#) from 01Jan10]

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

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

5. Access to the award and the National Employment Standards

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

6. The National Employment Standards and this award

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

7. Award flexibility

[Varied by [PR542205](#)]

- 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:

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

[7.2 varied by [PR542205](#) ppc 04Dec13]

7.2 The employer and the individual employee must have genuinely made the agreement without coercion or duress. An agreement under this clause can only be entered into after the individual employee has commenced employment with the employer.

7.3 The agreement between the employer and the individual employee must:

- (a) be confined to a variation in the application of one or more of the terms listed in clause 7.1; and

[7.3(b) varied by [PR542205](#) ppc 04Dec13]

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

7.4 The agreement between the employer and the individual employee must also:

- (a) be in writing, name the parties to the agreement and be signed by the employer and the individual employee and, if the employee is under 18 years of age, the employee's parent or guardian;
- (b) state each term of this award that the employer and the individual employee have agreed to vary;
- (c) detail how the application of each term has been varied by agreement between the employer and the individual employee;
- (d) detail how the agreement results in the individual employee being better off overall in relation to the individual employee's terms and conditions of employment; and
- (e) state the date the agreement commences to operate.

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

7.6 Except as provided in clause 7.4(a) the agreement must not require the approval or consent of a person other than the employer and the individual employee.

7.7 An employer seeking to enter into an agreement must provide a written proposal to the employee. Where the employee's understanding of written English is limited the

employer must take measures, including translation into an appropriate language, to ensure the employee understands the proposal.

7.8 The agreement may be terminated:

[7.8(a) varied by [PR542205](#) ppc 04Dec13]

- (a) by the employer or the individual employee giving 13 weeks' notice of termination, in writing, to the other party and the agreement ceasing to operate at the end of the notice period; or
- (b) at any time, by written agreement between the employer and the individual employee.

[Note inserted by [PR542205](#) ppc 04Dec13]

Note: If any of the requirements of s.144(4), which are reflected in the requirements of this clause, are not met then the agreement may be terminated by either the employee or the employer, giving written notice of not more than 28 days (see s.145 of the *Fair Work Act 2009* (Cth)).

[New 7.9 inserted by [PR542205](#) ppc 04Dec13]

7.9 The notice provisions in clause 7.8(a) only apply to an agreement entered into from the first full pay period commencing on or after 4 December 2013. An agreement entered into before that date may be terminated in accordance with clause 7.8(a), subject to four weeks' notice of termination.

[7.9 renumbered as 7.10 by [PR542205](#) ppc 04Dec13]

7.10 The right to make an agreement pursuant to this clause is in addition to, and is not intended to otherwise affect, any provision for an agreement between an employer and an individual employee contained in any other term of this award.

Part 2—Consultation and Dispute Resolution

8. Consultation

[8—Consultation regarding major workplace change renamed and substituted by [PR546288](#) ppc 01Jan14]

8.1 Consultation regarding major workplace change

(a) Employer to notify

- (i) Where an employer has made a definite decision to introduce major changes in production, program, organisation, structure or technology that are likely to have significant effects on employees, the employer must notify the employees who may be affected by the proposed changes and their representatives, if any.
- (ii) **Significant effects** include termination of employment; major changes in the composition, operation or size of the employer's workforce or in the

skills required; the elimination or diminution of job opportunities, promotion opportunities or job tenure; the alteration of hours of work; the need for retraining or transfer of employees to other work or locations; and the restructuring of jobs. Provided that where this award makes provision for alteration of any of these matters an alteration is deemed not to have significant effect.

(b) Employer to discuss change

- (i)** The employer must discuss with the employees affected and their representatives, if any, the introduction of the changes referred to in clause 8.1(a), the effects the changes are likely to have on employees and measures to avert or mitigate the adverse effects of such changes on employees and must give prompt consideration to matters raised by the employees and/or their representatives in relation to the changes.
- (ii)** The discussions must commence as early as practicable after a definite decision has been made by the employer to make the changes referred to in clause 8.1(a).
- (iii)** For the purposes of such discussion, the employer must provide in writing to the employees concerned and their representatives, if any, all relevant information about the changes including the nature of the changes proposed, the expected effects of the changes on employees and any other matters likely to affect employees provided that no employer is required to disclose confidential information the disclosure of which would be contrary to the employer's interests.

8.2 Consultation about changes to rosters or hours of work

- (a)** Where an employer proposes to change an employee's regular roster or ordinary hours of work, the employer must consult with the employee or employees affected and their representatives, if any, about the proposed change.
- (b)** The employer must:
 - (i)** provide to the employee or employees affected and their representatives, if any, information about the proposed change (for example, information about the nature of the change to the employee's regular roster or ordinary hours of work and when that change is proposed to commence);
 - (ii)** invite the employee or employees affected and their representatives, if any, to give their views about the impact of the proposed change (including any impact in relation to their family or caring responsibilities); and
 - (iii)** give consideration to any views about the impact of the proposed change that are given by the employee or employees concerned and/or their representatives.

- (c) The requirement to consult under this clause does not apply where an employee has irregular, sporadic or unpredictable working hours.
- (d) These provisions are to be read in conjunction with other award provisions concerning the scheduling of work and notice requirements.

9. Dispute resolution

[Varied by [PR542205](#)]

9.1 In the event of a dispute about a matter under this award, or a dispute in relation to the NES, in the first instance the parties must attempt to resolve the matter at the workplace by discussions between the employee or employees concerned and the relevant supervisor. If such discussions do not resolve the dispute, the parties will endeavour to resolve the dispute in a timely manner by discussions between the employee or employees concerned and more senior levels of management as appropriate.

[9.2 varied by [PR542205](#) ppc 04Dec13]

9.2 If a dispute about a matter arising under this award or a dispute in relation to the NES is unable to be resolved at the workplace, and all appropriate steps under clause 9.1 have been taken, a party to the dispute may refer the dispute to the Fair Work Commission.

[9.3 varied by [PR542205](#) ppc 04Dec13]

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

[9.4 varied by [PR542205](#) ppc 04Dec13]

9.4 Where the matter in dispute remains unresolved, the Fair Work Commission may exercise any method of dispute resolution permitted by the Act that it considers appropriate to ensure the settlement of the dispute.

