

The Exposure Draft was first published on 11 September 2014. Subsequent amendments to the draft are as follows:

Publication date	Reason for amendments	Clauses affected
9 October 2014	Corrected errors	3.1, 6, 8.6, 11, 14.6, 20.2, Schedule B and Schedule F.
2 February 2015	Incorporate changes resulting from <a href="#">[2014] FWCFB 9412</a>	1, 2, 8, 9, 11, 14, 15, 16, 17, 18, 19, 20, 21, Schedule F, Schedule G, Schedule I
9 September 2016	Incorporate changes resulting from <a href="#">[2014] FWCFB 9412</a>	1.2, 1.6 and 3.6
	Incorporates changes resulting from <a href="#">[2015] FWCFB 4658</a>	1, 10, 15, Schedule A, Schedule B, Schedule I
	Incorporate changes resulting from <a href="#">[2016] FWCFB 3500</a> , <a href="#">PR579802</a> , <a href="#">PR579825</a> , <a href="#">PR579559</a> , <a href="#">PR579542</a> and <a href="#">PR581528</a>	10, 11, Schedule A, Schedule B, Schedule C, Schedule F, Schedule G
	Incorporate changes resulting from <a href="#">PR580863</a>	Schedule H
	Incorporate changes resulting from <a href="#">PR582980</a> and <a href="#">PR583059</a>	15, Schedule J, Schedule K
	Incorporate changes resulting from <a href="#">PR584143</a> and <a href="#">PR584084</a>	14.8, Schedule L
	Incorporate changes agreed between parties	6.4(a), 9.5

## EXPOSURE DRAFT

### Cement, Lime and Quarrying Award 2015

This exposure draft has been prepared by staff of the Fair Work Commission based on the *Cement and Lime Award 2010* (the Cement and Lime award) **and** the *Quarrying Award 2010* (the Quarrying award) as at 11 September 2014. This exposure draft does not seek to amend any entitlements under the Cement and Lime award and the Quarrying award but has been prepared to address some of the structural issues identified in modern awards.

The review of this award in accordance with s.156 of the *Fair Work Act 2009* is being dealt with in matters [AM2014/68](#) and [AM2014/86](#). Additionally a number of common issues are being dealt with by the Commission which may affect this award. Transitional provisions have not been included in this exposure draft pending the outcome of the review.

This draft does not represent the concluded view of the Commission in this matter.

### Table of Contents

Page

<b>Part 1— Application and Operation .....</b>	<b>4</b>
1. Title and commencement .....	4
2. The National Employment Standards and this award .....	4
3. Coverage .....	4
4. Award flexibility .....	6
5. Facilitative provisions .....	7
<b>Part 2— Types of Employment and classifications.....</b>	<b>8</b>
6. Types of employment .....	8
7. Classifications .....	11
<b>Part 3— Hours of Work .....</b>	<b>11</b>
8. Ordinary hours of work and rostering .....	11
9. Breaks .....	14
<b>Part 4— Wages and Allowances .....</b>	<b>15</b>
10. Minimum wages .....	15
11. Allowances.....	17
12. Superannuation .....	21
<b>Part 5— Penalties and overtime .....</b>	<b>23</b>
13. Penalty rates .....	23
14. Overtime .....	24
<b>Part 6— Leave, Public Holidays and Other NES Entitlements.....</b>	<b>27</b>
15. Annual leave .....	27
16. Personal/carer’s leave and compassionate leave .....	30
17. Parental leave and related entitlements.....	30
18. Public holidays.....	30
19. Community service leave.....	31
20. Termination of employment .....	31
21. Redundancy .....	31
<b>Part 7— Consultation and Dispute Resolution .....</b>	<b>32</b>
22. Consultation .....	32
23. Dispute resolution .....	33

<b>Schedule A —Cement and Lime Industry—Summary of Hourly Rates of Pay.....</b>	<b>35</b>
<b>Schedule B —Quarrying Industry—Summary of Hourly Rates of Pay .....</b>	<b>38</b>
<b>Schedule C —Summary of Monetary Allowances .....</b>	<b>40</b>
<b>Schedule D —Cement and Lime Industry—Classifications and Core Competencies .....</b>	<b>42</b>
<b>Schedule E —Quarrying Industry—Classifications and Core Competencies.....</b>	<b>46</b>
<b>Schedule F —Supported Wage System .....</b>	<b>51</b>
<b>Schedule G —National Training Wage .....</b>	<b>54</b>
<b>Schedule H —2016 Part-day public holidays.....</b>	<b>64</b>
<b>Schedule I —Definitions.....</b>	<b>66</b>
<b>Schedule J —Agreement to Take Annual Leave in Advance.....</b>	<b>68</b>
<b>Schedule K —Agreement to Cash Out Annual Leave .....</b>	<b>69</b>
<b>Schedule L —Agreement for time off instead of payment for overtime .....</b>	<b>70</b>

## Part 1—Application and Operation

### 1. Title and commencement

1.1 amended in accordance with para [4] [\[2015\] FWCFB 4658](#)

1.1 This award is the *Cement, Lime and Quarrying Award 2014* 2015.

1.2 amended in accordance with para [11] [\[2014\] FWCFB 9412](#) with para [8] [\[2015\] FWCFB 4658](#)

1.2 This modern award, as varied, commenced operation on 1 January 2010.

1.3 A variation to this award does not affect any right, privilege, obligation or liability that a person acquired, accrued or incurred under the award as it existed prior to that variation.

1.4 Schedule I—Definitions sets out definitions that apply in this award.

1.5 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.

1.5 inserted in accordance with para [16] of [\[2014\] FWCFB 9412](#)

1.6 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. The National Employment Standards and this award

2.1 The [National Employment Standards](#) (NES) and 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, either on a notice board which is conveniently located at or near the workplace or through accessible electronic means.

### 3. Coverage

3.1 This industry award covers employers throughout Australia in the cement and lime industry and quarrying industry and their employees in the classifications listed in Schedule D and Schedule E to the exclusion of any other modern award.

- 3.2** The **cement and lime industry** means work in or in connection with or incidental to the manufacture and/or handling of cement, clinker, flyash, lime and hydrated lime within production establishments, or work in or in connection with or incidental to the distribution of cement, clinker, flyash, lime and hydrated lime out of production establishments, or work in or in connection with or incidental to the receipt of and/or the distribution of cement, clinker, flyash, lime or hydrated lime into or from bulk silos.
- 3.3** The **quarrying** industry means:
- (a) operations in lime and/or stone quarries, sand pits or gravel pits, other than dimension stone, brick, shale or slate quarries; and
  - (b) operations (other than in a quarry) where the plant and equipment is principally used to crush, screen and/or blend materials such as stone, brick, concrete, masonry, asphalt etc. to produce recycled material, including aggregates, road bases, gravels, fine sands and/or coarse sands and/or a blend of these.
- 3.4** This award covers an employer which supplies labour on an on-hire basis in the industries set out in clause 3.2 and 3.3 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 industries set out at clause 3.2 and 3.3 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 3.2 and 3.3 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 deleted in accordance with para [29] [\[2014\] FWCFB 9412](#)

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

- 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.

#### **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 of, 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.

**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).

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

<b>Clause</b>	<b>Provision</b>	<b>Agreement between an employer and:</b>
8.2	Ordinary hours of work	The majority of employees
8.4	Maximum 10 ordinary hour day	The majority of employees
9.1	Unpaid meal breaks	An individual
14.8	Time off instead of payment for overtime	An individual
15.5	Annual leave in advance	An individual
18.3	Substitution of public holidays by agreement	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 commencing employment an employer will inform each employee of the category of their employment, in particular, whether they are to be full-time, part-time or casual.

#### 6.3 Full-time employees

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

#### 6.4 Part-time employees

- (a) A part-time employee is an employee who ~~works is employed to work an agreed number of hours of work per week which is:~~
  - (i) less than 38 ordinary hours per week; and
  - (ii) ~~works~~ a regular number of ordinary hours each week.
- (b) At the time of commencing employment, the employer and the part-time employee will agree, in writing, on a regular pattern of work specifying at least:
  - (i) the hours which will be worked each day;
  - (ii) the days of the week the employee will work; and
  - (iii) the actual starting and finishing times on each day.
- (c) The agreed regular pattern of work may only be changed by an agreement in writing between the employer and the employee that is made before the change occurs.
- (d) The agreement made under clause 6.4(b) and any variations will be retained by the employer and a copy will be given to the employee.
- (e) An employer is required to roster a part-time employee for a minimum of three consecutive hours on any shift.
- (f) A part-time employee must be paid for ordinary hours worked at the ordinary hourly rate that applies to the class of work performed.

#### 6.5 Casual employees

- (a) A casual employee is an employee who is engaged and paid as a casual employee.



- (b) A casual employee:
  - (i) must, in addition to the ordinary hourly rate, be paid a loading of 25% of the ordinary hourly rate for the classification in which they are employed; and
  - (ii) must be paid a minimum of three hours each day they are employed.
- (c) The casual loading is paid instead of annual leave, paid personal/carer's leave, notice of termination, redundancy benefits and other entitlements of full-time or part-time employment.

## **6.6 Casual conversion to full-time or part-time employment**

### **(a) Eligible casual employee**

An eligible casual employee is a casual employee:

- (i) who works on a regular and systematic basis;
- (ii) who is employed for a sequence of periods of six months; and
- (iii) whose employment is to continue beyond the period of six months.

An eligible casual employee has the right, after six months, to elect to have their contract of employment converted to full-time or part-time employment.

### **(b) Notice and election of casual conversion**

- (i) An employer of an eligible casual employee must give the employee notice in writing of the provisions of clause 6.6 within four weeks of the employee having reached the six month period.
- (ii) The employee retains their right of election under clause 6.6 if the employer fails to comply with clause 6.6(b)(i).
- (iii) An eligible casual employee may give four weeks' notice in writing to the employer that they seek to elect to convert their contract of employment to full-time or part-time employment either:
  - upon receiving notice under clause 6.6(b)(i); or
  - after the expiry of the time for giving notice.
- (iv) An eligible casual employee who does not elect to convert their contract of employment to full-time or part-time employment within four weeks of receiving written notice is deemed to have elected against any conversion.

