

28 January 2015

**THE PHARMACY GUILD COMMENTS ON THE EXPOSURE DRAFT OF THE
PHARMACY INDUSTRY AWARD 2014
IN THE REVIEW OF THE PHARMACY INDUSTRY AWARD 2010 [AM 000012]
(GROUP 2B)
AM 2014/209**

In submissions filed on 25 November 2014, The Pharmacy Guild of Australia (The Guild) broadly identified the variations it would pursue to the *Pharmacy Industry Award 2010* (the Award) as part of the review. The attached marked-up copy of the exposure draft (Attachment A) does not contain all of the changes necessary to give effect to those variations. Where it does they are identified under the heading “Explanation of Mark-ups on Attachment A” below.

The union parties have also proposed a number of variations to the Award, including some that cover the same topics as The Guild’s proposals (for example training). The Statement of 8 December 2014 ([2014] FWC 8837) refers to Awards in Group 2 being referred to a single member for conference prior to a hearing.

The Guild is hopeful that the conference will assist the parties to reach agreement on the variations sought and proposes to file a draft determination following that conference.

The Guild is participating in a number of common award matters and the penalty rates matter. The Guild does not, in these submissions or in Attachment A, address or set out the variations that may result from those proceedings. A draft determination reflecting The Guild’s position on penalty rates will be filed on 13 February 2015, in accordance with the timetable set in the penalty rates case.

It is very important to community pharmacy that the Award is clear and easy to understand. The Guild has engaged the services of the Plain English Drafting Association (the Plain English Drafters) to provide a plain English draft of the Award that includes illustrative examples. When the Plain English Drafter’s document is prepared it will be discussed with the relevant unions and a copy of the proposed Award will be provided to the Commission. The Plain English Drafters say the draft will be ready by the end of March 2015.

The Guild supports the inclusion of summaries of the National Employment Standards in the Award. More generally, wherever there is a reference to a section in the Fair Work Act or other legislation, The Guild supports the inclusion of a notation that provides the reader with a general understanding of the legislative provision.

SYDNEY MELBOURNE NEWCASTLE BRISBANE

Explanation of Mark-ups in Attachment A

Illustrative Examples

One of the tasks the Plain English Drafters will undertake is the inclusion of examples to illustrate the operation of certain Award clauses. Where an example is proposed it is identified in Attachment A.

Exposure Draft Changes that Alter the Meaning of the Existing Provisions

Corrections have been made (shown in track and yellow highlight in Attachment A) where the words in the exposure draft alter the meaning of the current award clause.

Clause 6.4(d), dealing with the hourly rate of pay for part-time employees is amended to remove the words *no less than* (which are not in the existing Award) so no argument is created about current over-award amounts becoming the award rate.

Clause 6.4(f) is amended to reinstate the existing provisions that a part-time employee's roster can be altered by the *employer* giving the *employee* notice (and not the reverse).

Clause 13.2 has been amended to make it clear that overtime is only payable where it is worked at the *direction* (replacing discretion) of the employer. This has the same meaning as the current Award which provides that overtime is payable on *authorised* additional hours. Overtime is not payable where the employee decides to work and it not authorised by the direction of the employer.

Clause 13.4 is amended to remove the entitlement to overtime being *for each hour worked*. This is to avoid argument that overtime is not payable for less than an hour's work.

Clause 14.2 which deals with the payment when a pharmacist has a meal break on premises, has been deleted as it is already dealt with at clause 11(b).

Inclusion of additional Tables and Clauses

Included in Attachment A are tables that summarise the preceding provisions (ie at 9.3(b) a table summarising when breaks occur and the length of the break).

At clause 20.2 the notice required of employees has been included in a table to remove the need to look to at the employer obligations in the NES and then apply them to the employee.

Other matters to be discussed in conference

The Guild has had discussions with the Fair Work Ombudsman regarding the ambiguity created by the operation and interaction of the clauses in the Award that provide averaging hours over two weeks and payment on a weekly or fortnightly basis (clause 10.3 in the Exposure Draft). The Guild seeks the assistance of the Commission in conference with the union parties to discuss how the ambiguity should best be resolved.

Similarly, in conference, The Guild would like to discuss the formatting of the pay rate information.

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EXPOSURE DRAFT
Pharmacy Industry Award 2014

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Part 1—Application and Operation

1. Title and commencement

- 1.1 This award is the *Pharmacy Industry Award 2014*.
- 1.2 This award supersedes the *Pharmacy Industry Award 2010* but this does not affect any right, privilege, obligation or liability that a person acquired, accrued or incurred under the superseded award.
- 1.3 Schedule G—Definitions sets out definitions that apply in this award.
- 1.4 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. The National Employment Standards and this award

- 2.1 The National Employment Standards (NES) and entitlements in this award contain the minimum conditions of employment for employees covered by this award.
- 2.2 Where this award refers to a condition of employment provided for in the NES, the NES definition applies.
- 2.3 The employer must ensure that copies of this award and the NES are available to all employees to whom they apply.

3. Coverage

- 3.1 This industry award covers employers throughout Australia in the community pharmacy industry and their employees in the classifications listed in Schedule A—Classification Definitions to the exclusion of any other modern award.
- 3.2 **Community pharmacy** means any business conducted by the employer in premises:
 - (a) that are registered under the relevant State or Territory legislation for the regulation of pharmacies; or
 - (b) are located in a State or Territory where no legislation operates to provide for the registration of pharmacies;and
 - (c) that are established either in whole or in part for the compounding or dispensing of prescriptions or vending any medicines or drugs; and
 - (d) where other goods may be sold by retail.
- 3.3 This award does not cover employment in:
 - (a) a pharmacy owned by a hospital or other public institution; or
 - (b) a pharmacy operated by government,where their goods or services are not sold by retail to the general public.

- 3.4** This award covers any employer which supplies labour on an on-hire basis in the industry set out in clause 3.1 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.
- 3.5** This award covers employers which provide group training services for trainees engaged in the industry and/or parts of industry set out at 3.1 and those trainees engaged by a group training service hosted by a company to perform work at a location where the activities described in clause 3.1 are being performed. This subclause operates subject to the exclusions from coverage in this award.
- 3.6** This award does not cover:
- (a) employees excluded from award coverage by the *Fair Work Act 2009* (Cth) (the Act);
 - (b) 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; or
 - (c) 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.

NOTE: Section 143(7) of the Act describes classes of employees who are excluded from being covered by a modern award.

PLAIN ENGLISH DRAFTERS TO INCLUDE AN ILLUSTRATIVE EXAMPLE

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

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.

PLAIN ENGLISH DRAFTERS TO INCLUDE AN ILLUSTRATIVE EXAMPLE

4. Award flexibility

- 4.1** 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, are those concerning:
- (a) arrangements for when work is performed;
 - (b) overtime rates;
 - (c) penalty rates;
 - (d) allowances; and
 - (e) leave loading.