9.5 An employer or employee may appoint another person, organisation or association to accompany and/or represent them for the purposes of this clause.

9.6 While the dispute resolution procedure is being conducted, work must continue in accordance with this award and the Act. Subject to applicable occupational health and safety legislation, an employee must not unreasonably fail to comply with a direction by the employer to perform work, whether at the same or another workplace, that is safe and appropriate for the employee to perform.

Part 3—Types of Employment and Termination of Employment

10. Employment categories

[Varied by [PR700559](#)]

10.1 General

- (a) Employees under this award will be employed in one of the following categories:
 - (i) full-time employees;
 - (ii) part-time employees; or
 - (iii) casual employees.
- (b) At the time of engagement an employer will inform each employee of the terms of their engagement and in particular whether they are to be full-time, part-time or casual employees.

10.2 Full-time employment

A full-time employee is an employee who is engaged to work at least 38 ordinary hours per week, averaged over a period of one year.

10.3 Part-time employment

- (a) A part-time employee is an employee who:
 - (i) is engaged to work ordinary hours which are less than the average number of ordinary hours of a full-time employee; and
 - (ii) receives, on a pro rata basis, equivalent pay and conditions to those of full-time employees who do the same kind of work.
- (b) For each ordinary hour worked, a part-time employee will be paid not less than 1/38th of the weekly rate of pay for the relevant classification in clause 14—Minimum wages.
- (c) Upon commencement an employer must inform a part-time employee in writing of the ordinary hours of work and starting and finishing times or the rostered periods of duty to be worked by the employee.

10.4 Casual employment

- (a) **Casual** means an employee who is engaged for a period of less than four weeks and who is so notified on the first day of their employment, or who is a full-time or part-time employee who has been dismissed through no fault of their own within four weeks of the commencement of employment.
- (b) A casual employee working within the ordinary hours of work (pursuant to clause 20—Ordinary hours of work and rostering) will be paid per hour for the

work performed plus a 25% loading which incorporates the casual employee's entitlements to annual leave, annual leave loading and any other rates and allowances contained in this award except overtime and shift allowances.

- (c) Casual employees must be paid at the termination of each engagement, but may agree to be paid weekly or fortnightly.
- (d) On each occasion a casual employee is required to attend work the employee is entitled to a minimum payment for two hours' work.

10.5 Right to request casual conversion

[10.5 inserted by [PR700559](#) ppc 01Oct18]

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

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- (iii) it is known or reasonably foreseeable that the hours of work which the regular casual employee is required to perform will be significantly reduced in the next 12 months; or
- (iv) it is known or reasonably foreseeable that there will be a significant change in the days and/or times at which the employee's hours of work are required to be performed in the next 12 months which cannot be accommodated within the days and/or hours during which the employee is available to work.
- (h) For any ground of refusal to be reasonable, it must be based on facts which are known or reasonably foreseeable.
- (i) Where the employer refuses a regular casual employee's request to convert, the employer must provide the casual employee with the employer's reasons for refusal in writing within 21 days of the request being made. If the employee does not accept the employer's refusal, this will constitute a dispute that will be dealt with under the dispute resolution procedure in clause 9. Under that procedure, the employee or the employer may refer the matter to the Fair Work Commission if the dispute cannot be resolved at the workplace level.
- (j) Where it is agreed that a casual employee will have their employment converted to full-time or part-time employment as provided for in this clause, the employer and employee must discuss and record in writing:

 - (i) the form of employment to which the employee will convert – that is, full-time or part-time employment; and
 - (ii) if it is agreed that the employee will become a part-time employee, the matters referred to in clause 10.3(c).
- (k) The conversion will take effect from the start of the next pay cycle following such agreement being reached unless otherwise agreed.
- (l) Once a casual employee has converted to full-time or part-time employment, the employee may only revert to casual employment with the written agreement of the employer.
- (m) A casual employee must not be engaged and re-engaged (which includes a refusal to re-engage), or have their hours reduced or varied, in order to avoid any right or obligation under this clause.
- (n) Nothing in this clause obliges a regular casual employee to convert to full-time or part-time employment, nor permits an employer to require a regular casual employee to so convert.
- (o) Nothing in this clause requires an employer to increase the hours of a regular casual employee seeking conversion to full-time or part-time employment.
- (p) An employer must provide a casual employee, whether a regular casual employee or not, with a copy of the provisions of this subclause within the first 12 months of the employee's first engagement to perform work. In respect of

casual employees already employed as at 1 October 2018, an employer must provide such employees with a copy of the provisions of this subclause by 1 January 2019.

- (q) A casual employee's right to request to convert is not affected if the employer fails to comply with the notice requirements in paragraph (p).

11. Termination of employment

11.1 Notice of termination is provided for in the NES.

11.2 Notice of termination by an employee

The notice of termination required to be given by an employee is the same as that required of an employer except that there is no requirement on the employee to give additional notice based on the age of the employee concerned. If an employee fails to give the required notice the employer has the right to withhold pay to a maximum amount equal to the amount the employee would have been paid under this award in respect of the period of notice required by this clause less any period of notice actually given by the employee.

11.3 Job search entitlement

Where an employer has given notice of termination to an employee, an employee will be allowed up to one day's time off without loss of pay for the purpose of seeking other employment. The time off will be taken at times that are convenient to the employee after consultation with the employer.

11.4 Return to place of engagement

If the employment of any employee is terminated by the employer elsewhere than at the place of engagement, for any reason other than misconduct, the employer will be responsible for conveying the employee to the place of engagement.

12. Redundancy

[12.1 varied by [PR994444](#) from 01Jan10]

12.1 The redundancy arrangements in this award are an industry-specific redundancy scheme and, as such, Subdivision B of Division 11 of the NES does not apply.

12.2 This clause applies to employees other than casual employees who remain in employment until the completion of a dredging contract unless transferred by the employer.

12.3 At the completion of each contract an employee becomes entitled to a period of redundancy pay. Such payment is to be calculated on the employee's service during the period of dredging work on a contract.