### **(c) Full-time or part-time conversion**

- (i) An eligible casual employee who has worked on a full-time basis throughout their period of employment has the right to elect to convert their contract of employment to full-time employment.
- (ii) An employee who has worked on a part-time basis during the period of casual employment has the right to elect to convert their contract of

employment to part-time employment, on the basis of the same number of hours and times of work as previously worked.

- (iii) However, the employer and the employee may agree on an alternative arrangement.
  - (iv) If a casual employee has elected to have their contract of employment converted to full-time or part-time employment in accordance with clause 6.6(b)(iii), the employer and employee must, subject to clause 6.6(b)(iii), discuss and agree on:
    - which form of employment the employee will convert to, being full-time or part-time; and
    - if the employee will become a part-time employee, the number of hours and the pattern of hours that will be worked, as set out in clause 6.4(b).
  - (v) Following agreement being reached, the employee converts to full-time or part-time employment.
- (d) Employer consent or refusal to casual conversion**
- (i) The employer must consent or refuse the election within four weeks of receiving notice of the eligible casual employee's election. The employer must not unreasonably refuse consent to the election.
  - (ii) Where an employer refuses an election to convert, the reasons for doing so must be fully stated to and discussed with the employee concerned and a genuine attempt made to reach agreement.
  - (iii) After an employee has converted to a full-time or part-time employee, they may only revert to casual employment by written agreement with the employer.
- (e) Variation of the casual conversion six-month eligibility period**
- (i) Clause 6.6(a) may be varied as if the reference to six months is a reference to 12 months by agreement between the employer and:
    - the majority of the employees in the workplace;
    - the majority of the employees in a section or sections of the workplace; or
    - the casual employee concerned.
  - (ii) An agreement to vary the six-month period with an individual employee must be reached within the two months before the period of six months referred to in clause 6.6(a).
  - (iii) The employer may only make an agreement with an individual employee or group of employees who are currently engaged.
  - (iv) Any agreement reached must be kept by the employer as a time and wages record.
- (f) An employee must not be engaged and re-engaged to avoid any obligation under this award.**

## 7. Classifications

- 7.1 An employee covered by this award must be classified according to the structure set out in Schedule D and Schedule E.
- 7.2 Employers must advise their employees in writing of their classification and any changes to their classification.
- 7.3 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

This provision may be reviewed in [AM2014/68](#) and [AM2014/86](#)

#### 8.1 38 hour week

An employee will work an average of 38 ordinary hours each week as directed by the employer.

#### 8.2 Ordinary hours of work

##### (a) Employees other than shiftworkers

An employee's ordinary hours of work will be worked:

- (i) on any day of the week Monday to Friday inclusive; and
- (ii) within the spread of hours defined in clause 8.3; or
- (iii) between such spread of hours as is agreed between the employer and the majority of the employees in the section of the operation concerned.

##### (b) Shiftworkers

A shiftworker's ordinary hours of work will be worked:

- (i) on any day of the week Monday to Friday inclusive; or
- (ii) by agreement with the majority of the employees in the section of the operation concerned on any day of the week Monday to Sunday inclusive.

#### 8.3 Spread of hours

Industry	Spread of hours
Cement and lime industry	6.00 am – 6.00 pm
Quarrying industry	6.30 am – 6.00 pm

#### **8.4 Maximum 10 ordinary hour day**

An employee's ordinary hours of work must not exceed 10 hours on any day, unless it is agreed between the employer and the majority of the employees in the section of the operation concerned.

#### **8.5 Rosters**

The employer must give an employee who works shift work a roster for their ordinary hours at least 7 days in advance.

#### **8.6 Changing from shiftwork to day work and vice versa—cement and lime industry**

- (a) An employer may change the roster of a shiftworker so that they work day work or a different shift by giving the employee:
  - (i) 48 hours' notice of the change; or
  - (ii) less than 48 hours' notice of a change, provided they must be paid at the overtime rate for any day work or different shift in respect of which the employee was not given at least 48 hours' notice.
- (b) An employer may change the roster of a day worker so that they work shiftwork by giving the employee:
  - (i) 48 hours' notice of the change; or
  - (ii) less than 48 hours' notice of a change, provided they must be paid at the overtime rate for any shift in respect of which the employee was not given at least 48 hours' notice.
- (c) Subject to clauses 8.6(a) and 8.6(b), where the employer requires:
  - (i) a day worker to transfer to afternoon or night shift; or
  - (ii) a shiftworker to transfer to day workfor a period of at least eight hours on less than five consecutive work days or shifts, the employee will be paid 150% of the ordinary hourly rate except on Saturdays, Sundays and public holidays when the appropriate penalty rates will apply.

#### **8.7 Changing from shiftwork to day work and vice versa—quarrying industry**

Unless otherwise agreed, the employer may direct an employee to change from regularly working day work to regularly working shiftwork (or vice versa) by giving the employee one month's notice in writing and the employee will then work their ordinary hours on the shifts/days the employee has been rostered to work.

#### **8.8 Changes to rosters—quarrying industry**

Despite clause 8.5, if due to unforeseen circumstances the employer needs to change an employee's roster to keep the quarry or operation operating effectively the employer may change the employee's roster:

- (a) upon giving the employee no less than notice on the previous day of any such change if the employee is a day worker; or

- (b) upon giving the employee no less than notice on the previous day of any such change if the employee is a shiftworker provided that if the employee is given less than seven days notice the employee will continue to be paid their shift penalties for the balance of the seven days even if the employee is transferred to day work.

### **8.9 Method of working the 38 hour week**

The method of working the 38 hour week will be arranged by the employer fixing a roster:

- (a) with one work day in the fourth week of a four week work cycle as a rostered day off on which the employee will be off work;
- (b) with two half days on which the employee will be rostered off during a particular four week work cycle;
- (c) for the employee to work their 38 ordinary hours each week in the fortnight, such that the employee is rostered off work for one day each fortnight; or
- (d) for the employee to work less than eight ordinary hours on each day.

### **8.10 Rostered days off**

- (a) A rostered day off will be taken as a paid day off.

- (b) **Rostered days off on public holidays**

When a rostered day off falls on a public holiday prescribed in clause 18—Public holidays, the next working day will be taken instead of the rostered day off unless an alternative day is agreed to between the employee and the employer.

- (c) **Rostered day off accrual**

Each day of paid leave taken and any public holiday occurring during any cycle of four weeks will be regarded as a day worked for the purposes of accruing a rostered day off.

- (d) **Accumulation of rostered days off**

Rostered days off may be accumulated:

- (i) for a specific purpose (taking with annual leave etc.) and taken at a time agreed in writing by the employee and the employer; or
- (ii) for no specific purpose in which case they will:
  - be taken with at least 24 hours' notice to the employer on a day that does not disrupt the satisfactory operation of the enterprise; or
  - by agreement between the employer and employee, be paid out by the employer to the employee at the rate of 7.6 ordinary hours pay per rostered day off accumulated but not taken as at 31 January each year.

(e) **Working on RDOs—quarrying industry**

Where an employee is required to work on the employee's rostered day off, the employee will be afforded the choice of another day off to be taken or the employee will be paid at the rate of double time.

**9. Breaks**

**9.1 Unpaid meal breaks**

(a) **Work before a break for meals**

- (i) An employee will not be required to work more than five ordinary hours of work without a break for a meal.
- (ii) An employer and an employee may agree to extend the period by up to one additional hour.

(b) **Continuity of operations**

The time of taking a scheduled meal break may be altered by agreement between an employee and the employer or by the employer but only if it is necessary to maintain continuity of operations.

(c) **Staggering breaks**

The employer may stagger the time of taking a meal break to meet operational requirements.

**9.2 Paid meal breaks for shiftworkers**

Despite the provisions of this clause, if the employee is a shiftworker the employee must be allowed a 30 minute paid meal break during each shift, which will be counted as time worked.

**9.3 Working through a meal break**

Except as provided for in clauses 9.1(a) and 9.1(b), the employee must be paid at the rate of 150% of ordinary time for all work done during their meal break and thereafter until a meal break is taken.

**9.4 Paid rest breaks**

(a) **Daily break**

An employee must be given a paid rest break of 10 minutes each day.

(b) **Staggering**

The employer may stagger the time of taking a rest break to meet operational requirements.

(c) **Continuous operation**

The time of taking a scheduled rest break may be altered by agreement between the employee and the employer or by the employer but only if it is necessary to maintain continuity of operations.

**(d) Shiftworkers**

In the case of shiftworkers the rest break may be combined (by the employer) with the paid meal break so as to enable a 40 minute paid meal break.

**9.5 Overtime meal break**

Where an employer requires an employee to work overtime for two hours after the end of the employee's scheduled hours of work, the employee is entitled to take a 30 minute meal break without loss of pay where the overtime work continues after the meal break, and is entitled to a further meal break on the same basis for every four hours of overtime worked after that.

**9.6 Weekend overtime breaks**

Where an employer directs an employee to work overtime on a Saturday or Sunday and the work continues after 12 noon, the employee is entitled to take a paid meal break of 30 minutes between 12 noon and 1.00 pm where the overtime work continues after the meal break.

**9.7 Minimum 10 hour break between periods of work**

- (a) Where overtime work is necessary it will wherever reasonably practicable be arranged so that the employee has at least 10 consecutive hours off duty between the work of successive days.
- (b) Where an employee is released from duty after working overtime they will be entitled to be absent from duty until they have had 10 consecutive hours off duty without loss of pay for ordinary time occurring during this absence.
- (c) Where an employer instructs an employee to resume work in a case where the employee has not had 10 consecutive hours off duty, the employee will be paid 200% of the ordinary hourly rate of pay until they are released from duty for 10 consecutive hours without loss of pay for ordinary time occurring during this absence.

**9.8 Eight hour rest period for shiftworkers—quarrying industry**

The provisions of clause 9.7 will apply in the case of shiftworkers who rotate from one shift to another as if eight hours were substituted for 10 hours when overtime is worked:

- (a) for the purpose of changing shift rosters; or
- (b) where a shiftworker does not report for duty.