4.2 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.

PLAIN ENGLISH DRAFTERS TO INCLUDE AN ILLUSTRATIVE EXAMPLE

4.3 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 4.1; and
- (b) result in the employee being better off overall at the time the agreement is made than the employee would have been if no individual flexibility agreement had been agreed to.

4.4 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.

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

4.6 Except as provided in clause 4.4(a) the agreement must not require the approval or consent of a person other than the employer and the individual employee.

4.7 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.

4.8 The agreement may be terminated:

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

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

PLAIN ENGLISH DRAFTERS TO PROVIDE FURTHER ANNOTATION THAT SETS OUT THE REQUIREMENTS OF SECTION 144(4) AND 145

- 4.9** The notice provisions in clause 4.8(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 4.8(a), subject to four weeks' notice of termination.
- 4.10** 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.

5. Facilitative provisions

5.1 A facilitative provision provides that the standard approach in an award provision may be departed from by agreement between an employer and an individual employee, or an employer and the majority of employees in the enterprise or part of the enterprise concerned. Facilitative provisions are not to be used as a device to avoid award obligations nor should they result in unfairness to an employee or employees covered by this award.

5.2 Facilitative provisions in this award are contained in the following clauses:

Clause	Provision	Agreement between an employer and:
13.4(c)	Time off instead of payment	An individual
18.4	Substitution of public holidays by agreement	An individual or the majority of employees

Part 2—Types of Employment and Classifications

6. Types of employment

6.1 Employees under this award will be employed in one of the following categories:

- (a) full-time;
- (b) part-time; or
- (c) casual.

6.2 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.

6.3 Full-time employment

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

6.4 Part-time employment

- (a) A part-time employee:
 - (i) is engaged to work less than 38 hours per week;
 - (ii) has reasonably predictable hours of work;

- (iii) except as provided elsewhere in this award, receives on a pro-rata basis pay and conditions equivalent to those of full-time employees who do the same kind of work.
- (b) At the time of engagement, the employer and the part-time employee will agree, in writing, on a regular pattern of work, specifying at least:
- (i) the hours worked each day;
 - (ii) which days of the week the employee will work;
 - (iii) the actual starting and finishing times of each day;
 - (iv) that any variation will be in writing;
 - (v) that the minimum daily engagement is three hours;
 - (vi) all time worked in excess of agreed hours is paid at the overtime rate; and
 - (vii) the times of taking and the duration of meal breaks.
- (c) **Variation to regular pattern of work**
- (i) Any agreement to vary the regular pattern of work will be made in writing before the variation occurs.
 - (ii) Any agreement to vary the agreed hours may be either a permanent agreed variation to the pattern of work or a temporary agreed variation (e.g. a single shift or roster period). The varied hours will be the ‘agreed hours’ for the purposes of clause 6.4(d).
 - (iii) The agreement and variation will be retained by the employer and a copy given to the employee.

PLAIN ENGLISH DRAFTERS TO PROVIDE AN ILLUSTRATIVE EXAMPLE

- (d) For each ordinary hour worked, a part-time employee will be paid ~~no less than the~~ minimum hourly rate of pay for the relevant classification in clause 6.5(d).
- (e) An employer is required to roster a part-time employee for a minimum of three consecutive hours on any shift.
- (f) **Rosters**
- (i) A part-time employee’s roster, but not the agreed number of hours, may be altered:
 - by the employer giving the employee seven days’ written notice; or
 - in the case of an emergency, by the employer giving the employee 48 hours’ notice; or
 - at any time by mutual agreement between the employer and the employee.
 - (ii) Rosters will not be changed from week to week, or fortnight to fortnight.

- (iii) Rosters will not be changed to avoid any award entitlements.
- (g) An employee who does not meet the definition of a part-time employee and who is not a full-time employee will be paid as a casual employee in accordance with clause 6.5—Casual employment.
- (h) **Conversion of existing employees**
 - (i) No full-time or casual employee will be transferred by an employer to part-time employment without the written consent of the employee.
 - (ii) Where such transfer occurs all leave entitlements accrued will be deemed to be continuous.
 - (iii) A full-time employee who requests part-time work and is given such work may revert to full-time employment on a specified future date by agreement with the employer. This agreement is to be recorded in writing.

(i) **Additional hours as casual hours**

A part-time employee who has worked their agreed hours may agree to work additional hours which are not reasonably predictable up to the daily, weekly or fortnightly maximum ordinary hours as a casual employee. These extra hours will be subject to the casual employee provisions of this award.

PLAIN ENGLISH DRAFTERS TO PROVIDE AN ILLUSTRATIVE EXAMPLE

6.5 Casual employment

- (a) A casual employee is an employee who is engaged and paid as a casual employee.
- (b) A casual employee does not have an entitlement to reasonably predictable hours of work.
- (c) **Casual loading**
 - (i) For each ordinary hour worked, a casual employee must be paid:
 - the minimum hourly rate; and
 - a loading of 25% of the minimum hourly ratefor the classification in which they are employed.
 - (ii) The casual loading is paid instead of annual leave, ~~paid personal leave~~, paid personal/carer's leave, notice of termination, redundancy benefits and other entitlements of full-time or part-time employment.
 - (iii) The following provisions of this award to not apply to casual employees:

Parties are asked to provide a list of provisions that do not apply to casual employees.

- (d) Casual employees will be paid at the termination of each engagement, but may agree to be paid weekly or fortnightly.
- (e) The minimum daily engagement for a casual employee is three hours.

7. Classifications

- 7.1 All employees covered by this award must be classified according to the structure set out in Schedule A—Classification Definitions. Employers must advise their employees in writing of their classification and of any changes to their classification.
- 7.2 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.

Part 3—Hours of Work

8. Ordinary hours of work and rostering

- 8.1 This clause does not operate to limit, increase or in any way alter the trading hours of any employer as determined by the relevant State or Territory legislation.

8.2 Ordinary hours and roster cycles

- (a) Ordinary hours may be worked between 7.00 am and midnight, Monday to Sunday.
- (b) Hours of work on any day will be continuous, except for rest breaks and meal breaks.
- (c) Hours of work must not exceed 12 hours per day.
- (d) The ordinary hours of work for a full-time employee will be 38 hours per week.
- (e) A full-time employee's ordinary weekly hours may be averaged over a period of two consecutive weeks.
- (f) The ordinary hours of work for a part-time or casual employee will be in accordance with clause 6—Types of employment.

8.3 Rostering—Permanent employees

- (a) The following roster requirements will apply to permanent employees:
 - (i) Ordinary hours will be rostered to provide employees with two consecutive days off each week or three consecutive days off in a two week period.
 - (ii) Ordinary hours and any reasonable additional hours may not be rostered over more than six consecutive days.
 - (iii) Except as provided for in clause 8.3(a)(iv), ordinary hours may not be rostered over more than five days in a week.
 - (iv) Ordinary hours may be rostered on six days in one week where ordinary hours are rostered on no more than four days in the following week.
 - (v) An employee who regularly works Sundays will be rostered to have three consecutive days off every four weeks and the consecutive days off will include Saturday and Sunday.