12.4 Payment is to be made only on the termination of employment.

12.5 The payment is to be at the rate of three weeks' pay for each year of continuous service or pro rata calculated on completed months of service. Such payment is to be paid at the relevant rate prescribed in clause 14—Minimum wages.

Part 4—Minimum Wages and Related Matters

13. Classifications

13.1 All employees covered by this award may be engaged in the classifications set out in clause 14—Minimum wages. Employers must advise their employees in writing of their classification and any changes to their classification.

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

14. Minimum wages

[Varied by [PR997990](#), [PR509116](#), [PR522947](#), [PR536750](#), [PR551673](#), [PR566763](#), [PR579866](#), [PR592185](#), [PR606410](#)]

[14.1 varied by [PR997990](#), [PR509116](#), [PR522947](#), [PR536750](#), [PR551673](#), [PR566763](#), [PR579866](#), [PR592185](#), [PR606410](#) ppc 01Jul18]

14.1 A full-time adult employee engaged on a non-propelled dredge must be paid a minimum weekly rate as set out below:

Classification	Minimum weekly rate \$
Chief engineer	953.60
Chief operator	953.60
First engineer	934.50
First operator	934.50
Drilling technician	909.00
Engineer	891.00
Mechanical attendant	891.00
Crane operator/mechanical	883.00
Electrician	880.20
Leading driller	874.10
Second engineer	854.80
Second operator	854.80
Leading hand (reclamation)	854.80

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Classification	Minimum weekly rate \$
Driller	831.80
Third engineer	816.80
Dredgehand	803.40
Greaser	803.40
Assistant driller	803.40
Crew attendant	803.40

[14.2 varied by [PR997990](#), [PR509116](#), [PR522947](#), [PR536750](#), [PR551673](#), [PR566763](#), [PR579866](#), [PR592185](#), [PR606410](#) ppc 01Jul18]

14.2 A full-time adult employee engaged on a dredge other than a non-propelled dredge that is not fully operational must be paid a minimum weekly rate as set out below:

Classification	Minimum weekly rate \$
Trailer master	1013.70
Chief engineer	1013.70
Trailer shift master	985.50
Tug master <i>W.H. Reliance</i> or equivalent	985.50
First engineer	985.50
Electrical engineer <i>Humber River</i> or equivalent	985.50
Trailer mate	906.20
Tug master, tug engineer	906.20
Second engineer, electrical engineer	906.20
Pump operator, welder, deckhand/welder, dredgehand/welder	906.20
Bosun/driller	906.20
Launch driver	878.20
Assistant pump operator	860.70
Driller, deckhand/driller	860.70
Bosun	860.70
Chief cook	860.70
Deckhand, assistant driller	839.70
Able seaman, deckhand, dredgehand, greaser, firefighter, motorman	839.70

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Classification	Minimum weekly rate \$
Crew attendant	839.70
Second cook	839.70

[14.3 varied by [PR997990](#), [PR509116](#), [PR522947](#), [PR536750](#), [PR551673](#), [PR566763](#), [PR579866](#), [PR592185](#), [PR606410](#) ppc 01Jul18]

14.3 A full-time adult employee engaged on a dredge other than a non-propelled dredge that is fully operational must be paid the weekly aggregated wage as set out below:

Classification	Day workers \$	Shiftworkers \$
Trailer master	2530.60	
Chief engineer	2530.60	
Trailer shift master	2443.40	2415.80
Tug master <i>W.H. Reliance</i> or equivalent	2443.40	2415.80
First engineer	2443.40	2415.80
Electrical engineer <i>Humber River</i> or equivalent	2443.40	2415.80
Trailer mate	2163.90	2139.60
Tug master, tug engineer	2163.90	2139.60
Second engineer, electrical engineer	2163.90	2139.60
Pump operator, welder, deckhand/welder, dredgehand/welder	2163.90	2139.60
Bosun/driller	2163.90	2139.60
Launch driver	2068.80	2045.50
Assistant pump operator	2015.00	1992.40
Driller, deckhand/driller	2015.00	1992.40
Bosun	2015.00	1992.40
Chief cook	2015.00	1992.40
Deckhand, assistant driller	1949.70	1926.20
Able seaman, deckhand, dredgehand, greaser, firefighter, motorman	1949.70	1926.20
Crew attendant	1949.70	1926.20
Second cook	1949.70	1926.20

15. Allowances

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

[Varied by [PR998096](#), [PR509237](#), [PR523067](#), [PR536870](#), [PR551793](#), [PR566894](#), [PR579589](#), [PR592340](#), [PR606563](#)]

15.1 Victualling and accommodation allowances

- (a) If required by the employer, an employee must live aboard a vessel and the employer will accommodate and keep the employee without cost to the employee.
- (b) Where the employer provides victualling and accommodation the allowances prescribed in this clause will not be paid.
- (c) **Accommodation allowance**
 - (i) At the time of engagement of the employee, agreement is to be reached between the employer and the employee as to the employee's home port.

[15.1(c)(ii) varied by [PR998096](#), [PR523067](#), [PR536870](#), [PR551793](#), [PR566894](#), [PR606563](#) ppc 01Jul18]

- (ii) If an employee is required by the employer to live away from the agreed home port, the employee is to be paid \$434.79 per week instead of accommodation.

[15.1(c)(iii) varied by [PR509237](#), [PR523067](#), [PR536870](#), [PR551793](#), [PR566894](#), [PR606563](#) ppc 01Jul18]

- (iii) Where it is not practicable for the weekly rate prescribed in this clause to be paid, the employee will be paid at the rate of \$163.37 per night instead of accommodation. This rate will continue to be paid until the employer notifies the employee that thereafter the employee will be paid at the weekly rate of \$434.79 per week.
 - (iv) Where, following a request by any employee, the employer arranges to provide comfortable accommodation at the employer's expense, and the employee(s) use the accommodation for the duration of the contract, the employee(s) will not be entitled to the accommodation allowance set out above.

(d) Victualling allowance

[15.1(d)(i) varied by [PR509237](#), [PR523067](#), [PR536870](#), [PR551793](#), [PR566894](#), [PR606563](#) ppc 01Jul18]

- (i) Where victualling is not provided by an employer, an employee is to be paid an amount of \$434.79 per week instead of victualling.

