

Australian Industry Group

Application to vary the *Textile, Clothing,  
Footwear and Associated Industries  
Award 2020*

**Submission**  
(AM2023/25)

7 February 2024

**Ai**  
GROUP

# **AM2023/25 APPLICATION TO VARY THE *TEXTILE, CLOTHING, FOOTWEAR AND ASSOCIATED INDUSTRIES AWARD 2020***

## **1. INTRODUCTION**

1. On 20 October 2023, the Australian Industry Group (**Ai Group**) filed an application in the Fair Work Commission (**Commission**) seeking variations to the *Textile, Clothing, Footwear and Associated Industries Award 2020* (**TCF Award** or **Award**). The application is advanced primarily pursuant to s.160(2)(c) of the *Fair Work Act 2009* (**Act**) and, in the alternate, pursuant to s.158(1) of the Act. This submission is filed in support of that application.
2. The application concerns the shiftwork penalties prescribed by clause 29.3 of the Award. In particular, we seek variations to clauses 29.3(a), 29.3(b), C.3.1 and C.5.1 (**Impugned Clauses**) regarding the manner in which the relevant shiftwork penalties are to be calculated and paid.
3. The specific terms of the variations sought are set out in the draft determination attached to this submission at **Attachment A**. If made, they would clearly provide that the shift penalties are to be calculated on the 'ordinary hourly rate' applicable to the employee's classification level, for each hour worked on an afternoon shift, night shift or permanent night shift; as defined by clauses 29.1(b) – 29.1(d).
4. The proposed variations are sought on the following bases:
  - (a) The Impugned Clauses are ambiguous and / or uncertain, as contemplated by s.160 of the Act. The Commission should exercise its direction to vary the Award to address the ambiguity and / or uncertainty, by adopting the variations we have proposed. The variations and provisions proposed would ensure that the Award achieves the modern awards objective (**MAO**). The variations should be made retrospectively, effective 1 February 2021.
  - (b) In the alternate, if the Commission finds that the Impugned Clauses are not ambiguous or uncertain; they contain errors, as contemplated by s.160 of the Act. The Commission should exercise its direction to vary the Award to remove the errors, by adopting the variations we have proposed. The

variations and provisions proposed would ensure that the Award achieves the MAO. The variations should be made retrospectively, effective 1 February 2021.

- (c) In the further alternate, if the Commission finds that the Impugned Clauses are not ambiguous, uncertain or attended by error; it should vary the Award pursuant to s.157 of the Act on the basis that the Award, in its current form, does not achieve the modern awards objective by virtue of the Impugned Clauses and the variations proposed would ensure that it does so.
5. Our submissions are accompanied by a witness statement from Rhiannon Carr, the Group Manager, People and Culture of Blundstone Australia Pty Ltd; an employer covered by the TCF Award.

## 2. THE IMPUGNED CLAUSES

6. Clause 29 of the Award relates to shiftwork. It does not apply in the textile industry, as defined by clause 4.2(f); instead, clauses 30 and 31 apply therein. Clause 29 rather applies to various other sectors covered by the Award, including the clothing<sup>1</sup> and footwear<sup>2</sup> industries.
7. Clause 29.3 prescribes the shift penalties payable for work performed on ‘*afternoon shifts*’<sup>3</sup>, ‘*night shifts*’<sup>4</sup> and ‘*permanent night shifts*’<sup>5</sup>. It is in the following terms (emphasis added):

### 29.3 Payment for shiftwork

- (a) A shiftworker while on afternoon or night shift will be paid an additional 15% of the weekly award rate per shift for the classification concerned.
- (b) A shiftworker while on permanent night shift will be paid an additional 30% of the weekly award rate per shift for the classification concerned.

NOTE: See Schedule C —Summary of Hourly Rates of Pay for a summary of hourly rates of pay including overtime and penalty rates.

8. For the purposes of these proceedings, a key issue to arise from the aforementioned provisions is the *frequency* with which the above penalties apply. More specifically, do they apply per *week* or per *shift*?
9. The Award expressly contemplates that an employee may rotate between the different shift types. Indeed, clause 29.2(c) states that ‘*[a]s far as practicable, employees will work shifts in rotation*’. An employee is entitled to a shift penalty prescribed by the above clause only while they are ‘*on*’ the relevant shift type.

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<sup>1</sup> Defined by clause 4.2(d) of the Award.

<sup>2</sup> Defined by clause 4.2(e) of the Award.

<sup>3</sup> Defined by clause 29.1(b) of the Award.

<sup>4</sup> Defined by clause 29.1(c) of the Award.

<sup>5</sup> Defined by clause 29.1(d) of the Award.

10. Clause 29.3 refers to Schedule C, which provides a '*summary of hourly rates of pay*'. Clause C.3.1 summarises the hourly rates payable to full-time and part-time shiftworkers to whom clause 29.3 applies. The third and fourth columns contained therein, coupled with footnote 2, indicate that pursuant to clause 29.3, an employee is entitled to 15% or 30% of the '*ordinary weekly rate*' for each afternoon, night or permanent night shift, as applicable. The term '*ordinary weekly rate*' is not defined or used elsewhere in the body of the instrument. The rates prescribed by the relevant aspect of clause C.3.1 range from \$129 - \$317. They appear to have been calculated using the '*minimum weekly rates*' prescribed by clause 19.1 of the Award.
11. Similarly, clause C.5.1 relates to casual employees to whom clause 29.3 applies. The third and fourth columns, when read with footnote 2, again indicate that an employee is entitled to 15% or 30% of the '*ordinary weekly rate*' for each afternoon, night or permanent night shift, as applicable. The rates are the same as those identified at clause C.3.1.
12. For the reasons set out in sections 5 - 7 of this submission; Ai Group contends that the Impugned Clauses are ambiguous and / or uncertain, or they contain errors, in relation to the quantum of the relevant shift penalties, and the frequency with which they apply.

### 3. THE LEGISLATIVE FRAMEWORK

13. Ai Group's application is made pursuant to s.160(2)(b) of the Act. Section 160 is in the following terms:

**160 Variation of modern award to remove ambiguity or uncertainty or correct error**

- (1) The FWC may make a determination varying a modern award to remove an ambiguity or uncertainty or to correct an error.
- (2) The FWC may make the determination:
  - (a) on its own initiative; or
  - (b) on application by an employer, employee, organisation or outworker entity that is covered by the modern award; or
  - (c) on application by an organisation that is entitled to represent the industrial interests of one or more employers or employees that are covered by the modern award; or
  - (d) if the modern award includes outworker terms--on application by an organisation that is entitled to represent the industrial interests of one or more outworkers to whom the outworker terms relate.

14. The principles associated with the interpretation and application of s.160 of the Act were recently summarised by a Full Bench of the Commission in the context of a review of superannuation provisions in modern awards, as follows: (emphasis added)

**[51]** The principles applicable to the interpretation and application of s 160 are well established. It is first necessary to determine if the award provisions under consideration are ambiguous, uncertain or attended by error. To find ambiguity in respect of an award provision, there must usually be rival contentions as to the proper meaning of the provision which are reasonably arguable. The words 'ambiguous' and 'uncertain' are not synonyms, and uncertainty may be established even if the provision at issue has a clear meaning and is not ambiguous, since uncertainty may arise from the application of unambiguous terms to a given set of circumstances or if the provision is doubtful, vague or indistinct in its expression. Error will be demonstrated if some sort of mistake is shown, in that a provision of the award was made in a form which did not reflect the tribunal's intention. It is only if ambiguity, uncertainty or error is found that a variation to remedy this may be considered.

[52] The Commission has a discretion as to the terms of the variation to be made, subject to the variation determined having the purpose and effect of removing the identified ambiguity or uncertainty or correcting the identified error.<sup>6</sup>

15. Deputy President Saunders also summarised the various principles in the context of an application made to vary the *Road Transport and Distribution Award 2020 (RTD Award)* pursuant to s.160 of the Act, as follows: (emphasis added)

[10] The Commission may exercise the power of variation granted by s 160 only for the purpose of removing “an ambiguity or uncertainty”. The existence of an ambiguity or uncertainty is a necessary statutory prerequisite to any variation being made. If there is such an ambiguity or uncertainty, the Commission has a discretionary power vested by s 160 which it may exercise to remove the ambiguity or uncertainty.

[11] Ambiguity exists when a provision in an award is capable of more than one meaning. The ambiguity may be apparent on the face of the award or may become apparent only when extrinsic evidence is adduced.

[12] The terms “ambiguity” and “uncertainty” are not synonyms. The ordinary meaning of “ambiguity” is “1. doubtfulness or uncertainty of meaning, 2. an equivocal or ambiguous word or expression”. The ordinary meaning of “uncertainty” is “1. not definitely or surely known; doubtful. 2. not confident, assured or decided. 3. not fixed or determined. 4. doubtful; vague; distinct”. Uncertainty may arise from the application of an unambiguous term to a particular set of circumstances. The distinction between patent ambiguity (linguistic ambiguity) and latent ambiguity (ambiguity in application) provides an illustration by analogy.

[13] Determining whether a provision in an award is ambiguous or uncertain is distinct from the task of identifying the true meaning of the provision. When an instrument such as an award is properly construed, there is only one correct meaning, notwithstanding that there may be ambiguity in the provision. It follows that it is not necessary for the Commission to interpret the award in order to reach a conclusion concerning the presence of ambiguity or uncertainty.

[14] If ambiguity or uncertainty is found in an award, the Commission may have regard to a range of factors in determining whether to exercise its discretion to vary the award in order to remove the ambiguity or uncertainty. There is no need for the Commission to feel constrained in the matters to which it may have regard in the exercise of its discretionary power under s 160 of the Act by the principles developed for the interpretation of awards. For example, the Commission may have regard to “industrial principles and general industrial merit considerations”. Other relevant matters may include the actual intention of the maker of the instrument (or of the interested parties) and the history of the provision as part of the “equity, good conscience and the merits” of the matter. This may be contrasted with the process of construing an award where the actual subjective intent of the makers of the instrument is irrelevant. That is because

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<sup>6</sup> *Variation on the Commission’s own motion – Modern award superannuation clause review* [2023] FWCFB 264 at [51] – [52].

the process of interpretation is directed to the proper construction of what the instrument says, not what it was meant to say.<sup>7</sup>

16. In the submissions that follow, we set out various other authorities that are also relevant to the proper interpretation of s.160 of the Act.

## Ambiguity

17. In the often-cited decision of *Re Tenix Defence Systems Pty Limited Certified Agreement 2001-2004*<sup>8</sup> (**Tenix**) a Full Bench of the Australian Industrial Relations Commission (**AIRC**) considered the application of s.170MD(6) of the *Workplace Relations Act 1996*, which relevantly provided as follows:

The Commission may, on application by any person bound by a certified agreement, by order vary a certified agreement:

- (a) for the purpose of removing the ambiguity or uncertainty.

18. The AIRC made the following observations about how s.170MD(6) was to be applied: (emphasis added)

**[28]** Before the Commission exercises its discretion to vary an agreement pursuant to s.170MD(6)(a) it must first identify an ambiguity or uncertainty. It may then exercise the discretion to remove that ambiguity or uncertainty by varying the agreement.

**[29]** The first part of the process - identifying an ambiguity or uncertainty - involves an objective assessment of the words used in the provision under examination. The words used are construed having regard to their context, including where appropriate the relevant parts of a related award. As Munro J observed in *Re Linfox - CFMEU (CSR Timber) Enterprise Agreement 1997*:

*“The identification of whether or not a provision in an instrument can be said to contain an ‘ambiguity’ requires a judgment to be made of whether, on its proper construction, the wording of the relevant provision is susceptible to more than one meaning. Essentially the task requires that the words used in the provision be construed in their context, including where appropriate the relevant parts of the ‘parent’ award with which a complimentary provision is to be read.”*

**[30]** We agree that context is important. Section 170MD(6)(a) is not confined to the identification of a word or words of a clause which give rise to an ambiguity or uncertainty. A combination of clauses may have that effect.

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<sup>7</sup> *Application by Toll Transport Pty Ltd t/a Toll Transport* [2022] FWC 3346 at [10] – [14].

<sup>8</sup> *Re Tenix Defence Systems Pty Limited Certified Agreement 2001-2004* (PR917548).



[31] The Commission will generally err on the side of finding an ambiguity or uncertainty where there are rival contentions advanced and an arguable case is made out for more than one contention.

[32] Once an ambiguity or uncertainty has been identified it is a matter of discretion as to whether or not the agreement should be varied to remove the ambiguity or uncertainty. ...

[33] We agree with Tenix that the first step in dealing with a s.170MD(6)(a) application - the identification of an ambiguity or uncertainty - requires the determination of a “*jurisdictional fact*”. In *Corporation of the City of Enfield v Developmental Assessment Commission* the joint judgment of Gleeson CJ, Gaudron, Gummow, Kirby and Hayne JJ described the term “*jurisdictional fact*” in these terms:

*“The term ‘jurisdictional fact’ (which may be a complex of elements) is often used to identify that criterion, satisfaction of which enlivens the power of the decision-maker to exercise a discretion.”*

[34] Similarly in *Re: CFMEU - Termination of Bargaining Periods*, Lee and Madgwick JJ said:

*“. . . the question presents as one of whether the Commission may have erred as to a ‘jurisdictional fact’, that is, the existence or non-existence of a state of affairs which was a statutory precondition to the Commission acting. . .”*

[35] In the context of s.170MD(6)(a) the Commission must *first* identify the existence of an ambiguity or uncertainty *before* exercising its discretion to vary the agreement. We agree with the Full Bench in *Re: CFMEU Appeal* which described the existence of an ambiguity or uncertainty as “*a necessary statutory prerequisite to any variation being made.*”<sup>9</sup>

19. Although the approach adopted in *Tenix* concerned a different statutory framework and an instrument of a different nature to modern awards, it has been adopted by the Commission as the appropriate approach to be applied when considering whether an award should be varied pursuant to s.160 of the Act on a number of occasions.
20. For instance, in *Re Australian Nursing Federation and others*<sup>10</sup>, a Full Bench of Fair Work Australia (FWA) adopted the approach in *Tenix*<sup>11</sup> when considering an application made by Ai Group seeking a variation to the *Manufacturing and Associated Industries and Occupations Award 2010 (Manufacturing Award)* pursuant to s.160 of the Act.

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<sup>9</sup> *Re Tenix Defence Systems Pty Limited Certified Agreement 2001-2004* (PR917548) at [28] – [35].

<sup>10</sup> *Re Australian Nursing Federation and others* [2010] FWAFB 9290.

<sup>11</sup> *Re Australian Nursing Federation and others* [2010] FWAFB 9290 at [26].

21. The Full Bench observed that there were ‘*rival contentions between [Ai Group] and others, including the FWO, about the import of*’<sup>12</sup> the relevant provision of the Manufacturing Award and determined that ‘*each of the contentions [was] arguable*’<sup>13</sup>. The Full Bench concluded that:

**[30]** Given the rival contentions about the import of clause 44.2 and our view that an arguable case has been made out for more than one contention, we find the current clause 44.2 of the modern Manufacturing Award is a source of ambiguity or uncertainty. We turn then to consider exercising our discretion to remove the ambiguity or uncertainty.<sup>14</sup>

22. In a subsequent decision<sup>15</sup> of another Full Bench of FWA when considering an appeal of a decision in which FWA had declined to grant a variation to the *Building and Construction General On-Site Award 2010* pursuant to s.160 of the Act, it again relied upon *Tenix*:

**[16]** In particular, before the tribunal can exercise its discretion to vary an award it must first identify an ambiguity or uncertainty. Identifying an ambiguity or uncertainty ‘*involves an objective assessment of the words used in the provision under examination. The words used are construed having regard to their context, including where appropriate the relevant parts of a related award. As Munro J observed in Re - in Linfox - CFMEU (CSR Timber) Enterprise Agreement 1997:*

“The identification of whether or not a provision in an instrument can be said to contain an ‘ambiguity’ requires a judgement to be made of whether, on its proper construction, the wording of the relevant provision is susceptible to more than one meaning. Essentially the task requires that the words used in the provision be construed in their context, including where appropriate the relevant parts of the ‘parent’ award with which a complementary provision is to be read”.<sup>16</sup>

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<sup>12</sup> *Re Australian Nursing Federation and others* [2010] FWAFB 9290 at [27].

<sup>13</sup> *Re Australian Nursing Federation and others* [2010] FWAFB 9290 at [27].

<sup>14</sup> *Re Australian Nursing Federation and others* [2010] FWAFB 9290 at [30].

<sup>15</sup> *Master Builders Australia Limited; Housing Industry Association Ltd v Construction, Forestry, Mining and Energy Union; Communications, Electrical, Electronic, Energy, Information, Postal, Plumbing and Allied Services Union of Australia; The Australian Workers’ Union; “Automotive, Food, Metals, Engineering, Printing and Kindred Industries Union” known as the Australian Manufacturing Workers’ Union (AMWU)* [2012] FWAFB 3210.

<sup>16</sup> *Master Builders Australia Limited; Housing Industry Association Ltd v Construction, Forestry, Mining and Energy Union; Communications, Electrical, Electronic, Energy, Information, Postal, Plumbing and Allied Services Union of Australia; The Australian Workers’ Union; “Automotive, Food, Metals, Engineering, Printing and Kindred Industries Union” known as the Australian Manufacturing Workers’ Union (AMWU)* [2012] FWAFB 3210 at [16].

23. More recently, in the context of the 4 yearly review of modern awards, Ai Group pursued a variation to the coverage of the *Horticulture Award 2010* on various bases including s.160 of the Act. In its decision<sup>17</sup> (***Horticulture Award Decision***), the relevant Full Bench cited *Tenix* with approval.<sup>18</sup>

## Uncertainty

24. In the *Horticulture Award Decision*, the Commission also dealt with the meaning of ‘*uncertainty*’, as follows: (emphasis added)

**[152]** The decision of Senior Deputy President Polites in *Re. Public Service (Non Executive Staff – Victoria) (Section 170MX) Award 2000* provides further clarity on the meaning of ‘*uncertainty*’. In this case, an award clause was varied on the basis that the clause was uncertain. In doing so, His Honour adopted the following definition of ‘*uncertainty*’:

‘In that respect I respectfully adopt the submission made by the State of Victoria that the term “uncertainty” means the quality of being uncertain in respect of duration, continuance, occurrence, liability to chance or accident or the state of not being definitely known or perfectly clear, doubtfulness or vagueness. Those are extracts for the Concise Oxford Dictionary adopted by Commissioner Whelan in *Re: Shop Distributive and Allied Employees Association v. Coles Myer* [Print R0368]. In my view, as I have indicated, this provision clearly falls within that definition.’<sup>19</sup>

## Error

25. During the 4 yearly review of the *Vehicle Manufacturing, Repair, Services and Retail Award 2010*, the Shop Distributive and Allied Employees’ Association proposed a variation to the award pursuant to s.160 of the Act on the basis that it contained an ‘*error*’ as to the manner in which certain rates had been calculated. In its decision<sup>20</sup>, a Full Bench of the Commission dealt with the relevant aspect of the unions’ submissions as follows: (emphasis added)

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<sup>17</sup> 4 yearly review of modern awards – *Horticulture Award 2010* [2017] FWCFB 6037.

<sup>18</sup> 4 yearly review of modern awards – *Horticulture Award 2010* [2017] FWCFB 6037 at [151].

<sup>19</sup> 4 yearly review of modern awards – *Horticulture Award 2010* [2017] FWCFB 6037 at [152].

<sup>20</sup> 4 yearly review of modern awards – *Vehicle Manufacturing, Repair Services and Retail Award 2010* [2016] FWCFB 4418.

[73] With respect to the SDA, this is not demonstrative of any error. It only demonstrates that a methodology was used which the SDA, with the benefit of hindsight, would prefer not to have been used. Nothing was placed before us to suggest that the AIRC did not intend to use that methodology, or that some mathematical error was made in calculating the rates in accordance with that methodology. We do not accept that disagreement - even a well-founded disagreement - with a previous decision concerning an award is sufficient to establish an error for the purpose of s.160. What is necessary is to show that some sort of mistake occurred, in that a provision of the award was made in a form which did not reflect the tribunal's intention. There is nothing to suggest that this occurred here. Accordingly the SDA's application under s.160 must be dismissed.<sup>21</sup>

## The Commission's Discretion

26. Where the Commission finds that there is an ambiguity, uncertainty or error of the nature contemplated by s.160 of the Act, it has a discretion to vary the relevant award to remove the ambiguity, uncertainty or error, pursuant to s.160(1) of the Act. There Commission is not constrained in the matters to which it may have regard in the exercise of its discretionary power by the principles developed for the interpretation of awards. Rather, the Commission can take into account broader issues, including the relevant industrial merits.<sup>22</sup>
27. The MAO applies to the performance or exercise of the Commission's powers to vary an award pursuant to s.160.<sup>23</sup> Further, s.138 requires that an award must, *inter alia*, only include terms '*to the extent necessary to achieve [MAO]*'.
28. The MAO is defined by s.134(1) of the Act, in the following terms:
  - (1) The FWC must ensure that modern awards, together with the National Employment Standards, provide a fair and relevant minimum safety net of terms and conditions, taking into account:
    - (a) relative living standards and the needs of the low paid; and
    - (aa) the need to improve access to secure work across the economy; and
    - (ab) the need to achieve gender equality in the workplace by ensuring equal remuneration for work of equal or comparable value, eliminating gender-based undervaluation of work and providing workplace conditions that facilitate women's full economic participation; and

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<sup>21</sup> 4 yearly review of modern awards – Vehicle Manufacturing, Repair Services and Retail Award 2010 [2016] FWCFB 4418 at [73].

<sup>22</sup> Application by Toll Transport Pty Ltd t/a Toll Transport [2022] FWC 3346 at [14].

<sup>23</sup> Section 134(2)(a) of the Act.

- (b)** the need to encourage collective bargaining; and
- (c)** the need to promote social inclusion through increased workforce participation; and
- (d)** the need to promote flexible modern work practices and the efficient and productive performance of work; and
- (da)** the need to provide additional remuneration for:
  - (i)** employees working overtime; or
  - (ii)** employees working unsocial, irregular or unpredictable hours; or
  - (iii)** employees working on weekends or public holidays; or
  - (iv)** employees working shifts; and
- (f)** the likely impact of any exercise of modern award powers on business, including on productivity, employment costs and the regulatory burden; and
- (g)** the need to ensure a simple, easy to understand, stable and sustainable modern award system for Australia that avoids unnecessary overlap of modern awards; and
- (h)** the likely impact of any exercise of modern award powers on employment growth, inflation and the sustainability, performance and competitiveness of the national economy.

## 4. THE EVOLUTION OF THE IMPUGNED CLAUSES

29. The history of the Impugned Clauses, and the manner in which they have come to be, is a relevant contextual consideration in this matter. We return to the basis for this submission later. In this part of our submission, we set out their evolution.

### The Pre-Modern Awards

30. There were three key federal pre-modern awards covering the textile, clothing, and footwear industries prior to the making of the TCF Award. They were the:

(a) *Clothing Trades Award 1999*<sup>24</sup> (**Pre-Modern Clothing Award**);

(b) *Footwear Industries Award 2000*<sup>25</sup> (**Pre-Modern Footwear Award**); and

(c) *Textile Industry Award 2000*<sup>26</sup> (**Pre-Modern Textile Award**).

31. We anticipate that it will be uncontroversial in these proceedings that the *Textile, Clothing, Footwear and Associated Industries Award 2010* (**2010 Award**), as made, and by extension, the Award, are based in large part on the aforementioned instruments.

32. Given that the Impugned Clauses do not apply in the textile industry, the Pre-Modern Textile Award is not relevant herein.

33. The Pre-Modern Clothing Award contemplated only an afternoon shift<sup>27</sup>, for which employees were required to be remunerated as follows:

**35.1.4** the employer pays an employee employed on any afternoon shift the minimum award rate for the relevant skill level plus an allowance of 22.5% of that award rate for each hour worked on the shift.

34. Thus, the shift allowance amounted to 22.5% of the minimum hourly rate payable under the award, for each hour worked on an afternoon shift.

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<sup>24</sup> AP772144.

<sup>25</sup> AP781127.

<sup>26</sup> AP799036.

<sup>27</sup> Clause 35 of the Pre-Modern Clothing Award.

35. The Pre-Modern Footwear Award contained a more expansive shiftwork regime, which was in the following terms: (emphasis added)

## 29. SHIFT WORK

- 29.1 An employer may maintain, institute or reinstitute any system of shift work subject only to the provisions and limitations set out in this clause.

### 29.2 Definitions

For the purposes of this clause:

- 29.2.1 **Day shift** means any shift worked between the hours of 7.00 a.m. and 5.00 p.m.
- 29.2.2 **Morning Shift** means any shift commencing on or after 4.00 a.m. but before 7.00 a.m.
- 29.2.3 **Afternoon Shift** means any shift finishing after 5.00 p.m. and at or before midnight.
- 29.2.4 **Night Shift** means any shift finishing after midnight and at or before 8.00 a.m.
- 29.2.5 **Rostered Shift** means a shift for which the employee concerned has had at least forty-eight hours notice.

### 29.3 Afternoon or night shift allowances

- 29.3.1 Subject to 29.3.2, a full time shift worker whilst on morning, afternoon or night shift will be paid an additional amount of 15% of the weekly award wage for the classification concerned.
- 29.3.2 An employee engaged on permanent night shift duties will be paid an additional amount of 30% of the weekly award wage for the classification concerned.
- 29.3.3 A full time shift worker who works on a morning, afternoon or night shift which does not continue for at least 5 successive mornings, afternoons or nights or for at least the number of ordinary hours prescribed as a week's work will be paid an additional amount of 50% of the weekly award wage for the classification concerned.
- 29.3.4 A shorter shift of adult employees may be worked on any shift other than the day shift, by mutual agreement between an employer and his employees.. Payment for such work will be calculated in accordance with this subclause on a pro-rata basis related to the time actually worked as a proportion of the ordinary weekly hours.

36. Clause 29.3.1 was expressed to apply only to full-time employees. It required the payment of an *'additional amount'* for work on morning, afternoon or night shifts. That additional amount was expressed as a percentage of the *'weekly award wage'*.
37. The weekly award wage was prescribed by clause 19.1.1. In addition, the chapeau of that provision was in the following terms:
- An adult employee in a classification or class of work (other than an apprentice, junior or employee on a supported wage in accordance with 25), specified in the table below must not be paid less than the rates as set out in the table below.
38. Neither clause 19.1.1, nor any other provision of the award, prescribed hourly rates of pay.
39. Thus, when reading clause 19.1.1 and clause 29.3.1 together, it is tolerably clear that a full-time employee who on a given week was on a morning, afternoon or night shift, was entitled to:
- (a) The minimum weekly wage prescribed by clause 19.1.1, for the applicable classification level; and
  - (b) An additional payment of 15% of that weekly award wage.
40. Nothing in the text of clause 29.3.1 states or implies that the shift penalty applied with greater frequency (such as, for every shift). Rather, the use of the words *'an additional amount'* and the limited application of the provision to full-time employees only, combined with clause 19.1.1, strongly suggest that the shift penalty was to be paid in respect of a *week*.
41. The same can be said of clause 29.3.3, which expressly referred to full-time employees.
42. As for clause 29.3.2; it applied as an exception to clause 29.3.1 (as can be seen from the opening words of the latter) and therefore, it too, in effect, applied only to full-time employees.



43. Other textual considerations also support this interpretation of the award; most relevantly, clause 29.3.4, which is extracted above. It contemplated circumstances in which an employee worked '*a shorter shift*'.
44. Clause 26 required that hours of work be arranged and set at the enterprise level, in accordance with clause 26.3.1. It appears that the reference to '*shorter shifts*' concerned shifts shorter than the standard length in that arrangement.
45. Importantly, it provided that the shift penalty for that shift was to be calculated '*on a pro-rata basis related to the time actually worked as a proportion of the ordinary weekly hours*' (emphasis added). The manner in which this mechanism was expressed plainly suggests that the shift penalties prescribed by clauses 29.3.1 – 29.3.3 constituted weekly amounts. If the shift penalties were calculated on some other basis (e.g. per shift), the relevant calculation would necessarily involve an assessment of the duration of the shorter shift *vis-à-vis* the standard shift length.

### **The Part 10A Award Modernisation Process**

46. The 2010 Award was made by the AIRC as a product of the Part 10A Award Modernisation Process (**AMod Process**).
47. Whilst the submissions filed by the key industrial organisations participating in the proceedings indicated their desire to ensure that the shiftwork provisions in the modern award reflected the pre-modern position, their material did not deal in any detail with *how* the relevant provisions were to be interpreted or applied in practice. Similarly, the AIRC did not make any such comments.
48. We would however make one salient observation about a position taken by the key union in that matter.

49. In September 2008, the AIRC published an exposure draft of the 2010 Award. At clause 32, it contained a provision in substantively the same terms as the relevant provision ultimately found in the 2010 Award:

**32. Payment for shift work**

**32.1** A shift worker whilst on afternoon or night shift will be paid an additional amount of 15% of the weekly award wage for the classification concerned.

**32.2** A shiftworker whilst on permanent night shift will be paid an additional amount of 30% of the weekly award wage for the classification concerned.

50. Tellingly, in response, the Textile, Clothing and Footwear Union of Australia (TCFUA), which has since amalgamated with the Construction, Forestry and Maritime Employees Union (CFMEU), argued as follows: (emphasis added)

The clothing afternoon shift penalty has been reduced from 22.5%. This should be reinstated to prevent disadvantage. ...

We submit that provisions (Shiftwork- clause 31), (Payment for Shiftwork-clause 2) and (Textile Industry-Seven Day Continuous Shiftwork- clause 3) in the terms proposed in the TCFUA Draft No. 2 be included in the modern TCF Award.<sup>28</sup>

51. The 'TCFUA Draft No. 2' was attached to the union's submission cited above. It proposed the insertion of a new subclause in clause 32, dealing specifically with the clothing industry. It would have provided for an allowance of 22.5% of the minimum award rate for each hour worked on an afternoon shift, in the same terms as clause 35.1.4 of the Pre-Modern Clothing Award (extracted earlier):

(a) the employer pays an employee employed on any afternoon shift the minimum award rate for the relevant skill level plus an allowance of 22.5.% of that award rate for each hour worked on the shift.

52. The TCFUA's submission proceeded on the basis that the proposed clause 32 would have delivered an entitlement that was *less than* 22.5% of the hourly award rate, for each hour worked on an afternoon shift. By extension, it appears that the union understood that the proposed provision would result in an employee receiving 15% of the weekly award wage per *week*. Any higher frequency of payment would have resulted in an employee in fact receiving *more*

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<sup>28</sup> TCFUA submission dated 10 October 2008 at [94c] – [95].

under the proposed clause in the exposure draft than the provision advanced by the union.