## **Part 4—Wages and Allowances**

### **10. Minimum wages**

Tables in clause 10 amended in accordance with [54] [\[2015\] FWCFB 4658](#); rates updated as a result of AWR 2016.

### 10.1 Cement and lime industry wages

An employer must pay their employees in the cement and lime industry the following minimum wages:

Employee classification	Weekly minimum rate \$	Hourly minimum rate \$
Level 1	672.70	17.70
Level 2	708.00	18.63
Level 3	730.50	19.22
Level 4	745.70	19.62
Level 5	760.60	20.02
Level 6	783.30	20.61
Level 7	807.30	21.24

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

### 10.2 Quarrying industry wages

An employer must pay their employees in the quarrying industry the following minimum wages:

Employee classification	Weekly minimum rate \$	Hourly minimum rate \$	Ordinary hourly rate <sup>1</sup> \$	Casual hourly rate <sup>1</sup> \$
Grade 1	672.70	17.70	17.93	22.41
Grade 2	691.60	18.20	18.41	23.01
Grade 3	738.20	19.43	19.61	24.51
Grade 4	760.20	20.01	20.18	25.23
Grade 5	783.30	20.61	20.77	25.96
Grade 6	807.30	21.24	21.39	26.74

<sup>1</sup> ~~This rate includes the industry allowance payable to all employees for all purposes. Other all purpose allowances may also be payable, see clause 11.2(a).~~

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

### 10.3 Payment of wages

- (a) Wages (including overtime, penalties and allowances) must be paid:
- (i) weekly; or
  - (ii) by agreement between the employer and the employee, fortnightly.
- (b) Wages may be paid:
- (i) by electronic funds transfer into a bank or financial institution nominated by the employee;



- (ii) by cash; or
- (iii) by cheque.
- (c) Where an employer pays wages by electronic funds transfer and an employee's wages are not in the employee's nominated account on the designated pay day, the employer, if requested to do so by the employee, must pay the employee their wages in cash by the end of the next day's shift.
- (d) Where an employer pays wages by cash or cheque, they must pay the wages during ordinary working hours.

#### 10.4 Higher duties

- (a) An employee required by the employer to perform the duties of a position at a higher classification level for more than a total of two hours, must be paid the rate applicable to that higher level for all work done on that day.
- (b) An employee required by the employer to perform the duties of a position at a higher classification level for a total of two hours or less, must be paid the higher rate for the actual time worked at that higher level.

#### 10.5 Supported wage system

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

#### 10.6 National training wage

For an employee undertaking a traineeship, see Schedule G—National training wage.

### 11. Allowances

Monetary amounts in this clause adjusted as a result of AWR 2016
------------------------------------------------------------------

**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.

#### 11.2 Wage related allowances

**(a) All purpose allowances**

Allowances paid for **all purposes** are included in the rate of pay of an employee who is entitled to the allowance, when calculating any penalties, loadings or payment while they are on leave. The following allowances are paid for all purposes under this award:

- (i) industry disability allowance (clause 11.2(b));
- (ii) leading hand allowance (clause 11.2(c)); and
- (iii) first aid allowance (clause 11.2(d)).

**(b) Industry disability allowance**

The following disability allowances are payable to employees engaged in work covered by this award to compensate for the disabilities of the industry and are paid for all purposes.

<b>Industry</b>	<b>\$ per week</b>
Cement and lime industry	57.05
Quarrying industry	24.71

**(c) Leading hand allowance**

A leading hand allowance is payable to an employee performing work as a leading hand (as defined) or who is in charge of the processing plant and is paid for all purposes:

<b>Industry</b>	<b>In charge of</b>	<b>\$ per week</b>
Cement and lime industry	1 to 5 employees	30.42
	6 to 16 employees	43.73
	17 or more employees	57.05
Quarrying industry	1 or 2 employees	16.57
	3 to 6 employees	23.11
	6 to 10 employees	28.74
	More than 10 employees	45.61
	Processing plant	16.57

**(d) First aid allowance**

**(i)** An employee:

- who has been trained to provide first aid;
- who holds a current and appropriate first aid qualification (such as a certificate from St John Ambulance or a similar body); and
- who is appointed by the employer to act as a first aider,

is entitled to the following first aid allowances which will be paid for all purposes:

<b>Industry</b>	<b>\$ per week</b>
Cement and lime industry	19.78
Quarrying industry	14.44

**11.3 Expense related allowances**

**(a) Vehicle allowance**

Employees directed by their employer, during work hours, to use their private vehicle for any purpose must be paid an allowance of **\$0.78** per kilometre travelled.

**(b) Meal allowance for overtime**

- (i) A meal allowance of **\$13.73** is payable to an employee required to work two hours or more beyond the completion of the employee's ordinary finishing time.
- (ii) The employee will be entitled to this meal allowance again six hours or more after their normal finishing time and every four hours after that.
- (iii) If the employee is notified of the requirement to work overtime but is not called upon to work that overtime the employee must be paid the amount provided in clause 11.3(b)(i).

**(c) Protective clothing**

- (i) An employer must provide each employee with:
  - two pairs of appropriate overalls or trousers/shirt or shorts/shirt combinations per year free of charge;
  - a maximum of two pairs of safety boots/shoes per year on a one pair for one pair replacement basis; and
  - any other article of protective clothing that is required must be provided by the employer and must be worn by the employee.
- (ii) The employer must replace any articles supplied under clause 11.3(c)(i) when, in the opinion of the employer, they are no longer in a serviceable condition. No employee will be entitled to a replacement unless they return the corresponding article issued to them or, if the article is lost or misplaced by the employee to whom it was issued, they must pay a reasonable price for the article.
- (iii) Any articles supplied under this clause will remain the property of the employer.

**(d) Laundering protective clothing—quarrying industry**

Where an employee is responsible for laundering protective clothing, the employer will:

- (i) reimburse the employee for the demonstrated costs of laundering; or
- (ii) pay the employee an allowance agreed with the employee for laundering the protective clothing.

**(e) Prescription case-hardened lenses**

Where an employee is required to have their prescription lenses case-hardened the employer must pay for the cost of the case-hardening.

**(f) Replacement of damaged personal articles**

An employer must compensate an employee to the extent of the damage sustained where, in the course of undertaking their work, the employee's clothing (other than articles supplied under clause 11.3(c)(i)), spectacles, hearing aids or tools are damaged or destroyed by fire or molten metal or through the use of corrosive substance.

**(g) Tool allowance—quarrying industry**

- (i) Where the employer requires an employee to provide tools and appliances used in connection with the work of a quarry, the employer will reimburse the employee for the cost of the tools and appliances.
- (ii) Clause 11.3(g)(i) does not apply where the tools and appliances are supplied by the employer.

**(h) Articulated licence—quarrying industry**

Where the employer requires an employee to obtain a licence to drive an articulated vehicle the employer will reimburse the employee for the cost incurred in obtaining the licence.

**(i) Travel, board and lodging—temporary transfer**

Where an employee is temporarily transferred from their usual place of employment to another location, the employee:

- (i) must be paid at ordinary time rates for all time in excess of that usually spent in travelling to their usual place of employment; and
- (ii) must be paid an allowance as set out in clause 11.3(a) when required to use their private vehicle for all distance travelled in excess of that usually travelled to their place of employment.

**(j) Permanent change in locality**

An employee:

- (i) employed in one locality to work in another; or
- (ii) sent other than at their own request from their usual locality to another locality for employment which can reasonably be regarded as permanent, involving a change of residence;

must be paid travelling time and reasonable expenses whilst necessarily travelling between such localities.

**(k) Payments under clause 11.3(j) are to be for a period not exceeding:**

- (i) three months; or
- (ii) six months, where the employee is in the process of buying a place of residence in the new locality;

and will cease after the employee has taken up permanent residence at the new locality.

**(l) For the purpose of clause 11.3(j) **expense** means:**

- (i) all fares reasonably incurred;
- (ii) reasonable expenses incurred whilst travelling, including the amount calculated at the rate of **\$13.73** for each meal taken; and

- (iii) the provision of reasonable board and lodging or a reasonable allowance to cover the cost incurred for board and lodging, not exceeding the following amounts:

Industry	\$ per week
Cement and lime industry	416.47
Quarrying industry	416.71

(m) **Temporary change in locality**

An employee sent from their usual locality to another (in circumstances other than those set out in clause 11.3(j) and required to remain away from their usual residence must be paid:

- (i) travelling time whilst necessarily travelling between the localities; and
- (ii) reasonable expenses incurred whilst so absent from their usual locality.

(n) **Rate for travelling time**

The rate of pay for travelling time will be ordinary rates, except on Sundays and public holidays when it will be paid at a rate of **150%** of the ordinary hourly rate.

(o) **Maximum travelling time**

The maximum travelling time to be paid for will be:

- (i) 12 hours out of every 24; or
- (ii) when a sleeping berth is provided by the employer for all night travel, eight hours out of every 24.

(p) **Payment for wet weather**

- (i) When the employer or its responsible representative determines that the weather is too wet for ordinary duties, an employee will be paid at the ordinary hourly rate for all time lost.
- (ii) An employee is not entitled to this payment unless the employee attends at and remains at the place of employment and is available and willing to perform work under cover when requested to do so and other duties as may be allocated 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.

## **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) AustralianSuper; or
- (b) CareSuper; or
- (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 superannuation sector scheme; or
- (d) a superannuation fund or scheme which the employee is a defined benefit member of.

## Part 5—Penalties and overtime

### 13. Penalty rates

#### 13.1 Afternoon shifts

**Afternoon shift** means any shift finishing after 6.00 pm and at or before midnight. If the employee is rostered to work an afternoon shift, the employee must be paid at 115% of the ordinary hourly rate for such shift. A casual employee will be paid at 140% of the ordinary hourly rate.

#### 13.2 Night shift

(a) **Night shift** means any shift finishing after midnight and at or before 8.00 am. If the employee is rostered to work a night shift, the employee must be paid at 115% of the ordinary hourly rate for such shift. A casual employee will be paid at 140% of the ordinary hourly rate. An employee working permanent night shifts will be paid at 130% of the ordinary hourly rate. A casual employee will be paid at 155% of the ordinary hourly rate.