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[15.1(d)(ii) varied by [PR998096](#), [PR509237](#), [PR523067](#), [PR536870](#), [PR551793](#), [PR566894](#), [PR579589](#), [PR592340](#), [PR606563](#) ppc 01Jul18]

- (ii) Where it is not practicable for the weekly rate prescribed in clause 15.1(d)(i) to be paid, the employee is to be paid the following amounts per day:

	\$
Breakfast	25.25
Lunch	31.56
Dinner	48.96

[15.1(d)(iii) varied by [PR509237](#), [PR523067](#), [PR536870](#), [PR551793](#), [PR566894](#), [PR606563](#) ppc 01Jul18]

- (iii) These rates will continue to be paid until the employer notifies the employee that thereafter the employee will be paid at the weekly rate of \$434.79 per week instead of victualling.
- (iv) The allowances prescribed by this clause are not payable during leave periods.

15.2 Protective and industrial clothing

- (a) Employees will be paid an allowance of \$24.50 per week and will provide themselves with adequate industrial clothing including footwear, shirts, singlets, overalls and shorts.
- (b) Where conditions require, employees will also provide necessary protective clothing and equipment including oilskins, sea boots, goggles, gloves and southwester.
- (c) The reasonable cost of such protective clothing and equipment will be reimbursed by the employer.
- (d) Clause 15.2(b) does not apply where the employer supplies the protective clothing and equipment.
- (e) The protective clothing described in clause 15.2(d) will at all times remain the property of the employer and will be returned by the employee to the employer at the completion of the employee's service.
- (f) The allowance prescribed by this clause is not payable during leave periods.

15.3 Travelling—local

- (a) When a vessel is so remote from the shore that some means of conveyance between the vessel and shore is necessary to enable an employee to pass from one to the other before starting or after finishing work upon the vessel at the due time for starting and finishing work, the time occupied by the employee before the due time for starting and/or after the due time for finishing work in travelling or in necessarily waiting for such means of conveyance will be paid

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for at ordinary rates with a minimum payment of 30 minutes, but will not count as part of the daily working time.

- (b) When an employee, who in the ordinary course of their employment begins work for the day at a particular place, is required to finish work at a place other than that particular place, the employee will be paid any reasonable travelling expense incurred in returning home in excess of their ordinary travelling expenses and will also be paid at ordinary rates of pay for any travelling time occasioned beyond their ordinary travelling time.

[15.3(c) varied by [PR998096](#), [PR509237](#), [PR523067](#), [PR536870](#), [PR551793](#), [PR606563](#) ppc 01Jul18]

- (c) An employee will be paid \$14.16 per day for excess fares incurred on any day upon which the employee is directed to work.
- (d) The provisions of this clause will not apply to employees who are required by the employer to live aboard a vessel.

15.4 Travelling—other than local

- (a) An employee proceeding from the place of engagement to and from a port at which the dredge is working must be provided by the employer with a free passage, provided that:
 - (i) if the employee terminates their employment, or employment is terminated by the employer for misconduct within six weeks or the period of the work cycle whichever occurs first from the commencement of the employment, the cost of the free passage will be deducted from any payments due to the employee; and
 - (ii) the employer will not be obligated to provide return passage for the employee in such circumstances.
- (b) The provisions of clause 15.4(a) will likewise apply to an employee who returns to their place of employment following an absence on account of accumulated and/or annual leave.
- (c) The time spent in travelling between the place of engagement and the place at which the dredge is working and the agreed home port of the employee is to be paid for at the ordinary rate for the time so occupied, with a maximum payment of eight hours in any 24 hours.

[15.4(d) varied by [PR998096](#), [PR509237](#), [PR523067](#), [PR536870](#), [PR551793](#), [PR606563](#) ppc 01Jul18]

- (d) The employee is entitled to reimbursement of taxi fares reasonably incurred up to a maximum of \$138.24, subject to the production of receipts, for travel between the transport terminal at the employee's home port and their home on each of the forward and return journeys. Where an employee's residence is in other than their home port, such payment will be limited to the journey between the home port transport terminal and any other public transport terminal necessary for further travel to their place of residence.

15.5 Special rates—confined areas

For any of the following work an employee will, in addition to any other ordinary or overtime rate payable under this award, be paid at the rate of 0.16% of the [standard rate](#) per hour for the time so occupied working:

- (a) inside boilers or furnaces;
- (b) inside the casing of internal combustion engines;
- (c) inside oil tanks in motor vessels;
- (d) in bilges (including rose boxes) and coffer dams;
- (e) inside impeller pump casings and dredging pipes; or
- (f) under engine room or pump room deck plates.

15.6 Hard-lying allowance

Employees required to live aboard a vessel and share a cabin with another employee will be paid a hard-lying allowance of 3.08% of the [standard rate](#) per week. The allowance is not subject to any penalties or premium prescribed by this award.

15.7 Shipkeeping

- (a) A master, mate or engineer shipkeeping in any port for all or part of the hours between 5.00 pm and 7.00 am will be entitled to an extra 12 hours' pay at ordinary rates.
- (b) When the vessel is laid up the employee is to be paid a special allowance per week of:

	% of the standard rate
Remote areas	29.36
Less remote areas	19.53
Major ports	12.94

- (c) When the vessel is fully operational the employee is to be paid a special allowance per week of:

	% of the standard rate
Remote areas	16.42
Less remote areas	6.57

- (d) The allowances in clauses 15.7(b) and (c) will not be taken into account in calculating the rate of wage for shiftwork, overtime, annual leave or redundancy pay.
- (e) In clauses 15.7(b) and (c) the areas and ports are defined as follows:

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- (i) **remote** means a place that does not have ready access to goods and services of a major city or town and includes: Weipa, Archer Point, Cooktown, Port Alma, Carnarvon, Cape Cuvier, Dampier, Port Headland, Broome, Yampi, Wyndham and Hay Point.
- (ii) **less remote** means a place that does have ready access to goods and services of a major city or town but is not a major port and includes: Mourilyan Harbour, Bowen, Mackay, Bundaberg, Urangan, Maryborough, Ballina, Clarence River, Port Stephens, Jervis Bay, Moruya, Eden, Lakes Entrance, Welshpool, Portland, Gulf Ports, South Australia, Thevenard, Esperance, Albany, Geraldton, Busselton, Bunbury and Darwin (East Arm).
- (iii) **major port** means a major city or town and includes: Brisbane, Newcastle, Sydney, Botany, Port Kembla, Melbourne, Geelong, Westernport, Adelaide, Fremantle, Cairns, Townsville and Gladstone.