## **The 2010 Award**

53. The 2010 Award, when made, contained the following provision (which was in substantively the same terms as the aforementioned exposure draft to which the TCFUA had responded): (emphasis added)

### **35. Payment for shiftwork**

**35.1** A shiftworker while on afternoon or night shift will be paid an additional amount of 15% of the weekly award wage for the classification concerned.

**35.2** A shiftworker while on permanent night shift will be paid an additional amount of 30% of the weekly award wage for the classification concerned.<sup>29</sup>

54. It remained in those terms, until the 4 yearly review of modern awards, which we deal with below.

55. The 2010 Award prescribed the '*weekly award wage*' at clause 20.1. The instrument did not contain hourly rates of pay.

56. Consistent with the approach taken in the Pre-Modern Footwear Award and the apparent understanding of the TCFUA as to how the provision would operate, clause 35 of the 2010 Award afforded employees an entitlement to a shift penalty of 15% or 30% of the weekly award wage for each week that they worked on a relevant shift. This proposition is consistent with widespread industry practice and understanding as to how these provisions were to be interpreted and applied.<sup>30</sup>

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<sup>29</sup> PR985127.

<sup>30</sup> See for example paragraph [19] of the witness statement of Ms Carr.

## The 4 Yearly Review of Modern Awards

57. During the 4 yearly review of modern awards, the Commission redrafted the 2010 Award in its entirety, with the aim of making it simpler and easier to understand. The redrafting process was not intended to result in any substantive changes to the 2010 Award.<sup>31</sup>
58. As a result of the 4 yearly review, clause 35 of the 2010 Award was re-numbered and rewritten in the following terms: (emphasis added)

### 29.3 Payment for shiftwork

- (a) A shiftworker while on afternoon or night shift will be paid 115% of the weekly award rate for the classification concerned.
- (b) A shiftworker while on permanent night shift will be paid 130% of the weekly award rate for the classification concerned.<sup>32</sup>

NOTE: See Schedule C – Summary of Hourly Rates of Pay for a summary of hourly rates of pay including overtime and penalty rates.

59. The clause now expressed the payment of a *rate* rather than a *penalty* that was to be paid *in addition to* an employee's base rate. Apart from that, it was in substantively the same terms as clause 35 of the 2010 Award.
60. The Award also included a new summary of hourly rates at Schedule C. Such a summary was not contained in the 2010 Award. Clause C.3.1 applied to permanent employees and clause C.5.1 applied to casual employees. Both identified shift *penalties* (exclusive of the base rate) of 15% and 30% of the '*ordinary weekly rate*' (which was not defined in the award). By way of a footnote, it was indicated that the penalty was for each *shift* worked. That is; an employee was entitled to, for example, 15% of the weekly rate *for each afternoon shift*.<sup>33</sup>

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<sup>31</sup> See for example *4 yearly review of modern awards* [2014] FWCFB 9412 at [140] and *4 yearly review of modern awards* [2014] FWCFB 5537 at [11(v)]. See also cover page of exposure draft, at row 1 of Attachment B to this submission.

<sup>32</sup> PR724998.

<sup>33</sup> See row 39 of Attachment B.

61. The footnotes in the aforementioned tables introduced, for the first time, an express indication that the shift penalties prescribed by the substantive clause (i.e. clause 29.3 of the Award) were for each *shift*. It did so in circumstances where the substantive language of the clause did not expressly say so and had not expressly said so in the 2010 Award.
62. At **Attachment B** to this submission, we have set out a summary of the key developments associated with the Impugned Clauses during the 4 yearly review. It demonstrates that there were numerous submissions made by interested parties, including Ai Group and the TCFUA, about the relevant provisions. The issues raised in response to the multiple iterations of the draft instrument related to matters that included:
- (a) Whether the shift penalties were to be calculated on a rate that included all-purpose allowances;
  - (b) Whether the shift penalties were to be calculated on the weekly rate or 1/5<sup>th</sup> of the weekly rate;
  - (c) Whether the relevant clause should prescribe a separately identifiable shift *penalty* or a shift *rate*; and
  - (d) Whether the rates in the summary appended to the award should be expressed as a *penalty* or a *rate*.
63. Most relevantly, our analysis reveals that:
- (a) The aforementioned footnote was drafted by the Commission, on its own motion, in relation to the table of rates that now appears at clause C.5.1, in relation to casual employees. It was included in an exposure draft of the Award.<sup>34</sup>

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<sup>34</sup> Row 15 of Attachment B.

- (b) In response, Ai Group pointed out that the corresponding table of rates applying to permanent employees (i.e. now clause C.3.1), included a footnote, but did not contain any corresponding text explaining the footnote. In doing so, it pointed to the wording utilised in clause C.5.1.<sup>35</sup>
- (c) The insertion of the proposed footnote was opposed by the TCFUA – which now forms part of the CFMEU.<sup>36</sup>
- (d) Notwithstanding this dispute between the parties; the Commission erroneously took the view that the issue was ‘*resolved*’ and replicated the (inaccurate) footnote used in the table of rates relating to casual employees in the table of rates relating to permanent employees.<sup>37</sup>
- (e) At no stage did any of the submissions filed by the TCFUA state, or even suggest, that the shift penalties apply per *shift*.

64. The summary highlights that the Commission did not give express consideration in any of its decisions to how clause 29.3 of the Award was intended to operate or its proper interpretation. It is also apparent that the Commission did not have any intention to change the substantive meaning of clause 35 of the 2010 Award, nor did any party ask it to consider doing so.

65. Rather, clause 29.3 of the Award and the summary of hourly rates were intended to reflect the 2010 Award. Inadvertently, however, through the introduction of footnotes in clauses C.3.1 and C.5.1, the instrument came to expressly state that the shift loadings are to be paid for each *shift* worked.

### **Variation on the Commission’s Own Motion**

66. In 2021, after the completion of the 4 yearly review, the Commission commenced proceedings on its own motion to vary the Impugned Clauses. It issued a statement in which it said as follows: (emphasis added)

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<sup>35</sup> Row 16 of Attachment B.

<sup>36</sup> Row 19 of Attachment B.

<sup>37</sup> Row 25 of Attachment B.

[1] On 4 December 2020, the Full Bench in AM2019/17 issued a determination finalising the technical and drafting review of the *Textile, Clothing, Footwear and Associated Industries Award 2020* (the Award) as part of the 4 yearly review of modern awards, operative from 1 February 2021. On 27 January 2021 a correction determination was issued by the Full Bench which took effect on 1 February 2021.

[2] An error has been identified concerning the expression of the entitlements for the afternoon and night shift and the permanent night shift in clause 29.3 of the Award, being described as 115% and 130% of the weekly award rate, respectively. This is inconsistent with the method of calculating payments applied for those same shifts in clauses C.3.1 and C.5.1 of the Award. The calculation method set out in clauses C.3.1 and C.5.1 is 15% or 30% of the ordinary weekly rate per shift in addition to whatever payment would be received for ordinary hours.

[3] Clause 29.3 of the Award sets out the payment for shiftwork as follows:

- (a) A shiftworker while on afternoon or night shift will be paid 115% of the weekly award rate for the classification concerned.
- (b) A shiftworker while on permanent night shift will be paid 130% of the weekly award rate for the classification concerned.

NOTE: See Schedule C—Summary of Hourly Rates of Pay for a summary of hourly rates of pay including overtime and penalty rates.’

[4] Clauses C.3.1 and C.5.1 of the Award provides:

**C.3.1 Full-time and part-time employees—shiftworkers other than in the textile industry—ordinary and penalty rates**

	Ordinary hours	<u>Afternoon &amp; night<sup>2</sup></u>	<u>Permanent night shift<sup>2</sup></u>	Public holiday
	% ordinary hourly rate <sup>1</sup>	<u>% of ordinary weekly rate</u>		% ordinary hourly rate <sup>1</sup>
	100%	15%	30%	250%
	\$	\$	\$	\$
Trainee	19.84	113.07	226.14	49.60
Skill level 1	20.41	116.31	232.62	51.03
Skill level 2	21.19	120.77	241.53	52.98
Skill level 3	21.92	124.92	249.84	54.80
Skill level 4	23.09	131.64	263.28	57.73
Skill level 5 and thereafter	24.54	139.89	279.78	61.35

<sup>1</sup> Rates in table are calculated based on the minimum hourly rate, see clauses C.1.1 and C.1.2.

<sup>2</sup> Payment is per shift in addition to applicable ordinary hourly rate.

...

**C.5.1 Casual employees—shiftworkers other than in the textile industry—ordinary and penalty rates**

	<b>Ordinary hours</b>	<b><u>Afternoon &amp; night<sup>2</sup></u></b>	<b><u>Permanent night shift<sup>2</sup></u></b>	<b>Public holiday</b>
	<b>% ordinary hourly rate<sup>1</sup></b>	<b><u>% of ordinary weekly rate</u></b>		<b>% ordinary hourly rate<sup>1</sup></b>
	<b>125%</b>	<b>15%</b>	<b>30%</b>	<b>275%</b>
	<b>\$</b>	<b>\$</b>	<b>\$</b>	<b>\$</b>
Trainee	24.80	113.07	226.14	54.56
Skill level 1	25.51	116.31	232.62	56.13
Skill level 2	26.49	120.77	241.53	58.27
Skill level 3	27.40	124.92	249.84	60.28
Skill level 4	28.86	131.64	263.28	63.50
Skill level 5 and thereafter	30.68	139.89	279.78	67.49

<sup>1</sup> Rates in table are calculated based on the minimum hourly rate, see clauses C.1.1 and C.1.2.

<sup>2</sup> Payment is per shift in addition to applicable ordinary hourly rate.

**[5]** The ‘error’ was introduced into the Payment for shiftwork provision in the Exposure Draft published on 4 November 2015 and also appeared in the Exposure Draft published on 29 January 2020. The error was transferred into the 2020 Award which became operative on 1 February 2021.<sup>38</sup>

67. The focus and emphasis in paragraph [2] above was on the following proposition; whilst clause 29.3 of the Award prescribed a *rate* for shiftwork, clauses C.3.1 and C.5.1 purported to require the payment of a *penalty*, ‘*in addition to whatever payment would be received for ordinary hours*’. The Commission identified that these amounted to different methods of calculation. In recognition of this discrepancy, Ai Group filed correspondence in the proceedings, supporting the proposed change.
68. Further, having regard to paragraph [5] of the Commission’s statement, it appears that the ‘*error*’ referenced was contained in the body of the instrument (rather than the schedule of rates appended to it). It was described as having been introduced when the exposure draft was amended such that the

<sup>38</sup> *Variation on the Commission’s Own Motion – Textile, Clothing, Footwear and Associated Industries Award 2020* [2021] FWC 2677 at [1] – [5].



substantive clause, for the first time, expressed the amount payable for shiftwork as a *rate* (as opposed to a separate *penalty*).<sup>39</sup>

69. The Commission proposed to address the issue raised as follows:

[10] My *provisional* view is that the wording of the Payment of the shiftwork provision in clause 29.3 of the Award is incorrect and inconsistent with clauses C.3.1 and C.5.2 and constitutes an error for the purposes of s.160 of the Act.

[11] I propose that clause 29.3 be amended as follows:

- (a) A shiftworker while on afternoon or night shift will be paid an additional 15% ~~415%~~ of the weekly award rate per shift for the classification concerned.
- (b) A shiftworker while on permanent night shift will be paid an additional 30% ~~130%~~ of the weekly award rate per shift for the classification concerned.

NOTE: See Schedule C—Summary of Hourly Rates of Pay for a summary of hourly rates of pay including overtime and penalty rates.<sup>40</sup>

70. Having regard to paragraphs [2] and [5] of the Commission’s statement, it would appear that the Commission (and Ai Group) were not conscious of, and did not intend, the potential implications of the insertion of the words ‘*per shift*’ in clauses 29.3(a) and 29.3(b); namely, that they would result in the proposition that the shift penalties are payable for every *shift* worked.

71. A determination giving effect to the proposed change was issued on 31 May 2021.<sup>41</sup> Thus, clause 29.3 was aligned with clauses C.3.1 and C.5.1.

## Conclusion

72. The following salient propositions emerge from a consideration of the evolution of the Impugned Clauses:

- (a) The Impugned Clauses are intended to reflect the operation of the 2010 Award.
- (b) The 2010 Award required the payment of the shift penalties *per week*.

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<sup>39</sup> Row 15 of Attachment B.

<sup>40</sup> *Variation on the Commission’s Own Motion – Textile, Clothing, Footwear and Associated Industries Award 2020* [2021] FWC 2677 at [11].

<sup>41</sup> PR730230.

- (c) The 2010 Award was broadly consistent in its terms with the Pre-Modern Footwear Award; one of the key pre-modern awards upon which the 2010 Award and, by extension, the Award, are based.
- (d) The Pre-Modern Footwear Award required the payment of shift penalties of the same quantum as the 2010 Award and Award, on a weekly basis.
- (e) The TCFUA understood and appeared to accept, when the 2010 Award was made, that the shift penalty clause would entitle employees to the shift penalty on a *weekly* basis. Implicit in this was an acceptance of how the Pre-Modern Footwear Award operated.
- (f) Three errors have been made in the formulation of the Impugned Clauses, in the following order:
  - (i) The footnote now found in clause C.5.1, as proposed by the Commission during the 4 yearly review in an exposure draft published on 4 November 2015<sup>42</sup>, incorrectly described the effect of the substantive award term. It stated that the shift penalty applied to casual employees *per shift*.<sup>43</sup>
  - (ii) Despite opposition from the TCFUA,<sup>44</sup> the aforementioned footnote was replicated at what is now clause C.3.1, in respect of permanent employees.<sup>45</sup> Thus, the scope of the error was extended.
  - (iii) After the 4 yearly review, clause 29.3 of the Award was varied to align with the aforementioned footnotes, which were in fact incorrect. Thus, the scope of the error was again extended.

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<sup>42</sup> The relevant provision was numbered clause C.4.1 at that time.

<sup>43</sup> Row 15 of Attachment B.

<sup>44</sup> Row 19 of Attachment B.

<sup>45</sup> Row 27 of Attachment B.

## 5. THE AMBIGUITY

73. A plain reading of clauses 29.3(a) and 29.3(b) demonstrate that they are capable of being interpreted in more than one way. Taking clause 29.3(a) by way of example, it is reasonably arguable that it requires the payment of:
- (a) 15% of the weekly rate, for each shift worked (**First Interpretation**); or
  - (b) 15%, of the weekly rate for each shift worked (**Second Interpretation**).  
That is; 15% of the portion of the weekly rate attributable to each shift worked.
74. The same can be said of clause 29.3(b), save that the relevant penalty rate is higher (i.e. 30%).
75. Both of these interpretations are readily available from the plain text of the relevant clauses. In particular, the absence of any punctuation marks therein renders the provisions susceptible to more than one meaning.
76. Various other factors support the contention that the provisions are ambiguous. They highlight the conflicting ways in which they may be interpreted.
77. *First*, two of the key industrial organisations who represent employers and employees covered by the Award are in dispute as to how the Award is to be interpreted. It is our understanding that the CFMEU considers that the First Interpretation is correct.
78. Ai Group's position is more nuanced. It is our view that clause 29.3 of the Award is ambiguous and / or uncertain, or in the alternate, it contains errors. Nonetheless, having regard to the history preceding and context surrounding the Impugned Clauses, we consider that the Second Interpretation should be preferred and that it reflects the manner in which the provisions were intended to operate. We refer to paragraph 72 of our submission in this regard.

79. *Second*, the Fair Work Ombudsman has also adopted the First Interpretation in the pay guide it published effective 1 July 2023.<sup>46</sup> That is, it indicates that the relevant shiftwork penalties constitute 15% of the minimum weekly rate and are for each shift worked.
80. *Third*, the approach adopted in the Second Interpretation is broadly consistent with that utilised in clauses 30.3(a) and 30.3(b) of the Award; which require the payment of a shift penalty to certain employees in the textile industry. That shift penalty is to be calculated as a percentage of a proportion of the minimum weekly rate of a specified classification level. This tends to support the First Interpretation.
81. *Fourth*, the corollary of that proposition might also be said to be true. On one view, if it were intended that clauses 29.3 and 30.3(a) – 30.3(b) are to operate in the same way, they would arguably have been drafted in the same terms.
82. *Fifth*, the practical application of the First Interpretation *vis-à-vis* the Second Interpretation results in vastly different outcomes. This is demonstrated by the table below, which sets out the total quantum of the penalty that would be payable for an afternoon shift of 7.6 hours (i.e. the amount that would be payable in addition to the base hourly rate owing for the shift):

<b>Classification Level (General Rates)</b>	<b>First Interpretation (\$)</b>	<b>Second Interpretation (\$)</b>
Trainee	128.90	25.78
Skill level 1	132.42	26.48
Skill level 2	137.24	27.45
Skill level 3	141.75	28.35
Skill level 4	149.25	29.85
Skill level 5 and thereafter	158.61	31.72

83. The quantum of the shift penalties delivered by the application of the First Interpretation is wildly out-of-step with the shift penalties payable pursuant to clauses 30.3(a) – (b) in respect of employees in the textile industry. Those

<sup>46</sup> Fair Work Ombudsman, *Pay Guide – Textile, Clothing, Footwear and Associated Industries Award* [MA000017] (dated 16 January 2024), pages 3 – 4.  
<<https://calculate.fairwork.gov.au/payguides/fairwork/ma000017/docx>>

provisions require the payment of \$27.45 or \$54.89, respectively, per shift. This is akin to the amounts payable per the Second Interpretation of clause 29.3.

84. This discrepancy between the approaches adopted in respect of the textile industry and other sectors covered by the Award is, in our submission, inexplicable and anomalous. The disutility associated with performing shiftwork in the textile industry relative to other industries covered by the Award is not so different as to justify the enormous differential between the amounts payable under the respective clauses if the First Interpretation is adopted.
85. This proposition tends to support the Second Interpretation as the more tenable one.
86. *Sixth*, the outcome of the First Interpretation is also at odds with the approach taken generally in modern awards. This can be seen from our analysis at **Attachment C**, which summarises relevant provisions found in all modern awards that contemplate afternoon, night and / or permanent night shifts (as does clause 29 of the TCF Award).
87. On a shift that is 7.6 hours in length, an employee covered by the Award would be paid anywhere between \$40 (i.e. a trainee on afternoon shift) and \$70 per hour (i.e. a level 5 employee on permanent night shift), according to the First Interpretation. As can be seen from our analysis, this is significantly higher than the amounts generally payable in other awards. The same conclusion would be reached if the analysis were limited to the shift penalties or premiums payable in other awards. The analysis shows that typically, employees are entitled to a penalty of 15% - 30% for shiftwork, applied to the applicable hourly rate, for each hour worked on the relevant shift.
88. This, coupled with the absence of any apparent justification for the First Interpretation tells strongly against it.
89. *Seventh*, the First Interpretation would deliver the same quantum of shift penalty for each shift, irrespective of the length of the shift. This is to be contrasted with the Second Interpretation, which would result in a variable amount being payable, depending on the duration of the shift worked. On that reading, the

clauses facilitate the calculation of the shift penalties on a proportionate basis. Therefore, on one view, the Second Interpretation better reflects the intention underlying the shift penalties, which is to compensate employees for the disutility of working shifts; on the basis that those disutilities are experienced to a greater extent where the employee performs a longer shift. Again, this approach would be consistent with the approach found in the vast majority of awards that contain a shiftwork regime.

90. *Eighth*, the reference to the ‘*weekly award rate*’ in clause 29.3 is also unclear. It is not a defined term or used elsewhere in the Award, except in relation to accident pay.<sup>47</sup> It is also different to the terminology used in Clauses C.3.1 and C.5.1 – that being the ‘*ordinary weekly rate*’.

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<sup>47</sup> Clause 26.1(a)(ii) of the Award.

## 6. THE UNCERTAINTY

91. For the reasons described in chapter 5 of this submission, the Impugned Clauses are uncertain. Their meaning is not *'definitely known'* or *'perfectly clear'*. Rather, it is *'doubtful'*.<sup>48</sup>
92. Further, as a Full Bench of the Commission recently observed, *'uncertainty may arise from the application of unambiguous terms to a given set of circumstances'*.<sup>49</sup>
93. We have described the practical application of clause 29.3 at paragraphs 82 – 89 of this submission. They highlight the anomalous outcomes that flow from the First Interpretation. Their absurdity and the apparent lack of justification for the significant windfall gain that the First Interpretation would deliver to employees, also renders the operation of the provisions uncertain.

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<sup>48</sup> *4 yearly review of modern awards – Horticulture Award 2010* [2017] FWCFB 6037 at [152].

<sup>49</sup> *Variation on the Commission's own motion – Modern award superannuation clause review* [2023] FWCFB 264 at [51].

## 7. THE ERROR

94. In chapter 4 of this submission, as well as Attachment B, we have set out the manner in which the relevant provisions of the 2010 Award were redrafted and amended during the 4 yearly review of modern awards and in separate proceedings on the Commission's own motion shortly afterwards. They have, together, resulted in the final form of the Impugned Clauses as we now find them in the Award.
95. For the reasons described therein, in our submission, mistakes were made in the formulation of those provisions. That is, if the First Interpretation is correct; the Impugned Clauses are *'in a form [that does] not reflect the [Commission's] intention'*.<sup>50</sup>
96. As set out in those submissions, the Commission did not intend, or expressly decide, to change the meaning of the 2010 Award. And yet, through a series of changes made during the 4 yearly review of the 2010 Award and through the aforementioned proceedings shortly afterwards, that is what appears to have inadvertently occurred.
97. To that end, we submit that the Impugned Clauses are attended by error in the sense contemplated by s.160 of the Act. For the reasons set out in chapter 9, the Commission should exercise its discretion to remove the errors in the manner we have proposed.

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<sup>50</sup> *4 yearly review of modern awards – Vehicle Manufacturing, Repair Services and Retail Award 2010* [2016] FWCFB 4418 at [73].



## 8. THE PROPOSED VARIATIONS

98. For the reasons set out at chapters 5 – 7, Ai Group contends that:

- (a) The Impugned Clauses are *ambiguous* and / or *uncertain*.
- (b) In the alternate; if the First Interpretation is correct, the Impugned Clauses contain *errors*.

99. If the Commission accepts any of the above propositions, it should exercise its discretion to vary the Award to remove the relevant ambiguity, uncertainty or errors, in the terms proposed by Ai Group in the draft determination attached to this submission. The proposed variations would:

- (a) Require the calculation of the rate payable for work on shifts to be undertaken on an hourly basis, for each hour worked on a relevant shift.
- (b) Require the calculation to be undertaken by reference to the ‘*ordinary hourly rate*’, which is a defined term in clause 2 of the Award:

**ordinary hourly rate** means the hourly rate for the employee’s classification specified in clause 19 — Minimum rates , plus any allowances specified as being included in the employee’s ordinary hourly rate or payable for all purposes.

- (c) Ensure that clauses C.3.1 and C.5.1 are consistent with clause 29.3.

100. The proposed variation would, in effect, deliver an outcome that is substantially similar to the Second Interpretation. It would so in a way that:

- (a) Is clear, simple and easy to understand and apply.
- (b) Reflects the approach typically taken in awards to the expression and calculation of shift rates.
- (c) Provides a method of calculation that can be applied to all types of employees; that is, full-time, part-time and casual employees.
- (d) Is consistent with industry practice and understanding as to how the extant provisions operate and how the relevant provisions applied under the 2010 Award.

- (e) Ensures that the Award achieves the MAO, for the reasons set out in the following chapter of this submission.

101. It would not be appropriate to allow the absence of clarity or the alleged errors in the Award to persist. This is particularly so given the following considerations:

- (a) The CFMEU's position is that the First Interpretation is correct;
- (b) Contrary to the unions' position, industry practice and understanding as to the operation of the Award is that the shift penalties apply for every *week* of shifts;
- (c) The risk of disputation that flows from the above propositions; and
- (d) The significant monetary implications of the First Interpretation.

102. Further, Ai Group submits that the Commission should vary the Award in the manner proposed retrospectively, with effect from 1 February 2021, being the earliest date that the Impugned Clauses as currently drafted commenced operation.

103. The Commission may vary an award with retrospective effect in accordance with s.165(2) of the Act, if ss.165(2)(a) and (b) are satisfied. They are in the following terms: (emphasis added)

- (2) The specified day must not be earlier than the day on which the determination is made, unless:
  - (a) the determination is made under section 160 (which deals with variation to remove ambiguities or correct errors); and
  - (b) the FWC is satisfied that there are exceptional circumstances that justify specifying an earlier day.

104. In the context of other matters, in relation to s.165(2)(b), the Commission has been satisfied that exceptional circumstances exist where there is ambiguity or uncertainty surrounding the meaning of award provisions and a risk of future litigation should a variation not be made retrospectively.

105. For example, a Full Bench of the Commission relevantly stated as follows in the *Horticulture Award Decision*: (emphasis added)

**[170]** For the following reasons, we are satisfied that there are “exceptional circumstances” that warrant the proposed variation to operate retrospectively from the date of commencement of the *Horticulture Award*, namely, 1 January 2010:

...

(b) The evidence demonstrates that many employers in the horticulture industry have been applying the *Horticulture Award* to work undertaken at washing, grading and packing facilities, regardless of whether any produce is grown at the site on which the facility is located. Absent retrospective operation of the variation, we are satisfied there will inevitably be disputation and likely litigation over whether producers have during the past almost eight years (subject to limitation periods) being making underpayments to workers in their packing facilities. Such disputation, litigation and potential back pay orders has the potential to have a significant impact on the viability and/or sustainability of a number of producers in the horticultural industry.<sup>51</sup>

106. The meaning of ‘*exceptional circumstances*’ was also more recently considered by Deputy President Saunders in the context of an application to vary clause 22.10 of the RTD Award. In ultimately determining to make the variation retrospectively, Deputy President Saunders stated as follows (emphasis added):

**[207]** The following principles are relevant to determining whether “exceptional circumstances” exist within the meaning of s 165(2) of the Act:

- What will amount to “exceptional circumstances” is intrinsically incapable of exhaustive statement.
- Exceptional circumstances are circumstances that are out of the ordinary course, unusual, special or uncommon but the circumstances themselves do not need to be unique nor unprecedented, nor even very rare. To be exceptional, a circumstance “cannot be one that is regularly, or routinely, or normally encountered”.
- Exceptional circumstances may include a single exceptional matter, a combination of exceptional factors, or a combination of ordinary factors which, although individually of no particular significance, when taken together can be considered exceptional.

**[208]** I am satisfied that there are exceptional circumstances in this case by reason of a combination of the following factors:

- (a) The long industrial history of provisions such as clause 22.10 of the RTD Award supports the Short Shift View.

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<sup>51</sup> 4 *Yearly Review of Modern Awards* [2017] FWCFB 6037 at [170].

- (b) The Short Shift View accords with my opinion as to the proper construction of clause 22.10 of the RTD Award. As a result, I do not consider that there will be any loss of accrued rights by employees as a result of the variation determination having retrospective operation.
- (c) Varying clause 22.10 of the RTD Award with retrospective effect will quell present disputation between Toll and the TWU, as well as avoid future disputation and litigation in the road transport and distribution industry relating to shifts worked by employees prior to the date on which the determination is made. I consider that such future disputation and litigation is reasonably likely to arise if the variation is not made with retrospective effect. I have made that assessment because the TWU clearly has a strong view about clause 22.10 of the RTD Award which is different from the Short Shift View and given the long industrial history of the provision and similar provisions, together with the advice provided by Ai Group to its members and the Fair Work Ombudsman's publication in relation to a similar provision in the Manufacturing Award, I consider it likely that employers (other than Toll) in the road transport and distribution industry have been paying their employees in accordance with the Short Shift View.

[209] In my opinion, these circumstances are not regularly, routinely, or normally encountered; they are out of the ordinary course.<sup>52</sup>

107. In the context of this matter, the Commission should be satisfied that exceptional circumstances exist for at least the following reasons:

- (a) If a retrospective variation is not made, there may be uncertainty as to the meaning of the Impugned Clauses in the period between 1 February 2021 and the date on which a variation to the Award as a consequence of our application commences operation.<sup>53</sup>
- (b) A retrospective variation would alleviate the risk of future disputation and litigation regarding the meaning of the Impugned Clauses in the period between 1 February 2021 and the latter date,<sup>54</sup> and avoid exposure to potential non-compliance.<sup>55</sup>

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<sup>52</sup> *Application by Toll Transport Pty Ltd t/a Toll Transport* [2022] FWC 3346 at [207] - [209].

<sup>53</sup> *The Australian Industry Group re Black Coal Mining Industry Award 2010* [2012] FWA 9606 at [12] and [18].

<sup>54</sup> *4 Yearly Review of Modern Awards* [2017] FWCFB 6037 at [170](b); *Application by Toll Transport Pty Ltd t/a Toll Transport* [2022] FWC 3346 at [208](c).

<sup>55</sup> *Application by Master Plumbers' and Mechanical Services Association of Australia, The* [2011] FWA 4781 at [87].

- (c) The considerations described at paragraphs (a) and (b) above are particularly important given the CFMEU's view that the First Interpretation is the correct one.
- (d) If left unaddressed, the potential litigation and disputation that may result could lead to backpay orders.<sup>56</sup> Such an outcome would not be fair to employers<sup>57</sup> and would potentially impose significant employment costs.<sup>58</sup>
- (e) These matters are particularly relevant given that industry practice is not consistent with the First Interpretation. Rather, employers have understood the shift penalties to apply weekly.<sup>59</sup>

108. These factors, separately and together, constitute exceptional circumstances for the purposes of s.165(2)(b) of the Act. The Commission should, therefore, vary the Award with retrospective effect, from 1 February 2021.

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<sup>56</sup> *4 Yearly Review of Modern Awards* [2017] FWCFB 6037 at [170](b)

<sup>57</sup> Section 134(1) of the Act.

<sup>58</sup> Section 134(1)(f) of the Act.

<sup>59</sup> See for example paragraph [9] of the witness statement of Ms Carr.

## 9. THE MODERN AWARDS OBJECTIVE

109. For the reasons that follow:

- (a) If the Commission finds that the Impugned Clauses are affected by the alleged ambiguity, uncertainty and / or errors; the Commission should exercise its discretion to vary the Award by adopting the provisions proposed by Ai Group.
- (b) In the alternate, if the Commission does not find that the Impugned Clauses are ambiguous, uncertain or erroneous; it should vary the Award as proposed pursuant to s.157 of the Act on the basis that the Award, in its present state, does not achieve the MAO, by virtue of the Impugned Clauses; and the proposed provisions would conform with ss.138 and 157(1) of the Act.