(b) Alternative rostering arrangements

- (i)** The rostering requirements in clause 8.3(a) will not apply where an employee makes a written request and the employer agrees to other arrangements.
- (ii)** The agreement must be recorded in the time and wages record.
- (ii)** It cannot be a condition of employment that an employee make a request for alternative rostering arrangements.
- (iv)** An employee may terminate the agreement by giving four weeks' notice to the employer. The notice does not need to be given where the agreement terminates on an agreed date or at the end of an agreed period. This provision does not apply to part-time employees' agreed pattern of work under clause 6.4(b).
- (v)** The rostering provision of clause 8.3(a)(v) does not apply to a part-time employee whose agreed hours under clause 6.4(b)(ii) provide that the employee will:
 - work on either or both Saturday and Sunday each week; and
 - have at least two consecutive days off work each week.

9. Breaks

- 9.1** An employee working four or more hours on any day will be entitled to a 10 minute paid rest break.
- 9.2** An employee working more than five hours on any day will be entitled to an unpaid meal break of at least 30 minutes but no more than one hour, plus a 10 minute paid rest break.
- 9.3** An employee working 7.6 or more hours on any day will be entitled to an unpaid meal break of at least 30 minutes but no longer than one hour, plus two 10 minute paid rest breaks, provided that:
 - (a)** the meal breaks are to be taken after at least 2.5 hours and not later than five hours work; and
 - (b)** the rest breaks are not to be taken in the first hour of work or in the first hour after the meal break.

Ordinary hours per day	Break
<u>4 and up to and including 5</u>	<u>1 x 10 minute paid rest break</u>
<u>More than 5 and up to 7.6</u>	<u>1 x 10 minute paid rest break</u> <u>1 x 30-60 minute unpaid meal break</u>
<u>7.6 or more</u>	<u>2 x 10 minute paid rest break</u> <u>1 x 30-60 minute unpaid meal break</u>

PLAIN ENGLISH DRAFTERS TO PROVIDE AN ILLUSTRATIVE EXAMPLE THAT DEALS WITH PHARMACISTS ON PREMISES

Part 4—Wages and Allowances

10. Minimum wages

10.1 An employer must pay adult employees the following minimum wages for ordinary hours worked by the employee:

Employee classification	Minimum weekly rate \$	Minimum hourly rate \$	Casual hourly rate \$
Pharmacy Assistants			
Level 1	703.90	18.52	23.15
Level 2	720.70	18.97	23.71
Level 3	746.20	19.64	24.55
Level 4	776.90	20.44	25.55
Pharmacy Students			
1st year of course	703.90	18.52	23.15
2nd year of course	720.70	18.97	23.71
3rd year of course	746.20	19.64	24.55
4th year of course	776.90	20.44	25.55
Pharmacy Interns			
First half of training	787.10	20.71	25.89
Second half of training	814.00	21.42	26.78
Pharmacist	920.90	24.23	30.29
Experienced Pharmacist	1008.60	26.54	33.18
Pharmacist in Charge	1032.20	27.16	33.95
Pharmacist Manager	1150.30	30.27	37.84

PLAIN ENGLISH DRAFTERS TO PROVIDE SCENARIO / EXAMPLES THAT ILLUSTRATE WHEN PHARMACY STUDENTS, INTERNS AND PHARMACISTS MOVE TO THE NEXT PAY POINT

10.2 Junior employees

Junior employees will be paid the following percentage of the appropriate wage rate for pharmacy assistant classifications in clause 10—Minimum wages:

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

Note: Junior employees will move to the next pay point on their birthday.

10.3 Payment of wages

- (a) Wages will be paid either weekly or fortnightly, according to the actual hours worked for each week or fortnight.
- (b) Section 536 of the Act requires the employer to give a pay slip to an employee within one working day of paying an amount to the employee in relation to the performance of work. The *Fair Work Regulations 2009* specify the information that must be included in a pay slip.

PLAIN ENGLISH DRAFTERS TO PROVIDE AN ILLUSTRATIVE EXAMPLES SHOWS THE INTERACTION OF THE PAYMENT OF WAGES AND AVERAGING HOURS

10.4 Annualised salary (~~Pharmacists only~~)

- (a) An annualised salary for pharmacist employees may be developed. The annual salary may be in satisfaction of any or all of the following provisions of the award:
 - (i) overtime;
 - (ii) penalty rates;
 - (iii) payments for public holidays taken;
 - (iv) annual leave taken;
 - (v) annual leave loading;
 - (vi) meal allowance; and
 - (vii) meal break on call entitlements.
- (b) The annual salary paid over a year must be no less than the amount the employee would have received under this award for the work performed over the year (or if the employment ceases before the completion of a year over such lesser period as has been worked).
- (c) When payment in accordance with this clause is adopted, the employer will keep a daily record of hours worked by the employee which will show the date and start and finish times of the employee for the day. The record will be countersigned weekly by the employee and will be kept at the place of employment for a period of at least six years.
- (d) The employee may be represented in discussions relating to the making of an agreement under clause 10.4 by either their union or nominated representative, and any agreement reached under this clause must be recorded in writing, and a copy retained by the employer.

PLAIN ENGLISH DRAFTERS TO PROVIDE AN ILLUSTRATIVE EXAMPLE THAT SHOWS THE ANNUALISED SALARY CALCULATION (including ordinary time, on premises allowance, an amount of overtime, leave loading – and highlight how superannuation is calculated on the annualised salary)

10.5 Supported wage system

For employees who because of the effects of a disability are eligible for a supported wage, see Schedule D—Supported Wage System.

10.6 National training wage

For employees undertaking a traineeship, see Schedule E—National Training Wage.

11. Allowances

11.1 Employers must pay to an employee the allowances the employee is entitled to under this clause. See Schedule C for a summary of monetary allowances and method of adjustment.

11.2 Expense related allowances

(a) Meal allowance

- (i) An employee who has worked six hours or more during ordinary time and who is then consecutively required to work overtime, or beyond the employee's ordinary time of ending work, for more than one and a half hours, will be:
 - supplied with an adequate meal by the employer; or
 - paid a meal allowance of **\$17.10**.
- (ii) Where overtime referred to in clause 11.2(a)(i) exceeds four hours a further meal allowance of **\$15.32** will be paid.
- (iii) ~~This 11.2(a)(i) and(ii) provision~~ will not apply when the employer has advised the employee of the requirement to work overtime on the previous day.
- (iv) No meal allowance will be payable where any employee could reasonably return home for a meal within the period allowed.
- (v) No meal allowance will be payable where the additional hours are agreed hours as per clause 6.4(c).