(b) **Permanent night shift** means when an employee who:

- (i) during a period of engagement on shiftwork, works night shift only; or
- (ii) remains on night shift for a longer period than four consecutive weeks; or
- (iii) works on a night shift which does not rotate or alternate with another shift or with day work so as to give him or her at least 1/3rd of his or her working time off night shift in each shift cycle.

Note: the above definition of permanent night shift has been proposed for clarity as the current instruments do not contain a definition of permanent night shift. This wording is adapted from [AP812949](#) - *Building Materials and Quarrying Industries (Northern Territory) Award 2002*.

#### 13.3 Saturday shifts—cement and lime industry

If an employee works a shift, part of which is on a Saturday, the employee must be paid at 150% of the ordinary hourly rate and a casual employee must be paid at 175% of the ordinary hourly rate. This extra rate will be in substitution for and not cumulative upon the shift penalties in clauses 13.1 and 13.2.

#### 13.4 Saturday shifts—quarrying industry

If an employee works a shift, part of which is on a Saturday, the employee must be paid at 150% of the ordinary hourly rate for the first two hours and 200% of the ordinary hourly rate after that. A casual employee must be paid at 175% of the ordinary hourly rate for the first two hours and 225% of the ordinary hourly rate after that. This extra rate will be in substitution for and not cumulative upon the shift penalties in clauses 13.1 and 13.2.

#### 13.5 Sunday shifts

If an employee works a shift, part of which is on a Sunday, the employee must be paid at 200% of the ordinary hourly rate and a casual employee must be paid at

225% of the ordinary hourly rate. This extra rate will be in substitution for and not cumulative upon the shift penalties in clauses 13.1 and 13.2

### 13.6 Public holiday shifts

If an employee works a shift, part of which is on a public holiday, the employee must be paid at 250% of the ordinary hourly rate and a casual employee must be paid at 275% of the ordinary hourly rate. This extra rate will be in substitution for and not cumulative upon the shift penalties in clauses 13.1 and 13.2.

## 14. Overtime

### 14.1 Overtime—cement and lime industry

This provision may be reviewed in [AM2014/197](#)

14.8 amended in accordance with [PR584143](#) and [PR584084](#)

- (a) For a full-time employee or casual employee, other than a continuous shiftworker, overtime is any time worked outside or in excess of their ordinary hours.
- (b) For a part-time employee other than a continuous shiftworker, all time worked in excess of the hours agreed under clause 6.4(b) or as varied under clause 6.4(c) will be overtime.
- (c) For a casual employee, overtime is any time worked:
  - (i) outside the ordinary hours of work specified in clauses 8.2 and 8.3;
  - (ii) subject to an agreement under clause 8.4, in excess of 10 ordinary hours per day or shift; or
  - (iii) in excess of an average of 38 hours per week.
- (d) Where an employer directs an employee, other than a continuous shiftworker, to work overtime the employee is entitled to the following overtime rates:

For overtime worked on	Overtime rate—% of ordinary hourly rate
Monday to Saturday—first two hours	150%
Monday to Saturday—after two hours	200%
Sunday—all time	200%

- (e) All time worked by an employee who is a continuous shiftworker in excess of their ordinary working hours will be paid at the overtime rate of 200%.
- (f) Clause 14.1(e) does not apply where the time is worked:
  - (i) by arrangement between the employees, or
  - (ii) for the purpose of the employer effecting the customary rotation of shifts.



#### **14.2 Overtime—quarrying industry**

- (a) For a full-time employee, overtime is any time worked outside or in excess of their ordinary hours.
- (b) For a casual employee, overtime is any time worked:
  - (i) outside the ordinary hours of work specified in clauses 8.2 and 8.3;
  - (ii) subject to an agreement under clause 8.4, in excess of 10 ordinary hours per day or shift; or
  - (iii) in excess of an average of 38 hours per week.
- (c) For a part-time employee, all time worked in excess of the hours agreed under clause 6.4(b) or as varied under clause 6.4(c) will be overtime.
- (d) Subject to clauses 9.7 and 9.8, overtime must be paid at the rate of 150% for the first two hours and 200% thereafter. Provided that, for work done on a Sunday an employee must be paid at the rate of 200% with a minimum payment for four hours' work.
- (e) The rate of 200% is to continue until the completion of the overtime worked.

#### **14.3 Each day stands alone**

Except as provided in clause 9.7, in calculating overtime each day's work will stand alone.

#### **14.4 Recall**

- (a) Where an employer requires an employee to return to work overtime after leaving the place of employment (whether or the employee is notified before or after leaving) the employee must be paid, at the appropriate overtime rate, the minimum number of hours specified below:
  - (i) where the employee has been paid for standing by—three hours; or
  - (ii) in any other case—four hours.
- (b) Clause 14.4(a) will not apply where:
  - (i) it is customary for the employee to return to the place of employment to perform a specific job outside their ordinary working hours; or
  - (ii) where the overtime is continuous (subject to a reasonable meal break) with completion or commencement of the employee's ordinary working hours.
- (c) Overtime worked in the circumstances set out in clause 14.4(a) will not be regarded as overtime for the purposes of the overtime break set out in clause 9.5 where the actual time worked on a recall is less than three hours.

#### **14.5 Standby**

Where an employer directs an employee to hold themselves in readiness to work after the employee's ordinary hours of work, the employer must pay the employee

stand-by time at the employee's ordinary rate of pay, until they are released from stand-by.

#### **14.6 Weekend minimum**

Where an employer requires an employee to work overtime on a Saturday or Sunday, the employee is entitled to be given at least four hours' work or to receive at least four hours' pay.

#### **14.7 Transport after overtime or shiftwork—quarrying industry**

Where an employee, after working overtime or a shift for which the employee is not regularly rostered, finishes work at a time when reasonable means of transport are not available, the employer will provide the employee with transport to the employee's home.

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

- (a) An employee and employer may agree in writing to the employee taking time off instead of being paid for a particular amount of overtime that has been worked by the employee.
- (b) Any amount of overtime that has been worked by an employee in a particular pay period and that is to be taken as time off instead of the employee being paid for it must be the subject of a separate agreement under clause 14.8.
- (c) An agreement must state each of the following:
  - (i) the number of overtime hours to which it applies and when those hours were worked;
  - (ii) that the employer and employee agree that the employee may take time off instead of being paid for the overtime;
  - (iii) that, if the employee requests at any time, the employer must pay the employee, for overtime covered by the agreement but not taken as time off, at the overtime rate applicable to the overtime when worked;
  - (iv) that any payment mentioned in subparagraph (iii) must be made in the next pay period following the request.

Note: An example of the type of agreement required by this clause is set out at Schedule L. There is no requirement to use the form of agreement set out at Schedule L. An agreement under clause 14.8 can also be made by an exchange of emails between the employee and employer, or by other electronic means.

- (d) The period of time off that an employee is entitled to take is the same as the number of overtime hours worked.

EXAMPLE: By making an agreement under clause 14.8 an employee who worked 2 overtime hours is entitled to 2 hours' time off.

- (e) Time off must be taken:
  - (i) within the period of 6 months after the overtime is worked; and
  - (ii) at a time or times within that period of 6 months agreed by the employee and employer.

- (f) If the employee requests at any time, to be paid for overtime covered by an agreement under clause 14.8 but not taken as time off, the employer must pay the employee for the overtime, in the next pay period following the request, at the overtime rate applicable to the overtime when worked.
- (g) If time off for overtime that has been worked is not taken within the period of 6 months mentioned in paragraph (e), the employer must pay the employee for the overtime, in the next pay period following those 6 months, at the overtime rate applicable to the overtime when worked.
- (h) The employer must keep a copy of any agreement under clause 14.8 as an employee record.
- (i) An employer must not exert undue influence or undue pressure on an employee in relation to a decision by the employee to make, or not make, an agreement to take time off instead of payment for overtime.
- (j) An employee may, under section 65 of the Act, request to take time off, at a time or times specified in the request or to be subsequently agreed by the employer and the employee, instead of being paid for overtime worked by the employee. If the employer agrees to the request then clause 14.8 will apply, including the requirement for separate written agreements under paragraph (b) for overtime that has been worked.

Note: If an employee makes a request under section 65 of the Act for a change in working arrangements, the employer may only refuse that request on reasonable business grounds (see section 65(5) of the Act).

- (k) If, on the termination of the employee's employment, time off for overtime worked by the employee to which clause 14.8 applies has not been taken, the employer must pay the employee for the overtime at the overtime rate applicable to the overtime when worked.

Note: Under section 345(1) of the Act, a person must not knowingly or recklessly make a false or misleading representation about the workplace rights of another person under clause 14.8.

## Part 6—Leave, Public Holidays and Other NES Entitlements

### 15. Annual leave

15 amended in accordance with [PR582980](#) and [PR583059](#). (clause 15.5 substituted; clauses 15.7 and 15.8 inserted)

**15.1** Annual leave is provided for in the NES.

### 15.2 Seven day shiftworkers

- (a) In addition to the leave provided for in Division 6 of the NES, shiftworkers who are rostered to work regularly on Sundays and public holidays will be allowed an additional one week's leave.

- (b) If, during the year of employment, an employee has served for only a portion of it as a seven day shiftworker, the additional leave will be one day for every 36 ordinary shifts worked as a seven day shiftworker.

### **15.3 Taking annual leave**

- (a) Annual leave must be taken within 18 months of the entitlement accruing.
- (b) For the purpose of ensuring accrued annual leave is taken within that period and in the absence of agreement as provided for in s.88 of the Act, an employer may require an employee to take a period of annual leave from a particular date provided the employer gives the employee at least 28 days' notice.