15.8 Dual certificate allowance

- (a) A payment of an additional loading of 3.63% of the [standard rate](#) per week will be made to an employee working on a vessel laid up who acts in a dual capacity of master and engineer. The rate is to be treated as part of the wages for all purposes of this award.
- (b) A payment of an additional loading of 7.72% of the [standard rate](#) per week will be made to an employee working on a fully operational vessel who acts in a dual capacity of master and engineer. The rate is to be treated as part of the wages for all purposes of this award.

15.9 Radar observer's allowance

- (a) An allowance of 3.63% of the [standard rate](#) per week will be paid to masters and mates who are holders of a valid Radar Observer's Certificate when working on a vessel equipped with radar.
- (b) This allowance will not be taken into account in calculating the rate of wage for shiftwork, overtime, annual leave or redundancy pay.

15.10 Firefighting allowance

- (a) An allowance of 3.63% of the [standard rate](#) per week is to be paid to engineers who hold a valid firefighting certificate or furnish proof of their attendance at an authorised firefighting course for marine personnel.
- (b) This allowance will not be taken into account in calculating the rate of wage for shiftwork, overtime, annual leave or redundancy pay.

15.11 Additional allowances—cooks

- (a) An additional payment of 7.19% of the [standard rate](#) per week is to be payable to a chief cook whose duties include the ordering of stores and the issue of linen.

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- (b) If a second cook is required to perform cleaning duties outside of the galley and storerooms, that employee will be paid an allowance of 5.13% of the [standard rate](#) in addition to the rates fixed for ordinary work.
- (c) These rates will not be taken into account in calculating the rate of wage for shiftwork, overtime, annual leave or redundancy pay.
- (d) **Protective clothing**
 - (i) Marine cooks will be reimbursed by the employer for the reasonable cost of providing gloves and freezer suit for working in freezers.
 - (ii) This provision will not apply where the employer supplies the protective clothing.

15.12 Meals—overtime

[15.12 varied by [PR998096](#), [PR509237](#), [PR523067](#), [PR536870](#), [PR551793](#), [PR566894](#), [PR579589](#), [PR592340](#), [PR606563](#) ppc 01Jul18]

An employee required to work overtime for more than one and a half hours after their ordinary finishing time will be supplied with a meal by the employer or be paid \$48.96. If, owing to the amount of overtime worked, a second or subsequent meal is required, the employee will be supplied with such meal by the employer or be paid \$48.96 for each meal so required.

15.13 Vessels proceeding from port to port

- (a) Employees on vessels proceeding from one port (or its equivalent) to another port (or its equivalent) are to be paid:
 - (i) the wage prescribed in clause 14—Minimum wages;
 - (ii) the remote areas allowance prescribed in clause 15.7(c); and
 - (iii) an allowance of 14.17% of the [standard rate](#) per day or part of a day.
- (b) The provisions of sections 127 and 132 of the *Navigation Act 1912* (Cth) apply in respect of all employees whether in fact or in law the Act of its own force applies to them.

[15.13(c) varied by [PR998096](#), [PR509237](#), [PR523067](#), [PR536870](#), [PR551793](#), [PR566894](#), [PR579589](#), [PR592340](#), [PR606563](#) ppc 01Jul18]

- (c) Except where it is provided, the employer will reimburse an employee for a personal accident policy for death risk, loss of limbs and corresponding benefits to the value of \$163,798. This amount is payable in addition to the amounts payable under the *Seamen's Compensation Act 1974* (Cth).
- (d) Employees who are not offered employment immediately after the vessel's arrival at its destination will be repatriated to their home port.
- (e) Articles of Agreement as required by the *Navigation Act 1912* (Cth) will be opened for the voyage.

15.14 Adjustment of expense related allowances

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

Allowance	Applicable Consumer Price Index figure
Protective and industrial clothing	Clothing and footwear group
Meal allowance	Take away and fast foods sub-group
Victualling and accommodation allowance	Domestic holiday travel and accommodation sub-group
Personal accident policy	All groups
Fares	Urban transport fares sub-group

16. Higher duties

An employee engaged for more than two hours during one day on duties carrying a higher rate than their ordinary classification will be paid the higher rate for such day. If engaged for two hours or less during one day the employee will be paid the higher rate for the time so worked.

17. Payment of wages

[Varied by [PR610119](#)]

[Paragraph numbered as 17.1 by [PR610119](#) ppc 01Nov18]

- 17.1** Wages are to be paid weekly or fortnightly. Wages may be paid by cash or electronic funds transfer (EFT).

17.2 Payment on termination of employment

[17.2 inserted by [PR610119](#) ppc 01Nov18]

- (a) The employer must pay an employee no later than 7 days after the day on which the employee's employment terminates:
- (i) the employee's wages under this award for any complete or incomplete pay period up to the end of the day of termination; and

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- (ii) all other amounts that are due to the employee under this award and the [NES](#).
- (b) The requirement to pay wages and other amounts under paragraph (a) is subject to further order of the Commission and the employer making deductions authorised by this award or the [Act](#).

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

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

Note 3: State and Territory long service leave laws or long service leave entitlements under s.113 of the [Act](#), may require an employer to pay an employee for accrued long service leave on the day on which the employee's employment terminates or shortly after.

18. National training wage

[18 substituted by [PR593861](#) ppc 01Jul17; varied by [PR606410](#)]

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

[18.2 varied by [PR606410](#) ppc 01Jul18]

- 18.2 This award incorporates the terms of Schedule E to the *Miscellaneous Award 2010* as at 1 July 2018. Provided that any reference to "this award" in Schedule E to the *Miscellaneous Award 2010* is to be read as referring to the *Dredging Industry Award 2010* and not the *Miscellaneous Award 2010*.