(b) On-premise meal allowance (Pharmacists only)

A pharmacist who is required to take their meal break on the premises for the purpose of attending to urgent matters requiring the input of a qualified pharmacist will be paid at **150%** of the minimum hourly rate for the period of the meal break, regardless of other penalties that apply on that day.

PLAIN ENGLISH DRAFTERS TO PROVIDE ILLUSTRATIVE EXAMPLE

(c) Special clothing

- (i) Where the employer requires an employee to wear any protective or special clothing such as a uniform or other clothing the employer will reimburse the employee for the cost of purchasing the special clothing and the cost of replacement items, when replacement is due to normal wear and tear. This

provision will not apply where the special clothing is supplied and/or paid for by the employer.

(ii) Where an employee is required to launder any special clothing, the employer who provided that clothing will arrange for its cleaning or will pay:

- **\$6.25** per week to a full-time employee; or
- **\$1.25** per shift to a part-time or casual employee.

(d) Transfer of employee expenses

Where an employer transfers an employee from one township to another, the employer will be responsible for and will pay the whole of the moving expenses, including fares and transport charges, for the employee and the employee's family.

(e) Transport allowance

Where an employer requests an employee to use their own motor vehicle in the performance of their duties the employee will be paid an allowance of **\$0.78** cents per kilometre.

(f) Transport of employees reimbursement

(i) An employee will be reimbursed the cost of a taxi fare between the place of employment and the employee's usual place of residence where:

- the employee commences and/or finishes work before 7.00 am or after 10.00 pm; and
- the employee's regular means of transport is not available; and
- the employee is unable to arrange their own alternative transport.

(ii) Clause 11.2(f)(i) will not apply if the employer provides or arranges proper transportation to and or from the employee's usual place of residence at no cost to the employee.

12. Superannuation

12.1 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.

PLAIN ENGLISH DRAFTERS TO PROVIDE ANNOTATION that notes that clause refers to what is commonly known as compulsory superannuation contributions and that it applies regardless of whether the employer is a small or large business

12.2 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.

12.3 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 12.2.
- (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 12.3(a) or (b) no later than 28 days after the end of the month in which the deduction authorised under clauses 12.3(a) or (b) was made.

12.4 Superannuation fund

Unless, to comply with superannuation legislation, the employer is required to make the superannuation contributions provided for in clause 12.2 to another superannuation fund that is chosen by the employee, the employer must make the superannuation contributions provided for in clause 12.2 and pay the amount authorised under clauses 12.3(a) or (b) to one of the following superannuation funds or its successor:

- (a) Retail Employees Superannuation Trust (REST);
- (b) Guildsuper;
- (c) any superannuation fund to which the employer was making superannuation contributions for the benefit of its employees before 12 September 2008, provided the superannuation fund is an eligible choice fund and is a fund that offers a MySuper product or is an exempt public sector superannuation scheme; or
- (d) a superannuation fund or scheme which the employee is a defined benefit member of.

12.5 Absence from work

Subject to the governing rules of the relevant superannuation fund, the employer must also make the superannuation contributions provided for in clause 12.2 and pay the amount authorised under clauses 12.3(a) or (b):

- (a) **Paid leave**—while the employee is on any paid leave.

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

PLAIN ENGLISH DRAFTERS TO PROVIDE ANNOTATION that describes who gets superannuation (ie over 18 , paid over \$450 in a month and note that casuals are not excluded)

Part 5—Penalties and Overtime

13. Overtime

13.1 Reasonable overtime

- (a) Subject to clause 13.1(b) an employee other than a casual employee may be required to work reasonable overtime at the applicable overtime rate.
- (b) An employee may refuse to work overtime in circumstances where working overtime would result in the employee working hours which are unreasonable having regard to:
 - (i) any risk to employee health and safety;
 - (ii) the employee’s personal circumstances including any family responsibilities;
 - (iii) the needs of the workplace or enterprise;
 - (iv) the notice (if any) given by the employer of the overtime and by the employee of their intention to refuse it; and
 - (v) any other relevant matter.

13.2 Definition of overtime

- (a) For a full-time employee, overtime is paid for additional hours worked at the discretion direction of the employer in excess of the ordinary number of hours prescribed in clauses 8.2(c) and 8.2(d).
- (b) For a part-time employee, overtime is payable in accordance with clause 6.4(b)(vi).

13.3 Payment for overtime

- (a) The employer will pay to an employee the following rates for overtime worked during the specified period:

For overtime worked on	Overtime rate % of minimum hourly rate
Monday to Saturday—first 2 hours	150

Monday to Saturday—after 2 hours	200
Sunday—all day	200
Public holiday—all day	250

(b) The penalty rates in clause 14.1 are not cumulative on overtime rates.

PLAIN ENGLISH DRAFTERS TO PROVIDE AN ILLUSTRATIVE EXAMPLE THAT SHOWS THE INTERACTION OF PENALTY RATES AND OVERTIME

(c) Casual loading is not payable on overtime worked by a casual employee.

13.4 Time off instead of payment

- (a) An employee may elect, with the consent of the employer, to take time off instead of receiving payment for overtime.
- (b) Time off instead of payment will be taken at a mutually convenient time and within four weeks’ of the overtime being worked.
- (c) Despite clause 13.4(b), where agreed between the employer and employee, time off instead of payment may be accumulated and taken as part of annual leave.
- (d) ~~For each hour of overtime worked, a~~An employee who ~~elects to~~ take time off instead of payment for overtime in accordance with this clause 13.4 will be entitled to a period of time off equal to the time worked multiplied by the applicable overtime rate for the period in which the overtime was worked (e.g. where the overtime rate is 150%, one hour of overtime equals one and a half hours of time off, or where the rate is 200%, two hours).

PLAIN ENGLISH DRAFTERS TO PROVIDE ANNOTATION that notes that an employee cannot be forced to take time off in lieu of payment at overtime rates and that time off in lieu applies to overtime but not other penalties

14. Penalties

14.1 Penalty rates

Penalty rate provisions in this award will be reviewed in Group 4.
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The employer will pay to an employee the following rates for all ordinary hours worked during the specified periods:

Hours worked	Penalty rate	Casual penalty rate (inclusive of casual loading)
% of minimum hourly rate		
Monday to Friday		
Before 8.00 am	150	175
Between 7.00 pm and 9.00 pm	125	150
Between 9.00 pm and	150	175

midnight		
Saturday		
Before 8.00 am	200	225
Between 8.00 am and 6.00 pm	125	150
Between 6.00 pm and 9.00 pm	150	175
Between 9.00 pm and midnight	175	200
Sunday—all day	200	225
Public holidays—all day	250	275

See Schedule B for a summary of hourly rates of pay including overtime and penalties.