### **15.4 Close-down**

- (a) Where an employer intends temporarily to close (or reduce to nucleus) the enterprise, operation or a section of the operation for the purpose of allowing annual leave to the employees concerned or a majority of them, the employer may give those employees one month's notice in writing of an intention to apply the provisions of this clause.
- (b) In the case of any employee employed after notice has been given, notice must be given to that employee on the date they are offered employment.
- (c) Where an employee has been given notice pursuant to clauses 15.4(a) or (b) and the employee has:
  - (i) accrued sufficient annual leave to cover the full period of closing, the employee must take paid annual leave for the full period of closing;
  - (ii) insufficient accrued annual leave to cover the full period of closing, the employee must take paid annual leave to the full amount accrued and leave without pay for the remaining period of the closing; or
  - (iii) no accrued annual leave, the employee must take leave without pay for the full period of closing.
- (d) Public holidays that fall within the period of close down will be paid as provided for in this award and will not count as a day of annual leave or leave without pay.

### **15.5 Annual leave in advance**

- (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 15.5 is set out at Schedule J. There is no requirement to use the form of agreement set out at Schedule J.

- (c) The employer must keep a copy of any agreement under clause 15.5 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 15.5, 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.

### 15.6 Payment and loading

Before the start of an employee's annual leave the employer must pay the employee, in respect of a period of annual leave:

- (a) instead of the base rate of pay referred to in s.90(1) of the Act, the amount the employee would have earned for working their normal hours, exclusive of overtime or other penalties, had they not been on leave; and
- (b) an additional loading of 17.5% of the employee's minimum weekly rate of pay; or where the employee is a shiftworker, 17.5% of the employee's minimum weekly rate of pay or their shift penalties payable in respect of the period of annual leave, whichever is greater.

Note inserted in accordance with para [94] [\[2015\] FWCFB 4658](#)

NOTE: Where an employee is receiving overaward payments such that the employee's base rate of pay is higher than the rate specified under this award, the employee is entitled to receive the higher rate while on a period of paid annual leave (see ss.16 and 90 of the Act).

### 15.7 Electronic funds transfer (EFT) payment of annual leave

Despite anything else in this clause, an employee paid by electronic funds transfer (EFT) may be paid in accordance with their usual pay cycle while on paid annual leave.

### 15.8 Cashing out of annual leave

- (a) Paid annual leave must not be cashed out except in accordance with an agreement under clause 15.8.
- (b) Each cashing out of a particular amount of paid annual leave must be the subject of a separate agreement under clause 15.8.
- (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 15.8 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 15.8 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 15.8 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 15.8.

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 15.8.

Note 3: An example of the type of agreement required by clause 15.8 is set out at Schedule K. There is no requirement to use the form of agreement set out at Schedule K.

## **16. Personal/carer's leave and compassionate leave**

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

## **17. Parental leave and related entitlements**

Parental leave and related entitlements are provided for in the NES.

## **18. Public holidays**

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

**18.2** Where an employee works on a public holiday they will be paid in accordance with clause 13.6.

### **18.3 Substitution of public holidays by agreement**

By agreement between the employer and the majority of employees in an enterprise, another day may be substituted for a public holiday.

### **18.4 Part-day public holidays**

18.4 inserted 9 September 2016.

For provisions relating to part-day public holidays see Schedule H—2016 Part-day public holidays.

## **19. Community service leave**

Community service leave is provided for in the NES.

## **20. Termination of employment**

Notice of termination is provided for in the NES.

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

The notice of termination required to be given by an employee is the same as that required of an employer except that there is no requirement on the employee to give additional notice based on the age of the employee concerned. If an employee fails to give the required notice the employer may withhold from any monies due to the employee on termination under this award or the NES, an amount not exceeding the amount the employee would have been paid under this award in respect of the period of notice required by this clause, less any period of notice actually given by the employee.

### **20.2 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**

Redundancy pay is provided for in the NES.

### **21.1 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.

### **21.2 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.

### 21.3 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 20.2.

## 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.

DRAFT

## Schedule A—Cement and Lime Industry—Summary of Hourly Rates of Pay

Note inserted in accordance with para [63] [\[2015\] FWCFB 4658](#); rates updated as a result of AWR 2016.

NOTE: Employers who meet their obligations under this schedule are meeting their obligations under the award.

### A.1 Ordinary hourly rate

**A.1.1 Ordinary hourly rate** includes the industry allowance (clause 11.2(a)) which is payable for all purposes.

**A.1.2** Where an additional allowance is payable for all purposes in accordance with clauses 11.2(c) or (d), this forms part of the employee's ordinary hourly rate and must be added to the ordinary hourly rate prior to calculating penalties and overtime.

### A.2 Full-time employees and part-time employees—ordinary and penalty rates

	Day	Afternoon	Night	Permanent night	Saturday	Sunday	Public holiday
% of ordinary hourly rate							
	100%	115%	115%	130%	150%	200%	250%
	\$	\$	\$	\$	\$	\$	\$
Level 1	19.20	22.08	22.08	24.96	28.80	38.40	48.00
Level 2	20.13	23.15	23.15	26.17	30.20	40.26	50.33
Level 3	20.72	23.83	23.83	26.94	31.08	41.44	51.80
Level 4	21.12	24.29	24.29	27.46	31.68	42.24	52.80
Level 5	21.52	24.75	24.75	27.98	32.28	43.04	53.80
Level 6	22.11	25.43	25.43	28.74	33.17	44.22	55.28
Level 7	22.74	26.15	26.15	29.56	34.11	45.48	56.85

These rates include the industry allowance payable to all employees for all purposes. Other all purpose allowances may also be payable, see clause 11.2(a)

### A.3 Full-time, part-time and casual employees—other than continuous shiftworkers—overtime rates

	Monday – Saturday First 2 hours	Monday – Saturday After 2 hours	Sunday
% of ordinary hourly rate			
	150%	200%	200%
	\$	\$	\$
Level 1	28.80	38.40	38.40
Level 2	30.20	40.26	40.26
Level 3	31.08	41.44	41.44
Level 4	31.68	42.24	42.24
Level 5	32.28	43.04	43.04

	<b>Monday – Saturday First 2 hours</b>	<b>Monday – Saturday After 2 hours</b>	<b>Sunday</b>
<b>% of ordinary hourly rate</b>			
	<b>150%</b>	<b>200%</b>	<b>200%</b>
	<b>\$</b>	<b>\$</b>	<b>\$</b>
Level 6	33.17	44.22	44.22
Level 7	34.11	45.48	45.48
<u>These rates include the industry allowance payable to all employees for all purposes. Other all purpose allowances may also be payable, see clause 11.2(a)</u>			

Parties should make submissions regarding whether overtime applies to casual employees and, if so, whether overtime payment applies in addition to or in substitution of the casual loading provided for in clause 6.5(b)

#### **A.4 Continuous shiftworkers—overtime rates**

<b>All Overtime</b>	
<b>% of ordinary hourly rate</b>	
<b>200%</b>	
	<b>\$</b>
Level 1	38.40
Level 2	40.26
Level 3	41.44
Level 4	42.24
Level 5	43.04
Level 6	44.22
Level 7	45.48
<u>These rates include the industry allowance payable to all employees for all purposes. Other all purpose allowances may also be payable, see clause 11.2(a)</u>	

#### **A.5 Casual employees—ordinary and penalty rates**

	<b>Day</b>	<b>Afternoon</b>	<b>Night</b>	<b>Permanent night</b>	<b>Saturday</b>	<b>Sunday</b>	<b>Public holiday</b>
<b>% of ordinary hourly rate</b>							
	<b>125%</b>	<b>140%</b>	<b>140%</b>	<b>155%</b>	<b>175%</b>	<b>225%</b>	<b>275%</b>
	<b>\$</b>	<b>\$</b>	<b>\$</b>	<b>\$</b>	<b>\$</b>	<b>\$</b>	<b>\$</b>
Level 1	24.00	26.88	26.88	29.76	33.60	43.20	52.80
Level 2	25.16	28.18	28.18	31.20	35.23	45.29	55.36
Level 3	25.90	29.01	29.01	32.12	36.26	46.62	56.98
Level 4	26.40	29.57	29.57	32.74	36.96	47.52	58.08
Level 5	26.90	30.13	30.13	33.36	37.66	48.42	59.18
Level 6	27.64	30.95	30.95	34.27	38.69	49.75	60.80

**Exposure draft – Cement, Lime and Quarrying Award 2015**

	<b>Day</b>	<b>Afternoon</b>	<b>Night</b>	<b>Permanent night</b>	<b>Saturday</b>	<b>Sunday</b>	<b>Public holiday</b>
	<b>% of ordinary hourly rate</b>						
	<b>125%</b>	<b>140%</b>	<b>140%</b>	<b>155%</b>	<b>175%</b>	<b>225%</b>	<b>275%</b>
	<b>\$</b>	<b>\$</b>	<b>\$</b>	<b>\$</b>	<b>\$</b>	<b>\$</b>	<b>\$</b>
Level 7	28.43	31.84	31.84	35.25	39.80	51.17	62.54
<p><u>These rates include the industry allowance payable to all employees for all purposes. Other all purpose allowances may also be payable, see clause 11.2(a)</u></p>							

DRAFT

## Schedule B—Quarrying Industry—Summary of Hourly Rates of Pay

Note inserted in accordance with para [63] [\[2015\] FWCFB 4658](#); rates updated as a result of AWR 2016.

NOTE: Employers who meet their obligations under this schedule are meeting their obligations under the award.

### B.1 Ordinary hourly rate

**B.1.1 Ordinary hourly rate** includes the industry allowance (clause 11.2(a)) which is payable for all purposes.

**B.1.2** Where an additional allowance is payable for all purposes in accordance with clauses 11.2(c) or (d), this forms part of the employee’s ordinary hourly rate and must be added to the ordinary hourly rate prior to calculating penalties and overtime.