19. Superannuation

[New 19 inserted by [PR546068](#) ppc 01Jan14]

19.1 Superannuation contributions for defined benefit members

An employer is permitted to make superannuation contributions to a superannuation fund or scheme in relation to a default fund employee who is a defined benefit member of the fund or scheme.

Part 5—Hours of Work and Related Matters

20. Ordinary hours of work and rostering

[19 renumbered as 20 by [PR546068](#) ppc 01Jan14]

20.1 This clause supplements the NES.

20.2 Span of hours—vessels fully operational

- (a) Day workers' hours of duty will consist of 12 hours per day on each of seven days per week between 6.00 am and 6.00 pm or such other starting and finishing times as may be mutually agreed.
- (b) Shiftworkers' hours of duty will consist of one week of day shifts alternating with one week of night shifts. The day shift cycle will comprise 12 hour shifts on each of seven days per week between 6.00 am and 6.00 pm. The night shift cycle will comprise 12 hour shifts on each of six days per week between 6.00 pm and 6.00 am.
- (c) Marine cooks' hours of duty will consist of 12 hours per day on each of seven days per week.

20.3 Span of hours—vessels not fully operational

Ordinary hours may be worked between 8.00 am and 4.30 pm for up to eight hours per day, Monday to Friday inclusive, or between 7.00 am and 5.00 pm when not engaged in dredging duties.

21. Breaks

[20 renumbered as 21 by [PR546068](#) ppc 01Jan14]

21.1 Employees on other than dredging operations

Employees on other than dredging operations must be allowed a meal break of not less than 45 minutes between the hours of 11.30 am and 1.30 pm, provided that if in an emergency decided by the master/engineer or their representative the meal break cannot be taken, a paid meal time of 30 minutes will be allowed later and payment for the 45 minute meal break will be made at overtime rates.

21.2 Employees on dredging operations

Employees on dredging operations must be allowed a meal break of 30 minutes, which is to be taken within five hours from the commencement of the shift or at a time otherwise agreed upon. The meal breaks prescribed in this subclause are to be counted as time worked. Provided that if in any emergency decided by the master/engineer or their representative the meal break cannot be taken, payment for the 30 minutes will be made at overtime rates. Provided further that the incidence of meal time will not interrupt the working of the dredge and attendant craft. Where a dredge and attendant craft are in continuous operation and it is impracticable on any

shift to allow the meal break, employees must be paid one hour at ordinary time rates.

21.3 An employee must not be compelled to work for more than five hours without a break for a meal.

21.4 Maximum hours

(a) Employees must not work for more than 18 hours continuously. After such an 18 hour continuous work period they must have 10 hours off (inclusive of two meal hours), subject to employees being available to ensure the continuous operation of the vessel. Less than four hours off will not constitute a break in the work period of 18 continuous hours.

(b) An employee recalled to work overtime otherwise than in a consecutive extension before or after ordinary duty for the day, will be paid a minimum of four hours' work at the appropriate rates.

(c) If an employee is called back to work on more than one occasion between ceasing time on one day and starting time the next day, the employee will be paid for all time from the commencement of the first call-out to the conclusion of the last call-out a loading of 100% of the ordinary hourly base rate of pay.

22. Overtime and penalty rates

[21 renumbered as 22 by [PR546068](#) ppc 01Jan14]

22.1 Overtime

Employees will be entitled to be paid a loading of 100% of the ordinary hourly base rate of pay for any time worked outside of ordinary hours on a Monday to Sunday, except for public holidays.

22.2 Public holidays

An employee will be paid a loading of 150% of the ordinary hourly base rate of pay for any hours, ordinary and overtime, worked on a public holiday with a minimum payment for four hours' work.

22.3 Shiftwork penalties

An employee working shiftwork and which shift commences at or after 6.00 pm on any Monday to Friday inclusive, will be paid a loading of 30% of the [standard rate](#) per hour. If a three shift per day system is worked the additional rate of 15% will be payable in respect of the afternoon and night shifts.

22A. Requests for flexible working arrangements

[22A inserted by [PR701488](#) ppc 01Dec18]

22A.1 Employee may request change in working arrangements

Clause 22A applies where an employee has made a request for a change in working arrangements under s.65 of the [Act](#).

Note 1: Section 65 of the [Act](#) provides for certain employees to request a change in their working arrangements because of their circumstances, as set out in s.65(1A).

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

Note 3: Clause 22A is an addition to s.65.

22A.2 Responding to the request

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

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

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

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

22A.3 What the written response must include if the employer refuses the request

Clause 22A.3 applies if the employer refuses the request and has not reached an agreement with the employee under clause 22A.2.

- (a) The written response under s.65(4) must include details of the reasons for the refusal, including the business ground or grounds for the refusal and how the ground or grounds apply.
- (b) If the employer and employee could not agree on a change in working arrangements under clause 22A.2, the written response under s.65(4) must:
 - (i) state whether or not there are any changes in working arrangements that the employer can offer the employee so as to better accommodate the employee's circumstances; and

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

22A.4 What the written response must include if a different change in working arrangements is agreed

If the employer and the employee reached an agreement under clause 22A.2 on a change in working arrangements that differs from that initially requested by the employee, the employer must provide the employee with a written response to their request setting out the agreed change(s) in working arrangements.

22A.5 Dispute resolution

Disputes about whether the employer has discussed the request with the employee and responded to the request in the way required by clause 22A, can be dealt with under clause 9—Dispute resolution.

Part 6—Leave and Public Holidays

23. Annual leave

[22 renumbered as 23 by [PR546068](#) ppc 01Jan14; 23 varied by [PR588746](#)]

[Preamble numbered as 23.1 by [PR588746](#) ppc 20Dec16]

23.1 Annual leave is provided for in the NES.

23.2 Annual leave in advance

[23.2 inserted by [PR588746](#) ppc 20Dec16]

- (a) An employer and employee may agree in writing to the employee taking a period of paid annual leave before the employee has accrued an entitlement to the leave.
- (b) An agreement must:
 - (i) state the amount of leave to be taken in advance and the date on which leave is to commence; and
 - (ii) be signed by the employer and employee and, if the employee is under 18 years of age, by the employee's parent or guardian.