~~14.2—On-premise meal allowance (Pharmacists only)~~

~~A pharmacist who is required to attend to urgent matters during their meal break may be entitled to payment in accordance with clause 11.2(b).~~

Part 6—Leave, Public Holidays and Other NES Entitlements

15. Annual leave

This annual leave provision may be affected by AM2014/47

15.1 Annual leave is provided for in the NES. Casual employees are not entitled to paid annual leave. The NES provides for the accrual of four weeks paid leave per year (five weeks' paid leave per year for certain shiftworkers). For the full NES annual leave entitlement see ss.86–94 of the Act.

15.2 Additional leave for certain shiftworkers

A **shiftworker**, for the purposes of the additional week's leave referred to in clause 15.1, is an employee who is a seven day shiftworker who is regularly rostered to work on Sundays and public holidays in a business in which shifts are continuously rostered 24 hours a day for seven days a week.

15.3 Annual leave loading

- (a) During a period of annual leave an employee will receive a loading calculated on the wage prescribed in clause 10—Minimum wages of this award in addition to their minimum rate of pay. Annual leave loading payment is payable on leave accrued.
- (b) The loading will be as follows:
 - (i) **Day work**

Employees who would have worked on day work only had they not been on leave—**17.5%** or the relevant weekend penalty rates, whichever is the greater but not both.

(ii) Shiftwork

Employees who would have worked on shiftwork had they not been on leave—a loading of **17.5%** or the shift loading (including relevant weekend penalty rates) whichever is the greater but not both.

PLAIN ENGLISH DRAFTERS TO PROVIDE AN ILLUSTRATIVE EXAMPLE THAT SHOWS WHEN ANNUAL LEAVE LOADING IS PAYABLE AND THE INTERACTION WITH THE SHIFT LOADING

15.4 Paid leave in advance of accrued entitlement

- (a) An employer may allow an employee to take annual leave either wholly or partly in advance before the leave has accrued.
- (b) Where paid leave has been granted to an employee in excess of the employee’s accrued entitlement, and the employee subsequently leaves or is discharged from the service of the employer before completing the required amount of service to account for the leave provided in advance, the employer is entitled to deduct the amount of leave in advance still owing from any remuneration payable to the employee upon termination of employment.

16. Personal/carer’s leave and compassionate leave

16.1 Personal/carer’s leave and compassionate leave are provided for in the NES. Casual employees are not entitled to paid personal/carer’s leave or paid compassionate leave. The NES provides for:

- the accrual of 10 days’ paid personal/carer’s leave per year;
- 2 days’ unpaid carer’s leave (as required); and
- 2 days’ paid (unpaid for casuals) compassionate leave (as required).

16.2 For the full NES entitlement to personal/carer’s leave and compassionate leave see ss.95–107 of the Act.

16.3 Personal/carer’s leave and compassionate leave are not paid on termination of employment.

16.4 Evidence requirements

- (a) For the purposes of s.107(3) of the Act, an employee is entitled to one day’s absence per year for leave of the kind in s.97(a) of the Act (unfit for work because of personal illness or injury) without being required to provide a statutory declaration as to the reasons for the absence.
- (b) Where any absence exceeds three consecutive days, the employer may require the production of a medical certificate from a legally qualified medical practitioner.

16.5 Casual employees

- (a) A casual employee is entitled to be unavailable for work or to leave work to care for a person who:
 - (i) is sick and requires care and support; or

- (ii) requires care due to an emergency.
- (b) 48 hours' absence is allowed by right, with additional absence by agreement.
- (c) The employer must not fail to re-engage a casual employee because the employee has accessed the entitlement under this clause.
- (d) Casual employees are not entitled to paid leave under clause 16.5(a).

17. Parental leave and related entitlements

Parental leave and related entitlements are provided for in the NES. The NES provides up to 12 months' unpaid leave to eligible employees, plus a right to request an additional 12 months' unpaid leave, plus other forms of maternity, paternity and adoption-related leave. For the full NES parental leave entitlement see ss.67–85 of the Act.

18. Public holidays

- 18.1** Public holiday entitlements are provided for in the NES. The NES provides a paid day off on each public holiday, except where reasonably requested to work. For the full NES public holiday entitlement see ss.114–116 of the Act.
- 18.2** A casual employee who does not work on a public holiday is not entitled to a paid day off.
- 18.3** Where an employee works on a public holiday they will be paid in accordance with clause 14.1—Penalty rates.
- 18.4 Substitution of public holidays by agreement**

The employer and an individual employee may, by agreement, substitute another day for a public holiday. Where there is no agreement, the employer may substitute another day but not so as to give the employee less time off work than the employee would have had if the employee had received the public holiday.

19. Community service leave

Community service leave is provided for in the NES. The NES provides unpaid leave for voluntary emergency activities and up to 10 days' paid leave for jury service (after 10 days, leave is unpaid). For the full NES community service leave entitlement see ss.108–112 of the Act.

20. Termination of employment

- 20.1** Notice of termination is provided for in the NES. The NES provides between one and four weeks' notice of termination based on length of service. Employees over 45 years old who have been with the employer for at least two years are entitled to an extra week's notice. For the full NES notice of termination entitlement see ss.117–118 of the Act.
- 20.2 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 for employees over 45 years old to give additional notice. If an employee fails to give the required notice, the employer may withhold any money due to the employee on termination under this award or the NES, an amount not exceeding the amount the employee would have been paid under this award in

respect of the period of notice required by this clause, less any period of notice actually given by the employee.

The notice period required by an employee is:

<u>Employee's period of continuous service with the employer at the end of the day the notice is given</u>	<u>Notice Period</u>
<u>Not more than 1 year</u>	<u>1 week</u>
<u>More than 1 year but not more than 3 years</u>	<u>2 weeks</u>
<u>More than 3 years but not more than 5 years</u>	<u>3 weeks</u>
<u>More than 5 years</u>	<u>4 weeks</u>

20.3 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.

21. Redundancy

21.1 Redundancy pay is provided for in the NES. The NES provides between zero and 16 weeks' redundancy pay upon redundancy, depending on length of service. Small business employers are excluded from the obligation to pay redundancy pay. For the full NES redundancy pay entitlement see ss.119–122 of the Act.

21.2 A **small business employer** is defined in the Act as an employer that employs fewer than 15 employees. The way that the number of employees is calculated is set out in s.23 of the Act.

PLAIN ENGLISH DRAFTERS TO INCLUDE AN ILLUSTRATIVE EXAMPLE that includes the circumstances that give rise to redundancy and the calculation of the severance pay and employee head count

21.3 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 if the employment had been terminated and the employer may, at the employer's option, make payment instead. The payment will be 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.

21.4 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.

21.5 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 20.3.

Part 7—Consultation and Dispute Resolution

22. Consultation

22.1 Consultation regarding major workplace change

- (a) **Employers 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) **Employers 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 22.1(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 22.1(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.

22.2 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.