### B.2 Full-time employees and part-time employees—ordinary and penalty rates

	Day	Afternoon	Night	Permanent night	Saturday		Sunday	Public holiday
					First 2 hours	After 2 hours		
<b>% of ordinary hourly rate</b>								
	<b>100%</b>	<b>115%</b>	<b>115%</b>	<b>130%</b>	<b>150%</b>	<b>200%</b>	<b>200%</b>	<b>250%</b>
	<b>\$</b>	<b>\$</b>	<b>\$</b>	<b>\$</b>	<b>\$</b>	<b>\$</b>	<b>\$</b>	<b>\$</b>
Grade 1	19.20	22.08	22.08	24.96	28.80	38.40	38.40	48.00
Grade 2	20.13	23.15	23.15	26.17	30.20	40.26	40.26	50.33
Grade 3	20.72	23.83	23.83	26.94	31.08	41.44	41.44	51.80
Grade 4	21.12	24.29	24.29	27.46	31.68	42.24	42.24	52.80
Grade 5	21.52	24.75	24.75	27.98	32.28	43.04	43.04	53.80
Grade 6	22.11	25.43	25.43	28.74	33.17	44.22	44.22	55.28

These rates include the industry allowance payable to all employees for all purposes. Other all purpose allowances may also be payable, see clause 11.2(a)

### B.3 Full-time, part-time and casual employees—overtime rates

	Monday—Saturday First 2 hours	Monday—Saturday After 2 hours	Sunday
	<b>% of ordinary hourly rate</b>		
	<b>150%</b>	<b>200%</b>	<b>200%</b>
	<b>\$</b>	<b>\$</b>	<b>\$</b>
Grade 1	28.80	38.40	38.40
Grade 2	30.20	40.26	40.26
Grade 3	31.08	41.44	41.44
Grade 4	31.68	42.24	42.24
Grade 5	32.28	43.04	43.04
Grade 6	33.17	44.22	44.22

	<b>Monday—Saturday First 2 hours</b>	<b>Monday—Saturday After 2 hours</b>	<b>Sunday</b>
<b>% of ordinary hourly rate</b>			
	<b>150%</b>	<b>200%</b>	<b>200%</b>
	<b>\$</b>	<b>\$</b>	<b>\$</b>
<u>These rates include the industry allowance payable to all employees for all purposes. Other all purpose allowances may also be payable, see clause 11.2(a)</u>			

Parties should make submissions regarding whether overtime applies to casual employees and, if so, whether overtime payment applies in addition to or in substitution of the casual loading provided for in clause 6.5(b)

#### **B.4 Casual employees—ordinary and penalty rates**

	<b>Day<sup>1</sup></b>	<b>Afternoon</b>	<b>Night</b>	<b>Permanent night</b>	<b>Saturday</b>		<b>Sunday</b>	<b>Public holiday</b>
					<b>First 2 hours</b>	<b>First 2 hours</b>		
<b>% of ordinary hourly rate</b>								
	<b>125%</b>	<b>140%</b>	<b>140%</b>	<b>155%</b>	<b>175%</b>	<b>225%</b>	<b>225%</b>	<b>275%</b>
	<b>\$</b>	<b>\$</b>	<b>\$</b>	<b>\$</b>	<b>\$</b>	<b>\$</b>	<b>\$</b>	<b>\$</b>
Grade 1	24.00	26.88	26.88	29.76	33.60	43.20	43.20	52.80
Grade 2	25.16	28.18	28.18	31.20	35.23	45.29	45.29	55.36
Grade 3	25.90	29.01	29.01	32.12	36.26	46.62	46.62	56.98
Grade 4	26.40	29.57	29.57	32.74	36.96	47.52	47.52	58.08
Grade 5	26.90	30.13	30.13	33.36	37.66	48.42	48.42	59.18
Grade 6	27.64	30.95	30.95	34.27	38.69	49.75	49.75	60.80
<u>These rates include the industry allowance payable to all employees for all purposes. Other all purpose allowances may also be payable, see clause 11.2(a)</u>								

**Schedule C—Summary of Monetary Allowances**

Monetary amounts in this clause adjusted as a result of AWR 2016
------------------------------------------------------------------

**C.1 Wage related allowances****C.1.1 Allowances—cement and lime industry**

The wage related allowances for Cement and Lime employees under this award are based on the standard rate as defined in Schedule I—Schedule I as the minimum weekly wage rate for Cement and lime industry Level 5 in clause 10 = \$760.60.

Allowance	Clause	% of standard rate	\$
Industry disability <sup>1</sup>	11.2(b)	7.50	57.05
Leading hand in charge of <sup>1</sup>	11.2(c)		
1–5 employees		4.00	30.42
6–16 employees		5.75	43.73
17 or more employees		7.50	57.05
First aid <sup>1</sup>	11.2(d)	2.60	19.78

<sup>1</sup> These allowances apply for all purposes of this award

**C.1.2 Allowances—quarrying industry**

The wage related allowances in for Quarrying employees under this award are based on the standard rate as defined in Schedule I—Schedule I as the minimum weekly wage rate for Quarrying industry Grade 4 in clause 10 = \$760.20

Allowance	Clause	% of standard rate	\$
Industry disability <sup>1</sup>	11.2(b)	3.25	24.71
Leading hand in charge of <sup>1</sup>	11.2(c)		
1 or 2 employees		2.18	16.57
3-6 employees		3.04	23.11
6-10 employees		3.78	28.74
more than 10 employees		6.00	45.61
in charge of plant		2.18	16.57
First aid <sup>1</sup>	11.2(d)	1.90	14.44

<sup>1</sup> These allowances apply for all purposes of this award

If these awards are to be merged, it may be appropriate to determine one standard rate upon which to calculate wage related allowances.
-----------------------------------------------------------------------------------------------------------------------------------------



**C.1.3 Adjustment of wage related allowances**

Wage related allowances are adjusted in accordance with increases to wages and are based on a percentage of the standard rate as specified.

**C.2 Expense related allowances**

**C.2.1** The expense related allowances in this award will be adjusted by reference to the Consumer Price Index (CPI) as per the following:

<b>Allowance</b>	<b>Clause</b>	<b>\$</b>
Vehicle allowance	11.3(a)	0.78 per/km
Meal allowance—overtime	11.3(b)	13.73 per meal
Travel board and lodging—meals	11.3(l)(ii)	13.73 per meal
Reasonable board and lodging—cement and lime industry	11.3(l)(iii)	416.47 per week
Reasonable board and lodging—quarrying industry	11.3(l)(iii)	416.71 per week

**C.2.2 Adjustment of expense related allowances**

At the time of any adjustment to the standard rate, each expense related allowance will be increased by 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:

<b>Allowance</b>	<b>Applicable Consumer Price Index figure</b>
Vehicle allowance	Private motoring sub-group
Meal allowances	Take-away and fast foods sub-group
Board and lodging	Domestic holiday travel and accommodation sub-group

## **Schedule D—Cement and Lime Industry—Classifications and Core Competencies**

### **D.1 Classification descriptions—cement and lime industry**

#### **D.1.1 Level 1**

A Level 1 employee is an entry level employee without the necessary competency to be classified in Levels 2 to 6 undertaking Basic competency training.

#### **D.1.2 Level 2**

A Level 2 employee is an employee who has attained the Basic competency and is:

- (a) developing Yard competency (set out in Schedule D.2—Core Competencies) working under general supervision until fully competent; or
- (b) developing competency in one element of the Production competency (set out in Schedule D.2—Core Competencies) working under general supervision until fully competent.

#### **D.1.3 Level 3**

A Level 3 employee is an employee who has attained the Basic competency and is:

- (a) competent in one element of the Production competency set out in Schedule D.2—Core Competencies;
- (b) developing Bulk Despatch competency (set out in Schedule D.2—Core Competencies) working under general supervision until fully competent;
- (c) developing Package Products competency (set out in Schedule D.2—Core Competencies) working under general supervision until fully competent; or
- (d) developing Laboratory competency (set out in Schedule D.2—Core Competencies) working under general supervision until fully competent.

#### **D.1.4 Level 4**

A Level 4 employee is an employee who has attained the Basic competency and is:

- (a) competent in two elements of the Production competency (set out in Schedule D.2—Core Competencies);
- (b) competent in all elements of the Yard competency (set out in Schedule D.2—Core Competencies); or
- (c) developing the Control Room Operation competency (set out in Schedule D.2—Core Competencies) and operating a plant producing up to 0.5 million tonnes of product per year working under direct supervision until competent to work under general supervision.

#### **D.1.5 Level 5**

A Level 5 employee is an employee who has attained the Basic competency and is:

- (a) competent in three to four elements of the Production competency (set out in Schedule D.2—Core Competencies);

- (b) competent in all elements of the Bulk Despatch competency (set out in Schedule D.2—Core Competencies);
- (c) competent in all elements of the Packaged Products competency (set out in Schedule D.2—Core Competencies);
- (d) competent in all elements of the Laboratory competency (set out in Schedule D.2—Core Competencies);
- (e) competent in the Control Room Operation competency (set out in Schedule D.2—Core Competencies) and operating a plant producing up to 0.5 million tonnes of product per annum working under general supervision until fully competent; or
- (f) developing the Control Room Operation competency (set out in Schedule D.2—Core Competencies) and operating a plant producing in excess of 0.5 million tonnes of product per year working under direct supervision until competent to work under general supervision.

#### **D.1.6 Level 6**

A Level 6 employee is an employee who has attained the Basic competency and is:

- (a) competent in the Control Room Operation competency (set out in Schedule D.2—Core Competencies) and operating a plant producing in excess of 0.5 million tonnes of product per annum working under general supervision until fully competent;
- (b) fully competent in Control Room Operation (set out in Schedule D.2—Core Competencies) and operating a plant producing up to 0.5 million tonnes of product per annum; or
- (c) competent in all elements of the Production competency (set out in Schedule D.2—Core Competencies).

#### **D.1.7 Level 7**

A Level 7 employee is an employee who has attained the Basic competency and is fully competent in Control Room Operation (set out in Schedule D.2—Core Competencies) and operating a plant producing in excess of 0.5 million tonnes of product per year.

### **D.2 Core competencies—cement and lime industry**

#### **D.2.1 Training**

##### **(a) Structured Training and the Australian Quality Training Framework**

All training will be structured competency based training (and assessment) and if requested by the employee or required by the employer the employee will complete structured training and assessment as available under the Australian Quality Training Framework, in accordance with nationally registered training packages (aligned to the relevant competencies in clause D.2.2 below) as approved by the Industry Skills Council, currently “Skills DMC”.

This may require one or more packages to be completed for each competency or element of a competency.

**(b) Training Programs**

An employer will prepare a training program for an employee in consultation with them that is consistent with the operational needs of the employer's business setting out:

- (i) any competencies (or elements within competencies), in addition to those already held, to be acquired;
- (ii) the process by which the employee will acquire them (RPL, on-the-job training, off-the-job training, mentor program, etc.); and
- (iii) an indicative timetable for acquiring them.