Note: An example of the type of agreement required by clause 23.2 is set out at Schedule C. There is no requirement to use the form of agreement set out at Schedule C.

- (c) The employer must keep a copy of any agreement under clause 23.2 as an employee record.
- (d) If, on the termination of the employee's employment, the employee has not accrued an entitlement to all of a period of paid annual leave already taken in

accordance with an agreement under clause 23.2, the employer may deduct from any money due to the employee on termination an amount equal to the amount that was paid to the employee in respect of any part of the period of annual leave taken in advance to which an entitlement has not been accrued.

23.3 Cashing out of annual leave

[23.3 inserted by [PR588746](#) ppc 20Dec16]

- (a) Paid annual leave must not be cashed out except in accordance with an agreement under clause 23.3.
- (b) Each cashing out of a particular amount of paid annual leave must be the subject of a separate agreement under clause 23.3.
- (c) An employer and an employee may agree in writing to the cashing out of a particular amount of accrued paid annual leave by the employee.
- (d) An agreement under clause 23.3 must state:
 - (i) the amount of leave to be cashed out and the payment to be made to the employee for it; and
 - (ii) the date on which the payment is to be made.
- (e) An agreement under clause 23.3 must be signed by the employer and employee and, if the employee is under 18 years of age, by the employee's parent or guardian.
- (f) The payment must not be less than the amount that would have been payable had the employee taken the leave at the time the payment is made.
- (g) An agreement must not result in the employee's remaining accrued entitlement to paid annual leave being less than 4 weeks.
- (h) The maximum amount of accrued paid annual leave that may be cashed out in any period of 12 months is 2 weeks.
- (i) The employer must keep a copy of any agreement under clause 23.3 as an employee record.

Note 1: Under section 344 of the Fair Work Act, an employer must not exert undue influence or undue pressure on an employee to make, or not make, an agreement under clause 23.3.

Note 2: Under section 345(1) of the Fair Work Act, a person must not knowingly or recklessly make a false or misleading representation about the workplace rights of another person under clause 23.3.

Note 3: An example of the type of agreement required by clause 23.3 is set out at Schedule D. There is no requirement to use the form of agreement set out at Schedule D.

23.4 Excessive leave accruals: general provision

[23.4 inserted by [PR588746](#) ppc 20Dec16]

Note: Clauses 23.4 to 23.6 contain provisions, additional to the National Employment Standards, about the taking of paid annual leave as a way of dealing with the accrual of excessive paid annual leave. See Part 2.2, Division 6 of the Fair Work Act.

- (a) An employee has an **excessive leave accrual** if the employee has accrued more than 8 weeks' paid annual leave.
- (b) If an employee has an excessive leave accrual, the employer or the employee may seek to confer with the other and genuinely try to reach agreement on how to reduce or eliminate the excessive leave accrual.
- (c) Clause 23.5 sets out how an employer may direct an employee who has an excessive leave accrual to take paid annual leave.
- (d) Clause 23.6 sets out how an employee who has an excessive leave accrual may require an employer to grant paid annual leave requested by the employee.

23.5 Excessive leave accruals: direction by employer that leave be taken

[23.5 inserted by [PR588746](#) ppc 20Dec16]

- (a) If an employer has genuinely tried to reach agreement with an employee under clause 23.4(b) but agreement is not reached (including because the employee refuses to confer), the employer may direct the employee in writing to take one or more periods of paid annual leave.
- (b) However, a direction by the employer under paragraph (a):
 - (i) is of no effect if it would result at any time in the employee's remaining accrued entitlement to paid annual leave being less than 6 weeks when any other paid annual leave arrangements (whether made under clause 23.4, 23.5 or 23.6 or otherwise agreed by the employer and employee) are taken into account; and
 - (ii) must not require the employee to take any period of paid annual leave of less than one week; and
 - (iii) must not require the employee to take a period of paid annual leave beginning less than 8 weeks, or more than 12 months, after the direction is given; and
 - (iv) must not be inconsistent with any leave arrangement agreed by the employer and employee.
- (c) The employee must take paid annual leave in accordance with a direction under paragraph (a) that is in effect.

- (d) An employee to whom a direction has been given under paragraph (a) may request to take a period of paid annual leave as if the direction had not been given.

Note 1: Paid annual leave arising from a request mentioned in paragraph (d) may result in the direction ceasing to have effect. See clause 23.5(b)(i).

Note 2: Under section 88(2) of the Fair Work Act, the employer must not unreasonably refuse to agree to a request by the employee to take paid annual leave.

23.6 Excessive leave accruals: request by employee for leave

[23.6 inserted by [PR588746](#); substituted by [PR588746](#) ppc 20Dec17]

- (a) If an employee has genuinely tried to reach agreement with an employer under clause 23.4(b) but agreement is not reached (including because the employer refuses to confer), the employee may give a written notice to the employer requesting to take one or more periods of paid annual leave.
- (b) However, an employee may only give a notice to the employer under paragraph (a) if:
 - (i) the employee has had an excessive leave accrual for more than 6 months at the time of giving the notice; and
 - (ii) the employee has not been given a direction under clause 23.5(a) that, when any other paid annual leave arrangements (whether made under clause 23.4, 23.5 or 23.6 or otherwise agreed by the employer and employee) are taken into account, would eliminate the employee's excessive leave accrual.
- (c) A notice given by an employee under paragraph (a) must not:
 - (i) if granted, result in the employee's remaining accrued entitlement to paid annual leave being at any time less than 6 weeks when any other paid annual leave arrangements (whether made under clause 23.4, 23.5 or 23.6 or otherwise agreed by the employer and employee) are taken into account; or
 - (ii) provide for the employee to take any period of paid annual leave of less than one week; or
 - (iii) provide for the employee to take a period of paid annual leave beginning less than 8 weeks, or more than 12 months, after the notice is given; or
 - (iv) be inconsistent with any leave arrangement agreed by the employer and employee.
- (d) An employee is not entitled to request by a notice under paragraph (a) more than 4 weeks' paid annual leave in any period of 12 months.
- (e) The employer must grant paid annual leave requested by a notice under paragraph (a).