### A 'Fair' Safety Net

110. Section 134(1) of the Act requires the Commission to ensure that the Award provides, *inter alia*, a 'fair' safety net. The notion of 'fairness' in this context, is to be assessed from the perspective of employers and employees.<sup>60</sup>

111. The First Interpretation of the Impugned Clauses is fundamentally unfair to employers. It would result in a substantial and unjustifiable cost burden being imposed upon employers, the consequences of which are described further below.

112. Earlier in this submission, we highlighted the difference in approach between the First Interpretation and the approach generally adopted in awards in relation to the calculation and payment of shift penalties. We have not identified any arbitral consideration of the Impugned Clauses or their predecessors that supports the First Interpretation or its merits.

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<sup>60</sup> 4 yearly review of modern awards – Penalty Rates [2017] FWCFB 1001 at [37].

113. Shift penalties are generally understood to compensate employees for the disutility of performing work at times that might be considered unsocial. It is simply not apparent that:
- (a) The disutility associated with performing work on shifts in the textile industry *vis-à-vis* other industries covered by the Award is so different that a vastly different approach to the calculation of shift penalties is warranted.
  - (b) The disutility associated with performing work on shifts under the Award (except in the textile industry) is so much greater than the disutility of working on shifts covered by other awards, that the difference in shift penalty rates may be justifiable.
114. These factors further compound the unfairness of the First Interpretation on employers.
115. They also create unfairness between employees. The First Interpretation delivers a disproportionate shift penalty to certain employees covered by the Award, relative to others covered by the Award and other modern awards. This inequity, in practice, can cause disharmony and discontentment amongst employees at the enterprise level.
116. The subsistence of the existing ambiguity and / or uncertainty in the Award would also be unfair to employers and employees. It creates significant risk for employers in relation to ensuring compliance with the Award and uncertainty for employees as to the rate at which they are to be remunerated. In other contexts, it may create real doubt as to whether a proposed enterprise agreement would pass the *'better off overall'* test (**BOOT**).<sup>61</sup> These risks as they relate to employers are, respectively, compounded by the following:
- (a) The maximum civil penalties under the Act for a body corporate that contravenes an award are 300 penalty units (currently \$93,900) or 3,000 penalty units (currently \$939,000) for a *'serious contravention'*. The maximum civil penalties for an individual who contravenes an award are 60

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<sup>61</sup> Section 193(1) of the Act.

penalty units (currently \$18,780) or 600 penalty units (currently \$187,800) for a *'serious contravention'*.

- (b) In addition to the civil penalties in the Act, the recently passed *Fair Work Legislation Amendment (Closing Loopholes) Act 2023* will introduce criminal penalties into the Act from 1 January 2025 in relation to wage theft. The potential punishment where a conviction is established is significant. The maximum punishment for an individual who is convicted of a wage theft offence is a term of imprisonment of up to 10 years or a fine of the greater of three times the underpayment amount or 5,000 penalty units (currently \$1,565,000). The maximum punishment for a body corporate is a fine of the greater of three times the underpayment amount or 25,000 penalty units (currently \$7,825,000).
- (c) The Commission now has the power to, in effect, unilaterally amend an enterprise agreement if it is concerned that it does not pass the BOOT.<sup>62</sup>

117. The amended provisions we propose are fair to employers and employees. They would deliver a balanced and proportionate entitlement for work on shifts, which is broadly consistent with the entitlements of shiftworkers engaged in the textile industry and under other modern awards.

### **A *'Relevant'* Safety Net**

118. Section 134(1) requires the Commission to ensure that the Award provides, *inter alia*, a *'relevant'* safety net. *'Relevant'* is intended to convey that a modern award should be suited to contemporary circumstances.<sup>63</sup>

119. We refer to and rely upon submissions made earlier about the extent to which the First Interpretation results in an entitlement that is entirely out-of-step with the textile industry and other modern awards. To that end, it delivers an outcome

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<sup>62</sup> Section 191A of the Act.

<sup>63</sup> *4 yearly review of modern awards – Penalty Rates* [2017] FWCFB 1001 at [37].



that is not relevant. It is also out-of-step with the general industry understanding and practice as to how shift penalties under the Award are to be calculated.

120. The proposed variations would appropriately remedy this.

### **The Relative Living Standards and Needs of the Low Paid**

121. Section 134(1)(a) of the Act requires the Commission to take into account:

relative living standards and the needs of the low paid

122. To the extent that it might be argued that the First Interpretation supports the relative living standards and needs of the low paid; it in fact delivers a windfall gain that cannot fairly be sustained.

123. In any event, s.134(1)(a) is but one of many factors that must be taken into account by the Commission. None of the other countervailing factors could be said to support the maintenance of the status quo or the adoption of the First Interpretation. Further, no particular primacy attaches to s.134(1)(a) of the Act.<sup>64</sup>

### **Access to Secure Work**

124. Section 134(1)(aa) requires the Commission to take into account:

the need to improve access to secure work across the economy

125. This is a neutral consideration in this matter.

### **Gender Equality**

126. Section 134(1)(ab) requires the Commission to take into account:

the need to achieve gender equality in the workplace by ensuring equal remuneration for work of equal or comparable value, eliminating gender-based undervaluation of work and providing workplace conditions that facilitate women's full economic participation

127. This is a neutral consideration in this matter.

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<sup>64</sup> 4 yearly review of modern awards – *Penalty Rates* [2017] FWCFB 1001 at [115].

## **Collective Bargaining**

128. Section 134(1)(b) of the Act requires the Commission to take into account:

the need to encourage collective bargaining

129. Neither the uncertainty associated with the Impugned Clauses, nor the First Interpretation of them, are conducive to encouraging collective bargaining. This is particularly so given the significant bearing that the operation of a key monetary entitlement can have on the application of the BOOT.<sup>65</sup>

130. The need to encourage collective bargaining would be supported by a variation to the Award that ensures that the operation of the relevant terms is clear, certain, fair, moderate and consistent with industry practice. The variations we have proposed would achieve this objective.

## **Social Inclusion**

131. Section 134(1)(c) requires the Commission to take into account:

the need to promote social inclusion through increased workforce participation

132. The ability to work on shifts may better facilitate workforce participation; because in some cases, it enables employees with other commitments during day work hours to engage in paid employment. For example, employees who have caring responsibilities during the day may only be able to perform work on a night shift.

133. As we outline further below, the imposition of the substantial cost burden flowing from the First Interpretation has and will continue to result in employers reducing or eliminating the performance of work on shifts. In light of the above, this would be contrary to s.134(1)(c).

134. The proposed variations to the Impugned Clauses would appropriately address this, by confirming that the entitlement is to more moderate shift penalties.

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<sup>65</sup> See for example paragraph 23 of the witness statement of Ms Carr.

## **Additional Remuneration for Work on Shifts**

135. Section 134(1)(da)(iv) requires the Commission to take into account:

the need to provide additional remuneration for: ... employees working shifts

136. The Commission has previously made the following relevant observations about the aforementioned provision: (emphasis added)

**[192]** The expression ‘additional remuneration’ in the context of s.134(1)(da) means remuneration in addition to what employees would receive for working what are normally characterised as ‘ordinary hours’, that is reasonably predictable hours worked Monday to Friday within the ‘spread of hours’ prescribed in the relevant modern award. Such ‘additional remuneration’ could be provided by means of a penalty rate or loading paid in respect of, for example, work performed on weekends or public holidays. Alternatively, additional remuneration could be provided by other means such as a ‘loaded hourly rate’.

...

**[195]** Section s.134(1)(da) is a relevant consideration, it is *not* a statutory directive that additional remuneration must be paid to employees working in the circumstances mentioned in paragraphs 134(1)(da)(i), (ii), (iii) or (iv). Section 134(1)(da) is a consideration which we are required to take into account. To take a matter into account means that the matter is a ‘relevant consideration’ in the *Peko-Wallsend* sense of matters which the decision maker is bound to take into account.<sup>66</sup>

137. If adopted, the amended clauses proposed by Ai Group would continue to provide additional remuneration for the performance of work on shifts; that is, employees would continue to receive amounts in excess of those that are due for working ordinary hours within the day work span.

138. Section 134(1)(da) is, in effect, a neutral consideration in this matter.

## **Flexible Modern Work Practices, the Efficient and Productive Performance of Work and the Impact on Business**

139. Section 134(1)(d) of the Act requires the Commission to take into account:

the likely impact of any exercise of modern award powers on business, including on productivity, employment costs and the regulatory burden

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<sup>66</sup> 4 yearly review of modern awards – Penalty Rates [2017] FWCFB 1001 at [192] and [195].

140. Further, s.134(1)(f) requires the Commission to take into account:

the likely impact of any exercise of modern award powers on business, including on productivity, employment costs and the regulatory burden

141. If the First Interpretation is correct; the Impugned Clauses will continue have (unless varied as proposed), significant adverse impacts on business. They will impose substantial employment costs. The First Interpretation requires the payment of shift penalties that range between \$129 - \$317 *per shift*.

142. The cost impact is axiomatic and cannot be understated. Over the course of one week, in respect of a level 1 employee who performs five afternoon shifts, the differential between the First Interpretation and the Second Interpretation is approximately \$500. Put another way, the amount owing to the employee if the Second Interpretation is applied would amount to approximately two-thirds of what would be payable if the First Interpretation was adopted. In practice, this would of course be multiplied across a number of employees required, or potentially required, to perform work on afternoon shifts. In a workforce of 50 employees, the differential in the above scenario would amount to \$25,000 in just a week.

143. In some cases, the resulting employment costs are prohibitive or, at the very least, potentially prohibitive. Some employers have reported reducing the extent to which they engage employees on shifts in light of the CFMEU's contention that the First Interpretation is correct. Others will consider doing so, if the First Interpretation is found to be correct and our application is not successful.<sup>67</sup>

144. An inability to operate an afternoon or night shift, due to the significant costs involved, has various other, often unsustainable, consequences. For example, it can result in the following:

(a) A reduction in production volumes, which cannot necessarily be offset through an increase in production volumes during day work hours for various reasons; including, for example, because the employer's equipment

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<sup>67</sup> See for example paragraph 26(f)(i) of the witness statement of Ms Carr.

in a manufacturing environment does not enable it to increase production volumes. That is, it is being utilised at its maximum capacity already.

- (b) Suboptimal utilisation of capital and equipment, because it is idle or underutilised during periods that would otherwise constitute shifts. This undermines productivity.
- (c) Greater reliance on the performance of overtime; however, this has clear limitations given an employer cannot unreasonably require employees to perform overtime.<sup>68</sup>
- (d) Further, employers would face various employment costs associated with the payment of overtime rates, noting that the Award requires the payment of 150% - 200% of the ordinary hourly rate for such work.<sup>69</sup>
- (e) The reallocation of employees to work at other times that do not constitute shifts and therefore, do not attract shift penalties. This may result in lower earnings for such employees and / or disrupt existing patterns of work and the way in which they intersect with employees' personal commitments and responsibilities, including any caring responsibilities.
- (f) The termination of employment by reason of redundancy.

145. These consequences are variously contrary to s.134(1)(d) and s.134(1)(f) of the Act. To the extent that they would also impact employees, they are also inconsistent with s.134(1)(a) and s.134(1)(c).

146. By contrast, the proposed provisions would result in a more balanced and appropriate shiftwork regime, that would, we anticipate, enable employers to continue existing shiftwork patterns and / or to reinstate recently suspended shiftwork arrangements.

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<sup>68</sup> Clause 28.2 of the Award.

<sup>69</sup> Clauses 28.3 – 28.6 of the Award.

## **A Simple, Easy to Understand and Stable Awards System**

147. Section 134(1)(g) requires that the Commission take into account:

the need to ensure a simple, easy to understand, stable and sustainable modern award system for Australia that avoids unnecessary overlap of modern awards

148. The Impugned Clauses are far from simple or easy to understand, for all the reasons set out at chapters 5 – 6 of this submission. By contrast, the proposed variations are clear and unambiguous. They would give employees and employers certainty as to how employees are to be remunerated for the performance of work on shifts.

149. The need to ensure a ‘*stable*’ system strongly supports the making of the variations proposed. They would, in essence, deliver the entitlement that was afforded under the 2010 Award.

150. The making of the variations retrospectively is also supported by s.134(1)(g). They would ensure that there is certainty as to the operation of the Award since 1 February 2021 and result in the application of the entitlement contained in the 2010 Award throughout the period since the aforementioned date.

## **The Impact on the National Economy**

151. Section 134(1)(h) requires the Commission to take into account:

the likely impact of any exercise of modern award powers on employment growth, inflation and the sustainability, performance and competitiveness of the national economy

152. The sustainability and viability of some employers covered by the Award (or, at the very least, certain parts of their operations) depends, in part, on their international competitiveness. In particular, many goods manufactured by employers covered by the Award can be and are manufactured more efficiently by overseas competitors. Given the wide-ranging and significant impacts that the Impugned Clauses will have if the First Interpretation is correct, this is matter that also weighs in favour of the variations proposed.

MA000017 [insert print number]



## **DRAFT DETERMINATION**

*Fair Work Act 2009*

s.160 – Application to vary a modern award to remove ambiguity or uncertainty or correct error

**Application by The Australian Industry Group**  
(AM2023/25)

**TEXTILE, CLOTHING, FOOTWEAR AND ASSOCIATED INDUSTRIES  
AWARD 2020**  
[MA000017]

Clothing industry

DEPUTY PRESIDENT EASTON

SYDNEY, [DATE]

*Application to vary clauses 29.3(a), 29.3(b), C.3.1 and C.5.1 of the Textile, Clothing, Footwear and Associated Industries Award 2020.*

- A. Further to the decision issued on [insert date],<sup>1</sup> it is ordered that *Textile, Clothing, Footwear and Associated Industries Award 2020*<sup>2</sup> be varied by:
1. Deleting clause 29.3 and replacing it with the following:

**29.3 Payment for shiftwork**

- (a) A shiftworker working an afternoon or night shift will be paid 115% of the ordinary hourly rate for each hour worked.
- (b) A shiftworker working a permanent night shift will be paid 130% of the ordinary hourly rate for each hour worked.

NOTE: See Schedule C – Summary of Hourly Rates of Pay for a summary of hourly rates of pay including overtime and penalty rates.

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<sup>1</sup> [citation].

<sup>2</sup> MA000017.

2. Deleting clause C.3.1 and replacing it with the following:

**C.3.1 Full-time and part-time employees—shiftworkers other than in the textile industry—ordinary and penalty rates**

	Ordinary hours	Afternoon & night shift	Permanent night shift	Public holiday
	% of ordinary hourly rate <sup>1</sup>			
	<b>100%</b>	<b>115%</b>	<b>130%</b>	<b>250%</b>
	\$	\$	\$	\$
Trainee	22.61	26.00	29.39	56.53
Skill level 1	23.23	26.71	30.20	58.08
Skill level 2	24.08	27.69	31.30	60.20
Skill level 3	24.87	28.60	32.33	62.18
Skill level 4	26.18	30.11	34.03	65.45
Skill level 5 and thereafter	27.83	32.00	36.18	69.58

<sup>1</sup> Rates in table are calculated based on the minimum hourly rate, see clauses C.1.1 and C.1.2.

3. Deleting clause C.5.1 and replacing it with the following:

**C.5.1 Casual employees—shiftworkers other than in the textile industry—ordinary and penalty rates**

	Ordinary hours	Afternoon & night shift	Permanent night shift	Public holiday
	% ordinary hourly rate <sup>1</sup>			
	<b>125%</b>	<b>140%</b>	<b>155%</b>	<b>275%</b>
	\$	\$	\$	\$
Trainee	28.26	31.65	35.05	62.18
Skill level 1	29.04	32.52	36.01	63.88
Skill level 2	30.10	33.71	37.32	66.22
Skill level 3	31.09	34.82	38.55	68.39
Skill level 4	32.73	36.65	40.58	72.00
Skill level 5 and thereafter	34.79	38.96	43.14	76.53

<sup>1</sup> Rates in table are calculated based on the minimum hourly rate, see clauses C.1.1 and C.1.2.



B. This determination is made retrospectively and comes into operation on 1 February 2021. In accordance with s 165(3) of the *Fair Work Act* (Cth) this determination does not take effect in relation to a particular employee until the start of the employee's first full pay period that started on or after 1 February 2021.

DEPUTY PRESIDENT

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## Summary of Developments During the 4 Yearly Review of Modern Awards

	Date	Key Development	Extract	Ai Group Comment
1.	30 October 2014	<a href="#">Exposure draft (ED)</a> published by the Commission	<p style="text-align: center;"><b>EXPOSURE DRAFT</b></p> <p style="text-align: center;"><b>Textile, Clothing, Footwear and Associated Industries Award 2014</b></p> <p>This exposure draft has been prepared by staff of the Fair Work Commission based on the <i>Textile, Clothing, Footwear and Associated Industries Award 2010</i> (the Textile award) as at 30 October 2014. This exposure draft does not seek to amend any entitlements under the Textile award but has been prepared to address some of the structural issues identified in modern awards.</p> <p><b>17.3 Payment for shiftwork</b></p> <p>(a) A shiftworker while on afternoon or night shift will be paid an additional amount of <b>15%</b> of the weekly award wage for the classification concerned.</p> <p>(b) A shiftworker while on permanent night shift will be paid an additional amount of <b>30%</b> of the weekly award wage for the classification concerned.</p> <p>Parties are asked to clarify whether these rates are based on the weekly rate or one fifth of the weekly rate, consistent with clause 18.3.</p>	<p>The cover page of the ED stated that the ED does not seek to amend any of the entitlements under the Award.</p> <p>Clause 17.3 ED largely reflected clause 35 of the 2010 Award.</p> <p>Parties were asked to comment on whether the shift penalty was to be calculated by reference to the weekly rate, or one-fifth of the weekly rate consistent with the approach required in the textile industry.</p>

	Date	Key Development	Extract	Ai Group Comment																																																		
			<p><b>C.2.2 Full-time and part-time employees—shiftworkers other than in the textile industry—ordinary and penalty rates</b></p> <table border="1" data-bbox="678 272 1406 699"> <thead> <tr> <th></th> <th>Ordinary hours</th> <th>Permanent night shift<sup>1</sup></th> <th>Afternoon &amp; night<sup>1</sup></th> <th>Public holiday</th> </tr> </thead> <tbody> <tr> <td></td> <td>100%</td> <td>30%</td> <td>15%</td> <td>250%</td> </tr> <tr> <td></td> <td colspan="2">% minimum hourly rate</td> <td colspan="2">% of minimum weekly rate</td> </tr> <tr> <td></td> <td>\$</td> <td>\$</td> <td>\$</td> <td>\$</td> </tr> <tr> <td>Trainee</td> <td>16.87</td> <td></td> <td></td> <td>42.18</td> </tr> <tr> <td>1</td> <td>17.35</td> <td></td> <td></td> <td>43.38</td> </tr> <tr> <td>2</td> <td>18.02</td> <td></td> <td></td> <td>45.05</td> </tr> <tr> <td>3</td> <td>18.64</td> <td></td> <td></td> <td>46.60</td> </tr> <tr> <td>4</td> <td>19.64</td> <td></td> <td></td> <td>49.10</td> </tr> <tr> <td>5 and thereafter</td> <td>20.87</td> <td></td> <td></td> <td>52.18</td> </tr> </tbody> </table> <p><sup>1</sup>Parties are asked to clarify whether these rates are based on the weekly rate or one fifth of the weekly rate, see clause 17.3.</p>		Ordinary hours	Permanent night shift <sup>1</sup>	Afternoon & night <sup>1</sup>	Public holiday		100%	30%	15%	250%		% minimum hourly rate		% of minimum weekly rate			\$	\$	\$	\$	Trainee	16.87			42.18	1	17.35			43.38	2	18.02			45.05	3	18.64			46.60	4	19.64			49.10	5 and thereafter	20.87			52.18	
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2.	30 October 2014	<p><a href="#">Comparison between</a> modern award and ED published by the Commission</p>	<table border="1" data-bbox="678 874 1675 1062"> <tr> <td data-bbox="678 874 1173 1062"> <p><b>35. Payment for shiftwork</b></p> <p>35.1 A shiftworker while on afternoon or night shift will be paid an additional amount of 15% of the weekly award wage for the classification concerned.</p> <p>35.2 A shiftworker while on permanent night shift will be paid an additional amount of 30% of the weekly award wage for the classification concerned.</p> </td> <td data-bbox="1173 874 1675 1062"> <p><b>17.3 Payment for shiftwork</b></p> <p>(a) A shiftworker while on afternoon or night shift will be paid an additional amount of 115% of the ordinary hourly rate for the classification concerned.</p> <p>(b) A shiftworker while on permanent night shift will be paid an additional amount of 130% of the ordinary hourly rate for the classification concerned.</p> </td> </tr> </table>	<p><b>35. Payment for shiftwork</b></p> <p>35.1 A shiftworker while on afternoon or night shift will be paid an additional amount of 15% of the weekly award wage for the classification concerned.</p> <p>35.2 A shiftworker while on permanent night shift will be paid an additional amount of 30% of the weekly award wage for the classification concerned.</p>	<p><b>17.3 Payment for shiftwork</b></p> <p>(a) A shiftworker while on afternoon or night shift will be paid an additional amount of 115% of the ordinary hourly rate for the classification concerned.</p> <p>(b) A shiftworker while on permanent night shift will be paid an additional amount of 130% of the ordinary hourly rate for the classification concerned.</p>	<p>Clause 17.3 in the comparison document did not reflect clause 17.3 in the ED published with the comparison document. The entitlements were expressed as 115% and 130% of the ordinary hourly rate in the former, whereas the exposure draft expressed the entitlement in clause 17.3 to be an additional amount of 15% or 30% of the weekly award wage.</p>																																																
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3.	12 November 2014	<p><a href="#">Ai Group submission</a> filed in response to the above ED</p>	<p>12. Clause 17.3 imposes substantial new costs on employers. It requires the payment of a significantly higher shift penalty and refers to the “ordinary hourly rate”, which includes all purpose allowances. By contrast, the current award refers to the “weekly award wage”.</p> <p>13. Ai Group submits that the clause should be redrafted as follows:</p> <p style="padding-left: 40px;"><i>“(a) A shiftworker while on afternoon or night shift will be paid an <del>additional amount of 115% of the ordinary hourly rate</del> <u>weekly award wage</u> for the classification concerned.</i></p> <p style="padding-left: 40px;"><i>“(b) A shiftworker while on permanent night shift will be paid an <del>additional amount of 130% of the ordinary hourly rate</del> <u>weekly award wage</u> for the classification concerned.”</i></p> <p>...</p> <p>19. Ai Group submits that the permanent night shift and afternoon and night shift rates at C.2.2 are to be calculated on the minimum weekly rate, as per clause 17.3 of the Exposure Draft.</p>	<p>Ai Group’s submission considered clause 17.3 as expressed in the comparison document, not the ED.</p> <p>It proceeded on the basis that the shift loadings were payable on a weekly basis.</p> <p>The submission focussed on whether the shift loading was to be applied to a rate that included all purpose allowances vis-à-vis the base rate of pay.</p>

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4.	14 November 2014	<a href="#">TCFUA submission</a> filed in response to the above ED	<p><b>(17.3 - Payment for shiftwork)</b></p> <p>99. Clause 17.3(a) and (b) of the Exposure Draft replicates the current clause 35.1 and 35.2. The TCFUA supports this retention. The Exposure Draft asks:</p> <ul style="list-style-type: none"> <li>• Q: Parties are asked to clarify whether these rates are based on the weekly rate or one fifth of the weekly rate, consistent with clause 18.3?</li> </ul> <p>100. These are different provisions and regulate different circumstances. Clause 17.3(a) and (b) relates to payment for shiftwork for non-textile industry employees. For these employees the shift penalties are calculated on ‘the weekly award wage for the classification concerned’ i.e. what the employee is actually classified at. Clause 18.3 relates to payment for shiftwork for textile industry employees. For these employees the shift penalties are calculated on ‘15% of one-fifth of the weekly rate for Skill Level 2, per shift worked.’</p> <p>120. However, on a preliminary examination of the wage rates in Schedule C we have identified that the penalty and overtime rates included for Casual employees (Schedules C.3 and C.4, Exposure Draft) are incorrect based on the current award provisions applying to casuals and represent a significant reduction in hourly rates for these employees. In the TCFUA’s submission, the casual rates of pay should be calculated using the compounding method not the cumulative method.</p>	<p>The TCFUA did not take issue with clause 17.3 of the ED.</p> <p>Its submission focussed on the question posed by the Commission in the ED. It argued that the penalties are to be calculated on the weekly rate, not one-fifth of the weekly rate. It said nothing about the frequency with which the loading is payable.</p>

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5.	17 November 2014	<a href="#">ABI submission</a> filed in response to the above ED	<p>54. <b>Clause 17.3(a) and (b):</b> The wording of these clauses has been changed such that it suggests that the shiftwork allowance is greater than it should be. The existing clauses provide that a shiftworker will be paid “an additional amount” of either 15% or 30% of the weekly wage. In the Exposure Draft, these clauses now state that a shiftworker will be paid “an additional amount” of either <u>115%</u> or <u>130%</u>. That is not correct. This provision should be amended to either:</p> <p>(a) accord with the existing wording of the provisions in the current Award; or</p> <p>(b) remove the words “an additional amount”.</p>	ABI’s submission focussed on another anomaly in the way in which the entitlement was expressed, based on clause 17.3 as expressed in the comparison document.																																				
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7.	19 November 2014	<a href="#">Hearing</a> before a Full Bench	<p>MS WILES: ... Item 12, we also agree with the Ai Group that there should be no change, but for different reasons. ...</p> <p>...</p> <p>JUSTICE ROSS: Item 17?</p> <p>MS WILES: We would like to reserve our position on that, your Honour.</p> <p>...</p>	The TCFUA responded to Ai Group’s submissions set out in the summary above. None dealt squarely with the issue at hand.																																				

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9.	24 November 2014	<p><a href="#">AWU submissions in reply</a> filed</p>	<p>Pursuant to the Directions of the President the Textile Clothing and Footwear Union of Australia (TCFUA) lodged its submissions in reply on 24 November 2014. We have read these submissions and agree with the TCFUA.</p> <p>Further, in regards to the clauses highlighted from points 1 – 4 below, the AIG has made submissions to the effect that the relevant all-purpose allowances should not be included in casual loading and penalty rate/overtime calculations.</p> <p>...</p> <p>4. Schedule C (C.2.2) Summary of Hourly Rates - C.2.2: Full-time and part-time employees – shiftworkers other than in the textile industry – ordinary and penalty rates.</p> <p>We specifically agree with the TCFUA in regards to this issue and strongly oppose the AIG's submissions by relying on our detailed submissions about all-purpose allowances dated 17 November 2014.</p>						<p>The AWU disagreed with Ai Group's position and agreed with the TCFUA that the shift loadings in clause 17.3 were to be applied to an employee's 'ordinary hourly rate' (inclusive of the all purpose allowance).</p> <p>The AWU otherwise did not take issue with clause 17.3 of the ED or make submissions on whether the shift allowance is to be calculated by reference to the weekly rate or one-fifth of the weekly rate.</p>												
10.	24 November 2014	<p><a href="#">Ai Group Submission in reply</a> filed</p>	<p><b>Summary of Submissions published by the Commission</b></p> <p>4. Ai Group makes the following comments with reference to the summary of submissions published by the Commission. The item number in the first column denotes the relevant item number in the summary document.</p>						<p>Ai Group withdrew its submission at paragraphs 12 - 13 of its 12 November 2014 submissions; noting the discrepancy between the ED and the comparison document.</p> <p>It also confirmed that it did not oppose the TCFUA's submission that clause 17.3 applies to the</p>												

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12.	14 January 2015	TCFUA <a href="#">comments on revised summary of submissions</a> filed	<p>The TCFUA has now reviewed the Revised Summary (5 Jan 2015) in relation to the TCF Award.</p> <p>We make the following comments in response.</p> <p>Note: Although the FWC's Revised summary document is not numbered, we have referred to actual page numbers in any event as well as Item numbers.</p> <p>...</p> <ul style="list-style-type: none"> <li>· (page 14) Item 12a [TCFUA] – Clause 17.3(a)&amp;(b) of Exposure Draft &gt; AIG Submission in Reply (24/11/14) – do not oppose TCFUA submission</li> </ul>							<p>The TCFUA noted that Ai Group did not oppose its submission that clause 17.3 applied to the weekly rate (vis-à-vis the 1/5<sup>th</sup> of the weekly rate). Again, clause 17.3 did not, at this stage, say that the shift penalty was payable <i>per shift</i>. Rather, it used substantively the same language as the 2010 Award.</p>			

13.	21 January 2015	<a href="#">Updated summary of submissions published by the Commission</a>	AM2014/91	Textile, Clothing and Associated Industries Award 2010	MA000017				
			<b>REVISED SUMMARY OF SUBMISSIONS</b>						
			Amended as at 18 December 2014 to incorporate feedback from parties from conference before Commissioner Lee on 18 December 2014.						
			This summary includes submissions from the Textile, Clothing & Footwear Union of Australia (TCFUA) and Australian Business Industrial and the NSW Business Chamber Ltd (ABI & NSWBC) that were previously inadvertently omitted.						
<b>All amendments to this document appear in red.</b>									
This document is a summary of issues raised in submissions lodged in the review of this award. The summary does not include every submission in support or opposition to a proposed variation. All submissions, correspondence and the report to the Full Bench are published on the Fair Work Commission website.									
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12a	TCFUA - <a href="#">Submissions on exposure draft</a>	14/11/2014	17.3(a)&(b)		FWC question	<b>Answer:</b> these provisions are different and regulate different circumstances. 17.3(a) and (b) relates to payment for shiftwork for non-textile industry employees. For these employees the shift penalties are calculated on 'the weekly award wage for the classification concerned' i.e. what the employee is actually classified at. Clause 18.3 relates to payment for shiftwork for textile industry employees. For these employees the shift penalties are calculated on '15% of one-fifth of the weekly rate for Skill Level 2, per shift worked.'	99-100		TCFUA happy with the exposure draft wording - ABI and AIG agree
17.	Ai Group - <a href="#">submission on exposure draft</a>	12/11/2014	Schedule C		Summary of hourly rates - all-purpose allowances	Submit that clauses C.1.1, C.2.1, C.3.1 and C.4 should be deleted. Whether an all-purpose allowance is included in calculation of overtime or penalty rate or added to loaded rate must be determined having regard to specific terms of relevant award clause. Generic approach of Schedule C clauses above should not be adopted.	Item 18	<a href="#">Transcript</a> of 18 November 2014 - PN1563 - TCFUA has reserved their position on this submission.	Disagreed, but might be a general issue - connected to whether 'ordinary hourly rate' will be included in new award.