**D.2.2 Competencies**

Employees must perform all activities incidental to the competencies/elements acquired.

**(a) Production**

Elements:

- (i) hot end clinker burning and storage;
- (ii) cold end kiln feed preparation;
- (iii) raw materials and fuels handling;
- (iv) milling and grinding of product; and
- (v) operation of mobile equipment associated with production.

**(b) Yard**

Elements:

- (i) general labouring; and
- (ii) operation of mobile plant including but not limited to cleaning equipment, road sweepers and trucks.

**(c) Bulk Despatch**

Element:

loading out of product by road and/or rail.

**(d) Package Products**

Elements:

- (i) operation of all bagging equipment;
- (ii) warehousing; and
- (iii) despatch of bagged product.

**(e) Laboratory**

Elements:

- (i) physical testing of product;
- (ii) quality control; and
- (iii) sample collection and preparation.

Activities to be undertaken to any relevant Australian Standard as required by the employer.

**(f) Control Room Operation**

Element:

operation of a plant and process control room through electronic medium to predetermined standards.

**(g) Basic**

Elements:

- (i) working safely and follow occupational health and safety policies and procedures;
- (ii) conducting local risk control;
- (iii) communicate in the workplace;
- (iv) contribute to quality work outcomes; and
- (v) operate light vehicles.

## **Schedule E—Quarrying Industry—Classifications and Core Competencies**

### **E.1 Quarrying industry—classification descriptions**

#### **E.1.1 Grade 1**

A Grade 1 employee is an employee who is undertaking training to become competent in the Basic Quarry competency.

#### **E.1.2 Grade 2**

A Grade 2 employee:

- (a) is an employee who is competent in the Basic Quarry competency;
- (b) performs general labouring duties; and
- (c) is undertaking training to be assessed as competent in one or more core competencies in accordance with clause E.3.

#### **E.1.3 Grade 3**

A Grade 3 employee:

- (a) is an employee who is competent in the Basic Quarry competency;
- (b) performs general labouring duties;
- (c) is competent in one core competency and performs it as required by the employer; and
- (d) is undertaking training to be assessed as competent in one or more core competencies in accordance with clause E.3.

#### **E.1.4 Grade 4**

A Grade 4 employee:

- (a) is an employee who is competent in the Basic Quarry competency;
- (b) performs general labouring duties;
- (c) is competent in two core competencies and performs them as required by the employer; and
- (d) is undertaking training to be assessed as competent in one or more core competencies in accordance with clause E.3.

#### **E.1.5 Grade 5**

A Grade 5 employee:

- (a) is an employee who is competent in the Basic Quarry competency;
- (b) performs general labouring duties;
- (c) is competent in three core competencies and performs them as required by the employer; and

- (d) is undertaking training to be assessed as competent in one or more core competencies in accordance with clause E.3.

### **E.1.6 Grade 6**

A Grade 6 employee:

- (a) is an employee who is competent in the Basic Quarry competency;
- (b) performs general labouring duties; and
- (c) is competent in at least five core competencies and performs them as required by the employer.

## **E.2 Quarrying industry—core competencies**

### **E.2.1 Training**

#### **(a) Structured Training and the AQTF**

All training will be structured competency based training (and assessment) and if requested by the employee or required by the employer the employee will complete structured training and assessment under the Australian Quality Training Framework, in accordance with nationally recognised training packages (aligned to the relevant core competencies in clause E.3 below) as approved by the Industry Skills Council, currently “SkillsDMC”.

This may require one or more packages to be completed for each core competency or element of a core competency.

#### **(b) Training Programs**

An employer will prepare a training program for an employee in consultation with them that is consistent with their operational needs setting out:

- (i) any core competencies, in addition to those already held, to be acquired;
- (ii) the process by which the employee will acquire them (Skills Recognition (formerly RCC or RPL), on the job training, off the job training, mentor program, etc); and
- (iii) an indicative timetable for acquiring them.

## **E.3 Core Competencies**

The core competencies referred to in Schedule E and clause E.2, clause E.2.1 are set out in clauses E.3.1 to E.3.13 inclusive. Excluding the core competency set out in clause E.3.1, if an operation does not perform the work associated with a particular core competency it will not be used for the purposes of clause Schedule E or clause E.2.1.

### **E.3.1 Basic Quarry Competency**

An employee must be competent in the following elements:

- (a) Work safely & follow OHS policies and procedures;
- (b) Conduct local risk control;

- (c) Communicate in the workplace;
- (d) Contribute to quality work outcomes; and
- (e) Operate light vehicles.

### **E.3.2 Crushing Plant Operation**

An employee must be competent in the following elements:

- (a) Conduct crushing and screening plant operations;
- (b) Operate programmable logic control systems;
- (c) Operate medium vehicles; and
- (d) Conduct minor repairs and maintenance.

### **E.3.3 Front End Loader Operation**

An employee must be competent in the following elements:

- (a) Conduct face loader operations;
- (b) Conduct sales loader operations;
- (c) Service and handover front end loaders;
- (d) Operate medium vehicles;
- (e) Stockpile, load and dispatch product; and
- (f) Service quarry plant, vehicles and equipment.

### **E.3.4 Excavator Operation**

An employee must be competent in the following elements:

- (a) Conduct hydraulic shovel/excavators operations;
- (b) Service and handover of hydraulic shovel/excavators;
- (c) Operate medium vehicles; and
- (d) Service quarry plant, vehicles and equipment.

### **E.3.5 Haul Truck Operation (bin truck, water truck, off road haul truck)**

An employee must be competent in the following elements:

- (a) Conduct haul truck operations;
- (b) Conduct bulk water truck operations;
- (c) Service and handover of haul trucks;
- (d) Operate medium vehicles; and
- (e) Service quarry plant, vehicles and equipment.



**E.3.6 Weighbridge Operation**

An employee must be competent in the following elements:

- (a) Conduct weighbridge operations; and
- (b) Conduct minor repairs and maintenance.

**E.3.7 Laboratory Operation**

An employee must be competent in the following elements:

- (a) Conduct Site Laboratory operations;
- (b) Conduct sampling operations; and
- (c) Conduct minor repairs and maintenance.

**E.3.8 Wash Plant Operation**

An employee must be competent in the following elements:

- (a) Conduct sand wash plant operations;
- (b) Operate programmable logic control systems;
- (c) Operate medium vehicles; and
- (d) Conduct minor repairs and maintenance.

**E.3.9 Drilling**

An employee must be competent in the following elements:

- (a) Conduct drilling operations;
- (b) Operate medium vehicles; and
- (c) Conduct minor repairs and maintenance.

**E.3.10 Shotfiring**

An employee must be competent in the following elements:

- (a) Conduct shotfiring operations;
- (b) Conduct blast survey;
- (c) Operate medium vehicles; and
- (d) Conduct minor repairs and maintenance.

**E.3.11 Quarry Development**

An employee must be competent in the following elements:

- (a) Conduct dozer operations;
- (b) Conduct scraper operations;
- (c) Conduct grader operations;

- (d) Operate medium vehicles; and
- (e) Service quarry plant, vehicles and equipment.

### **E.3.12 Miscellaneous Support Equipment**

An employee must be competent in the following elements:

- (a) Conduct non slewing crane operations;
- (b) Conduct dogging operations;
- (c) Conduct gantry crane operations; and
- (d) Conduct minor repairs and maintenance.

### **E.3.13 Dredge Operation**

An employee must be competent in the following elements:

- (a) Conduct dredge operations; and
- (b) Service quarry plant, vehicles and equipment.

DRAFT

## Schedule F—Supported Wage System

Rates updated as a result of AWR 2016

**F.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.

**F.2** In this schedule:

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

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

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

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

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

**SWS wage assessment agreement** means the document in the form required by the Department of Social Services that records the employee's productive capacity and agreed wage rate

### **F.3 Eligibility criteria**

**F.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.

**F.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.

### **F.4 Supported wage rates**

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

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

**F.4.2** Provided that the minimum amount payable must be not less than \$82 per week.

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

## **F.5 Assessment of capacity**

**F.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.

**F.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.

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

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

**F.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.

## **F.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.

## **F.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.

## **F.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.

## **F.10 Trial period**

- F.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.
- F.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.
- F.10.3** The minimum amount payable to the employee during the trial period must be no less than \$82 per week.
- F.10.4** Work trials should include induction or training as appropriate to the job being trialled.
- F.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 F.5.

## Schedule G—National Training Wage

Schedule G replaced in accordance with para [67] [\[2014\] FWCFB 9412](#); rates updated as a result of AWR 2016

This schedule is being reviewed in matter [AM2016/17](#)

### G.1 Title

This is the *National Training Wage Schedule*.