24. Personal/carer's leave and compassionate leave

[23 renumbered as 24 by [PR546068](#) ppc 01Jan14]

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

25. Community service leave

[24 renumbered as 25 by [PR546068](#) ppc 01Jan14]

Community service leave is provided for in the NES.

26. Public holidays

[25 renumbered as 26 by [PR546068](#) ppc 01Jan14]

26.1 Public holiday entitlements are provided for in the NES.

26.2 An employee will be paid at the rate of 250% of their ordinary hourly rate, with a minimum payment of four hours when required to work on a public holiday. Provided that where a 12 hour shift or period of duty is commenced on a public holiday the payment of 250% will be discharged by the actual payment of the first eight hours at ordinary time and the remaining hours at 200% of the ordinary hourly rate plus the accumulation of 0.35 of a week's leave.

27. Leave to deal with Family and Domestic Violence

[27 inserted by [PR609409](#) ppc 01Aug18]

27.1 This clause applies to all employees, including casuals.

27.2 Definitions

(a) In this clause:

family and domestic violence means violent, threatening or other abusive behaviour by a family member of an employee that seeks to coerce or control the employee and that causes them harm or to be fearful.

family member means:

- (i) a spouse, de facto partner, child, parent, grandparent, grandchild or sibling of the employee; or
- (ii) a child, parent, grandparent, grandchild or sibling of a spouse or de facto partner of the employee; or
- (iii) a person related to the employee according to Aboriginal or Torres Strait Islander kinship rules.

- (b) A reference to a spouse or de facto partner in the definition of family member in clause 27.2(a) includes a former spouse or de facto partner.

27.3 Entitlement to unpaid leave

An employee is entitled to 5 days' unpaid leave to deal with family and domestic violence, as follows:

- (a) the leave is available in full at the start of each 12 month period of the employee's employment; and
- (b) the leave does not accumulate from year to year; and
- (c) is available in full to part-time and casual employees.

Note: 1. A period of leave to deal with family and domestic violence may be less than a day by agreement between the employee and the employer.

2. The employer and employee may agree that the employee may take more than 5 days' unpaid leave to deal with family and domestic violence.

27.4 Taking unpaid leave

An employee may take unpaid leave to deal with family and domestic violence if the employee:

- (a) is experiencing family and domestic violence; and
- (b) needs to do something to deal with the impact of the family and domestic violence and it is impractical for the employee to do that thing outside their ordinary hours of work.

Note: The reasons for which an employee may take leave include making arrangements for their safety or the safety of a family member (including relocation), attending urgent court hearings, or accessing police services.

27.5 Service and continuity

The time an employee is on unpaid leave to deal with family and domestic violence does not count as service but does not break the employee's continuity of service.

27.6 Notice and evidence requirements

(a) Notice

An employee must give their employer notice of the taking of leave by the employee under clause 27. The notice:

- (i) must be given to the employer as soon as practicable (which may be a time after the leave has started); and
- (ii) must advise the employer of the period, or expected period, of the leave.

(b) Evidence

An employee who has given their employer notice of the taking of leave under clause 27 must, if required by the employer, give the employer evidence that would satisfy a reasonable person that the leave is taken for the purpose specified in clause 27.4.

Note: Depending on the circumstances such evidence may include a document issued by the police service, a court or a family violence support service, or a statutory declaration.

27.7 Confidentiality

- (a)** Employers must take steps to ensure information concerning any notice an employee has given, or evidence an employee has provided under clause 27.6 is treated confidentially, as far as it is reasonably practicable to do so.
- (b)** Nothing in clause 27 prevents an employer from disclosing information provided by an employee if the disclosure is required by an Australian law or is necessary to protect the life, health or safety of the employee or another person.

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

27.8 Compliance

An employee is not entitled to take leave under clause 27 unless the employee complies with clause 27.

Schedule A—National Training Wage

[Sched A inserted by [PR994444](#) ppc 01Jan10; varied by [PR997990](#), [PR509116](#), [PR522947](#), [PR536750](#), [PR551673](#), [PR566763](#), [PR579866](#); deleted by [PR593861](#) ppc 01Jul17]

Schedule B—Part-day Public Holidays

[Sched B inserted by [PR532631](#) ppc 23Nov12; renamed and varied by [PR544519](#) ppc 21Nov13; renamed and varied by [PR557581](#), [PR573679](#), [PR580863](#), [PR598110](#), [PR701683](#) ppc 21Nov18]

This schedule operates in conjunction with award provisions dealing with public holidays.

B.1 Where a part-day public holiday is declared or prescribed between 7.00 pm and midnight on Christmas Eve (24 December in each year) or New Year's Eve (31 December in each year) the following will apply on Christmas Eve and New Year's Eve and will override any provision in this award relating to public holidays to the extent of the inconsistency:

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

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- (h) Nothing in this schedule affects the right of an employee and employer to agree to substitute public holidays.

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

Schedule C—Agreement to Take Annual Leave in Advance

[Sched C inserted by [PR588746](#) ppc 20Dec16]

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

Name of employee: _____

Name of employer: _____

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

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

The leave in advance will commence on: ____/____/20____

Signature of employee: _____

Date signed: ____/____/20____

Name of employer representative: _____

Signature of employer representative: _____

Date signed: ____/____/20____

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

I agree that:

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

Name of parent/guardian: _____

Signature of parent/guardian: _____

Date signed: ____/____/20____

Schedule D—Agreement to Cash Out Annual Leave

[Sched D inserted by [PR588746](#) ppc 20Dec16]

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

Name of employee: _____

Name of employer: _____

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

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

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

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

Signature of employee: _____

Date signed: ___/___/20___

Name of employer representative: _____

Signature of employer representative: _____

Date signed: ___/___/20___

Include if the employee is under 18 years of age:

Name of parent/guardian: _____

Signature of parent/guardian: _____

Date signed: ___/___/20___