			18.	Ai Group - <a href="#">submission on exposure draft</a>	12/11/2014	C.2.2 (and 17.3)		Shiftwork penalties	In response to query in exposure draft at 17.3, party submits that shift rates at C.2.2 are to be calculated on the minimum weekly rate per clause 17.3 of exposure draft.	Item 19	<a href="#">Transcript of 18 November 2014 - PN1572- PN1573 - TCFUA</a> has reserved their position on this submission.	To be discussed, but no proposal to change from the parties Cl. 17.3 of exposure draft already dealt with	
14.	23 October 2015	The Full Bench issued a decision in relation to the ED - <a href="#">[2015] FWCFB 7236</a>	<p><b>2.15 Textile, Clothing, Footwear and Associated Industries Award 2010</b></p> <p><b>[261]</b> An Exposure Draft for this award was published on 30 October 2015 and written submissions and submissions in reply were filed by interested parties. Further conferences were held before Commissioner Lee with a view to narrowing the areas of disagreement between the parties on the range of variations proposed. Conferences were convened on 18 June and 17 July 2015. A report to the Full Bench was provided on 18 July 2015. Issues relating to this award were divided into ‘substantive’ variations and technical and drafting variations. Substantive issues in relation to the award were dealt with by a separately constituted Full Bench. That Full Bench issued its decision on 11 May 2015 and made a number of changes to the award.</p> <p><b>[262]</b> The interested parties have reached agreement on a number of issues. Where the parties have reached agreement, the agreed position will be adopted and published in a revised version of the Exposure Draft. A number of general technical and drafting issues which have been raised in relation to the award have subsequently been determined by this Full Bench in decisions issued on 23 December 2014 and 13 July 2015.</p> <p>...</p> <p><i>Shift work</i></p> <p><b>[265]</b> In the Exposure Draft the Commission posed a question for parties at clause 17.1(b) dealing with afternoon shifts, as follows: <i>‘Is a shift that finishes after 6.00 pm but before 7.00 pm a day shift or an afternoon shift?’</i></p> <p><b>[266]</b> The parties agreed that the wording of 17.1(b) need not be amended. The wording of clause 17.1(b) of the Exposure Draft will remain and the question posed by the Commission deleted. A further question was put at 17.1(b) regarding whether a definition of permanent night shift is required. The question was <i>‘Should there be a definition for ‘permanent night shift’? Is it the same as the definition for ‘permanent night shift’ for shiftwork in the textile industry?’</i> The TCFUA submitted that the Exposure Draft should not contain a definition for permanent night shift. We consider, consistent with paragraph [182] of the December 2014 decision in relation to the <i>Cement, Lime and Quarrying Award 2014</i>, and paragraphs [49] and [196] of this decision, that there should be a definition of “permanent night shift” to make it clear when the higher shift loading is payable. We note that the Exposure Draft currently</p>										This was the first decision concerning the ED. It did not expressly determine the issue at hand.

			<p>contains a definition of permanent night shift in clause 18.1(e) for employees in the Textile industry as follows:</p> <p><b>(e) Permanent night shift</b> means a shift which is applicable to an employee who:</p> <ul style="list-style-type: none"> <li>• during a period of engagement works night shift only; or</li> <li>• remains on night shift for a longer period than four consecutive weeks; or</li> <li>• works on a night shift which does not rotate or alternate with another shift or with day work so as to give the employee at least one third of their working time off night shift in each shift cycle.'</li> </ul> <p>This provision will be expressed to apply to all employees under this award.</p>	
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<p>15.</p>	<p>4 November 2015</p>	<p><a href="#">Second ED</a> published by the Commission</p>	<p><b>EXPOSURE DRAFT</b></p> <p><b>Textile, Clothing, Footwear and Associated Industries Award 2015</b></p> <p>This exposure draft has been prepared by staff of the Fair Work Commission based on the <i>Textile, Clothing, Footwear and Associated Industries Award 2010</i> (the Textile award) as at 29 October 2015. This exposure draft does not seek to amend any entitlements under the Textile award but has been prepared to address some of the structural issues identified in modern awards.</p> <p>The review of this award in accordance with s.156 of the <i>Fair Work Act 2009</i> is being dealt with in matter <a href="#">AM2014/91</a>. 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.</p> <p>This draft does <u>not</u> represent the concluded view of the Commission in this matter.</p> <p>Republished 4 November 2015</p> <p><b>17. Shiftwork and penalties—general</b></p> <p><b>17.1 Definitions</b></p> <p>The following shifts may be worked:</p> <p>(a) <b>Day shift</b> means a shift worked between the hours of 7.00 am and 7.00 pm;</p> <p>(b) <b>Afternoon shift</b> means a shift finishing after 6.00 pm but not later than midnight;</p> <p>Issued resolved in accordance with para [266] <a href="#">[2015] FWCFB 7236</a> Is a shift that finishes after 6.00 pm but before 7.00 pm a day shift or an afternoon shift?</p> <p>(c) <b>Night shift</b> means a shift finishing after midnight but not later than 7.00 am.</p> <p>Issued resolved in accordance with para [266] <a href="#">[2015] FWCFB 7236</a> Should there be a definition for 'permanent night shift'? Is it the same as the definition for 'permanent night shift' for shiftwork in the textile industry?</p>	<p>A second ED was published.</p> <p>Clause 17.3 was amended such that it expressed a <i>rate</i> payable for shiftwork, as opposed to a <i>penalty</i>. This was consistent with the approach being taken by the Commission in awards generally. It remained the case that it did not express the penalty as being payable <i>per shift</i>.</p> <p>Shift payments were inserted into Schedule C for the first time during the process. <b>Erroneously, footnote 1 to C.4.1 (re. casual employees) said that the shift penalties were payable 'per shift'</b>. This was the first time that this notion was introduced in the ED. No party had proposed this footnote and the insertion of the footnote was not expressly determined by the Commission in the aforementioned decision.</p> <p>Further, the footnote in the table at C.2.2 (re. permanent employees) was missing.</p>
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**17.3 Payment for shiftwork**

17.3 amended in accordance with para [266] of [\[2015\] FWCFCB 7236](#)

- (a) A shiftworker while on afternoon or night shift will be paid ~~an additional amount of 15%~~ **115%** of the weekly award wage for the classification concerned.
- (b) A shiftworker while on permanent night shift will be paid ~~an additional amount of 30%~~ **130%** of the weekly award wage for the classification concerned.

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

**C.2.2 Full-time and part-time employees—shiftworkers other than in the textile industry—ordinary and penalty rates**

Table amended in accordance with para [262] of [\[2015\] FWCFCB 7236](#)

	Ordinary hours	Permanent night shift <sup>1</sup>	Afternoon & night <sup>1</sup>	Public holiday
	100%	130%	115%	250%
	% minimum hourly rate	% of minimum weekly rate		
	\$	\$	\$	\$
Trainee	17.29	<u>197.07</u>	<u>98.54</u>	43.23
1	17.79	<u>202.77</u>	<u>101.39</u>	44.48
2	18.47	<u>210.54</u>	<u>105.27</u>	46.18
3	19.10	<u>217.77</u>	<u>108.89</u>	47.75
4	20.13	<u>229.47</u>	<u>114.74</u>	50.33
5 and thereafter	21.39	<u>243.84</u>	<u>121.92</u>	53.48

			<p><b>C.4 Casual employees—shiftworkers</b></p> <p>Where an additional allowance is payable for all purposes in accordance with clause 14.2(a), this forms part of the employee’s ordinary hourly rate and must be added to the minimum hourly rate prior to calculating penalties and overtime.</p> <p><b>C.4.1 Casual employees—shiftworkers other than in the textile industry—ordinary and penalty rates</b></p> <table border="1"> <thead> <tr> <th></th> <th>Ordinary hours</th> <th>Public holiday</th> <th>Afternoon &amp; night<sup>1</sup></th> <th>Permanent night shift<sup>1</sup></th> </tr> </thead> <tbody> <tr> <td></td> <td>125%</td> <td>275%</td> <td>15%</td> <td>30%</td> </tr> <tr> <td></td> <td colspan="2">% minimum hourly rate</td> <td colspan="2">% of minimum weekly rate</td> </tr> <tr> <td></td> <td>\$</td> <td>\$</td> <td>\$</td> <td>\$</td> </tr> <tr> <td>Trainee</td> <td>21.61</td> <td>47.55</td> <td>98.54</td> <td>197.07</td> </tr> <tr> <td>1</td> <td>22.24</td> <td>48.92</td> <td>101.39</td> <td>202.77</td> </tr> <tr> <td>2</td> <td>23.09</td> <td>50.79</td> <td>105.27</td> <td>210.54</td> </tr> <tr> <td>3</td> <td>23.88</td> <td>52.53</td> <td>108.89</td> <td>217.77</td> </tr> <tr> <td>4</td> <td>25.16</td> <td>55.36</td> <td>114.74</td> <td>229.47</td> </tr> <tr> <td>5 and thereafter</td> <td>26.74</td> <td>58.82</td> <td>121.92</td> <td>243.84</td> </tr> </tbody> </table> <p><sup>1</sup>Payment per shift in addition to applicable minimum hourly rate</p>		Ordinary hours	Public holiday	Afternoon & night <sup>1</sup>	Permanent night shift <sup>1</sup>		125%	275%	15%	30%		% minimum hourly rate		% of minimum weekly rate			\$	\$	\$	\$	Trainee	21.61	47.55	98.54	197.07	1	22.24	48.92	101.39	202.77	2	23.09	50.79	105.27	210.54	3	23.88	52.53	108.89	217.77	4	25.16	55.36	114.74	229.47	5 and thereafter	26.74	58.82	121.92	243.84	
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<p>16.</p>	<p>20 November 2015</p>	<p><a href="#">Ai Group submission</a> filed in response to Second ED</p>	<p><b>Clause 17.3 – Payment for shiftwork</b></p> <p>379. We refer to our submissions at section 2.2 above. Consistent with the concerns we have there raised, the heading to clause 17 should be amended by deleting the words ‘and penalties’. This is consistent with the current clause 35.1, which does not characterise the additional payment as a loading, penalty or otherwise. To do so now may have an unintended consequence as we have set out at section 2.2.</p> <p>...</p> <p><b>Schedule C.2.2 – Full-time and part-time employees – shiftworkers other than in the textile industry – ordinary and penalty rates</b></p> <p>389. The amount payable in respect of a permanent night shift and afternoon &amp; night shift are expressed as 130% and 115% (respectively) of the minimum weekly rate. This is inaccurate, as the amounts there stated has been derived by calculating 30%</p>	<p>Ai Group submitted that the rates in Schedule C.2.2 were calculated by deriving 15% and 30% of the relevant minimum weekly rate and therefore, the reference to 115% and 130% should be replaced.</p> <p><b>Ai Group also submitted that the text to the footnote in Clause C.2.2 was missing and pointed to the footnote in clause C.4.1.</b></p>																																																		

			and 15% of the relevant minimum weekly rate. Therefore, 130% and 115% should be replaced with “30%” and “15%”. This is consistent with Schedule C.4.1.										
			390. A footnote has been omitted from Schedule C.2.2 (see headings ‘permanent night shift’ and ‘afternoon & night shift’). This should be amended by inserting a footnote as follows: 1. Payment per shift in addition to the applicable minimum hourly rate.										
17.	24 November 2015	<a href="#">TCFUA submission</a> filed in response to Second ED	NA	The submission did not deal with any of the issues at hand.									
18.	7 December 2015	<a href="#">Australian Business Industrial and NSW Business Chamber submissions in reply</a> filed in response to Second ED	NA	The submission did not deal with any of the issues at hand.									
19.	7 December 2015	<a href="#">TCFUA Submissions in reply</a> filed in response to Second ED	<p>5. Attached is a table outlining the TCFUA’s further reply submissions in relation to submissions filed by the AI Group (20 November 2015) and Business SA (27 November 2015) in relation to the Revised Exposure Draft for the TCF Award 2010. The TCFUA also continues to rely on its previous submissions filed on 24 November 2015.</p> <table border="1"> <thead> <tr> <th>REVISED EXPOSURE DRAFT – CLAUSE NUMBER &amp; TITLE</th> <th>COMMENTS/ISSUE RAISED BY EMPLOYER PARTY</th> <th>TCFUA REPLY SUBMISSION</th> </tr> </thead> <tbody> <tr> <td colspan="3"><b>AI GROUP SUBMISSION (20 November 2015)</b></td> </tr> <tr> <td>Clause 17.3 Payment for shiftwork</td> <td> <ul style="list-style-type: none"> <li>Refer to submissions at 2.2 above. Consistent with the concerns raised, the heading to clause 17 should be amended by deleting the words ‘and penalties’. This is consistent with the current clause 35.1, which does not characterise the additional payment as a loading, penalty or otherwise. To do so now may have an unintended consequence as set out in section 2.2.<sup>8</sup></li> </ul> </td> <td> <ul style="list-style-type: none"> <li>The TCFUA opposes the AI Group submission.</li> <li>The FWC has generally determined to restructure the format of modern awards as part of the 2014 Award Review. Having so determined, the heading of clause 17 is consistent with the equivalent headings of clause 18 (Shiftwork and penalties – textile industry) and clause 19 (Seven day continuous shiftwork and penalties – textile industry).</li> </ul> </td> </tr> </tbody> </table>	REVISED EXPOSURE DRAFT – CLAUSE NUMBER & TITLE	COMMENTS/ISSUE RAISED BY EMPLOYER PARTY	TCFUA REPLY SUBMISSION	<b>AI GROUP SUBMISSION (20 November 2015)</b>			Clause 17.3 Payment for shiftwork	<ul style="list-style-type: none"> <li>Refer to submissions at 2.2 above. Consistent with the concerns raised, the heading to clause 17 should be amended by deleting the words ‘and penalties’. This is consistent with the current clause 35.1, which does not characterise the additional payment as a loading, penalty or otherwise. To do so now may have an unintended consequence as set out in section 2.2.<sup>8</sup></li> </ul>	<ul style="list-style-type: none"> <li>The TCFUA opposes the AI Group submission.</li> <li>The FWC has generally determined to restructure the format of modern awards as part of the 2014 Award Review. Having so determined, the heading of clause 17 is consistent with the equivalent headings of clause 18 (Shiftwork and penalties – textile industry) and clause 19 (Seven day continuous shiftwork and penalties – textile industry).</li> </ul>	<b>The TCFUA opposed the footnote proposed by Ai Group for clause C.2.2.</b> It contended that the shift penalties payable per clause 17.3 of the ED were calculated using a different methodology to the shift penalties separately prescribed for the textile industry (which were clearly expressed to apply per shift).
REVISED EXPOSURE DRAFT – CLAUSE NUMBER & TITLE	COMMENTS/ISSUE RAISED BY EMPLOYER PARTY	TCFUA REPLY SUBMISSION											
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			<p>Schedule C.2.2 Full-time and part-time employees – shiftworkers other than in the textile industry – ordinary and penalty rates</p> <ul style="list-style-type: none"> <li>The amount payable in respect of a permanent night shift and afternoon and night shift are expressed as 130% and 115% (respectively) of the minimum weekly rate. This is inaccurate, as the amounts there stated has been derived by calculating 30% and 15% of the relevant weekly rate. Therefore, 130% and 115% should be replaced with '30%' and '15%'. This is consistent with Schedule C.4.1.<sup>17</sup></li> </ul>	<ul style="list-style-type: none"> <li>If the TCFUA understands the AI Group's submission correctly, the potential anomaly arises because read literally the term 115 or 130% of the 'minimum weekly wage' would result in higher amounts than represented in the table (which have been calculated using 15% or 30% respectively, not 115% or 130%).</li> <li>If this is the case then the TCFUA agrees with the AI Group submission.</li> </ul>	
			<p>Schedule C.2.2 Full-time and part-time employees – shiftworkers other than in the textile industry – ordinary and penalty rates</p> <ul style="list-style-type: none"> <li>A footnote has been omitted from Schedule C.2.2 (see headings 'permanent night shift' and 'afternoon &amp; night shift'. This should be amended by inserting a footnote as follows: <ul style="list-style-type: none"> <li>1. Payment per shift in addition to the applicable minimum hourly rate.<sup>18</sup></li> </ul> </li> </ul>	<ul style="list-style-type: none"> <li>The TCFUA disagrees with the AIG submission.</li> <li>There are different methods of calculation in relation to the shift loading for employees (non-textile) and employees (textile).</li> <li>Further, the textile shift loadings are calculated against the General skill level 2 classification in clause 10.1; whereas the General shift loadings are determined according to the actual skill level classification appropriate to the work performed by the employee.</li> </ul>	
			<p>Schedule C.2.2 Full-time and part-time employees – shiftworkers other than in the textile industry – ordinary and penalty rates</p> <ul style="list-style-type: none"> <li>The table suggests that the public holiday penalty in the final column is calculated on the minimum weekly rate. This is not correct; the penalty is applied to the minimum hourly rate. This should be amended.<sup>19</sup></li> </ul>	<ul style="list-style-type: none"> <li>The TCFUA agrees with the AIG submission.</li> </ul>	
20.	7 December 2015	<a href="#">Ai Group submissions in reply</a> filed in response to Second ED	NA		The submission did not deal with the issue at hand.

<p>21.</p>	<p>13 June 2017</p>	<p><a href="#">Third ED</a> published by the Commission</p>	<p><b>EXPOSURE DRAFT</b></p> <p><b>Textile, Clothing, Footwear and Associated Industries Award 2015</b></p> <p>This exposure draft has been prepared by staff of the Fair Work Commission based on the <i>Textile, Clothing, Footwear and Associated Industries Award 2010</i> (the Textile award) as at 29 October 2015. This exposure draft does not seek to amend any entitlements under the Textile award but has been prepared to address some of the structural issues identified in modern awards.</p> <p>The review of this award in accordance with s.156 of the <i>Fair Work Act 2009</i> is being dealt with in matter <a href="#">AM2014/91</a>. 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.</p> <p>This draft does <u>not</u> represent the concluded view of the Commission in this matter.</p> <p><b>17.3 Payment for shiftwork</b></p> <p>(a) A shiftworker while on afternoon or night shift will be paid <b>115%</b> of the weekly award wage for the classification concerned.</p> <p>(b) A shiftworker while on permanent night shift will be paid <b>130%</b> of the weekly award wage for the classification concerned.</p> <p>See Schedule C for a summary of hourly rates of pay including overtime and penalties.</p> <p><b>C.3 Full-time and part-time employees—shiftworkers</b></p> <p><del>C.2.1</del> Where an additional allowance is payable for all purposes in accordance with clause 14.2(a), this forms part of the employee’s ordinary hourly rate and must be added to the minimum hourly rate prior to calculating penalties and overtime.</p>	<p>A third ED was published.</p> <p>The terms of clause 17.3 remained the same as the second ED.</p> <p>Parties were asked to comment on what the footnote should say in clause C.3.1 to explain ‘<i>how the shift loading should be paid in relation to wage rates</i>’.</p>
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**C.3.1 Full-time and part-time employees—shiftworkers other than in the textile industry—ordinary and penalty rates**

Parties have suggested footnote be included to explain how Permanent night shift and Afternoon & night shift penalties are paid in relation to wage rates. What should the footnote say?

	Ordinary hours	Permanent night shift	Afternoon & night	Public holiday
	100%	130%	115%	250%
	$\frac{\% \text{ ordinary hourly rate}^1 \times \text{minimum hourly rate}}{\text{hourly rate}}$	$\frac{\% \text{ of ordinary weekly rate}}{\text{minimum weekly rate}}$		$\frac{\% \text{ ordinary hourly rate}^1}{\text{hourly rate}}$
	\$	\$	\$	\$
Trainee	17.70	201.81	100.91	44.25
1	18.21	207.63	103.82	45.53
2	18.91	215.58	107.79	47.28
3	19.56	222.99	111.50	48.90
4	20.61	234.99	117.50	51.53
5 and thereafter	21.90	249.69	124.85	54.75

<sup>1</sup>Rates in table are calculated based on the minimum hourly rate, see clauses C.1.1 and C.1.2.

**C.5 Casual employees—shiftworkers**

~~C.4.1 Where an additional allowance is payable for all purposes in accordance with clause 14.2(a), this forms part of the employee's ordinary hourly rate and must be added to the minimum hourly rate prior to calculating penalties and overtime.~~

**C.5.1 Casual employees—shiftworkers other than in the textile industry—ordinary and penalty rates**

	Ordinary hours	Public holiday	Afternoon & night <sup>1</sup>	Permanent night shift <sup>1</sup>
	125%	275%	15%	30%
	% <u>ordinary hourly rate</u> <sup>2</sup> minimum hourly rate		% of <u>ordinary weekly rate</u> minimum weekly rate	
	\$	\$	\$	\$
Trainee	22.13	48.68	100.91	201.81
1	22.76	50.08	103.82	207.63
2	23.64	52.00	107.79	215.58
3	24.45	53.79	111.50	222.99
4	25.76	56.68	117.50	234.99
5 and thereafter	27.38	60.23	124.85	249.69

<sup>1</sup>Payment per shift in addition to applicable ordinary hourly rate ~~minimum hourly rate~~

<sup>2</sup>Rates in table are calculated based on the minimum hourly rate, see clauses C.1.1 and C.1.2

22.	13 June 2017	<a href="#">Summary of submissions on EDs to date published by the Commission</a>	ITEM	PARTY	DOCUMENT	CLAUSE (exposure draft)	CLAUSE (current award)	SUMMARY OF ISSUE	THEIR REFERENCE (paragraph)	NOTES	
				TCFUA	<a href="#">Reply-07/12/15</a>			Oppose AIG submission. AIG proposal may be misleading because the Schedule deals with more than the general classifications in clause 10.1 e.g. contains tables in relation to seven day continuous shiftworkers.	p 6		
			30.	AIG	<a href="#">Sub-20/11/15</a>	C.3.1 (formerly C.2.2)	See 35	<b>Summary of hourly rates of pay</b> Amount payable in respect of a permanent night shift and afternoon and night shift are expressed as 130% and 115% of the minimum weekly rate respectively. This is inaccurate as amounts are derived by calculating 30% and 15% of the relevant minimum weekly rate. Amounts should be replaced with '30%' and '15%'. Submit this is consistent with C.4.1.	389	Amendment appears to be agreed by parties has been marked in exposure draft in red text.	
				TCFUA	<a href="#">Reply-07/12/15</a>			Agree with AIG submission if it is meant that potential anomaly arises because read literally the term 115% or 130% of the 'minimum weekly wage' would result in higher amounts than represented in the table.	p 7		
			31.	AIG	<a href="#">Sub-20/11/15</a>	C.3.1 (formerly C.2.2)		<b>Summary of hourly rates of pay</b> Footnote omitted – see headings 'permanent night shift' and 'afternoon & night shift'. Insert 'payment per shift in addition to applicable minimum hourly rate'	390	<i>Note: Footnote may assist to explain payment. Note added to the ED requesting parties' input on what footnote should say.</i>	
				TCFUA	<a href="#">Reply-07/12/15</a>			Disagrees with AIG, as different methods for calculating shift loading for textile workers and general skills.			
			32.	AIG	<a href="#">Sub-20/11/15</a>	C.3.1 (formerly C.2.2)		<b>Summary of hourly rates of pay</b> Table suggests that public holiday penalty in final column is calculated on the minimum weekly rate. This is incorrect – the penalty is applied to the minimum hourly rate.	391	Error – public holiday is calculated on 'ordinary hourly rate' per clause 24.3(a) – table C.2.2 amended in ED.	
				TCFUA	<a href="#">Reply-07/12/15</a>			Agree with AIG	p 8		
			33.	TCFUA	<a href="#">Sub-24/11/15</a>	C.3.2, C.3.3, C.4.2 (formerly C.4.1), C.4.3 (formerly C.4.2), C.4.4 (formerly C.4.3), C.4.5 (formerly C.4.4),		<b>Summary of hourly rates of pay</b> Submit various overtime and public holiday rates for casual employees incorrect due to cumulative calculation method. Submit correct method is compounding.	pp 8–10		
				ABI/ NSWBC	<a href="#">Reply-07/12/15</a>			Disagree with TCFUA in respect of alleged errors in method of calculating wage rates in the various schedules. Nothing in the award suggests the casual rates should be based on compounding method rather than cumulative. Casual loading in this award is not 'all purpose' and therefore should not be treated as	4.10		
											Item 31 summarised the aforementioned submissions of Ai Group and the TCFUA re. the footnote contained in the summary of hourly rates at C.3.1.

			22.	AIG	<a href="#">Sub-20/11/15</a>	17.3	35.1	<b>Payment for shiftwork</b> Heading to clause 17 should be amended by deleting the words 'and penalties' to be consistent with current clause which does not characterise the additional payment as a loading, penalty or otherwise. Oppose AIG submission. Submit the FWC has determined format of awards as part of Review. Heading is consistent with equivalent headings of clause 18 and 19.	379, and generally 2.2			
				TCFUA	<a href="#">Reply-07/12/15</a>				p 4			
23.	7 July 2017	<a href="#">TCFUA submission filed in response to Third ED</a>	NA									The submission did not deal with the issue at hand. They dealt with other issues related to the relevant provisions of the ED.
24.	11 July 2017	<a href="#">Ai Group submission filed in response to Third ED</a>	NA									The submission did not deal with the issue at hand. They dealt with other issues related to the relevant provisions of the ED.
25.	22 March 2018	<a href="#">Revised Summary of submissions - outstanding issues on Third ED</a> published by the Commission	<b>ITEM</b>	<b>PARTY</b>	<b>DOCUMENT</b>	<b>CLAUSE (exposure draft)</b>	<b>CLAUSE (current award)</b>	<b>SUMMARY OF ISSUE</b>	<b>THEIR REFERENCE (paragraph)</b>	<b>NOTES</b>		
			2.	AIG	<a href="#">Sub-31/08/16</a>	6.4(g), 14.2(e), 15.A.1, 17, 18, 21.1(b)		<b>General – Inconsistent terminology</b> Cl 6.4(g) refers to 'penalty payments for... shiftwork'. Cl.14.2(e) contains a 'shift allowance'. Cl.15.A.1 refers to 'shift loadings'. Heading for cl.17 is 'Shiftwork and penalties...'. The heading for cl.17.3 is 'Payment for shiftwork' and cl.17.3 contains rates. The heading for clause 18 is 'Shiftwork and penalties...'. The heading for cl.18.3 is 'Payment for shiftwork'. Cl.18.3(a) and 18.3(b) contain allowances that are referred to as a 'penalty loading'. Cl.18.3(c) refers to 'shift penalties'. Cl.18.3(d) and (e) contain rates for shiftworkers. Cl.18.3(f) refers to the allowance in cl.14.2(e). Cl.21.1(b) refers to 'shift loading'.	44	<b>REFERRED</b> Referred to the Plain Language Full Bench (AM2016/15) see decision <a href="#">[2017] FWCFB 5536</a> at <a href="#">[581]</a> , see also <a href="#">[2018] FWC 1544</a> .		
				ABI/NSWBC	<a href="#">Sub-07/07/2017</a>			Agree with AIG	34			
				AIG	<a href="#">Sub-11/07/17</a>			Item relates to 'Inconsistent Terminology Issue' which remains outstanding.	4-7 and 374			
											This revised summary of submissions was said to 'include submissions received in response to para [125] of Full Bench Decision [2017] FWCFB 3177 re outstanding issues in the exposure draft. The summary includes submissions received on or before 11 July 2017'.  <b>Item 31 related to the footnote in clause C.3.1. It was marked as 'resolved'; however the basis upon which it was resolved is apparent.</b>	

			22.	AIG	<a href="#">Sub-20/11/15</a>	17.3	35.1	<b>Payment for shiftwork</b> Heading to clause 17 should be amended by deleting the words 'and penalties' to be consistent with current clause which does not characterise the additional payment as a loading, penalty or otherwise.	379, and generally 2.2	<b>REFERRED</b> Referred to the Plain Language Full Bench (AM2016/15) see decision <a href="#">[2017] FWCFB 5536</a> at <a href="#">[581]</a> , see also <a href="#">[2018] FWC 1544</a> .
			TCFUA	<a href="#">Reply-07/12/15</a>			Oppose AIG submission. Submit the FWC has determined format of awards as part of Review. Heading is consistent with equivalent headings of clause 18 and 19.	p 4		
			AIG	<a href="#">Sub-11/07/17</a>			Item relates to 'Inconsistent Terminology Issue' which remains outstanding.	4-7 and 396		
			30.	AIG	<a href="#">Sub-20/11/15</a>	C.3.1 (formerly C.2.2)	See 35	<b>Summary of hourly rates of pay</b> Amount payable in respect of a permanent night shift and afternoon and night shift are expressed as 130% and 115% of the minimum weekly rate respectively. This is inaccurate as amounts are derived by calculating 30% and 15% of the relevant minimum weekly rate. Amounts should be replaced with '30%' and '15%'. Submit this is consistent with C.4.1.	389	<b>RESOLVED</b> Amendment appears to be agreed by parties has been marked in exposure draft in red text.
			TCFUA	<a href="#">Reply-07/12/15</a>			Agree with AIG submission if it is meant that potential anomaly arises because read literally the term 115% or 130% of the 'minimum weekly wage' would result in higher amounts than represented in the table.	P 7		
			31.	AIG	<a href="#">Sub-20/11/15</a>	C.3.1 (formerly C.2.2)		<b>Summary of hourly rates of pay</b> Footnote omitted – see headings 'permanent night shift' and 'afternoon & night shift'. Insert 'payment per shift in addition to applicable minimum hourly rate'	390	<b>RESOLVED</b> <i>Note: Footnote may assist to explain payment. Note added to the ED requesting parties' input on what footnote should say</i>
			TCFUA	<a href="#">Reply-07/12/15</a>			Disagrees with AIG, as different methods for calculating shift loading for textile workers and general skills.			
			32.	AIG	<a href="#">Sub-20/11/15</a>	C.3.1 (formerly C.2.2)		<b>Summary of hourly rates of pay</b> Table suggests that public holiday penalty in final column is calculated on the minimum weekly rate. This is incorrect – the penalty is applied to the minimum hourly rate.	391	<b>RESOLVED</b> Error – public holiday is calculated on 'ordinary hourly rate' per clause 24.3(a) – table C.2.2 amended in ED.
			TCFUA	<a href="#">Reply-07/12/15</a>			Agree with AIG	p 8		
			33.	TCFUA	<a href="#">Sub-24/11/15</a>	C.3.2, C.3.3, C.4.2		<b>Summary of hourly rates of pay</b> Submit various overtime and public holiday rates for casual employees incorrect due to cumulative calculation	Pp 8–10	<b>REMAINS OUTSTANDING</b>

				<p>(formerly C.4.1), C.4.3 (formerly C.4.2), C.4.4 (formerly C.4.3), C.4.5 (formerly C.4.4),</p>	<p>method. Submit correct method is compounding.</p> <p>Disagree with TCFUA in respect of alleged errors in method of calculating wage rates in the various schedules. Nothing in the award suggests the casual rates should be based on compounding method rather than cumulative. Casual loading in this award is not 'all purpose' and therefore should not be treated as compounding when determining rate of pay for weekends, public holidays or shift work.</p> <p>Strongly oppose TCFUA. TCFUA has not explained reasons for its position that the public holiday penalty compounds on the casual loading. To adopt TCFUA approach would be to depart from terms of the current award and result in significant increase in costs.</p> <p>TCFUA maintains wage rates for casual employees with respect to penalties and loadings are incorrect because they have been calculated based on a cumulative method rather than a compounding method. In relation to casual day workers, this submission applies to C.4.1 and C.4.2.</p> <p>Maintains opposition to TCFUA. If TCFUA presses its position, AIG may seek further opportunity to be heard.</p>	<p>4.10</p> <p>227-237</p> <p>65-81</p> <p>399</p>	
26.	28 June 2018	The Full Bench issued a Decision – <a href="#">[2018] FWCFB 3802</a>	<p><b>[401]</b> A revised summary of submissions in relation to the <i>Textile, Clothing, Footwear and Associated Industries Award 2010</i> (Textile Award) was published on 22 March 2018. Ai Group, ABI, Business SA, the AMWU, the AWU and the Textile, Clothing and Footwear Union of Australia (TCFUA) made submissions in relation to the review of this award. The following items were confirmed as either resolved by agreement, determined in a previous Full Bench decision or relate to minor typographical or cross-referencing errors: items 1A, 1, 3 - 7, 9, 10, 10A, 12, 13, 15, 16, 18, 19, 21, 22A, 23, 24, 24A, 25, 26, 27, 27A, 28, 30, 31, 32, 32A, 34, 35, 36, 36A, 37, 38, 39, 41, 42A. Variations to the Exposure Draft will be made for those items. Items 2 and 22 are referred to other Full Benches. Items 10A and 11 are dealt with above at paragraph [17].</p> <p><b>[402]</b> Items 8, 14, 17, 20, 29, 33, 34A, 40, 42B remain outstanding.</p>	The decision confirmed the summary of submissions above re item 31.			