### G.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

### **G.3 Coverage**

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

**G.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 G.7 to this schedule.

**G.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.

**G.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.

**G.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.

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

### **G.4 Types of Traineeship**

The following types of traineeship are available under this schedule:

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

**G.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.

## **G.5 Minimum Wages**

### **G.5.1 Minimum wages for full-time traineeships**

#### **(a) Wage Level A**

Subject to clause G.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 G.7.1 are:

	<b>Highest year of schooling completed</b>		
	<b>Year 10</b>	<b>Year 11</b>	<b>Year 12</b>
	<b>per week</b>	<b>per week</b>	<b>per week</b>
	<b>\$</b>	<b>\$</b>	<b>\$</b>
School leaver	302.20	332.80	396.50
Plus 1 year out of school	332.80	396.50	461.40
Plus 2 years out of school	396.50	461.40	537.00
Plus 3 years out of school	461.40	537.00	614.80
Plus 4 years out of school	537.00	614.80	
Plus 5 or more years out of school	614.80		

#### **(b) Wage Level B**

Subject to clause G.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 G.7.2 are:

	<b>Highest year of schooling completed</b>		
	<b>Year 10</b>	<b>Year 11</b>	<b>Year 12</b>
	<b>per week</b>	<b>Per week</b>	<b>per week</b>
	<b>\$</b>	<b>\$</b>	<b>\$</b>
School leaver	302.20	332.80	385.80
Plus 1 year out of school	332.80	385.80	443.80
Plus 2 years out of school	385.80	443.80	520.40
Plus 3 years out of school	443.80	520.40	593.60
Plus 4 years out of school	520.40	593.60	
Plus 5 or more years out of school	593.60		



**(c) Wage Level C**

Subject to clause G.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 G.7.3 are:

	Highest year of schooling completed		
	Year 10	Year 11	Year 12
	per week	per week	per week
	\$	\$	\$
School leaver	302.20	332.80	385.80
Plus 1 year out of school	332.80	385.80	434.30
Plus 2 years out of school	385.80	434.30	485.20
Plus 3 years out of school	434.30	485.20	540.60
Plus 4 years out of school	485.20	540.60	
Plus 5 or more years out of school	540.60		

**(d) AQF Certificate Level IV traineeships**

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

Wage level	First year of traineeship	Second and subsequent years of traineeship
	per week	per week
	\$	\$
Wage Level A	638.50	663.20
Wage Level B	616.00	639.70
Wage Level C	560.60	581.80

**G.5.2 Minimum wages for part-time traineeships**

**(a) Wage Level A**

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

	<b>Highest year of schooling completed</b>		
	<b>Year 10</b>	<b>Year 11</b>	<b>Year 12</b>
	<b>per hour</b>	<b>per hour</b>	<b>per hour</b>
	<b>\$</b>	<b>\$</b>	<b>\$</b>
School leaver	9.94	10.96	13.05
Plus 1 year out of school	10.96	13.05	15.19
Plus 2 years out of school	13.05	15.19	17.66
Plus 3 years out of school	15.19	17.66	20.21
Plus 4 years out of school	17.66	20.21	
Plus 5 or more years out of school	20.21		

**(b) Wage Level B**

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

	<b>Highest year of schooling completed</b>		
	<b>Year 10</b>	<b>Year 11</b>	<b>Year 12</b>
	<b>per hour</b>	<b>per hour</b>	<b>per hour</b>
	<b>\$</b>	<b>\$</b>	<b>\$</b>
School leaver	9.94	10.96	12.70
Plus 1 year out of school	10.96	12.70	14.60
Plus 2 years out of school	12.70	14.60	17.13
Plus 3 years out of school	14.60	17.13	19.54
Plus 4 years out of school	17.13	19.54	
Plus 5 or more years out of school	19.54		

**(c) Wage Level C**

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

	<b>Highest year of schooling completed</b>		
	<b>Year 10</b>	<b>Year 11</b>	<b>Year 12</b>
	<b>per hour</b>	<b>per hour</b>	<b>per hour</b>
	<b>\$</b>	<b>\$</b>	<b>\$</b>
School leaver	9.94	10.96	12.70
Plus 1 year out of school	10.96	12.70	14.28
Plus 2 years out of school	12.70	14.28	15.95
Plus 3 years out of school	14.28	15.95	17.78
Plus 4 years out of school	15.95	17.78	

	Highest year of schooling completed		
	Year 10	Year 11	Year 12
	per hour	per hour	per hour
	\$	\$	\$
Plus 5 or more years out of school	17.78		

**(d) School-based traineeships**

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

Year of schooling	
Year 11 or lower	Year 12
per hour	per hour
\$	\$
9.94	10.96

**(e) AQF Certificate Level IV traineeships**

- (i) Subject to clauses G.5.2(f) and G.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 G.5.2(f) and G.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 years of traineeship
	per hour	per hour
	\$	\$
Wage Level A	21.00	21.82
Wage Level B	20.24	21.03
Wage Level C	18.44	19.15

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

### **G.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.

### **G.5.4 Default wage rate**

The minimum wage for a trainee undertaking an AQF Certificate Level I–III traineeship whose training package and AQF certificate level are not allocated to a wage level by clause G.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.

## **G.6 Employment conditions**

**G.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.

**G.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.

**G.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 G.5.2(f)(ii) and not by this clause.

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

## G.7 Allocation of Traineeships to Wage Levels

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

### G.7.1 Wage Level A

Training package	AQF certificate level
Aeroskills	II
Aviation	I, II, III
Beauty	III
Business Services	I, II, III
Chemical, Hydrocarbons and Refining	I, II, III
Civil Construction	III
Coal Training Package	II, III
Community Services	II, III
Construction, Plumbing and Services Integrated Framework	I, II, III
Correctional Services	II, III
Drilling	II, III
Electricity Supply Industry—Generation Sector	II, III (III in Western Australia only)
Electricity Supply Industry—Transmission, Distribution and Rail Sector	II
Electrotechnology	I, II, III (III in Western Australia only)
Financial Services	I, II, III
Floristry	III
Food Processing Industry	III
Gas Industry	III
Information and Communications Technology	I, II, III
Laboratory Operations	II, III
Local Government (other than Operational Works Cert I and II)	I, II, III
Manufactured Mineral Products	III
Manufacturing	I, II, III
Maritime	I, II, III
Metal and Engineering (Technical)	II, III
Metalliferous Mining	II, III
Museum, Library and Library/Information Services	II, III
Plastics, Rubber and Cablemaking	III
Public Safety	III
Public Sector	II, III

<b>Training package</b>	<b>AQF certificate level</b>
Pulp and Paper Manufacturing Industries	III
Retail Services (including wholesale and Community pharmacy)	III
Telecommunications	II, III
Textiles, Clothing and Footwear	III
Tourism, Hospitality and Events	I, II, III
Training and Assessment	III
Transport and Distribution	III
Water Industry (Utilities)	III

### G.7.2 Wage Level B

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

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

**G.7.3 Wage Level C**

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

## Schedule H—2016 Part-day public holidays

This provision is being reviewed in [AM2014/301](#)

Schedule H varied by [PR580863](#)

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

- H.1** Where a part-day public holiday is declared or prescribed between 7.00 pm and midnight on Christmas Eve (24 December 2016) or New Year's Eve (31 December 2016) 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 H.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 H.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.



- (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.

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

DRAFT

## Schedule I—Definitions

In this award, unless the contrary intention appears:

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

Definition of ‘all purposes’ amended in accordance with para [35] and [91] [\[2015\] FWCFCB 4658](#)

**all purposes** means the payment will be included in the rate of pay of an employee who is entitled to the allowance, when calculating any penalties, loadings or payment while they are on annual leave

**cement and lime industry** means work in or in connection with or incidental to the manufacture and/or handling of cement, clinker, flyash, lime and hydrated lime within production establishments, or work in or in connection with or incidental to the distribution of cement, clinker, flyash, lime and hydrated lime out of production establishments, or work in or in connection with or incidental to the receipt of and/or the distribution of cement, clinker, flyash, lime or hydrated lime into or from bulk silos

**continuous shiftwork** means work carried on over consecutive shifts of employees throughout the 24 hours of at least six consecutive days without interruption except during breakdowns or meal breaks or due to unavoidable causes beyond the control of the employer

**day worker** means an employee other than a shiftworker

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

**employee in charge of processing plant** means:

- (a) when two or more employees are employed at the processing plant at one time, the employee who is appointed by the; or
- (b) an employee appointed by the employer; or
- (c) when the employee is the only person of the employee’s class appointed by the employer on the processing plant, the employee who does the general repair work of the plant in addition to the work of operating, but not when the employee merely assisting a fitter or engineer to do the work

**employee** means national system employee within the meaning of the Act

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

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

**leading hand** means an employee who is required to supervise, direct or to be in charge of another employee or employees

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

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

Definition of ‘ordinary hourly rate’ amended in accordance with para [35] and [91] of [\[2015\] FWCFB 4658](#)

**ordinary hourly rate** means the hourly rate for an employee’s classification specified in clause 10, inclusive of the industry allowance. Where an employee is entitled to an additional all purpose allowance, this allowance forms part of the employee’s ordinary hourly rate.

**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

**quarrying industry** means:

(a) operations in lime and/or stone quarries, sand pits or gravel pits, other than dimension stone, brick, shale or slate quarries; and

(b) operations (other than in a quarry) where the plant and equipment is principally used to crush, screen and/or blend materials such as stone, brick, concrete, masonry, asphalt etc. to produce recycled material, including aggregates, road bases, gravels, fine sands and/or coarse sands and/or a blend of these.

**shiftwork** means work on any afternoon or night shift

**standard rate** means:

**cement and lime industry** - the minimum weekly rate for Level 5 in clause 10

**quarrying industry** - the minimum weekly rate for Grade 4 in clause 10

If these awards are to be merged, it may be appropriate to determine one standard rate upon which to calculate wage related allowances.

## Schedule J—Agreement to Take Annual Leave in Advance

Schedule J—Agreement to Take Annual Leave in Advance inserted in accordance with [PR582980](#) and [PR583059](#).

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 K—Agreement to Cash Out Annual Leave

Schedule K—Agreement to Cash Out Annual Leave inserted in accordance with [PR582980](#) and [PR583059](#).

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\_\_\_\_

### Schedule L—Agreement for time off instead of payment for overtime

Schedule L— Agreement for time off instead of payment for overtime inserted in accordance with [PR584143](#) and [PR584084](#).

Name of employee: \_\_\_\_\_

Name of employer: \_\_\_\_\_

**The employer and employee agree that the employee may take time off instead of being paid for the following amount of overtime that has been worked by the employee:**

Date and time overtime started: \_\_\_/\_\_\_/20\_\_\_ am/pm

Date and time overtime ended: \_\_\_/\_\_\_/20\_\_\_ am/pm

Amount of overtime worked: \_\_\_\_\_ hours and \_\_\_\_\_ minutes

**The employer and employee further agree that, if requested by the employee at any time, the employer must pay the employee for overtime covered by this agreement but not taken as time off. Payment must be made at the overtime rate applying to the overtime when worked and must be made in the next pay period following the request.**

Signature of employee: \_\_\_\_\_

Date signed: \_\_\_/\_\_\_/20\_\_\_

Name of employer representative: \_\_\_\_\_

Signature of employer representative: \_\_\_\_\_

Date signed: \_\_\_/\_\_\_/20\_\_\_