23. Dispute resolution

- 23.1** 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.
- 23.2** 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 23.1 have been taken, a party to the dispute may refer the dispute to the Fair Work Commission.
- 23.3** The parties may agree on the process to be utilised by the Fair Work Commission including mediation, conciliation and consent arbitration.
- 23.4** 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.
- 23.5** An employer or employee may appoint another person, organisation or association to accompany and/or represent them for the purposes of this clause.
- 23.6** 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.

Schedule A—Classification Definitions

- A.1 Pharmacy Assistant Level 1** is an employee who has commenced employment in a community pharmacy for the first time, or holds no qualifications in community pharmacy.
- A.2 Pharmacy Assistant Level 2** is an employee who has acquired the competencies listed for a holder of Certificate II in Community Pharmacy, as determined from time to time by the National Quality Council or any successor thereto.
- A.3 Pharmacy Assistant Level 3** is an employee who has acquired the competencies listed for a holder of Certificate III in Community Pharmacy, as determined from time to time by the National Quality Council or any successor thereto and who is required by the employer to work at this level.
- (a) A Pharmacy Assistant who is a holder of Certificate III in Community Pharmacy may be required to supervise Pharmacy Assistants at Competency levels 1 and 2.
 - (b) A Dispensary Assistant will be paid as Pharmacy Assistant Competency Level 3.
 - (c) A pharmacy assistant, who for the majority of their duties is assisting with extemporaneous preparations working in a compounding lab or compounding section of a community pharmacy, will be paid as Pharmacy Assistant Competency Level 3.
- A.4 Pharmacy Assistant Level 4** is an employee who has acquired the competencies listed for a holder of Certificate IV in Community Pharmacy and who is required by the employer to work at this level. A Pharmacy Assistant Competency level 4 may be required to supervise Pharmacy Assistants at Competency levels 1, 2 and 3.
- A.5 Pharmacist** is a person who is registered as a pharmacist pursuant to the relevant State or Territory law.
- A.6 Experienced Pharmacist** is a Pharmacist who has gained at least four years full-time experience or the part-time equivalent as a Community Pharmacist.
- A.7 Pharmacist in Charge** is a pharmacist who assumes responsibility for the day to day supervision and functioning of a community pharmacy practice.
- A.8 Pharmacist Manager** is a pharmacist who is responsible to the proprietor for all aspects of the business.
- A.9 Pharmacy Student** means a person who is undertaking an accredited course of study leading to registration as a pharmacist and who enters into a contract of employment with a proprietor of a pharmacy to work in that pharmacy.
- A.10 Pharmacy Intern** means a person who has satisfied the examination requirements for an accredited course of study leading to registration as a pharmacist and is engaging in the period of pre-registration training required under the relevant State/Territory Pharmacy Act.

Schedule B—Summary of Hourly Rates of Pay

B.1 Full-time and part-time employees

B.1.1 Full-time and part-time employees—ordinary and Monday to Friday penalty rates

	Ordinary hours	Monday to Friday		
		Morning – before 8.00am	Evening – 7.00pm – 9.00pm	Evening – 9.00pm to midnight
		% of minimum hourly rate		
	100%	150%	125%	150%
	\$	\$	\$	\$
Pharmacy Assistant Level 1	18.52	27.78	23.15	27.78
Pharmacy Assistant Level 2	18.97	28.46	23.71	28.46
Pharmacy Assistant Level 3	19.64	29.46	24.55	29.46
Pharmacy Assistant Level 4	20.44	30.66	25.55	30.66
Pharmacy Students 1st year of course	18.52	27.78	23.15	27.78
Pharmacy Students 2nd year of course	18.97	28.46	23.71	28.46
Pharmacy Students 3rd year of course	19.64	29.46	24.55	29.46
Pharmacy Students 4th year of course	20.44	30.66	25.55	30.66
Pharmacy Intern - First half of training	20.71	31.07	25.89	31.07
Pharmacy Intern - Second half of training	21.42	32.13	26.78	32.13
Pharmacist	24.23	36.35	30.29	36.35
Experienced Pharmacist	26.54	39.81	33.18	39.81
Pharmacist in Charge	27.16	40.74	33.95	40.74
Pharmacist Manager	30.27	45.41	37.84	45.41

B.1.2 Full-time and part-time employees—penalty rates for Saturday, Sunday and public holiday rates

	Saturday				Sunday	Public holiday
	Before 8.00am	Between 8.00am and 6.00pm	Between 6.00pm and 9.00pm	9.00pm to midnight		
	% of minimum hourly rate					
	200%	125%	150%	175%	200%	250%
	\$	\$	\$	\$	\$	\$
Pharmacy Assistant Level 1	37.04	23.15	27.78	32.41	37.04	46.30
Pharmacy Assistant Level 2	37.94	23.71	28.46	33.20	37.94	47.43
Pharmacy Assistant Level 3	39.28	24.55	29.46	34.37	39.28	49.10
Pharmacy Assistant Level 4	40.88	25.55	30.66	35.77	40.88	51.10
Pharmacy Students 1st year of course	37.04	23.15	27.78	32.41	37.04	46.30
Pharmacy Students 2nd year of course	37.94	23.71	28.46	33.20	37.94	47.43
Pharmacy Students 3rd year of course	39.28	24.55	29.46	34.37	39.28	49.10
Pharmacy Students 4th year of course	40.88	25.55	30.66	35.77	40.88	51.10
Pharmacy Intern - First half of training	41.42	25.89	31.07	36.24	41.42	51.78
Pharmacy Intern - Second half of training	42.84	26.78	32.13	37.49	42.84	53.55
Pharmacist	48.46	30.29	36.35	42.40	48.46	60.58
Experienced Pharmacist	53.08	33.18	39.81	46.45	53.08	66.35
Pharmacist in Charge	54.32	33.95	40.74	47.53	54.32	67.90
Pharmacist Manager	60.54	37.84	45.41	52.97	60.54	75.68

B.1.3 Overtime rates—all employees

	Monday to Saturday		Sunday	Public Holiday
	First 2 hours	After 2 hours		
	% of minimum hourly rate			
	150%	200%	200%	250%
	\$	\$	\$	\$
Pharmacy Assistant Level 1	27.78	37.04	37.04	46.30
Pharmacy Assistant Level 2	28.46	37.94	37.94	47.43
Pharmacy Assistant Level 3	29.46	39.28	39.28	49.10
Pharmacy Assistant Level 4	30.66	40.88	40.88	51.10
Pharmacy Students 1st year of course	27.78	37.04	37.04	46.30
Pharmacy Students 2nd year of course	28.46	37.94	37.94	47.43
Pharmacy Students 3rd year of course	29.46	39.28	39.28	49.10
Pharmacy Students 4th year of course	30.66	40.88	40.88	51.10
Pharmacy Intern - First half of training	31.07	41.42	41.42	51.78
Pharmacy Intern - Second half of training	32.13	42.84	42.84	53.55
Pharmacist	36.35	48.46	48.46	60.58
Experienced Pharmacist	39.81	53.08	53.08	66.35
Pharmacist in Charge	40.74	54.32	54.32	67.90
Pharmacist Manager	45.41	60.54	60.54	75.68