<p>27.</p>	<p>13 February 2019</p>	<p><a href="#">Fourth ED</a> published by the Commission</p>	<p><b>EXPOSURE DRAFT</b></p> <p><b>Textile, Clothing, Footwear and Associated Industries Award 20XX</b></p> <p>This exposure draft has been prepared by staff of the Fair Work Commission based on the <i>Textile, Clothing, Footwear and Associated Industries Award 2010</i> (the Textile award) as at 29 October 2015. This exposure draft does not seek to amend any entitlements under the Textile award but has been prepared to address some of the structural issues identified in modern awards.</p> <p>The review of this award in accordance with s.156 of the <i>Fair Work Act 2009</i> is being dealt with in matter <a href="#">AM2014/91</a>. 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.</p> <p>This draft does <u>not</u> represent the concluded view of the Commission in this matter.</p> <p><b>17.3 Payment for shiftwork</b></p> <p>(a) A shiftworker while on afternoon or night shift will be paid <b>115%</b> of the weekly award wage for the classification concerned.</p> <p>(b) A shiftworker while on permanent night shift will be paid <b>130%</b> of the weekly award wage for the classification concerned.</p> <p>See Schedule C for a summary of hourly rates of pay including overtime and penalties.</p>	<p>A fourth ED was published.</p> <p>Clause 17.3 remained unchanged from the third ED.</p> <p><b>A new footnote 2 was added into Schedule C.3.1 which provided that payment for shiftwork is per shift in addition to the applicable ordinary hourly rate.</b> The ED said that the footnote was suggested by the parties.</p>
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**C.3 Full-time and part-time employees—shiftworkers**

**C.3.1 Full-time and part-time employees—shiftworkers other than in the textile industry—ordinary and penalty rates**

Clause C.3.1 amended in accordance with [\[2018\] FWCFB 3802](#) at [401].

Parties have suggested footnote be included to explain how permanent night shift, afternoon & night shift penalties are paid in relation to wage rates. Note added.

	Ordinary hours	Permanent night shift <sup>2</sup>	Afternoon & night <sup>2</sup>	Public holiday
	100%	130%	115%	250%
	% ordinary hourly rate <sup>1</sup>	% of ordinary weekly rate		% ordinary hourly rate <sup>1</sup>
	\$	\$	\$	\$
Trainee	18.93	215.76	107.88	47.33
1	19.47	221.97	110.99	48.68
2	20.22	230.49	115.25	50.55
3	20.91	238.41	119.21	52.28
4	22.04	251.22	125.61	55.10
5 and thereafter	23.42	266.97	133.49	58.55

<sup>1</sup> Rates in table are calculated based on the minimum hourly rate, see clauses C.1.1 and C.1.2.

<sup>2</sup> Payment is per shift in addition to applicable ordinary hourly rate

			<p><b>C.5 Casual employees—shiftworkers</b></p> <p><b>C.5.1 Casual employees—shiftworkers other than in the textile industry—ordinary and penalty rates</b></p> <table border="1"> <thead> <tr> <th></th> <th>Ordinary hours</th> <th>Public holiday</th> <th>Afternoon &amp; night<sup>1</sup></th> <th>Permanent night shift<sup>1</sup></th> </tr> </thead> <tbody> <tr> <td></td> <td>125%</td> <td>275%</td> <td>15%</td> <td>30%</td> </tr> <tr> <td></td> <td colspan="2">% ordinary hourly rate <sup>2</sup></td> <td colspan="2">% of ordinary weekly rate</td> </tr> <tr> <td></td> <td>\$</td> <td>\$</td> <td>\$</td> <td>\$</td> </tr> <tr> <td>Trainee</td> <td>23.66</td> <td>52.06</td> <td>107.88</td> <td>215.76</td> </tr> <tr> <td>1</td> <td>24.34</td> <td>53.54</td> <td>110.99</td> <td>221.97</td> </tr> <tr> <td>2</td> <td>25.28</td> <td>55.61</td> <td>115.25</td> <td>230.49</td> </tr> <tr> <td>3</td> <td>26.14</td> <td>57.50</td> <td>119.21</td> <td>238.41</td> </tr> <tr> <td>4</td> <td>27.55</td> <td>60.61</td> <td>125.61</td> <td>251.22</td> </tr> <tr> <td>5 and thereafter</td> <td>29.28</td> <td>64.41</td> <td>133.49</td> <td>266.97</td> </tr> </tbody> </table> <p><sup>1</sup> Payment per shift in addition to applicable ordinary hourly rate  <sup>2</sup> Rates in table are calculated based on the minimum hourly rate, see clauses C.1.1 and C.1.2</p>		Ordinary hours	Public holiday	Afternoon & night <sup>1</sup>	Permanent night shift <sup>1</sup>		125%	275%	15%	30%		% ordinary hourly rate <sup>2</sup>		% of ordinary weekly rate			\$	\$	\$	\$	Trainee	23.66	52.06	107.88	215.76	1	24.34	53.54	110.99	221.97	2	25.28	55.61	115.25	230.49	3	26.14	57.50	119.21	238.41	4	27.55	60.61	125.61	251.22	5 and thereafter	29.28	64.41	133.49	266.97	
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<p>28.</p>	<p>13 March 2019</p>	<p><a href="#">ABI Submission – Group 1 Awards - EDs (including Fourth ED) filed</a></p>	<p><b>TEXTILE, CLOTHING, FOOTWEAR AND ASSOCIATED INDUSTRIES AWARD 2010</b></p> <p><b>Clause C.3.2</b></p> <p>50. Footnote 1 to the table in clause is incomplete and reads “Payment per shift in addition to applicable”.</p> <p>51. Our clients submit that the words “applicable ordinary hourly rate.” should be added to the end of the footnote.</p>	<p>An ancillary change was proposed to the footnote.</p>																																																		
<p>29.</p>	<p>23 September 2019</p>	<p><a href="#">Ai Group submission in reply filed in response to Fourth ED</a></p>	<p><b>25. TEXTILE, CLOTHING, FOOTWEAR AND ASSOCIATED INDUSTRIES AWARD 2010</b></p> <p><b>Response to submission of ABI and NSWBC (dated 13 March 2019)</b></p> <p><u>Clause C.3.2: Summary of hourly rates</u></p> <p>123. The proposed change should, in our submission, be made</p>	<p>Ai Group agreed with ABI’s submission.</p>																																																		

30.	8 October 2019	Full Bench issued Statement – <a href="#">[2019] FWCFB 6899</a>	<p><b>[41]</b> In relation to clause C.3.2, ABI submits that Footnote 1 to the table is incomplete and should read: ‘Payment per shift in addition to applicable <i>ordinary hourly rate</i>’. CFMMEU-MD agrees with ABI’s proposal. It is our <i>provisional</i> view that Footnote 1 be amended as proposed by ABI.</p>	
31.	14 October 2019	Full Bench issued Decision - <a href="#">[2019] FWCFB 6935</a>	<p><b>[25]</b> The cross reference in F.5.8 will be amended to ‘clauses 29.1 and 29.2’.</p> <p><b>[26]</b> Footnote 1 to the table in clause C.3.2 will be amended to read: ‘Payment per shift in addition to applicable ordinary hourly rate’.</p>	The footnote was amended as proposed by ABI.
32.	29 January 2020	<p><a href="#">Draft Award Variation Determination</a> and Fifth <a href="#">Exposure Draft</a> published by the Commission in conjunction with Decision <a href="#">[2020] FWCFB 421</a></p>	<p><b>EXPOSURE DRAFT</b></p> <p><b>Textile, Clothing, Footwear and Associated Industries Award 20XX</b></p> <p>This exposure draft has been prepared by staff of the Fair Work Commission based on the <b>Textile, Clothing, Footwear and Associated Industries Award 2010</b> (the Textile award) as at 29 October 2015 and incorporates award updates up to 19 December 2019. This exposure draft does not seek to amend any entitlements under the Textile award, Instead, it has been prepared to address some of the structural issues identified in modern awards and to apply plain language drafting principles and techniques.</p> <p>The review of this award in accordance with section 156 of the Fair Work Act 2009 is being dealt with in matter <a href="#">AM2014/91</a>. Additionally a number of common issues are being dealt with by the Commission which may affect this award. Some transitional provisions have been deleted as a result of decisions made during the review.</p> <p>This draft does not represent the concluded view of the Commission in this matter.</p>	<p>A draft variation determination and fifth ED published.</p> <p>Interested parties were invited to comment on the exposure drafts and draft variation determination by no later than 4:00 pm on 4 March 2020.</p> <p>Clause 29.3 of the ED remained in substantively the same terms as clause 17.3 of the fourth ED and the footnote was also retained.</p>

			<p><b>29.3 Payment for shiftwork</b></p> <p>(a) A shiftworker while on afternoon or night shift will be paid <b>115%</b> of the weekly award <del>wagerate</del> for the classification concerned.</p> <p>(b) A shiftworker while on permanent night shift will be paid <b>130%</b> of the weekly award <del>wagerate</del> for the classification concerned.</p> <p><u>NOTE: See Schedule C—Summary of Hourly Rates of Pay for a summary of hourly rates of pay including overtime and penalty rates.</u></p> <p><del>See Schedule C—Summary of Hourly Rates of Pay for a summary of hourly rates of pay including overtime and penalty rates.</del></p> <p><b>C.1 Ordinary hourly rate</b></p> <p><b>C.1.1</b> Ordinary hourly rate is the minimum hourly rate of pay for an employee plus any allowance payable for all purposes to which the employee is entitled. Where an allowance is payable for all purposes in accordance with clause 24.2(a) 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.</p> <p><b>C.1.2</b> The rates in the tables below are based on the <b>minimum hourly rates</b> in accordance with clause 19—Minimum rates. Consistent with clause C.1.1, all-purpose allowances need to be added to the rates in the table where they are applicable.</p>	
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**C.3 Full-time and part-time employees—shiftworkers**

**C.3.1 Full-time and part-time employees—shiftworkers other than in the textile industry—ordinary and penalty rates**

Parties have suggested a footnote be included to explain how permanent night shift, afternoon & night shift penalty rates are paid in relation to wage rates. Note added.

	Ordinary hours	Permanent night shift <sup>2</sup>	Afternoon & night <sup>2</sup>	Public holiday
	% ordinary hourly rate <sup>1</sup>	% of ordinary weekly rate		% ordinary hourly rate <sup>1</sup>
	100%	30%	15%	250%
	\$	\$	\$	\$
Trainee	19.49	222.24	111.12	48.73
Skill level 1	20.06	228.63	114.32	50.15
Skill level 2	20.82	237.39	118.70	52.05
Skill level 3	21.54	245.55	122.78	53.85
Skill level 4	22.70	258.75	129.38	56.75

**Commented [FWC6]:** (Minimum weekly rate + 38) in cl 19.1.  
**Commented [FWC7]:** Minimum weekly rate in cl 19.1.  
**Commented [FWC8]:** Relevant percentage in cl 29.3 + applicable ordinary hourly rate.  
**Commented [FWC9]:** Relevant percentage in cl 37.3(a).

	Ordinary hours	Permanent night shift <sup>2</sup>	Afternoon & night <sup>2</sup>	Public holiday
	% ordinary hourly rate <sup>1</sup>	% of ordinary weekly rate		% ordinary hourly rate <sup>1</sup>
	100%	30%	15%	250%
	\$	\$	\$	\$
Skill level 5 and thereafter	24.12	274.98	137.49	60.30

**Commented [FWC6]:** (Minimum weekly rate + 38) in cl 19.1.  
**Commented [FWC7]:** Minimum weekly rate in cl 19.1.  
**Commented [FWC8]:** Relevant percentage in cl 29.3 + applicable ordinary hourly rate.  
**Commented [FWC9]:** Relevant percentage in cl 37.3(a).

<sup>1</sup> Rates in table are calculated based on the minimum hourly rate, see clauses C.1.1 and C.1.2.

<sup>2</sup> Payment is per shift in addition to applicable ordinary hourly rate.

			<p><b>C.5 Casual employees—shiftworkers</b></p> <p>A Full Bench has been constituted in <a href="#">AM2017/51</a> to deal with the issue of overtime for casuals. The rates in the tables below dealing with overtime for casuals will not become operative until a decision is made in that matter and only to the extent that they are consistent with the decision.</p> <p><b>C.5.1 Casual employees—shiftworkers other than in the textile industry—ordinary and penalty rates</b></p> <table border="1"> <thead> <tr> <th></th> <th>Ordinary hours</th> <th>Public holiday</th> <th>Afternoon &amp; night<sup>1</sup></th> <th>Permanent night shift<sup>1</sup></th> </tr> </thead> <tbody> <tr> <td></td> <td>125%</td> <td>275%</td> <td>15%</td> <td>30%</td> </tr> <tr> <td></td> <td colspan="2">% ordinary hourly rate<sup>2</sup></td> <td colspan="2">% of ordinary weekly rate</td> </tr> <tr> <td></td> <td>\$</td> <td>\$</td> <td>\$</td> <td>\$</td> </tr> <tr> <td>Trainee</td> <td>24.36</td> <td>53.60</td> <td>111.12</td> <td>222.24</td> </tr> <tr> <td>Skill level 1</td> <td>25.08</td> <td>55.17</td> <td>114.32</td> <td>228.63</td> </tr> <tr> <td>Skill level 2</td> <td>26.03</td> <td>57.26</td> <td>118.70</td> <td>237.39</td> </tr> <tr> <td>Skill level 3</td> <td>26.93</td> <td>59.24</td> <td>122.78</td> <td>245.55</td> </tr> <tr> <td>Skill level 4</td> <td>28.38</td> <td>62.43</td> <td>129.38</td> <td>258.75</td> </tr> <tr> <td>Skill level 5 and thereafter</td> <td>30.15</td> <td>66.33</td> <td>137.49</td> <td>274.98</td> </tr> </tbody> </table> <p><sup>1</sup> Payment per shift in addition to applicable ordinary hourly rate</p> <p><sup>2</sup> Rates in table are calculated based on the minimum hourly rate, see clauses C.1.1 and C.1.2</p> <div style="border: 1px solid red; padding: 5px; margin-top: 10px;"> <p><b>Commented [FWC26]:</b> Ordinary hourly rate + 25% casual loading in cl 11.9(b).</p> <p><b>Commented [FWC27]:</b> Relevant percentage in cl 37.3(a) + 25% casual loading in cl 11.9(b).</p> <p><b>Commented [FWC28]:</b> Relevant percentage in cl 29.3 + applicable ordinary hourly rate.</p> <p><b>Commented [FWC29]:</b> (Minimum weekly rate ÷ 38) in cl 19.1.</p> <p><b>Commented [FWC30]:</b> Minimum weekly rate in cl 19.1.</p> </div>		Ordinary hours	Public holiday	Afternoon & night <sup>1</sup>	Permanent night shift <sup>1</sup>		125%	275%	15%	30%		% ordinary hourly rate <sup>2</sup>		% of ordinary weekly rate			\$	\$	\$	\$	Trainee	24.36	53.60	111.12	222.24	Skill level 1	25.08	55.17	114.32	228.63	Skill level 2	26.03	57.26	118.70	237.39	Skill level 3	26.93	59.24	122.78	245.55	Skill level 4	28.38	62.43	129.38	258.75	Skill level 5 and thereafter	30.15	66.33	137.49	274.98	
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<p>33.</p>	<p>23 March 2020</p>	<p>Statement <a href="#">[2020] FWCFB 1539</a> and <a href="#">Background Paper</a> published by Commission</p>	<p>NA</p>	<p>A background paper summarising submissions filed in response to the fifth ED and draft determination was published.</p> <p>None of the parties' submissions addressed or made reference to clauses relating to payment of shiftwork.</p>																																																		
<p>34.</p>	<p>8 April 2020</p>	<p><a href="#">Report to Full Bench issued by Commissioner Bissett</a></p>	<p>NA</p>	<p>None of the issues summarised addressed or made reference to clauses relating to payment of shiftwork.</p>																																																		

<p>35.</p>	<p>8 May 2020</p>	<p><a href="#">Draft Award Variation Determination</a> and Sixth <a href="#">Exposure Draft</a> published by the Commission</p>	<p><b>EXPOSURE DRAFT</b></p> <p><b>Textile, Clothing, Footwear and Associated Industries Award 20<del>20XX</del></b></p> <p>This exposure draft has been prepared by staff of the Fair Work Commission based on the <i>Textile, Clothing, Footwear and Associated Industries Award 2010</i> (the Textile award) as at 29 October 2015 and incorporates award updates up to 8 April 2020. This exposure draft does not seek to amend any entitlements under the Textile award, Instead, it has been prepared to address some of the structural issues identified in modern awards and to apply plain language drafting principles and techniques.</p> <p>The review of this award in accordance with section 156 of the Fair Work Act 2009 is being dealt with in matter <a href="#">AM2014/91</a>. Additionally a number of common issues are being dealt with by the Commission which may affect this award. Some transitional provisions have been deleted as a result of decisions made during the review.</p> <p>This draft does not represent the concluded view of the Commission in this matter.</p> <p><b>29.3 Payment for shiftwork</b></p> <p>(a) A shiftworker while on afternoon or night shift will be paid <b>115%</b> of the weekly award rate for the classification concerned.</p> <p>(b) A shiftworker while on permanent night shift will be paid <b>130%</b> of the weekly award rate for the classification concerned.</p> <p>NOTE: See Schedule C—Summary of Hourly Rates of Pay for a summary of hourly rates of pay including overtime and penalty rates.</p>	<p>A sixth ED and second draft determination published. The relevant parts remained the same as the fifth ED.</p>
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			<p><b>C.3 Full-time and part-time employees—shiftworkers</b></p> <p><b>C.3.1 Full-time and part-time employees—shiftworkers other than in the textile industry—ordinary and penalty rates</b></p> <table border="1"> <thead> <tr> <th></th> <th>Ordinary hours</th> <th>Permanent night shift<sup>2</sup></th> <th>Afternoon &amp; night<sup>2</sup></th> <th>Public holiday</th> </tr> <tr> <th></th> <th>% ordinary hourly rate<sup>1</sup></th> <th colspan="2">% of ordinary weekly rate</th> <th>% ordinary hourly rate<sup>1</sup></th> </tr> <tr> <th></th> <th>100%</th> <th>30%</th> <th>15%</th> <th>250%</th> </tr> <tr> <th></th> <th>\$</th> <th>\$</th> <th>\$</th> <th>\$</th> </tr> </thead> <tbody> <tr> <td>Trainee</td> <td>19.49</td> <td>222.24</td> <td>111.12</td> <td>48.73</td> </tr> <tr> <td>Skill level 1</td> <td>20.06</td> <td>228.63</td> <td>114.32</td> <td>50.15</td> </tr> <tr> <td>Skill level 2</td> <td>20.82</td> <td>237.39</td> <td>118.70</td> <td>52.05</td> </tr> <tr> <td>Skill level 3</td> <td>21.54</td> <td>245.55</td> <td>122.78</td> <td>53.85</td> </tr> <tr> <td>Skill level 4</td> <td>22.70</td> <td>258.75</td> <td>129.38</td> <td>56.75</td> </tr> <tr> <td>Skill level 5 and thereafter</td> <td>24.12</td> <td>274.98</td> <td>137.49</td> <td>60.30</td> </tr> </tbody> </table> <p><sup>1</sup> Rates in table are calculated based on the minimum hourly rate, see clauses C.1.1 and C.1.2.</p> <p><sup>2</sup> Payment is per shift in addition to applicable ordinary hourly rate.</p>		Ordinary hours	Permanent night shift <sup>2</sup>	Afternoon & night <sup>2</sup>	Public holiday		% ordinary hourly rate <sup>1</sup>	% of ordinary weekly rate		% ordinary hourly rate <sup>1</sup>		100%	30%	15%	250%		\$	\$	\$	\$	Trainee	19.49	222.24	111.12	48.73	Skill level 1	20.06	228.63	114.32	50.15	Skill level 2	20.82	237.39	118.70	52.05	Skill level 3	21.54	245.55	122.78	53.85	Skill level 4	22.70	258.75	129.38	56.75	Skill level 5 and thereafter	24.12	274.98	137.49	60.30	
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36.	6 October 2020	Full Bench issued Decision - <a href="#">[2020] FWFB 5307</a>	<b>[181]</b> A further conference will be convened in relation to the Textile Award after the Full Bench in AM2017/51 has determined the outstanding issues in respect of this award.																					
37.	20 November 2020	<a href="#">Joint correspondence from Ai Group and others</a>	NA	The correspondence concerned only the issue of meal breaks for shiftworkers.																				
38.	3 December 2020	Full Bench issued Decision <a href="#">[2020] FWCFB 6520</a>	<p><b>[27]</b> There are no other technical and drafting matters to be determined in relation to the Textile Award. In our 29 January 2020 decision we expressed the <i>provisional view</i> that the variation of the modern awards in accordance with the published draft variation determinations was, in respect of the Tranche 3 awards, necessary to achieve the modern awards objective. In reaching that conclusion we adopt the reasons set out in the decisions at Attachment B of the 29 January 2020 Decision insofar as they are relevant to the Textile Award and, in particular, to the considerations in ss.134(1)(a) to (h), which are addressed in each of those decisions. Subject to the amendments set out in the <i>April 2020 decision</i> and those detailed in this decision, we confirm our <i>provisional view</i>.</p> <p><b>[28]</b> A final variation determination will be issued shortly incorporating the changes outlined in this decision, with the operative date of 1 February 2021.</p>	<p>The decision dealt with outstanding matters and minor amendments in relation to the calculation of overtime for casuals and meal breaks. It did not deal with the relevant parts of the ED.</p> <p>The Commission indicated that a final determination varying the 2010 Award to reflect the outcome of the redrafting process would be issued and would commence operation on 1 February 2021.</p>																				

<p><b>39.</b></p>	<p>4 December 2020</p>	<p><a href="#">Determination</a> published by the Commission  (continued on the following page)</p>	<p>29.3 Payment for shiftwork</p> <p>(a) A shiftworker while on afternoon or night shift will be paid <b>115%</b> of the weekly award rate for the classification concerned.</p> <p>(b) A shiftworker while on permanent night shift will be paid <b>130%</b> of the weekly award rate for the classification concerned.</p> <p>NOTE: See <a href="#">Schedule C—Summary of Hourly Rates of Pay</a> for a summary of hourly rates of pay including overtime and penalty rates.</p>	
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C.3 Full-time and part-time employees—shiftworkers  
 C.3.1 Full-time and part-time employees—shiftworkers other than in the textile industry—ordinary and penalty rates

	Ordinary hours	Afternoon & night <sup>2</sup>	Permanent night shift <sup>2</sup>	Public holiday
	% ordinary hourly rate <sup>1</sup>	% of ordinary weekly rate		% ordinary hourly rate <sup>1</sup>
	100%	15%	30%	250%
	\$	\$	\$	\$
Trainee	19.84	113.07	226.14	49.60
Skill level 1	20.41	116.31	232.62	51.03
Skill level 2	21.19	120.77	241.53	52.98
Skill level 3	21.92	124.92	249.84	54.80
Skill level 4	23.09	131.64	263.28	57.73
Skill level 5 and thereafter	24.54	139.89	279.78	61.35

<sup>1</sup> Rates in table are calculated based on the minimum hourly rate, see clauses [C.1.1](#) and [C.1.2](#).

<sup>2</sup> Payment is per shift in addition to applicable ordinary hourly rate.

			<p>C.5 Casual employees—shiftworkers                  C.5.1 Casual employees—shiftworkers other than in the textile industry—ordinary and penalty rates</p> <table border="1"> <thead> <tr> <th></th> <th>Ordinary hours</th> <th>Afternoon &amp; night<sup>2</sup></th> <th>Permanent night shift<sup>2</sup></th> <th>Public holiday</th> </tr> <tr> <th></th> <th>% ordinary hourly rate<sup>1</sup></th> <th colspan="2">% of ordinary weekly rate</th> <th>% ordinary hourly rate<sup>1</sup></th> </tr> </thead> <tbody> <tr> <td></td> <td>125%</td> <td>15%</td> <td>30%</td> <td>275%</td> </tr> <tr> <td></td> <td>\$</td> <td>\$</td> <td>\$</td> <td>\$</td> </tr> <tr> <td>Trainee</td> <td>24.80</td> <td>113.07</td> <td>226.14</td> <td>54.56</td> </tr> <tr> <td>Skill level 1</td> <td>25.51</td> <td>116.31</td> <td>232.62</td> <td>56.13</td> </tr> <tr> <td>Skill level 2</td> <td>26.49</td> <td>120.77</td> <td>241.53</td> <td>58.27</td> </tr> <tr> <td>Skill level 3</td> <td>27.40</td> <td>124.92</td> <td>249.84</td> <td>60.28</td> </tr> <tr> <td>Skill level 4</td> <td>28.86</td> <td>131.64</td> <td>263.28</td> <td>63.50</td> </tr> <tr> <td>Skill level 5 and thereafter</td> <td>30.68</td> <td>139.89</td> <td>279.78</td> <td>67.49</td> </tr> </tbody> </table> <p><sup>1</sup> Rates in table are calculated based on the minimum hourly rate, see clauses <a href="#">C.1.1</a> and <a href="#">C.1.2</a>.  <sup>2</sup> Payment is per shift in addition to applicable ordinary hourly rate.</p>		Ordinary hours	Afternoon & night <sup>2</sup>	Permanent night shift <sup>2</sup>	Public holiday		% ordinary hourly rate <sup>1</sup>	% of ordinary weekly rate		% ordinary hourly rate <sup>1</sup>		125%	15%	30%	275%		\$	\$	\$	\$	Trainee	24.80	113.07	226.14	54.56	Skill level 1	25.51	116.31	232.62	56.13	Skill level 2	26.49	120.77	241.53	58.27	Skill level 3	27.40	124.92	249.84	60.28	Skill level 4	28.86	131.64	263.28	63.50	Skill level 5 and thereafter	30.68	139.89	279.78	67.49	
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40.	27 January 2021	<a href="#">Determination</a> published by Commission (correction)	NA	Did not relate to the relevant parts of the determination.																																																		
41.	1 February 2021	The variations to the 2010 Award commenced operation.	NA																																																			

**Shiftwork Provisions in Other Modern Awards**

The table below summarises the provisions concerning afternoon, night and permanent night shifts found in all modern awards that contain such provisions.

The rates specified in this table have largely been taken from the summary of rates attached to each award. These summaries sometimes include applicable all-purpose or industry allowances in the ordinary hourly rate. Where an all-purpose or industry allowance is included in the relevant ordinary hourly rate, we have identified this below.

	Award	Shiftwork clause	Summary
1.	<a href="#">Aged Care Award 2010</a>	<p><b>26.1 Shift allowances and penalty rates</b></p> <p>Employees working afternoon or night shift will be paid the following percentages in addition to the ordinary rate for such shift. Provided that employees who work less than 38 hours per week will only be entitled to the additional rates where their shift commence prior to 6.00 am or finish subsequent to 6.00 pm.</p> <p>(a) Afternoon shift commencing at 10.00 am and before 1.00 pm—10% of the ordinary hourly rate</p> <p>(b) Afternoon shift commencing at 1.00 pm and before 4.00 pm—12.5% of the ordinary hourly rate</p> <p>(c) Night shift commencing at 4.00 pm and before 4.00 am—15% of the ordinary hourly rate</p> <p>(d) Night shift commencing at 4.00 am and before 6.00 am—10% of the ordinary hourly rate</p>	<p>Shift rates are paid <b>hourly</b>.</p> <p><u>Aged Care – General employees</u>                      Afternoon shift rates range from:</p> <ul style="list-style-type: none"> <li>• \$26.37 - \$31.94 (starting at 10am and before 1pm)</li> <li>• \$26.97 - \$32.67 (starting at 1pm and before 4pm)</li> </ul> <p>Night shift rates range from:</p> <ul style="list-style-type: none"> <li>• \$27.57 - \$33.40 (starting at 4pm and before 4am)</li> <li>• \$26.37 - \$31.94 (starting at 4am and before 6am)</li> </ul> <p><u>Aged care – Most senior food services employees</u>                      Afternoon shift rates range from:</p> <ul style="list-style-type: none"> <li>• \$33.12-\$36.74 (starting at 10am before 1pm)</li> <li>• \$33.87 - \$37.58 (starting at 1pm and before 4pm)</li> </ul>

	Award	Shiftwork clause	Summary									
			<p>Night shift rates range from:</p> <ul style="list-style-type: none"> <li>• \$34.63 - \$38.41 (starting at 4pm and before 4 am)</li> <li>• \$33.12 - \$36.74 (starting at 4 am and before 6 am)</li> </ul> <p><u>Aged care – Direct care employees</u></p> <p>Afternoon shift rates range from:</p> <ul style="list-style-type: none"> <li>• \$30.33 - \$36.74 (starting at 10am before 1pm)</li> <li>• \$31.02 - \$37.58 (starting at 1pm and before 4pm)</li> </ul> <p>Night shift rates range from:</p> <ul style="list-style-type: none"> <li>• \$31.71 - \$38.41 (starting at 4pm and before 4 am)</li> <li>• \$30.33 - \$36.74 (starting at 4 am and before 6 am)</li> </ul>									
<p>2.</p>	<p><a href="#"><u>Airline Operations – Ground Staff Award 2020</u></a></p>	<p><b>17.3 Shift rates</b></p> <p>The following rates must be paid for all shifts worked from Monday to Friday:</p> <table border="1" data-bbox="521 1182 1619 1378"> <thead> <tr> <th data-bbox="521 1182 808 1249">Shift type</th> <th data-bbox="808 1182 1279 1249"></th> <th data-bbox="1279 1182 1619 1249">% of employee's ordinary hourly rate</th> </tr> </thead> <tbody> <tr> <td data-bbox="521 1249 808 1316">Early morning shift</td> <td data-bbox="808 1249 1279 1316">Commencing no earlier than 4.00 am but before 7.00 am</td> <td data-bbox="1279 1249 1619 1316">115</td> </tr> <tr> <td data-bbox="521 1316 808 1378">Afternoon shift</td> <td data-bbox="808 1316 1279 1378">Finishing after 6.00 pm and at or before midnight</td> <td data-bbox="1279 1316 1619 1378">115</td> </tr> </tbody> </table>	Shift type		% of employee's ordinary hourly rate	Early morning shift	Commencing no earlier than 4.00 am but before 7.00 am	115	Afternoon shift	Finishing after 6.00 pm and at or before midnight	115	<p>Shift rates are paid <b>hourly</b>.</p> <p>Early morning or afternoon shift rates range from:</p> <ul style="list-style-type: none"> <li>• \$27.99 – \$33.07 for aviation transport shiftworkers;</li> <li>• \$28.88 - \$38.85 for clerical, administration and support shiftworkers;</li> </ul>
Shift type		% of employee's ordinary hourly rate										
Early morning shift	Commencing no earlier than 4.00 am but before 7.00 am	115										
Afternoon shift	Finishing after 6.00 pm and at or before midnight	115										

Award	Shiftwork clause			Summary
	Night shift	Finishing after midnight and at or before 8.00 am	122.5	<ul style="list-style-type: none"> <li>• \$26.00 - \$35.22 for maintenance and engineering shiftworkers;</li> <li>• \$27.57 - \$30.85 for storepersons and logistics shiftworkers.</li> </ul>
	Night shift	Commencing after midnight and before 4.00 am	122.5	
	<p><b>17.4 Night shifts</b></p> <p>If, during a period of engagement, a shiftworker:</p> <ul style="list-style-type: none"> <li>(a) works night shift only; or</li> <li>(b) remains on night shift for more than 4 consecutive weeks; or</li> <li>(c) works on a night shift which does not rotate with another shift or with day work so that the shiftworker does not have at least one third of their working time off night shift in each roster cycle, the shiftworker must be paid <b>130%</b> of the ordinary hourly rate for all time worked during ordinary working hours on night shifts worked Monday to Friday.</li> </ul>			<p>Night shift rates range from:</p> <ul style="list-style-type: none"> <li>• \$29.82 - \$35.23 for aviation transport shiftworkers;</li> <li>• \$30.76 - \$41.38 for clerical, administration and support shiftworkers</li> <li>• \$27.70 - \$37.52 for maintenance and engineering shiftworkers;</li> <li>• \$29.36 - \$32.87 for storepersons and logistics shiftworkers.</li> </ul> <p>Rates for working night shifts only, or for working night shifts for more than four consecutive weeks or working a roster cycle that doesn't include at least one third of their working time off night shift range from:</p> <ul style="list-style-type: none"> <li>• \$31.64 - \$37.39 for aviation transport shiftworkers;</li> <li>• \$32.64 - \$43.91 for clerical, administration</li> </ul>



	Award	Shiftwork clause	Summary
			and support shiftworkers; <ul style="list-style-type: none"> <li>• \$29.39 - \$39.82 for maintenance and engineering shiftworkers;</li> <li>• \$31.16 - \$34.88 for storepersons and logistics shiftworkers.</li> </ul>
<p>3.</p>	<p><a href="#"><u>Airport Employees Award 2020</u></a></p>	<p><b>24. Shiftwork penalty rates</b> ...</p> <p><b>24.2 Shift payment</b></p> <p>(a) A shiftworker whilst on a shift, any part of which is a night shift, must be paid for such shift 115% of the minimum hourly rate, except as specified in clause 24.2(b) .</p> <p>(b) A shiftworker on non-rotating night shift must be paid 130% of the minimum hourly rate.</p> <p>(c) The additional payment prescribed by clause 24.2 will not be taken into account in the calculation of overtime or in determination of any allowance based upon the minimum hourly rate, nor will it be paid with respect to any shift for which any other form of penalty payment is made under this award.</p>	<p>Shift penalties are paid <b>hourly</b>.</p> <p><u>Technical services employees</u></p> <p>Night shift rates range from \$28.97 - \$46.44.</p> <p>Non-rotating night shift rates range from \$32.75 - \$52.49.</p> <p><u>Administrative services employees</u></p> <p>Night shift rates range from \$28.36 – \$48.99.</p> <p>Non-rotating night shift rates range from \$32.06 - \$55.38.</p> <p><u>Ground services employees</u></p> <p>Night shift rates range from \$26.96 – \$34.24.</p> <p>Non-rotating night shift rates range from \$30.47 - \$38.70.</p> <p><u>Professional engineer employees</u></p>

	Award	Shiftwork clause	Summary
			<p>Night shift rates range from \$37.34 - \$56.65.</p> <p>Non-rotating night shift rates range from \$42.21 - \$64.04.</p>
4.	<a href="#">Aluminium Industry Award 2020</a>	<p><b>21. Penalty rates</b></p> <p><b>21.1 Shiftwork loading</b></p> <p>(a) A shiftwork loading of \$3.93 for each ordinary hour worked is payable to an employee whilst on an afternoon or a rotating night shift on Monday to Friday (inclusive).</p> <p>(b) A shiftwork loading of \$7.85 for each ordinary hour worked is payable to an employee whilst on a permanent night shift Monday to Friday (inclusive).</p>	<p>Shiftwork loading is paid <b>hourly</b>.</p> <p>(Rates below include the industry allowance)</p> <p>Afternoon or rotating night shift rates range from \$28.51 - \$37.59</p> <p>Permanent night shift rates range from \$32.43 - \$41.51.</p>
5.	<a href="#">Ambulance and Patient Transport Industry Award 2020</a>	<p><b>(g) Shift allowance</b></p> <p>A shift allowance of \$53.09 per rostered shift is payable to employees whose rostered hours of ordinary duty finish between 6.00 pm and 8.00 am or commence between 6.00 pm and 6.30 am.</p>	<p>Shift work allowance is payable per shift as a <b>lump sum</b>.</p>
6.	<a href="#">Animal Care and Veterinary Services Award 2020</a>	<p><b>21.2 Shiftwork penalty rates</b></p> <p>The following rates apply to ordinary hours of work for employees engaged on shiftwork:</p> <p>(a) 115% of the minimum hourly rate for a shift finishing after 8.00 pm;</p> <p>(b) 130% of the minimum hourly rate for a shift where the majority of hours on the shift occur between the hours of midnight and 8.00 am; and</p> <p>(c) 115% of the minimum hourly rate for a shift commencing at or before 6.30 am.</p> <p>(d) Overtime rates for shiftwork are paid instead of the shiftwork penalty rates in clause 20.1(a)(ii).</p>	<p>Shift penalties are paid <b>hourly</b>.</p> <p><u>Animal care industry inspectors</u> Morning and afternoon shift rates range from \$34.97 - \$39.68.</p> <p>Night shift rates range from \$39.53 - \$45.06.</p> <p><u>Practice managers, veterinary nurses and animal attendants and assistants</u> Morning and afternoon shift rates range from \$26.00 - \$34.52.</p>

	Award	Shiftwork clause	Summary								
			Night shift rates range from \$29.39 - \$39.03.								
7.	<a href="#">Asphalt Industry Award 2020</a>	<p><b>20. Shiftwork and penalty rates</b> ...</p> <p><b>20.2 Shift penalty rates</b></p> <p>(a) The penalty rates provided for in clause 20.2(b) are not cumulative.</p> <p>(b) Afternoon and night shift penalty rates</p> <p>(i) An employee whilst working afternoon or night shift will be paid 115 % of their ordinary hourly rate of pay.</p> <p>...</p> <p>(iv) An employee who works permanent night shifts will be paid 130 % of their ordinary hourly rate of pay for all time worked during ordinary working hours on permanent night shift. Clause 20.2(b)(iv) will not apply where the employee requests to work permanent night shift.</p>	<p>Shift penalties are paid <b>hourly</b>.</p> <p>(Rates below include applicable all-purpose allowances)</p> <p>Afternoon or night shift rates range from \$28.31 - \$32.69.</p> <p>Permanent night shift rates range from \$32.01 - \$36.96.</p>								
8.	<a href="#">Banking, Finance and Insurance Industry Award 2020</a>	<p><b>13. Ordinary hours of work and rostering</b> ...</p> <p><b>13.7 Shiftwork</b></p> <p><b>(d) Shiftwork penalty rates</b> The following shiftwork penalty rates will apply in relation to the working of shiftwork on Monday to Friday and on Saturday between 8.00 am and 12.00 pm:</p> <table border="1" data-bbox="600 1066 1261 1235"> <thead> <tr> <th></th> <th>% of minimum hourly rate</th> </tr> </thead> <tbody> <tr> <td>Early morning shift</td> <td>112.5</td> </tr> <tr> <td>Afternoon shift <sup>1</sup></td> <td>120</td> </tr> <tr> <td>Night shift <sup>1</sup></td> <td>125</td> </tr> </tbody> </table> <p><sup>1</sup> Employees who permanently work afternoon or night shift or a combination thereof will be paid an additional <b>5%</b> loading.</p>		% of minimum hourly rate	Early morning shift	112.5	Afternoon shift <sup>1</sup>	120	Night shift <sup>1</sup>	125	<p>Shift penalties are paid <b>hourly</b>.</p> <p>Afternoon shift rates range from \$28.76 - \$40.62</p> <p>Permanent afternoon shift rates range from \$29.96 - \$43.31</p> <p>Night shift rates range from \$29.96 - \$43.31</p> <p>Permanent night shift rates range from \$31.16 - \$44.01.</p>
	% of minimum hourly rate										
Early morning shift	112.5										
Afternoon shift <sup>1</sup>	120										
Night shift <sup>1</sup>	125										
9.	<a href="#">Black Coal Mining Industry Award 2020</a>	<b>23. Penalty rates and weekend work</b>	Shift penalties are paid <b>hourly</b> .								

Award	Shiftwork clause	Summary																																
	<p><b>23.1</b> An employee will be paid the following additional penalties for all ordinary hours worked during the following periods:</p> <table border="1" data-bbox="521 296 1630 924"> <thead> <tr> <th></th> <th>Additional penalty (% of minimum hourly rate)</th> </tr> </thead> <tbody> <tr> <td colspan="2"><b>Monday to Friday</b></td> </tr> <tr> <td>Day work / day shift</td> <td>0</td> </tr> <tr> <td>Afternoon shift or rotating night shift</td> <td>15</td> </tr> <tr> <td>Permanent night shift</td> <td>25</td> </tr> <tr> <td colspan="2"><b>Saturday</b></td> </tr> <tr> <td>Day work / day shift—first 4 hours</td> <td>50</td> </tr> <tr> <td>Day work / day shift—after 4 hours</td> <td>100</td> </tr> <tr> <td>Afternoon shift or rotating night shift—first 4 hours</td> <td>72.5</td> </tr> <tr> <td>Afternoon shift or rotating night shift—after 4 hours</td> <td>130</td> </tr> <tr> <td>Permanent night shift—first 4 hours</td> <td>87.5</td> </tr> <tr> <td>Permanent night shift—after 4 hours</td> <td>150</td> </tr> <tr> <td colspan="2"><b>Sunday</b></td> </tr> <tr> <td>Day work / day shift</td> <td>100</td> </tr> <tr> <td>Afternoon shift or rotating night shift</td> <td>130</td> </tr> <tr> <td>Permanent night shift</td> <td>150</td> </tr> </tbody> </table>		Additional penalty (% of minimum hourly rate)	<b>Monday to Friday</b>		Day work / day shift	0	Afternoon shift or rotating night shift	15	Permanent night shift	25	<b>Saturday</b>		Day work / day shift—first 4 hours	50	Day work / day shift—after 4 hours	100	Afternoon shift or rotating night shift—first 4 hours	72.5	Afternoon shift or rotating night shift—after 4 hours	130	Permanent night shift—first 4 hours	87.5	Permanent night shift—after 4 hours	150	<b>Sunday</b>		Day work / day shift	100	Afternoon shift or rotating night shift	130	Permanent night shift	150	<p><u>Production and engineering employees</u></p> <p>Monday to Friday afternoon or rotating night shift rates range from \$31.84 - \$40.11.</p> <p>Monday to Friday Permanent night shift rates range from \$34.61 - \$43.60.</p> <p>Saturday afternoon and rotating night shift rates (first 4 hours) rates range from \$47.77 - \$60.17.</p> <p>Saturday afternoon and rotating night shift rates (after 4 hours) rates range from \$63.69 - \$80.22.</p> <p>Sunday afternoon and rotating night shift rates range from \$63.69 - \$80.22.</p> <p>Saturday permanent night shift (first 4 hours) rates range from \$51.92 - \$65.40.</p> <p>Saturday permanent night shift (after 4 hours) rates range from \$69.23 - \$87.20.</p> <p>Sunday permanent night shift rates range from \$69.23 - \$87.20.</p>
	Additional penalty (% of minimum hourly rate)																																	
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	Award	Shiftwork clause	Summary
			<p><u>Staff employees</u></p> <p>Monday to Friday afternoon and rotating night shift rates range from \$34.13 - \$38.28.</p> <p>Monday to Friday permanent night shift rates range from \$37.10 - \$41.61.</p> <p>Saturday afternoon and rotating night shift rates (first 4 hours) rates range from \$51.20 - \$57.43.</p> <p>Saturday afternoon and rotating night shift rates (after 4 hours) rates range from \$68.26 - \$76.57.</p> <p>Sunday afternoon and rotating night shift rates range from \$68.26 - \$76.57.</p> <p>Saturday permanent night shift (first 4 hours) rates range from \$55.65 - \$62.42.</p> <p>Saturday permanent night shift (after 4 hours) rates range from \$74.20 – 83.23.</p> <p>Sunday permanent night shift rates range from \$74.20 – 83.23.</p>

	Award	Shiftwork clause	Summary
<p>10.</p>	<p><a href="#"><u>Broadcasting, Recorded Entertainment and Cinemas Award 2020</u></a></p>	<p><b>44. Penalty rates – Announcers and Broadcaster/Journalists</b>            ...  <b>44.4 Shift penalties</b></p> <p>(a) An announcer or a broadcaster/journalist required to work between 10.00 pm and 9.00 am (other than on a midnight to dawn shift) must be paid at <b>115%</b> at the minimum hourly rate with a minimum payment of one hour.</p> <p>(b) An announcer or a broadcaster/journalist required to work on a midnight to dawn shift must be paid at <b>115%</b> of the minimum hourly rate for the entire shift worked.</p> <p>(c) The shift penalties prescribed by clause 44.4 are not cumulative upon any other entitlement under any other clause in this award.</p> <p><b>45. Penalty rates – Technical staff</b>            ...  <b>45.2 Shift penalties</b></p> <p>(a) A technical employee who works on a shift, any part of which falls between 6.00 pm and 7.00 am, will be paid an additional penalty of <b>15%</b> of the relevant minimum hourly rate for the entire shift worked.</p> <p>(b) A technical employee required to work ordinary hours continuously for a period exceeding 4 weeks on a shift falling wholly within the hours of 6.00 pm and 7.00 am must be paid an additional penalty of <b>30%</b> of the relevant minimum hourly rate for each entire shift worked.</p> <p>(c) The additional payments prescribed in clause 45.2 are not to be taken into account in the calculation of overtime payment or to be paid with respect to any shift for which any other form of penalty payment is made under this award, except where the employee is required to work on public holidays or a rostered day off.</p> <p>(d) The period for which the additional payment prescribed by clause 45.2 will be calculated is to the nearest quarter of an hour in each weekly period.</p> <p><b>51. Shift penalties [Journalists]</b></p>	<p>Shift work penalties are paid <b>hourly</b> for all relevant classifications.</p> <p><u>Announcers and Broadcaster/Journalists</u></p> <p>Shift penalties for night work and midnight to dawn work range from \$32.00 - \$32.86.</p> <p><u>Journalists</u></p> <p>Evening shift rates range from:</p> <ul style="list-style-type: none"> <li>• Metro TV station \$31.43 - \$46.94</li> <li>• Non-metro TV station \$31.43 - \$46.62</li> <li>• Not working for TV station \$31.43 - \$47.55.</li> </ul> <p>Night shift rates range from:</p> <ul style="list-style-type: none"> <li>• Metro TV station \$33.57 - \$49.72</li> <li>• Non-metro TV station \$33.57 - \$49.17</li> <li>• Not working for a TV station \$33.57 - \$50.80.</li> </ul> <p><u>Cadet journalists</u></p> <p>Evening shift rates range from:</p> <ul style="list-style-type: none"> <li>• Metro TV station \$24.87 - \$28.28</li> <li>• Non-metro TV station \$26.00 - \$29.10.</li> </ul>

	Award	Shiftwork clause	Summary
		<p><b>51.1</b> Any employee who is rostered to perform and performs ordinary duty on a shift:</p> <p>(a) any part of which falls between the times of 6.00 am and 7.00 am or is rostered to perform and performs ordinary duty on a shift that concludes between 6.00 pm and 8.30 pm will be paid <b>110%</b> of the minimum hourly rate for the entire shift worked; and</p> <p>(b) any part of which falls between 8.30 pm and 6.00 am will be paid <b>117.5%</b> of the minimum hourly rate for the entire shift worked.</p>	<ul style="list-style-type: none"> <li>Not working for TV station \$24.87 - \$28.28.</li> </ul> <p>Night shift rates range from:</p> <ul style="list-style-type: none"> <li>Metro TV station \$26.57 - \$30.21</li> <li>Non-metro TV station \$28.55 - \$31.65.</li> <li>Not working for a TV station \$26.57 - \$30.21.</li> </ul>
<p>11.</p>	<p><a href="#"><u>Building and Construction General On-site Award 2020</u></a></p>	<p><b>17. Shiftwork</b></p> <p><b>17.1 General building and construction and metal and engineering construction sectors</b></p> <p><b>(a) Definitions</b> For the purposes of clause 17.1 :</p> <p><b>afternoon shift</b> means a shift starting at or after 1.00 pm and before 3.00 pm.</p> <p><b>night shift</b> means a shift starting at or after 3.00 pm and before 11.00 pm.</p> <p><b>early morning shift</b> means a shift commencing at or after 11.00 pm and before 4.30 am.</p> <p><b>morning shift</b> means a shift starting at or after 4.30 am and before 6.00 am.</p> <p><b>early afternoon shift</b> means a shift starting on or after 11.00 am and before 1.00 pm.</p> <p>(b) When an employee is employed continuously (inclusive of public holidays) for 5 shifts Monday to Friday, the following rates will apply:</p> <p>(i) afternoon, night and early morning shift— 150% of the ordinary hourly rate ;</p> <p>(ii) morning and early afternoon shifts— 125% of the ordinary hourly rate .</p> <p>(c) Where a job finishes after proceeding on shiftwork for more than 5 consecutive days or the employer terminates the employee’s services during the week, the employee must be paid at the rate specified in clause 17.1(b) for the time actually worked.</p>	<p>Shift penalties are paid <b>hourly</b>. (Rates below include some applicable allowances)</p> <p><u>Daily hire – General building and construction – residential work</u></p> <ul style="list-style-type: none"> <li>Morning or early afternoon (5 in a row – Mon to Fri) rates range from \$32.20 - \$41.13</li> <li>Afternoon, night or early morning (5 in a row – Mon to Fri) rates range from \$38.64 - \$49.35</li> </ul> <p><u>Weekly hire – General building and construction – Residential work</u></p> <ul style="list-style-type: none"> <li>Morning or early afternoon shift (5 in a row) Mon-Fri rates range from \$31.21 - \$39.86</li> <li>Afternoon, night or early morning (5 in a row) Mon-Fri \$37.46 - \$47.84</li> </ul>

	Award	Shiftwork clause	Summary
		<p>(d) In the case of broken shifts (i.e. less than 38 ordinary hours worked over 5 consecutive shifts Monday to Friday) the rates prescribed will be 150% for the first 2 hours and 200% thereafter.</p> <p>...</p> <p><b>17.2 Civil construction sector</b></p> <p><b>(a) Definitions</b></p> <p>For the purpose of clause 17.2 :  shiftwork means any system of work in which operations are being continued by the employment of a group of employees upon work on which another group had been engaged previously</p> <p><b>day shift</b> means any shift starting on or after 6.00 am and before 10.00 am</p> <p><b>afternoon shift</b> means any shift starting at or after 10.00 am and before 8.00 pm</p> <p><b>night shift</b> means any shift starting at or after 8.00 pm and before 6.00 am</p> <p><b>rostered shift</b> means a shift of which the employee concerned has had at least 48 hours' notice.</p> <p>...</p> <p><b>(j) Shift rates</b>  A shiftworker whilst on afternoon or night shift other than on a Saturday, Sunday or holiday must be paid 115% of the ordinary hourly rate .</p> <p><b>(k) Saturdays</b>  An employee who is working a shift between midnight on Friday and midnight on Saturday must be paid 150% of the ordinary hourly rate for ordinary hours of work inclusive of time worked for accrual purposes as prescribed in clause 17.2(e) .</p> <p><b>(l) Sundays and public holidays</b></p> <p>(i) Subject to clause 17.2(l) , the provisions of clause 36 — Public holidays , will apply to shiftworkers.</p>	<p><u>Daily hire – General building and construction – not residential</u></p> <ul style="list-style-type: none"> <li>• Morning or early afternoon shift (5 in a row) Mon – Fri rates range from \$32.60 - \$41.54</li> <li>• Afternoon, night or early morning shift (5 in a row) – Mon – Fri rates range from \$39.12 - \$49.85.</li> </ul> <p><u>Weekly hire – General building and construction – not residential</u></p> <ul style="list-style-type: none"> <li>• Morning or early afternoon shift (5 in a row) Mon- Fri rates range from \$31.60 - \$41.80</li> <li>• Afternoon, night or early morning shift (5 in a row) Mon – Fri rates range from \$37.92 - \$50.16</li> </ul> <p><u>Forepersons and Supervisors – metal and engineering construction – daily hire</u></p> <ul style="list-style-type: none"> <li>• Morning or early afternoon shift (5 in a row) Mon- Fri rates range from \$35.29 - \$39.31</li> </ul>



	Award	Shiftwork clause	Summary
		<p>(ii) Where shifts start between 11.00 pm and midnight on a Sunday or public holiday, the time so worked before midnight will not entitle the employee to the Sunday or public holiday rate; provided that the time worked by an employee on a shift commencing before midnight on the day preceding a Sunday or public holiday and extending into a Sunday or public holiday will be regarded as time worked on the Sunday or public holiday.</p> <p>(iii) Where shifts fall partly on a Sunday or a public holiday that shift, the major portion of which falls on a Sunday or a public holiday, will be regarded as the Sunday or public holiday shift.</p> <p><b>(m) Five successive shifts</b> Shiftworkers who work on any afternoon or night shift which does not continue for at least 5 successive afternoons or nights will be paid <b>150%</b> of the ordinary hourly rate for all ordinary hours of work occurring during the shift.</p> <p><b>(n) Permanent night shift</b> An employee who (except at their own request pursuant to clause 17.2(b)(i) ):</p> <p>(i) during a period of engagement on shift, works night shift only; or</p> <p>(ii) remains on a night shift for a longer period than 4 successive weeks; or</p> <p>(iii) works on a night shift which does not rotate or alternate with another shift or with day work so as to give the employee at least one third of their working time off night shift in each cycle; must, during such engagement, period or cycle be paid <b>130%</b> of the ordinary hourly rate for all ordinary hours of work on night shift.</p>	<ul style="list-style-type: none"> <li>• Afternoon, night or early morning shift (5 in a row) Mon – Fri rates range from \$42.35 - \$47.18</li> </ul> <p><u>Forepersons and Supervisors – metal and engineering construction – Weekly hire</u></p> <ul style="list-style-type: none"> <li>• Morning or early afternoon shift (5 in a row) Mon- Fri rates range from \$34.20 - \$38.10</li> <li>• Afternoon, night or early morning shift (5 in a row) Mon – Fri rates range from \$41.04 - \$45.72</li> </ul> <p><u>Civil construction – daily hire</u></p> <ul style="list-style-type: none"> <li>• Afternoon or night shift (5 in a row) Mon – Fri rates range from \$29.99 - \$37.58</li> <li>• Permanent night shift – Mon – Fri rates range from \$33.90 - \$42.48</li> </ul> <p><u>Civil construction – weekly hire</u></p> <ul style="list-style-type: none"> <li>• Afternoon or night shift (5 in a row) Mon – Fri rates range from \$29.07 - \$36.43</li> <li>• Permanent night shift – Mon – Fri rates range from \$32.86 - \$41.18</li> </ul>

	Award	Shiftwork clause	Summary
12.	<a href="#">Business Equipment Award 2020</a>	<p><b>22.2 Standard shiftwork</b>                      ...  <b>(c) Afternoon and night shift allowances</b>                      The following allowances apply to standard shiftworkers (as defined). An employee is entitled to an allowance of:</p> <p style="padding-left: 40px;"><b>(i) \$3.84</b> per hour for time worked on an afternoon shift ;</p> <p style="padding-left: 40px;"><b>(ii) \$4.61</b> per hour for time worked on a night shift, except as provided for in clause 22.2(c)(iii) ; and</p> <p style="padding-left: 40px;"><b>(iii) \$5.50</b> per hour for time worked on permanent night shift, instead of the allowance prescribed in clause 22.2(c)(ii) .</p> <p><b>(d) Rate for Saturday and Sunday shifts</b></p> <p>The minimum rate to be paid to a standard shiftworker for work performed:</p> <p style="padding-left: 40px;"><b>(i)</b> between midnight on Friday and midnight on Saturday will be <b>150%</b> of the ordinary hourly rate for the first 4 hours and <b>200%</b> of the ordinary hourly rate thereafter.</p> <p style="padding-left: 40px;"><b>(ii)</b> between midnight on Saturday and midnight on Sunday will be <b>200%</b> of the ordinary hourly rate.</p> <p>These extra rates are in substitution for and not cumulative upon the shift allowances prescribed in clause 22.2(c).</p>	<p>Shift work allowance or rate is paid <b>hourly</b>.</p> <p>Afternoon shift rates range from \$27.05 – \$34.47.</p> <p>Night shift rates range from \$27.82 - \$35.24</p> <p>Permanent night shift rates range from \$34.51 - \$43.79</p>
13.	<a href="#">Car Parking Award 2020</a>	<p><b>22. Shift penalty rates</b></p> <p><b>22.1 Definitions</b></p> <p style="padding-left: 40px;"><b>(a) Afternoon shift</b> means the period of work performed by an employee between 7.00 pm and midnight.</p> <p style="padding-left: 40px;"><b>(b) Night shift</b> means the period of work performed by an employee between midnight and 7.00 am.</p>	<p>Shift work penalties paid <b>hourly</b>.</p> <p>Afternoon or night shift rates range from \$26.73 - \$28.60.</p> <p>Non-alternating night shift rates range from \$29.70 - \$31.78.</p>

	Award	Shiftwork clause	Summary						
		<p><b>22.2</b> An employee, including a casual employee, who works shiftwork must be paid for each hour worked during an afternoon shift or a night shift <b>112.5%</b> of the minimum hourly rate for the appropriate classification.</p> <p><b>22.3</b> A shiftworker working on a night shift which does not alternate with another shift or day work must be paid <b>125%</b> of the minimum hourly rate for the appropriate classification for each hour worked during ordinary working hours on that night shift.</p>							
<p>14.</p>	<p><a href="#">Cement, Lime and Quarrying Award 2020</a></p>	<p><b>21. Penalty Rates</b></p> <p><b>21.1 Afternoon shifts</b> 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.</p> <p><b>21.2 Night shift</b></p> <p><b>(a)</b> 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.</p> <p><b>(b)</b> Permanent night shift means when an employee who:</p> <ul style="list-style-type: none"> <li><b>(i)</b> during a period of engagement on shiftwork, works night shift only; or</li> <li><b>(ii)</b> remains on night shift for a longer period than 4 consecutive weeks; or</li> <li><b>(iii)</b> 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.</li> </ul>	<p>Shift penalties are paid <b>hourly</b>.</p> <p>(Rates below include the industry all-purpose allowance)</p> <p><u>Cement and Lime Industry</u> Afternoon shift rates range from \$28.20 - \$33.24</p> <p>Night shift rates range from \$28.20 - \$33.24</p> <p>Permanent night shift rates range from: \$31.88 - \$37.57.</p> <p><u>Quarrying Industry</u> Afternoon shift rates range from \$26.96 – \$31.99</p> <p>Night shift rates range from \$26.96 – \$31.99</p> <p>Permanent night shift rates range from \$30.47 - \$36.17</p>						
<p>15.</p>	<p><a href="#">Children’s Services Award 2010</a></p>	<p><b>23.4 Shiftwork</b></p> <p>...</p> <p><b>(c)</b> The following allowances will be paid for shiftwork:</p> <table border="1" data-bbox="696 1283 1514 1378"> <thead> <tr> <th>Shift</th> <th>% loading</th> </tr> </thead> <tbody> <tr> <td>Early morning</td> <td>10</td> </tr> <tr> <td>Afternoon</td> <td>15</td> </tr> </tbody> </table>	Shift	% loading	Early morning	10	Afternoon	15	<p>Shift allowances are paid <b>hourly</b>.</p> <ul style="list-style-type: none"> <li>• Afternoon shift rates range from \$27.58 - \$48.06</li> </ul>
Shift	% loading								
Early morning	10								
Afternoon	15								