B.2 Casual employees

B.2.1 Casual employees—ordinary and Monday to Friday penalty rates

	Ordinary hours	Monday to Friday		
		Morning – before 8.00am	Evening – 7.00pm to 9.00pm	Evening – 9.00pm to midnight
% of minimum hourly rate				
	125%	175%	150%	175%
	\$	\$	\$	\$
Pharmacy Assistant Level 1	23.15	32.41	27.78	32.41
Pharmacy Assistant Level 2	23.71	33.20	28.46	33.20
Pharmacy Assistant Level 3	24.55	34.37	29.46	34.37
Pharmacy Assistant Level 4	25.55	35.77	30.66	35.77
Pharmacy Students 1st year of course	23.15	32.41	27.78	32.41
Pharmacy Students 2nd year of course	23.71	33.20	28.46	33.20
Pharmacy Students 3rd year of course	24.55	34.37	29.46	34.37
Pharmacy Students 4th year of course	25.55	35.77	30.66	35.77
Pharmacy Intern - First half of training	25.89	36.24	31.07	36.24
Pharmacy Intern - Second half of training	26.78	37.49	32.13	37.49
Pharmacist	30.29	42.40	36.35	42.40
Experienced Pharmacist	33.18	46.45	39.81	46.45
Pharmacist in Charge	33.95	47.53	40.74	47.53
Pharmacist Manager	37.84	52.97	45.41	52.97

B.2.2 Casual employees—penalty rates for Saturday, Sunday and public holiday rates

	Saturday				Sunday	Public holiday
	Before 8.00am	Between 8.00am and 6.00pm	Between 6.00pm and 9.00pm	9.00pm to midnight		
	% of minimum hourly rate					
	225%	150%	175%	200%	225%	275%
	\$	\$	\$	\$	\$	\$
Pharmacy Assistant Level 1	41.67	27.78	32.41	37.04	41.67	50.93
Pharmacy Assistant Level 2	42.68	28.46	33.20	37.94	42.68	52.17
Pharmacy Assistant Level 3	44.19	29.46	34.37	39.28	44.19	54.01
Pharmacy Assistant Level 4	45.99	30.66	35.77	40.88	45.99	56.21
Pharmacy Students 1st year of course	41.67	27.78	32.41	37.04	41.67	50.93
Pharmacy Students 2nd year of course	42.68	28.46	33.20	37.94	42.68	52.17
Pharmacy Students 3rd year of course	44.19	29.46	34.37	39.28	44.19	54.01
Pharmacy Students 4th year of course	45.99	30.66	35.77	40.88	45.99	56.21
Pharmacy Intern - First half of training	46.60	31.07	36.24	41.42	46.60	56.95
Pharmacy Intern - Second half of training	48.20	32.13	37.49	42.84	48.20	58.91
Pharmacist	54.52	36.35	42.40	48.46	54.52	66.63
Experienced Pharmacist	59.72	39.81	46.45	53.08	59.72	72.99
Pharmacist in Charge	61.11	40.74	47.53	54.32	61.11	74.69
Pharmacist Manager	68.11	45.41	52.97	60.54	68.11	83.24

Schedule C—Summary of Monetary Allowances

See clause 10.3 for full details of allowances payable under this award.

C.1 Expense related allowances

The following expense related allowances will be payable to employees in accordance with clause 11.2:

Allowance	Clause	\$
Meal allowance		
Overtime which exceeds 1.5 hours' overtime	11.2(a)(i)	17.10 per occasion
Overtime which exceeds 4 hours	11.2(a)(ii)	15.32 per occasion
Special clothing allowance		11.2(c)(ii)
Full-time employee		6.25 per week
Part-time or casual employee		1.25 per shift
Transport allowance	11.2(e)	0.78 per km

C.1.1 Adjustment of expense related allowances

At the time of any adjustment to the standard rate, each expense related allowance will be increased by the relevant adjustment factor. The relevant adjustment factor for this purpose is the percentage movement in the applicable index figure most recently published by the Australian Bureau of Statistics since the allowance was last adjusted.

The applicable index figure is the index figure published by the Australian Bureau of Statistics for the Eight Capitals Consumer Price Index (Cat No. 6401.0), as follows:

Allowance	Applicable Consumer Price Index figure
Meal allowance	Take away and fast foods sub-group
Special clothing allowance	Clothing and footwear group
Transport allowance	Private motoring sub-group

Schedule D—Supported Wage System

D.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.

D.2 In this schedule:

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

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

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

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

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

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

D.3 Eligibility criteria

D.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.

D.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.

D.4 Supported wage rates

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

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

80	80
90	90

D.4.2 Provided that the minimum amount payable must be not less than \$80 per week.

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

D.5 Assessment of capacity

D.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.

D.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.

D.6 Lodgement of SWS wage assessment agreement

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

D.6.2 All SWS wage assessment agreements must be agreed and signed by the employee and employer parties to the assessment. Where a union which has an interest in the award is not a party to the assessment, the assessment will be referred by the Fair Work Commission to the union by certified mail and the agreement will take effect unless an objection is notified to the Fair Work Commission within 10 working days.

D.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.

D.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.

D.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.

D.10 Trial period

D.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.

D.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.

D.10.3 The minimum amount payable to the employee during the trial period must be no less than \$80 per week.

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

D.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 D.5.

Schedule E—National Training Wage

E.1 Title

This is the *National Training Wage Schedule*.

E.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

E.3 Coverage

E.3.1 Subject to clauses E.3.2 to E.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 clause E.7 to this schedule or by clause E.5.4 of this schedule.

E.3.2 This schedule only applies to AQF Certificate Level IV traineeships for which a relevant AQF Certificate Level III traineeship is listed in clause E.7 to this schedule.

E.3.3 This schedule does not apply to:

- (a) the apprenticeship system;
- (b) qualifications not identified in training packages; or
- (c) qualifications in training packages which are not identified as appropriate for a traineeship.

Parties are asked to identify “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” that they consider should not be covered by this Schedule.

E.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.

E.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.

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

E.4 Types of Traineeship

The following types of traineeship are available under this schedule:

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

E.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.

E.5 Minimum Wages

E.5.1 Minimum wages for full-time traineeships

- (a) **Wage Level A**

Subject to clause E.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 clause E.7.1 are:

	Highest year of schooling completed		
	Year 10	Year 11	Year 12
	Per week	Per week	Per week
	\$	\$	\$
School leave	287.90	317.10	377.80
Plus 1 year out of school	317.10	377.80	439.60
Plus 2 year out of school	377.80	439.60	511.60
Plus 3 year out of school	439.60	511.60	585.80
Plus 4 year out of school	511.60	585.80	
Plus 5 or more years of school	585.80		

(b) Wage Level B

Subject to clause E.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 clause E.7.2 are:

	Highest year of schooling completed		
	Year 10	Year 11	Year 12
	Per week	Per week	Per week
	\$	\$	\$
School leave	287.90	317.10	367.60
Plus 1 year out of school	317.10	367.60	422.80
Plus 2 year out of school	367.60	422.80	495.80
Plus 3 year out of school	422.80	495.8	565.60
Plus 4 year out of school	495.80	565.60	
Plus 5 or more years of school	565.60		

(c) Wage Level C

Subject to clause E.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 clause E.7.3 are:

	Highest year of schooling completed		
	Year 10	Year 11	Year 12
	Per week	Per week	Per week
	\$	\$	\$
School leave	287.90	317.10	367.60
Plus 1 year out of school	317.10	367.60	413.80
Plus 2 year out of school	367.60	413.80	462.20
Plus 3 year out of school	413.80	462.20	515.00
Plus 4 year out of school	462.20	515.00	
Plus 5 or more years of school	515.00		

(d) AQF Certificate Level IV traineeships

- (i) Subject to clause E.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 E.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 of traineeship
	Per week	Per week
	\$	\$
Wage Level A	608.30	631.90
Wage Level B	586.90	609.50
Wage Level C	534.10	554.30

E.5.2 Minimum wages for part-time traineeships

(a) Wage Level A

Subject to clauses E.5.2(f) and E.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 clause E.7.1 are:

	Highest year of schooling completed		
	Year 10	Year 11	Year 12
	Per week	Per week	Per week
	\$	\$	\$
School leave	9.47	10.44	12.43
Plus 1 year out of school	10.44	12.43	14.47
Plus 2 year out of school	12.43	14.47	16.83
Plus 3 year out of school	14.47	16.83	19.26
Plus 4 year out of school	16.83	19.26	
Plus 5 or more years of school	19.26		

(b) Wage Level B

Subject to clauses E.5.2(f) and E.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 clause E.7.2 are:

	Highest year of schooling completed		
	Year 10	Year 11	Year 12
	Per week	Per week	Per week
	\$	\$	\$
School leave	9.47	10.44	12.10
Plus 1 year out of school	10.44	12.10	13.91
Plus 2 year out of school	12.10	13.91	16.32
Plus 3 year out of school	13.91	16.32	18.61
Plus 4 year out of school	16.32	18.61	

Plus 5 or more years of school	18.61		
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(c) Wage Level C

Subject to clauses E.5.2(f) and E.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 clause E.7.3 are:

	Highest year of schooling completed		
	Year 10	Year 11	Year 12
	Per week	Per week	Per week
	\$	\$	\$
School leave	9.47	10.44	12.10
Plus 1 year out of school	10.44	12.10	13.61
Plus 2 year out of school	12.10	13.61	15.20
Plus 3 year out of school	13.61	15.20	16.94
Plus 4 year out of school	15.20	16.94	
Plus 5 or more years of school	16.94		

(d) School-based traineeships

Subject to clauses E.5.2(f) and E.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 clause E.7 are as follows when the trainee works ordinary hours:

Year of schooling	
Year 11 or lower	Year 12
per hour	per hour
\$	\$
9.47	10.44

(e) AQF Certificate Level IV traineeships

- (i) Subject to clauses E.5.2(f) and E.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 E.5.2(f) and E.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	Second and subsequent of traineeship
	Per week	Per week
	\$	\$
Wage Level A	20.01	20.79

Wage Level B	19.29	20.04
Wage Level C	17.57	18.24

(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 E.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 E.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 E.5.2(a)–(e) of this schedule minus 20% applies to each ordinary hour worked by the trainee.

E.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.

E.5. 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 clause E.7 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.

E.6 Employment conditions

E.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.

E.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.

E.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.

Note: The time to be included for the purpose of calculating the wages for part-time trainees whose approved training is fully off-the-job is determined by clause E.5.2(f)(ii) and not by this clause.

E.6.4 Subject to clause E.3.5 of this schedule, all other terms and conditions of this award apply to a trainee unless specifically varied by this schedule.

E.7 Allocation of Traineeships to Wage Levels

Parties are asked to review the packages listed to ensure the lists are complete and up-to-date.

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

E.7.1 Wage Level A

Training package	AQF certificate level
Aeroskills	II
Aviation	I II III
Beauty	I II
Business Services	I II III
Chemical, Hydrocarbons and Refining	I II III
Civil Construction	I II
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	I II
Food Processing Industry	I

	II
Gas Industry	I II
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	I II
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	I II
Public Safety	I II
Public Sector	II III
Pulp and Paper Manufacturing Industries	I II
Retail Services (including wholesale and Community pharmacy)	I II
Telecommunications	II III
Textiles, Clothing and Footwear	I II
Tourism, Hospitality and Events	I II III
Training and Assessment	I II
Transport and Distribution	I II
Water Industry (Utilities)	I II

E.7.2 Wage Level B

Training package	AQF certificate level
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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	III II
Beauty	II
Caravan Industry	II III
Civil Construction	I
Community Recreation Industry	III
Entertainment	III III
Extractive Industries	II III
Fitness Industry	I II
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
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
Manufactured Mineral Products	I II
Metal and Engineering (Production)	II III
Outdoor Recreation Industry	III III
Plastics, Rubber and Cablemaking	II
Printing and Graphic Arts	II III
Property Services	III III
Public Safety	III
Pulp and Paper Manufacturing Industries	III
Retail Services	III
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

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

E.7.3 Wage Level C

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

Schedule F—2014 Part-day public holidays

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

- F.1** Where a part-day public holiday is declared or prescribed between 7.00 pm and midnight on Christmas Eve (24 December 2014) or New Year's Eve (31 December 2014) 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 F.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 F.1(a), will not be entitled to another day off, another day's pay or another day of annual leave as a result of the part-day public holiday.

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

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

Schedule G—Definitions

In this award, unless the contrary intention appears:

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

community pharmacy means any business conducted by the employer in premises:

- that are registered under the relevant State or Territory legislation for the regulation of pharmacies; or
- are located in a State or Territory where no legislation operates to provide for the registration of pharmacies;

and

- that are established either in whole or in part for the compounding or dispensing of prescriptions or vending any medicines or drugs; and
- where other goods may be sold by retail.

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

employee means national system employee within the meaning of the Act

employer means national system employer within the meaning of the Act.

PLAIN ENGLISH DRAFTERS TO INCLUDE ANNOTATION explaining the term “national system”

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

MySuper product has the meaning given by the *Superannuation Industry (Supervision) Act 1993* (Cth)

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

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

small business employer is defined in the Act as an employer that employs fewer than 15 employees. The way that the number of employees is calculated is set out in s.23 of the Act.

standard rate means the minimum weekly wage for a Pharmacy Assistant Level 3 in clause 10