	Award	Shiftwork clause	Summary																
		<p>Night shift, rotating with day or afternoon 17.5</p> <p>Night shift, non-rotating 30</p>	<ul style="list-style-type: none"> <li>Night shift rates range from \$27.15 - \$49.10</li> <li>Night shift, non-rotating rates range from: \$30.04 - \$54.33</li> </ul>																
16.	<p><a href="#">Cleaning Services Award 2020</a></p>	<p><b>20. Penalty rates</b></p> <p>...</p> <p><b>20.2</b> An employer must pay an employee as follows for hours worked by the employee during a period, or on a day, specified in column 1 of <b>Table 7—Penalty rates</b>:</p> <p>(a) for a full-time employee, at the percentage specified in column 2 of that Table of the minimum hourly rate of the employee; or</p> <p>(b) for a part-time employee, at the percentage specified in column 3 of that Table of the minimum hourly rate of the employee; or</p> <p>(c) for a casual employee, at the percentage specified in column 4 of that Table of the minimum hourly rate of the employee.</p> <p><b>Table 7—Penalty rates</b></p> <table border="1" data-bbox="524 916 1617 1394"> <thead> <tr> <th data-bbox="524 916 920 1011">Column 1 Period or day</th> <th data-bbox="920 916 1151 1011">Column 2 Full-time employees</th> <th data-bbox="1151 916 1382 1011">Column 3 Part-time employees</th> <th data-bbox="1382 916 1617 1011">Column 4 Casual employees</th> </tr> <tr> <td></td> <td data-bbox="920 1011 1151 1171">% of minimum hourly rate</td> <td data-bbox="1151 1011 1382 1171">% of minimum hourly rate (inclusive of part-time allowance)</td> <td data-bbox="1382 1011 1617 1171">% of minimum hourly rate (inclusive of casual loading)</td> </tr> </thead> <tbody> <tr> <td data-bbox="524 1171 920 1294">Monday to Friday shift that starts before 6.00 am or finishes after 6.00 pm excluding a public holiday</td> <td data-bbox="920 1171 1151 1294">115% for entire shift (other than overtime)</td> <td data-bbox="1151 1171 1382 1294">130% for entire shift (other than overtime)</td> <td data-bbox="1382 1171 1617 1294">140% for entire shift (other than overtime)</td> </tr> <tr> <td data-bbox="524 1294 920 1394">Any shift that finishes after midnight but no later than 8.00 am and does not rotate or</td> <td data-bbox="920 1294 1151 1394">130% for all hours worked</td> <td data-bbox="1151 1294 1382 1394">130% for all hours worked</td> <td data-bbox="1382 1294 1617 1394">155% for all hours worked</td> </tr> </tbody> </table>	Column 1 Period or day	Column 2 Full-time employees	Column 3 Part-time employees	Column 4 Casual employees		% of minimum hourly rate	% of minimum hourly rate (inclusive of part-time allowance)	% of minimum hourly rate (inclusive of casual loading)	Monday to Friday shift that starts before 6.00 am or finishes after 6.00 pm excluding a public holiday	115% for entire shift (other than overtime)	130% for entire shift (other than overtime)	140% for entire shift (other than overtime)	Any shift that finishes after midnight but no later than 8.00 am and does not rotate or	130% for all hours worked	130% for all hours worked	155% for all hours worked	<p>Shift penalties are paid <b>hourly</b>.</p> <p>Afternoon and non-permanent night shift rates for full-time employees range from \$27.68 - \$30.11.</p> <p>Permanent night shift rates for full-time employees range from \$31.29 - \$34.03.</p>
Column 1 Period or day	Column 2 Full-time employees	Column 3 Part-time employees	Column 4 Casual employees																
	% of minimum hourly rate	% of minimum hourly rate (inclusive of part-time allowance)	% of minimum hourly rate (inclusive of casual loading)																
Monday to Friday shift that starts before 6.00 am or finishes after 6.00 pm excluding a public holiday	115% for entire shift (other than overtime)	130% for entire shift (other than overtime)	140% for entire shift (other than overtime)																
Any shift that finishes after midnight but no later than 8.00 am and does not rotate or	130% for all hours worked	130% for all hours worked	155% for all hours worked																

	Award	Shiftwork clause				Summary								
		alternate with another shift or day work excluding hours on a day that is a public holiday												
		All hours from midnight Friday to midnight Saturday	150%	165%	175%									
		All hours from midnight Saturday to midnight Sunday	200%	215%	225%									
		All hours on a public holiday	250%	265%	275%									
17.	<a href="#">Clerks – Private Sector Award 2020</a>	<p><b>31. Penalty rates for shift work</b></p> <p><b>31.1</b> An employer must pay an employee working ordinary hours on shifts in accordance with clause 25 — Application of Part the relevant percentage specified in column 2 of <b>Table 7—Penalty rates for shiftwork</b> (depending on when the shift was worked as specified in column 1) of the minimum hourly rate of the employee, under clause 16 — Minimum rates.</p> <p><b>Table 7—Penalty rates for shiftwork</b></p> <table border="1" data-bbox="517 743 1447 938"> <thead> <tr> <th data-bbox="517 743 1016 839">Column 1 Shift</th> <th data-bbox="1016 743 1447 839">Column 2 Penalty rate (% of minimum hourly rate)</th> </tr> </thead> <tbody> <tr> <td data-bbox="517 839 1016 871">Afternoon or night</td> <td data-bbox="1016 839 1447 871">115</td> </tr> <tr> <td data-bbox="517 871 1016 903">Permanent night</td> <td data-bbox="1016 871 1447 903">130</td> </tr> <tr> <td data-bbox="517 903 1016 938">Saturday, Sunday or public holiday</td> <td data-bbox="1016 903 1447 938">150</td> </tr> </tbody> </table>				Column 1 Shift	Column 2 Penalty rate (% of minimum hourly rate)	Afternoon or night	115	Permanent night	130	Saturday, Sunday or public holiday	150	<p>Shift work rates are paid <b>hourly</b>.</p> <p>Afternoon or night shift rates range from \$27.57 - \$38.08.</p> <p>Permanent night shift rates range from \$31.16 - \$43.04.</p>
Column 1 Shift	Column 2 Penalty rate (% of minimum hourly rate)													
Afternoon or night	115													
Permanent night	130													
Saturday, Sunday or public holiday	150													
18.	<a href="#">Coal Export Terminals Award 2020</a>	<p><b>13. Ordinary hours of work and rostering</b></p> <p>...</p> <p><b>13.4 Shiftwork</b></p> <p><b>(a) Definitions</b></p> <p><b>(i) Afternoon shift</b> means any shift, the ordinary hours of which finish after 7.00 pm and at or before midnight.</p> <p><b>(ii) Night shift</b> means any shift, the ordinary hours of which finish after midnight and at or before 8.00 am.</p> <p><b>(iii) Permanent night shift</b> means a shift during a period which an employee:</p> <ul style="list-style-type: none"> <li>• works night shift only;</li> </ul>				<p>Shift penalties are paid <b>hourly</b>.</p> <p>Afternoon shift and night shift rates range from \$29.64 - \$38.97.</p> <p>Permanent night shift rates range from \$32.21 - \$42.36.</p>								

	Award	Shiftwork clause	Summary								
		<ul style="list-style-type: none"> <li>• stays on night shift for a longer period than 4 consecutive weeks; or</li> <li>• works on a roster that does not give at least one third of the employee's working time off night shift in each roster cycle.</li> </ul> <p><b>(b) Shiftwork rates</b></p> <p>A shiftworker or continuous shiftworker will be paid the following rates, on the following shifts:</p> <table border="1" data-bbox="521 451 1370 582"> <thead> <tr> <th></th> <th>% of minimum hourly rate</th> </tr> </thead> <tbody> <tr> <td>Afternoon shift</td> <td>115</td> </tr> <tr> <td>Night shift</td> <td>115</td> </tr> <tr> <td>Permanent night shift</td> <td>125</td> </tr> </tbody> </table>		% of minimum hourly rate	Afternoon shift	115	Night shift	115	Permanent night shift	125	
	% of minimum hourly rate										
Afternoon shift	115										
Night shift	115										
Permanent night shift	125										
19.	<a href="#">Concrete Products Award 2020</a>	<p><b>21. Shiftwork and penalty rates</b></p> <p>...</p> <p><b>21.6 Afternoon or night shift rates</b></p> <p><b>(a)</b> A shiftworker on afternoon or night shifts will be paid <b>115%</b> of the ordinary hourly rate for such shift.</p> <p>...</p> <p><b>(c)</b> An employee who:</p> <ul style="list-style-type: none"> <li><b>(i)</b> during a period of engagement on shift, works night shift only;</li> <li><b>(ii)</b> remains on night shift for a longer period than 4 consecutive weeks; or</li> <li><b>(iii)</b> works on a night shift which does not rotate or alternate with another shift or with day work so as to give the employee at least 1/3rd of their working time off night shift in each shift cycle, will during such engagement period or cycle be paid <b>125%</b> of the employee's ordinary hourly rate for all time worked during ordinary working hours on such night shift.</li> </ul>	<p>Shift penalties are paid <b>hourly</b>.</p> <p>(Rates below include the industry allowance)</p> <p>Afternoon and night shift rates range from \$26.78 - \$30.89</p> <p>Permanent night shift rates range from \$29.11 - \$33.58.</p>								
20.	<a href="#">Contract Call Centres Award 2020</a>	<p><b>21.2 Shift penalty rates</b></p> <p><b>(a)</b> The shift penalty rates in clause 21.2 apply only to time worked on afternoon or night shift by employees who are designated by the employer as shiftworkers, in respect of the relevant roster period or shift.</p>	<p>Shift rates are paid <b>hourly</b>.</p> <p>Afternoon shift rates range from \$27.69 - \$38.08</p>								

	Award	Shiftwork clause	Summary												
		<p>(b) Subject to clause 21.2(a) :</p> <p>(i) employees on an afternoon shift will be paid <b>115%</b> of the minimum hourly rate; and</p> <p>(ii) except as provided for in clause 21.2(c) , employees on a night shift will be paid <b>115%</b> of the minimum hourly rate.</p> <p>(c) Subject to clause 21.2(a) , an employee who:</p> <p>(i) during a period of engagement on shiftwork, works night shift only;</p> <p>(ii) remains on night shift for a longer period than 4 consecutive weeks; or</p> <p>(iii) works on a night shift which does not rotate or alternate with afternoon shift or with day work so as to give the employee at least one third of the working time off night shift in each shift cycle,</p> <p>will be paid <b>130%</b> of the minimum hourly rate for time worked on such night shift. This penalty rate is in substitution for and not cumulative upon the night shift penalty rate prescribed in clause 21.2(b)(ii).</p>	<p>Night shift rates range from \$27.69 - \$38.08</p> <p>Permanent night shift (see 21.2(c)) rates range from \$31.30 - \$43.04</p>												
21.	<p><a href="#">Corrections and Detention (Private Sector) Award 2020</a></p>	<p><b>20.3 Penalty rates</b> Penalty rates apply to each ordinary hour worked in the following span:</p> <table border="1" data-bbox="524 1007 1534 1241"> <thead> <tr> <th>Hours worked during</th> <th>% of minimum hourly rate</th> </tr> </thead> <tbody> <tr> <td>Night span</td> <td>115</td> </tr> <tr> <td>Night span (permanent night work)</td> <td>130</td> </tr> <tr> <td>Saturday span</td> <td>150</td> </tr> <tr> <td>Sunday span</td> <td>200</td> </tr> <tr> <td>Public holiday span</td> <td>250</td> </tr> </tbody> </table>	Hours worked during	% of minimum hourly rate	Night span	115	Night span (permanent night work)	130	Saturday span	150	Sunday span	200	Public holiday span	250	<p>Shift rates payable <b>per hour</b>.</p> <p>Night span rates range from \$26.93 - \$32.96</p> <p>Night span (permanent night work) rates range from: \$30.45 - \$37.27</p>
Hours worked during	% of minimum hourly rate														
Night span	115														
Night span (permanent night work)	130														
Saturday span	150														
Sunday span	200														
Public holiday span	250														
22.	<p><a href="#">Dredging Industry Award 2020</a></p>	<p><b>20. Penalty rates</b> ...</p> <p><b>20.2 Shiftwork loading</b></p>	<p>Shift work penalties are paid <b>hourly</b>.</p> <p><u>Employees engaged on a non-propelled dredge</u></p>												

	Award	Shiftwork clause	Summary
		<p>(a) A shiftwork loading of 30% of the ordinary hourly rate is payable to an employee working shiftwork and which shift commences at or after 6.00 pm on any Monday to Friday inclusive.</p> <p>(b) If a 3 shift per day system is worked, an additional shiftwork loading of 15% of the ordinary hourly rate is payable in respect of the afternoon and night shifts.</p>	<p>Night shift rates range from \$32.67 - \$38.77</p> <p>Afternoon or night shift rates with a 3 shift per day system range from \$28.90 - \$34.29.</p> <p><u>Employees engaged on a dredge other than a non-propelled dredge that is not fully operational</u></p> <p>Night shift rates range from \$34.14 - \$41.21.</p> <p>Afternoon or night shift rates with a 3 shift per day system range from \$30.20 - \$36.46.</p>
<p>23.</p>	<p><a href="#"><u>Dry Cleaning and Laundry Industry Award 2020</u></a></p>	<p><b>25. Shiftwork</b> ...</p> <p><b>25.3</b> An employee who works shiftwork must be paid 115% of the minimum hourly rate prescribed for the appropriate classification for each hour worked during a morning, afternoon or night shift.</p> <p><b>25.4</b> An employee who works on a night shift which does not alternate with another shift or day work must be paid for each hour worked 130% of the minimum hourly rate prescribed for the appropriate classification.</p>	<p>Shift rates are payable <b>per hour</b>.</p> <p>Night or afternoon shift rates range from \$26.00 - \$30.11 (Dry cleaning employees)</p> <p>Night or afternoon shift rates range from \$26.35 – 29.06 (Laundry employees)</p> <p>Permanent night shift rates range from \$29.39 - \$34.03 (Dry cleaning employees)</p> <p>Permanent night shift rates range from \$29.78 - \$32.85 (Laundry employees)</p>



	Award	Shiftwork clause	Summary															
24.	<a href="#">Educational Services (Post-Secondary Education) Award 2020</a>	<p><b>21.1 Definitions</b> For the purposes of clause 21 the following definitions will apply:</p> <p>(a) <b>afternoon shift</b> means any shift finishing after 7.00 pm and at or before midnight;</p> <p>(b) <b>night shift</b> means any shift finishing after midnight, and at or before 7.00 am; and</p> <p>(c) <b>permanent night shift</b> means a night shift which does not rotate with another shift or shifts or day work and which continues for a period of not less than 4 consecutive weeks.</p> <p><b>21.2 Payment for shiftwork</b></p> <p>(a) An employee will be paid the following penalty rates for all ordinary hours worked by the employee during the following periods:</p> <table border="1" data-bbox="521 663 1541 1074"> <thead> <tr> <th data-bbox="521 663 1070 762">Shift</th> <th data-bbox="1070 663 1296 762">Penalty rate</th> <th data-bbox="1296 663 1541 762">Casual penalty rate (inclusive of 25% loading)</th> </tr> <tr> <td></td> <td colspan="2" data-bbox="1070 762 1541 839">% of minimum hourly rate</td> </tr> </thead> <tbody> <tr> <td data-bbox="521 839 1070 916">Afternoon and non-permanent night shift</td> <td data-bbox="1070 839 1296 916">115</td> <td data-bbox="1296 839 1541 916">140</td> </tr> <tr> <td data-bbox="521 916 1070 992">Permanent night shift</td> <td data-bbox="1070 916 1296 992">130</td> <td data-bbox="1296 916 1541 992">155</td> </tr> <tr> <td data-bbox="521 992 1070 1074">Saturday, Sunday and Public holiday</td> <td data-bbox="1070 992 1296 1074">150</td> <td data-bbox="1296 992 1541 1074">175</td> </tr> </tbody> </table>	Shift	Penalty rate	Casual penalty rate (inclusive of 25% loading)		% of minimum hourly rate		Afternoon and non-permanent night shift	115	140	Permanent night shift	130	155	Saturday, Sunday and Public holiday	150	175	<p>Shift penalties are paid <b>hourly</b>.</p> <p><u>General staff</u></p> <p>Afternoon and non-permanent night shift rates range from \$27.57 - \$52.73.</p> <p>Permanent night shift rates range from \$31.16 - \$59.61.</p>
Shift	Penalty rate	Casual penalty rate (inclusive of 25% loading)																
	% of minimum hourly rate																	
Afternoon and non-permanent night shift	115	140																
Permanent night shift	130	155																
Saturday, Sunday and Public holiday	150	175																
25.	<a href="#">Educational Services (Schools) General Staff Award 2020</a>	<p><b>22. Penalty Rates</b></p> <p><b>22.2 Payment for shiftwork</b></p> <p>(a) An employee working an afternoon shift or night shift will be paid 115% of the minimum hourly rate.</p> <p>(b) An employee working a permanent night shift will be paid 130% of the minimum hourly rate.</p>	<p>Shift rates are payable <b>per hour</b>.</p> <p>Afternoon or night shift rates range from \$26.71 - \$47.68.</p> <p>Permanent night shift rates range from \$30.20 - \$53.90.</p>															

	Award	Shiftwork clause	Summary														
26.	<a href="#">Electrical Power Industry Award 2020</a>	<p><b>20. Penalty Rates</b></p> <p>Penalty rates are payable in respect of ordinary hours at the following rates:</p> <table border="1" data-bbox="521 327 1520 746"> <thead> <tr> <th data-bbox="521 327 1182 391"></th> <th data-bbox="1182 327 1520 391">% of minimum hourly rate</th> </tr> </thead> <tbody> <tr> <td data-bbox="521 391 1182 486">Afternoon shift (where more than one third of rostered ordinary hours are on afternoon shift)</td> <td data-bbox="1182 391 1520 486">116</td> </tr> <tr> <td data-bbox="521 486 1182 582">Night shift (where more than one third of rostered ordinary hours are on night shift)</td> <td data-bbox="1182 486 1520 582">122.5</td> </tr> <tr> <td data-bbox="521 582 1182 646">Permanent night shift (where an employee works only night shift)</td> <td data-bbox="1182 582 1520 646">130</td> </tr> <tr> <td data-bbox="521 646 1182 678">Saturday</td> <td data-bbox="1182 646 1520 678">150</td> </tr> <tr> <td data-bbox="521 678 1182 710">Sunday</td> <td data-bbox="1182 678 1520 710">200</td> </tr> <tr> <td data-bbox="521 710 1182 746">Public holiday</td> <td data-bbox="1182 710 1520 746">250</td> </tr> </tbody> </table>		% of minimum hourly rate	Afternoon shift (where more than one third of rostered ordinary hours are on afternoon shift)	116	Night shift (where more than one third of rostered ordinary hours are on night shift)	122.5	Permanent night shift (where an employee works only night shift)	130	Saturday	150	Sunday	200	Public holiday	250	<p>Shift rates are payable <b>per hour</b>.</p> <p>Afternoon shift rates range from \$27.42 - \$54.45</p> <p>Night shift rates range from \$28.96 - \$57.50</p> <p>Permanent night shift rates range from \$30.73 - \$61.02</p>
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27.	<a href="#">Electrical, Electronic and Communications Contracting Award 2020</a>	<p><b>13.13 Shift allowances</b></p> <p>(a) An employee whilst on afternoon or night shift as defined in clause 2.3 must be paid for such shift at <b>115%</b> of the employee's ordinary hourly rate.</p> <p>...</p> <p>(c) An employee is on <b>permanent night shift</b> when the employee :</p> <ul style="list-style-type: none"> <li>(i) during a period of engagement on shift, works night shift only;</li> <li>(ii) remains on night shift for a longer period than 4 consecutive weeks; or</li> <li>(iii) works on a night shift which does not rotate or alternate with another shift or with day work so as to give the employee at least one third of their working time off night shift in each shift cycle.</li> </ul> <p>(d) An employee on permanent night shift must, during such engagement, period or cycle, be paid <b>130%</b> of the employee's ordinary hourly rate for all ordinary hours worked on the night shift.</p>	<p>Shift penalties are paid <b>hourly</b>.</p> <p>(Rates below include applicable allowances)</p> <p>Afternoon or night shift rates range from \$27.49 - \$39.85.</p> <p>Permanent night shift rates range from \$31.07 - \$45.05</p>														

	Award	Shiftwork clause	Summary																								
28.	<a href="#">Fast Food Industry Award 2020</a>	<p><b>21. Penalty rates</b></p> <p>An employer must pay penalty rates to an employee who works ordinary hours as follows : Table 6—Penalty rates</p> <table border="1" data-bbox="524 389 1668 842"> <thead> <tr> <th data-bbox="524 389 1003 453">For ordinary hours worked:</th> <th data-bbox="1003 389 1357 453">Full-time and part-time employees</th> <th data-bbox="1357 389 1668 453">Casual employees</th> </tr> <tr> <td></td> <td data-bbox="1003 453 1357 517">% of minimum hourly rate</td> <td data-bbox="1357 453 1668 517">% of minimum hourly rate</td> </tr> </thead> <tbody> <tr> <td data-bbox="524 517 1003 580">Monday to Friday—between 10.00 pm and midnight</td> <td data-bbox="1003 517 1357 580">110</td> <td data-bbox="1357 517 1668 580">135</td> </tr> <tr> <td data-bbox="524 580 1003 644">Monday to Friday—between midnight and 6.00 am</td> <td data-bbox="1003 580 1357 644">115</td> <td data-bbox="1357 580 1668 644">140</td> </tr> <tr> <td data-bbox="524 644 1003 684">Saturday—any time of day</td> <td data-bbox="1003 644 1357 684">125</td> <td data-bbox="1357 644 1668 684">150</td> </tr> <tr> <td data-bbox="524 684 1003 748">Sunday (Level 1 employees)—any time of day</td> <td data-bbox="1003 684 1357 748">125</td> <td data-bbox="1357 684 1668 748">150</td> </tr> <tr> <td data-bbox="524 748 1003 812">Sunday (Level 2 and 3 employees)—any time of day</td> <td data-bbox="1003 748 1357 812">150</td> <td data-bbox="1357 748 1668 812">175</td> </tr> <tr> <td data-bbox="524 812 1003 842">Public holiday—any time of day</td> <td data-bbox="1003 812 1357 842">225</td> <td data-bbox="1357 812 1668 842">250</td> </tr> </tbody> </table>	For ordinary hours worked:	Full-time and part-time employees	Casual employees		% of minimum hourly rate	% of minimum hourly rate	Monday to Friday—between 10.00 pm and midnight	110	135	Monday to Friday—between midnight and 6.00 am	115	140	Saturday—any time of day	125	150	Sunday (Level 1 employees)—any time of day	125	150	Sunday (Level 2 and 3 employees)—any time of day	150	175	Public holiday—any time of day	225	250	<p>Shift rates payable <b>per hour</b>.</p> <p>Monday – Friday 10pm – midnight rates range from: \$27.29 - \$29.60</p> <p>Monday – Friday midnight to 6 am rates range from \$28.44 - \$30.95</p>
For ordinary hours worked:	Full-time and part-time employees	Casual employees																									
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29.	<a href="#">Food, Beverage and Tobacco Manufacturing Award 2020</a>	<p><b>24.3 Rates for shiftworkers</b></p> <p>(a) An employee who works on early morning shift must be paid <b>112.5%</b> of the ordinary hourly rate for that shift.</p> <p>(b) An employee who works on afternoon or night shift must be paid <b>115%</b> of the ordinary hourly rate for that shift.</p> <p>(c) ...</p> <p>(d) An employee who works on permanent night shift must be paid <b>130%</b> of the ordinary hourly rate for all time worked during ordinary working hours on an engagement, period or cycle on permanent night shifts.</p>	<p>Shiftwork rates are <b>paid hourly</b>.</p> <p>Afternoon or night shift rates range from \$26.00 - \$31.06.</p> <p>Permanent night shift rates range from \$29.39 - \$35.11.</p>																								
30.	<a href="#">Funeral Industry Award 2020</a>	<p><b>20. Shiftwork</b></p> <p>...</p> <p><b>20.5 Afternoon shift penalty rates</b></p> <p>(a) A shiftworker whilst on afternoon shift will be paid <b>120%</b> of the minimum hourly rate.</p>	<p>Shift penalties are paid <b>hourly</b>.</p> <p>Afternoon shift rates range from \$27.13 - \$32.41.</p>																								

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31.	<a href="#">Gas Industry Award 2020</a>	<p><b>19. Overtime and penalty rates</b>                      ...                      19.8 Subject to clause 19.2 , an employee will be paid overtime and penalty rates for work during the following periods.</p> <table border="1" data-bbox="521 357 1664 970"> <thead> <tr> <th data-bbox="521 357 779 453">Hours worked</th> <th data-bbox="779 357 1061 453">Rate for full-time and part-time employees</th> <th data-bbox="1061 357 1402 453">Rate for casual employees (inclusive of casual loading)</th> <th data-bbox="1402 357 1664 453">Minimum payment</th> </tr> <tr> <td colspan="4" data-bbox="521 453 1664 488"><b>% of minimum hourly rate</b></td> </tr> </thead> <tbody> <tr> <td data-bbox="521 488 779 520">Afternoon shift</td> <td data-bbox="779 488 1061 520">115</td> <td data-bbox="1061 488 1402 520">140</td> <td data-bbox="1402 488 1664 520">–</td> </tr> <tr> <td data-bbox="521 520 779 552">Night shift</td> <td data-bbox="779 520 1061 552">130</td> <td data-bbox="1061 520 1402 552">155</td> <td data-bbox="1402 520 1664 552">–</td> </tr> <tr> <td data-bbox="521 552 779 616">Saturday—ordinary hours</td> <td data-bbox="779 552 1061 616">150</td> <td data-bbox="1061 552 1402 616">175</td> <td data-bbox="1402 552 1664 616">4 hours</td> </tr> <tr> <td data-bbox="521 616 779 647">Sunday—all hours</td> <td data-bbox="779 616 1061 647">200</td> <td data-bbox="1061 616 1402 647">225</td> <td data-bbox="1402 616 1664 647">4 hours</td> </tr> <tr> <td data-bbox="521 647 779 711">Public holiday—all hours</td> <td data-bbox="779 647 1061 711">250</td> <td data-bbox="1061 647 1402 711">275</td> <td data-bbox="1402 647 1664 711">4 hours</td> </tr> <tr> <td data-bbox="521 711 779 775">Early start—first 2 hours</td> <td data-bbox="779 711 1061 775">150</td> <td data-bbox="1061 711 1402 775">175</td> <td data-bbox="1402 711 1664 775">–</td> </tr> <tr> <td data-bbox="521 775 779 839">Early start—after 2 hours</td> <td data-bbox="779 775 1061 839">200</td> <td data-bbox="1061 775 1402 839">225</td> <td data-bbox="1402 775 1664 839">–</td> </tr> <tr> <td data-bbox="521 839 779 903">Overtime—first 2 hours</td> <td data-bbox="779 839 1061 903">150</td> <td data-bbox="1061 839 1402 903">175</td> <td data-bbox="1402 839 1664 903">–</td> </tr> <tr> <td data-bbox="521 903 779 967">Overtime—after 2 hours</td> <td data-bbox="779 903 1061 967">200</td> <td data-bbox="1061 903 1402 967">225</td> <td data-bbox="1402 903 1664 967">–</td> </tr> </tbody> </table>	Hours worked	Rate for full-time and part-time employees	Rate for casual employees (inclusive of casual loading)	Minimum payment	<b>% of minimum hourly rate</b>				Afternoon shift	115	140	–	Night shift	130	155	–	Saturday—ordinary hours	150	175	4 hours	Sunday—all hours	200	225	4 hours	Public holiday—all hours	250	275	4 hours	Early start—first 2 hours	150	175	–	Early start—after 2 hours	200	225	–	Overtime—first 2 hours	150	175	–	Overtime—after 2 hours	200	225	–	<p>Shift penalties are paid <b>hourly</b>.</p> <p>Afternoon shift rates range from \$26.93 - \$37.71.</p> <p>Night shift rates range from \$30.45 - \$42.63.</p>
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Overtime—first 2 hours	150	175	–																																												
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32.	<a href="#">General Retail Industry Award 2020</a>	<p><b>25.1 Shiftwork rates</b></p> <p>(a) Any shiftwork between midnight Sunday and midnight Friday must be paid at the rate of 130% of the minimum hourly rate for full-time and part-time employees and at 155% of the minimum hourly rate for casual employees (inclusive of the casual loading).</p> <p><b>25.2 Baking production employees—early morning shift rates</b></p> <p>(a) A baking production employee who begins a shift at or after 2.00 am and before 6.00 am is entitled to an early morning shift rate of <b>112.5%</b> of the minimum hourly rate for full-time and part-time employees and <b>137.5%</b> of the minimum hourly rate for casual employees, inclusive of the casual loading.</p>	<p>Shift penalties are paid <b>hourly</b>.</p> <p>All shiftwork (other than Saturday or Sunday) rates for full-time and part-time other than baking production employees range from \$32.15 - \$39.29.</p> <p>Shiftwork rates for full-time and part-time baking production employees starting between 2:00 am and 6:00 am range from \$27.82 - \$34.00.</p>																																												

	Award	Shiftwork clause	Summary
		<p>(b) A baking production employee who begins a shift at or after midnight and before 2.00 am is entitled to a night shift rate of <b>130%</b> of the minimum hourly rate for full-time and part-time employees and <b>155%</b> of the minimum hourly rate for casual employees, inclusive of the casual loading.</p> <p>(c) The rates set out in clauses 25.2(a) and 25.2(b) apply instead of shiftwork rates and overtime payments for all hours up to 38 hours per week and 9 hours per day.</p>	<p>Shiftwork rates for full-time and part-time baking production employees starting between midnight and before 2:00 am range from \$32.15 - \$39.29.</p>
33.	<p><a href="#"><u>Graphic Arts, Printing and Publishing Award 2020</u></a></p>	<p><b>14. Special provisions for shiftwork employees</b> ...</p> <p><b>14.3 Shift allowances—morning, afternoon and night shift</b>  <b>(a) Morning, afternoon and night shift</b></p> <p>An employee on morning shift, afternoon shift, or night shift which rotates with or alternates with day work and/or afternoon shift will be paid 20% of the day work rate in addition to the day work rate prescribed by this award for the ordinary hours they perform on that shift.</p> <p><b>(b) Permanent night shift</b></p> <p>An employee when on permanent night shift will be paid 30% of the day work rate in addition to the day work rate prescribed by this award for the ordinary hours they perform during any such night cycle.</p> <p><b>(c) The shift allowance is payable during overtime in accordance with this award.</b></p>	<p>Shift penalty is paid based on ordinary <b>hours</b> worked.</p> <p>Rotating morning, afternoon and night shift rates range from \$27.13 - \$34.28</p> <p>Permanent night shift rates range from \$23.39 - \$37.14</p>
34.	<p><a href="#"><u>Health Professionals and Support Services Award 2020</u></a></p>	<p><b>26. Penalty rates and shiftwork</b> ...</p> <p><b>26.3 Shiftwork penalty rates</b></p> <p>(a) Where the ordinary rostered hours of work of a shiftworker finish between 6.00 pm and 8.00 am or commence between 6.00 pm and 6.00 am, the employee will be paid 115% of the minimum hourly rate of pay applicable to their classification and pay point.</p> <p>(b) A casual employee who works shiftwork as defined in clause 26.3(a) will be paid 140% of the minimum hourly rate of pay applicable to their classification and pay point but will not be paid the casual loading of 25% .</p>	<p>Shift penalties payable <b>hourly</b></p> <p>Shift rates range from \$27.57 - \$40.30</p>

	Award	Shiftwork clause	Summary										
		<p>(c) The shiftwork penalty rates prescribed in clause 26.3 will not apply to shiftwork performed by any employee on Saturday, Sunday or public holidays where the extra payment prescribed in clause 26.1 — Weekend penalty rates and clause 33 — Public holidays , apply.</p>											
<p>35.</p>	<p><a href="#"><i>Higher Education Industry – General Staff – Award 2020</i></a></p>	<p><b>23. Penalty rates</b></p> <p><b>23.1 Definitions</b></p> <p>(a) <b>Day shift</b> commences at or after 6.00 am and finishes at or before 6.00 pm.            (b) <b>Afternoon shift</b> finishes after 6.00 pm and at or before midnight.            (c) <b>Night shift</b> finishes after midnight and at or before 8.00 am.</p> <p><b>23.2</b> An employee will be paid the following penalty rates for all ordinary hours worked by the employee during the following periods:</p> <table border="1" data-bbox="519 766 1541 1058"> <thead> <tr> <th>Shift</th> <th>Penalty rate % of minimum hourly rate</th> </tr> </thead> <tbody> <tr> <td>Afternoon and rotating night</td> <td>115</td> </tr> <tr> <td>Non-rotating night</td> <td>130</td> </tr> <tr> <td>Saturday</td> <td>150</td> </tr> <tr> <td>Sunday</td> <td>200</td> </tr> </tbody> </table>	Shift	Penalty rate % of minimum hourly rate	Afternoon and rotating night	115	Non-rotating night	130	Saturday	150	Sunday	200	<p>Shift rates payable <b>per hour</b>.</p> <p><u>Non-PACCT staff</u>            Afternoon and rotating night shift rates range from: \$27.84 - \$53.22</p> <p>Non-rotating night shift rates range from \$31.47 - \$60.16</p> <p><u>PACCT staff</u>            Afternoon and rotating night shift rates range from: \$28.80 - \$55.03</p> <p>Non-rotating night shift rates range from \$32.55 - \$62.21</p> <p>Clause 2: PACCT staff means professional, administrative, clerical, computing and technical employees by whatever name called.</p>
Shift	Penalty rate % of minimum hourly rate												
Afternoon and rotating night	115												
Non-rotating night	130												
Saturday	150												
Sunday	200												
<p>36.</p>	<p><a href="#"><i>Horticulture Award 2020</i></a></p>	<p><b>13. Ordinary hours of work and rostering arrangements</b></p> <p><b>13.3</b> The ordinary hours of work for a shiftworker will not exceed 152 hours over a 4 week period provided that:</p> <p>(a) The ordinary hours will be worked between Monday and Friday inclusive.</p> <p>(b) For the purposes of this award:</p>	<p>Shift rates payable <b>hourly</b>.</p> <p>Afternoon and night shift rates are the same (115% of the ordinary hourly rate) and range from: \$26.00 - \$30.11.</p>										

	Award	Shiftwork clause	Summary
		<p>(i) <b>afternoon shift</b> means any shift finishing after 6.00 pm and at or before midnight; and</p> <p>(ii) <b>night shift</b> means any shift finishing after midnight and at or before 8.00 am.</p> <p>(c) If an employee is directed to work on shifts the shift must not exceed 8 hours without the payment of overtime.</p> <p>(d) Shiftworkers whilst on afternoon and night shifts will be paid <b>115%</b> of the ordinary hourly rate.</p> <p>...</p>	
<p>37.</p>	<p><a href="#"><i>Hydrocarbons Industry (Upstream) Award 2020</i></a></p>	<p><b>24. Penalty rates</b> ...</p> <p><b>24.3 Shiftwork rates</b></p> <p>(a) A shiftworker or continuous shiftworker must be paid <b>115%</b> of the ordinary hourly rate for each ordinary hour worked on afternoon shift or night shift.</p> <p>(b) A shiftworker or continuous shiftworker must be paid <b>130%</b> of the ordinary hourly rate for each ordinary hour worked on permanent night shift.</p>	<p>Shift penalties are paid <b>hourly</b>.</p> <p>(Rates below include the industry allowance)</p> <p>Afternoon and night shift rates range from \$28.70 - \$39.15.</p> <p>Permanent night shift rates range from \$32.45 - \$44.25.</p>
<p>38.</p>	<p><a href="#"><i>Joinery and Building Trades Award 2020</i></a></p>	<p><b>25. Shiftworkers</b> ...</p> <p><b>25.4 Shift rates</b></p> <p>(a) Other than for work on a Saturday, Sunday or public holiday, the rate of pay for afternoon and night shift is <b>150%</b> of the <b>ordinary hourly rate</b>, provided that the employee is employed continuously for 5 shifts Monday to Friday in any week.</p> <p>(b) Other than for work on a Saturday, Sunday or public holiday, the rate of pay for early morning and early afternoon shift is <b>125%</b> of the <b>ordinary hourly rate</b>, provided that the employee is employed continuously for 5 shifts Monday to Friday in any week.</p> <p>(c) A public holiday in any week is not a break in continuity for the purposes of clause 25.4(b).</p>	<p>Shift penalties are paid <b>hourly</b>.</p> <p>Continuous afternoon and night shift rates range from \$33.92 - \$41.75.</p> <p>Continuous early afternoon shift work rates range from \$28.26 - \$34.79</p>

	Award	Shiftwork clause	Summary						
		<p>(d) An employee who is employed for less than 5 consecutive shifts Monday to Friday must be paid for each day the employee works on shiftwork at <b>150%</b> of the <b>ordinary hourly rate</b> for the first 2 hours and <b>200%</b> thereafter.</p> <p>(e) When a job finishes after proceeding on shiftwork for more than one week, or the employee terminates their services during the week, the employee must be paid at the rates specified in clause 25.4(a) and 25.4(b) for the time actually worked.</p>							
<p>39.</p>	<p><a href="#"><u>Journalists Published Media Award 2020</u></a></p>	<p><b>19. Shiftwork and weekend rates</b></p> <p><b>19.1 Morning and afternoon shifts</b></p> <p>Subject to the provisions of clause 19 , an employee who is instructed by the employer to perform and performs ordinary hours on a shift will be entitled to be paid an additional <b>10%</b> of the ordinary hourly rate for all ordinary hours worked on a shift:</p> <p>(a) any part of which falls between the hours of 6.00 am and 7.00 am, or</p> <p>(b) that concludes between the hours of 6.00 pm and 8.30 pm.</p> <p><b>19.2 Night shifts</b></p> <p>Subject to the provisions of clause 19 , an employee who is instructed by the employer to perform and performs ordinary hours on a shift, any part of which falls between the hours of 8.30 pm and 6.00 am, will be entitled to be paid the following additional rates for all ordinary hours worked on that shift:</p> <table border="1" data-bbox="521 1062 1597 1286"> <thead> <tr> <th data-bbox="521 1062 1335 1158">Employees employed by a</th> <th data-bbox="1335 1062 1597 1158">Additional % of ordinary hourly rate</th> </tr> </thead> <tbody> <tr> <td data-bbox="521 1158 1335 1222">Metropolitan daily newspaper, suburban newspaper, a magazine or a wire service</td> <td data-bbox="1335 1158 1597 1222">17.5%</td> </tr> <tr> <td data-bbox="521 1222 1335 1286">Regional daily newspaper, country non-daily newspaper or digital publication</td> <td data-bbox="1335 1222 1597 1286">15%</td> </tr> </tbody> </table>	Employees employed by a	Additional % of ordinary hourly rate	Metropolitan daily newspaper, suburban newspaper, a magazine or a wire service	17.5%	Regional daily newspaper, country non-daily newspaper or digital publication	15%	<p>Shift penalties are payable <b>hourly</b>.</p> <p><u>Metropolitan daily newspaper, magazine or wire service employees</u></p> <p>Afternoon shift rates (not weekend) range from \$31.43 - \$46.94.</p> <p>Night shift rates (not weekend) range from \$33.57 - \$49.72.</p> <p><u>Suburban newspaper employees</u></p> <p>Afternoon shift rates (not weekend) range from \$31.43 - \$42.59.</p> <p>Night shift rates (not weekend) range from \$33.57 - \$44.89.</p> <p><u>Regional daily, country non-daily and digital publication employees</u></p>
Employees employed by a	Additional % of ordinary hourly rate								
Metropolitan daily newspaper, suburban newspaper, a magazine or a wire service	17.5%								
Regional daily newspaper, country non-daily newspaper or digital publication	15%								



	Award	Shiftwork clause	Summary												
			<p>Afternoon shift rates (not weekend) range from \$31.43 - \$46.62</p> <p>Night shift rates (not weekend) range from \$32.86 - \$48.32.</p>												
40.	<p><a href="#"><u>Legal Services Award 2020</u></a></p>	<p><b>21. Shiftwork</b> ... <b>21.3 Early morning, afternoon and night shift penalty rates</b></p> <p>An employee will be paid the following shift penalty rates for all ordinary hours worked by the employee on the following shifts:</p> <table border="1" data-bbox="517 635 1637 901"> <thead> <tr> <th>Shift</th> <th>Penalty rate</th> <th>Casual penalty rate (inclusive of 25% loading)</th> </tr> </thead> <tbody> <tr> <td>Afternoon or night</td> <td>115%</td> <td>140%</td> </tr> <tr> <td>Early morning</td> <td>110%</td> <td>135%</td> </tr> <tr> <td>Permanent night</td> <td>130%</td> <td>155%</td> </tr> </tbody> </table>	Shift	Penalty rate	Casual penalty rate (inclusive of 25% loading)	Afternoon or night	115%	140%	Early morning	110%	135%	Permanent night	130%	155%	<p>Shift penalties are paid <b>hourly</b>.</p> <p>Afternoon or night shift rates range from \$28.88 - \$36.83.</p> <p>Permanent night shift rates range from \$32.64 - \$41.64.</p>
Shift	Penalty rate	Casual penalty rate (inclusive of 25% loading)													
Afternoon or night	115%	140%													
Early morning	110%	135%													
Permanent night	130%	155%													
41.	<p><a href="#"><u>Manufacturing and Associated Industries and Occupations Award 2020</u></a></p>	<p><b>33.2 Rates for shiftworkers</b> (not vehicle manufacturing employees)</p> <p><b>(d) Afternoon or night shift</b></p> <p>An employee working on afternoon or night shift must be paid 115% of the ordinary hourly rate.</p> <p>...</p> <p><b>(f) Permanent night shift</b></p> <p>An employee who:</p> <ul style="list-style-type: none"> <li>(i) during a period of engagement on shift, works night shift only; or</li> <li>(ii) remains on night shift for a longer period than 4 consecutive weeks; or</li> </ul>	<p>Shift rates payable <b>per hour</b>.</p> <p>Afternoon or night shift rates range from \$26.00 - \$40.72</p> <p>Permanent night shift rates range from \$29.39 - \$46.03.</p>												

Award	Shiftwork clause	Summary														
	<p>(iii) works on a night shift which does not rotate or alternate with another shift or with day work so as to give the employee at least one third of their working time off night shift in each cycle,</p> <p>must be paid 130% of the ordinary hourly rate for all time worked during ordinary working hours on such night shift.</p>															
<p><a href="#"><u>Manufacturing and Associated Industries and Occupations Award 2020</u></a></p>	<p><b>56. Shiftwork and rates – vehicle manufacturing employees</b></p> <p><b>56.1 Penalty rates for shiftworkers – weekday and Saturday shifts</b></p> <p>(b) An employee who works an afternoon or night shift (other than a continuous work shift):</p> <p>(i) which does not continue for 5 successive working afternoons or nights or more in a 5 day workshop or 6 successive afternoons or nights or more in a 6 day workshop or for at least the number of ordinary hours prescribed by one of the alternative arrangements in clauses 50.1(c) and 50.1(e)(iv) will be paid at the rate of <b>150% of the minimum hourly rate</b>; or</p> <p>(ii) which has been in operation for 5 successive afternoons or nights or more in a 5 day workshop or 6 successive afternoons or nights or more in a 6 day workshop will be paid the following amounts:</p> <table border="1" data-bbox="521 882 1453 1241"> <thead> <tr> <th>Shift (other than continuous)</th> <th>% of minimum hourly rate</th> </tr> </thead> <tbody> <tr> <td>Night shift only</td> <td>130</td> </tr> <tr> <td>Alternating night and afternoon shifts</td> <td>118</td> </tr> <tr> <td>Alternating day and night shifts—rate for the night shift</td> <td>112.5</td> </tr> <tr> <td>Afternoon shift only</td> <td>118</td> </tr> <tr> <td>Alternating day and afternoon shifts—rate for the afternoon shift</td> <td>112.5</td> </tr> <tr> <td>Alternating day, afternoon and night shifts—rate for the afternoon and night shift</td> <td>112.5</td> </tr> </tbody> </table> <p>(c) The extra rates prescribed above will be payable only when shifts are changed once in every 3 weeks or shift cycle agreed pursuant to clause 50.1(b) or clause 50.1(a) , otherwise the extra rates prescribed for night shifts and afternoon shifts will apply.</p>	Shift (other than continuous)	% of minimum hourly rate	Night shift only	130	Alternating night and afternoon shifts	118	Alternating day and night shifts—rate for the night shift	112.5	Afternoon shift only	118	Alternating day and afternoon shifts—rate for the afternoon shift	112.5	Alternating day, afternoon and night shifts—rate for the afternoon and night shift	112.5	<p>Shift rates payable per <b>hour</b>.</p> <p>Nightshift rates range from \$29.39 - \$46.03, and \$25.44- \$39.84 for an alternating day and night shift.</p> <p>Alternating night and afternoon shift rates range from \$26.68 - \$41.78</p> <p>Afternoon shift rates range from \$26.68 - \$41.78 and \$25.44 - \$39.84 for alternating day and afternoon shifts.</p> <p>Afternoon and night shift rates (when part of alternating day, afternoon and night shifts) range from \$25.44 - \$39.84.</p> <p>Continuous work shifts on an afternoon or night shift rates range from \$25.44 – \$39.84.</p>
Shift (other than continuous)	% of minimum hourly rate															
Night shift only	130															
Alternating night and afternoon shifts	118															
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Alternating day, afternoon and night shifts—rate for the afternoon and night shift	112.5															

	Award	Shiftwork clause	Summary				
		<p>(d) An employee working continuous work shifts will whilst on an afternoon or night shift be paid at the rate of <b>112.5% of the minimum hourly rate</b>.</p> <p>(e) The minimum rate to be paid to a shiftworker for work performed between midnight on Friday and midnight on a Saturday will be <b>125% of the minimum hourly rate</b>. This rate will be in substitution for and not cumulative upon the shift premiums prescribed in clauses 56.1(c) and 56.1(d).</p>					
42.	<a href="#">Meat Industry Award 2020</a>	<p><b>23.3 Shiftwork rates</b></p> <p><b>(a) Afternoon shift</b> A shiftworker will be paid <b>115%</b> of the minimum hourly rate for all ordinary hours worked on afternoon shift.</p> <p><b>(b) Night shift</b> A shiftworker will be paid <b>125%</b> of the minimum hourly rate for all ordinary hours worked on night shift.</p> <p><b>(c) Fixed night shift</b> A shiftworker will be paid <b>130%</b> of the minimum hourly rate for all ordinary hours worked on fixed night shift.</p>	<p>Shift penalties are paid <b>hourly</b>.</p> <p>Afternoon shift rates range from \$26.00 - \$31.21.</p> <p>Night shift rates range from \$28.26 - \$33.93.</p> <p>Fixed night shift rates range from \$29.39 - \$35.28.</p>				
43.	<a href="#">Medical Practitioners Award 2020</a>	<p><b>21. Penalty rates</b></p> <p><b>21.1 Payment of shift penalty rates</b></p> <p>An employee will be paid the following penalty rates for all ordinary hours worked by the employee during the following periods:</p> <p><b>(a) Doctors in Training</b></p> <table border="1" data-bbox="521 1098 1520 1225"> <thead> <tr> <th data-bbox="521 1098 1128 1158"></th> <th data-bbox="1128 1098 1520 1158">Penalty rate</th> </tr> </thead> <tbody> <tr> <td data-bbox="521 1158 1128 1225">Rostered ordinary duty commencing or ending between 9.00 pm and 6.00 am</td> <td data-bbox="1128 1158 1520 1225">2.5% of minimum weekly rate per occasion *</td> </tr> </tbody> </table> <p>*Payment per occasion in addition to payment for hours worked. Penalty rate calculations are based on the rate for first year of experience of each respective classification.</p> <p><b>(b) Career Medical Practitioners and Senior Career Medical Practitioners</b></p>		Penalty rate	Rostered ordinary duty commencing or ending between 9.00 pm and 6.00 am	2.5% of minimum weekly rate per occasion *	<p>Shiftwork penalty rates paid hourly <b>except for Doctors in Training</b> (Intern, Resident Medical Practitioner, Registrar or Senior Registrar) employees where the shift penalty is expressed as 2.5% of the minimum weekly rate per occasion.</p> <p>This would range from the following amounts per occasion:</p> <ul style="list-style-type: none"> <li>• Intern: \$28.39</li> <li>• RMP: \$30.16 - \$31.66</li> <li>• Registrar: \$34.30 - \$38.47</li> </ul>
	Penalty rate						
Rostered ordinary duty commencing or ending between 9.00 pm and 6.00 am	2.5% of minimum weekly rate per occasion *						

Award	Shiftwork clause			Summary	
	<b>Ordinary hours worked:</b>	<b>Penalty rate</b>	<b>Casual penalty rate <sup>1</sup></b>	<ul style="list-style-type: none"> <li>Senior Registrar: \$44.82 - \$46.59.</li> </ul> <p>For all other classifications, shift penalties are payable <b>per hour</b>.</p> <p><u>Career Medical Practitioners and Senior Career medical practitioners</u></p> <p>Weekday evening shift rates range from \$53.63 - \$66.67</p> <p>Weekday night shift rates range from \$59.59 - \$74.08</p> <p><u>Senior Doctors (Specialist, Senior Specialist, Principal Specialist, Senior Principal Specialist, Deputy Director of Medical Services or Director of Medical Services)</u></p> <p>Weekday afternoon shift rates range from \$61.51 - \$84.35</p> <p><u>Community Medical Practitioners</u></p> <p>Morning and evening shift rates range from \$48.85 - \$60.70</p> <p>Night shift rates range from \$49.56 - \$61.59</p> <p>Permanent night shift rates range from \$50.04 - \$62.18</p>	
	<b>% of ordinary hourly rate</b>				
	Monday to Friday— between 6.00 pm and midnight	112.5	137.5		
	Monday to Friday—between midnight and 8.00 am	125	150		
	Saturday—all hours	150	175		
	Sunday—all hours	175	200		
	<sup>1</sup> Includes 25% casual loading provided in clause 11.1(a)				
	<b>(c) Senior Doctors</b>				
	<b>Ordinary hours worked:</b>	<b>Penalty rate</b>	<b>Casual penalty rate <sup>1</sup></b>		
	<b>% of ordinary hourly rate</b>				
	Monday to Friday—between 6.00 pm and midnight	112.5	137.5		
	Saturday—between 7.00 am and midnight	150	175		
	Sunday—between 7.00 am and midnight	175	200		
	Public holidays—all hours	250	275		
	<sup>1</sup> Includes 25% casual loading provided in clause 11.1(a)				
	<b>(d) Community Medical Practitioners</b>				
		<b>Penalty rate</b>	<b>Casual penalty rate <sup>1</sup></b>		
	<b>% of ordinary hourly rate</b>				
	Shift starting between 5.00 am and before 6.30 am	102.5	127.5		
	Shift finishing between 6.00 pm and before midnight	102.5	127.5		
Shift or part of shift rostered between midnight and 5.00 am	104	129			
Shifts permanently worked between midnight and 5.00 am*	105	130			

	Award	Shiftwork clause	Summary
		<p>*Permanently worked means any period in excess of 4 consecutive weeks</p> <p><sup>1</sup> Includes 25% casual loading provided in clause 11.1(a)</p>	
44.	<a href="#">Mining Industry Award 2020</a>	<p><b>21. Shiftwork and Penalty Rates</b></p> <p><b>21.1 Definitions</b></p> <p><b>afternoon shift</b> means any shift finishing after 7.00 pm and at or before midnight.</p> <p><b>continuous shiftworker</b> means an employee engaged in a continuous process who is rostered to work regularly on Sundays and public holidays.</p> <p><b>night shift</b> means any shift finishing after midnight and at or before 8.00 am.</p> <p><b>permanent night shift</b> means a period of shiftwork where an employee works night shift only; or remains on night shift for longer than 4 consecutive weeks; or works on night shift that does not rotate or alternate with another shift or with day work so as to give that employee at least one third of working time off the night shift in each cycle.</p> <p><b>21.2</b> A shiftworker or a continuous shiftworker must be paid:</p> <p>(a) <b>115%</b> of their ordinary hourly rate of pay, while on afternoon shift or night shift; and</p> <p>(b) <b>130%</b> of their ordinary hourly rate of pay, while on permanent night shift.</p>	<p>Shift penalties are paid <b>hourly</b>.</p> <p>(Rates below include the industry allowance)</p> <p>Afternoon or night shift rates range from \$28.03 - \$38.47</p> <p>Permanent night shift rates range from \$31.68 - \$43.49.</p>
45.	<a href="#">Mobile Crane Hiring Award 2020</a>	<p><b>23. Shiftwork</b></p> <p><b>23.1</b> An employee may be required to work shiftwork.</p> <p><b>23.2</b> Except as otherwise provided for in clause 23 , shiftworkers will be paid at <b>115%</b> of the ordinary hourly rate for such shifts.</p>	<p>Shiftwork penalties paid <b>hourly</b>.</p> <p>(Rates below include the industry allowance)</p> <p>Afternoon or night shift rates range from \$31.82 - \$37.89</p>
46.	<a href="#">Nurses Award 2020</a>	<p><b>20. Shiftwork</b></p> <p>...</p> <p><b>20.2 Shiftwork loading</b></p> <p>(a) Where an employee works a rostered afternoon shift between Monday and Friday, the employee will be paid a loading of <b>12.5%</b> of the minimum hourly rate applicable to their classification and pay point.</p>	<p>Shift work penalties are paid <b>hourly</b></p> <p><b>Other than aged care employees</b></p> <p>Nursing assistant</p>

	Award	Shiftwork clause	Summary
		<p>(b) Where an employee works a rostered night shift between Monday and Friday, the employee will be paid a loading of <b>15%</b> of the minimum hourly rate applicable to their classification and pay point.</p> <p>(c) The provisions of clause 20 do not apply where an employee commences their ordinary hours of work after 12.00 noon and completes those hours at or before 6.00 pm on that day.</p> <p>(d) The shiftwork loadings prescribed in clause 20 will not apply to shiftwork performed by an employee on Saturday, Sunday or public holiday where the payment prescribed by clause 21 — Saturday and Sunday work and clause 28 — Public holidays applies.</p> <p>(e) The provisions of clause 20 will not apply to Registered nurse levels 4 and 5.</p>	<ul style="list-style-type: none"> <li>• Afternoon shift rates range from \$27.65 - \$29.45.</li> <li>• Night shift rates range from \$28.27 - \$30.11.</li> </ul> <p><u>Enrolled nurse</u></p> <ul style="list-style-type: none"> <li>• Afternoon shift rates range from \$25.70 - \$31.57</li> <li>• Night shift rates range from \$26.27 - \$32.27</li> </ul> <p><u>Registered nurse</u></p> <ul style="list-style-type: none"> <li>• Afternoon shift rates range from \$32.10 - \$45.27</li> <li>• Night shift rates range from \$32.81 - \$46.28</li> </ul> <p><u>Nurse practitioner</u></p> <ul style="list-style-type: none"> <li>• Afternoon shift rates range from \$49.40 - \$50.87</li> <li>• Night shift rates range from \$50.50 - \$52.00</li> </ul> <p><u>Occupational health nurse</u></p> <ul style="list-style-type: none"> <li>• Afternoon shift rates range from \$34.45 - \$45.27</li> <li>• Night shift rates range from \$35.21 - \$46.28</li> </ul> <p><b>Aged care employees</b></p> <p><u>Nursing assistant</u></p>

	Award	Shiftwork clause	Summary
			<ul style="list-style-type: none"> <li>• Afternoon shift rates range from \$31.80 - \$33.87</li> <li>• Night shift rates range from \$32.51 - \$34.63</li> </ul> <p><u>Enrolled nurse</u></p> <ul style="list-style-type: none"> <li>• Afternoon shift rates range from \$29.55 - \$36.29</li> <li>• Night shift rates range from \$30.21 - \$37.10</li> </ul> <p><u>Registered nurse</u></p> <ul style="list-style-type: none"> <li>• Afternoon shift rates range from \$36.91 - \$52.07</li> <li>• Night shift rates range from \$37.73 - \$53.22</li> </ul> <p><u>Nurse practitioner</u></p> <ul style="list-style-type: none"> <li>• Afternoon shift rates range from \$56.81 - \$58.50</li> <li>• Night shift rates range from \$58.08 - \$59.80</li> </ul>
47.	<a href="#"><u>Oil Refining and Manufacturing Award 2020</u></a>	<p><b>23. Penalty rates</b> ...</p> <p><b>23.3 Shiftwork penalty rates</b></p> <p>(a) A shiftworker or continuous shiftworker must be paid <b>115%</b> of the ordinary hourly rate for each ordinary hour worked on afternoon shift or night shift.</p> <p>(b) A shiftworker must be paid <b>120%</b> of the ordinary hourly rate for each ordinary hour worked on permanent afternoon shift.</p> <p>(c) A shiftworker or continuous shiftworker must be paid <b>130%</b> of the ordinary hourly rate for each ordinary hour worked on permanent night shift.</p>	<p>Shift penalties are paid <b>hourly</b>.</p> <p>(Rates below include the industry allowance payable to non-clerical employees)</p> <p><u>Non-clerical employees (all categories)</u> Afternoon and night shift rates range from \$29.54 - \$42.01</p>

	Award	Shiftwork clause	Summary												
			Permanent afternoon shift rates range from \$30.83 - \$43.84  Permanent night shift rates range from \$33.40 - \$47.49  <u>Clerical employees</u>  Afternoon and night shift rates range from \$29.93 - \$37.73  Permanent afternoon shift rates range from \$31.24 - \$39.37  Permanent night shift rates range from \$33.84 - \$42.65												
48.	<a href="#">Pastoral Award 2020</a>	<p><b>PART 7 – PIG BREEDING AND RAISING</b>                      ...  <b>42. Penalty rates for shiftwork</b>                      ...  <b>42.2 Rates for shiftwork</b></p> <p>An employer must pay an employee working ordinary hours on the shifts defined in clause 42.1 at the rates in the table below:</p> <table border="1" data-bbox="521 975 1619 1302"> <thead> <tr> <th data-bbox="521 975 1070 1038">Shift</th> <th data-bbox="1070 975 1619 1038">Penalty rate (% of minimum hourly rate)</th> </tr> </thead> <tbody> <tr> <td data-bbox="521 1038 1070 1070">Successive afternoon or night shift</td> <td data-bbox="1070 1038 1619 1070">115%</td> </tr> <tr> <td data-bbox="521 1070 1070 1134">Non-successive afternoon or night shift</td> <td data-bbox="1070 1070 1619 1134">First 3 hours, 150% After first 3 hours, 200%</td> </tr> <tr> <td data-bbox="521 1134 1070 1166">Permanent night shift</td> <td data-bbox="1070 1134 1619 1166">130%</td> </tr> <tr> <td data-bbox="521 1166 1070 1230">Saturday or Sunday</td> <td data-bbox="1070 1166 1619 1230">See clause 44 — Saturday and Sunday penalty rates</td> </tr> <tr> <td data-bbox="521 1230 1070 1302">Public holiday</td> <td data-bbox="1070 1230 1619 1302">See clause 45 — Payment for public holidays</td> </tr> </tbody> </table>	Shift	Penalty rate (% of minimum hourly rate)	Successive afternoon or night shift	115%	Non-successive afternoon or night shift	First 3 hours, 150% After first 3 hours, 200%	Permanent night shift	130%	Saturday or Sunday	See clause 44 — Saturday and Sunday penalty rates	Public holiday	See clause 45 — Payment for public holidays	Shift penalties are paid <b>hourly</b> .  <u>Piggery attendant employees</u>  Successive afternoon or night shift rates range from \$26.00 - \$31.06.  Permanent night shift rates range from \$29.39 - \$35.11.
Shift	Penalty rate (% of minimum hourly rate)														
Successive afternoon or night shift	115%														
Non-successive afternoon or night shift	First 3 hours, 150% After first 3 hours, 200%														
Permanent night shift	130%														
Saturday or Sunday	See clause 44 — Saturday and Sunday penalty rates														
Public holiday	See clause 45 — Payment for public holidays														
49.	<a href="#">Pest Control Industry Award 2020</a>	<p><b>22. Shiftwork</b>   <b>22.1 Definitions</b></p>	Shift penalties are paid <b>hourly</b> .												



	Award	Shiftwork clause	Summary
		<p><b>(a) Afternoon shift</b> means any shift finishing after 6.00 pm and at or before midnight where the majority of time worked is between the hours of 6.00 pm and midnight.</p> <p><b>(b) Night shift</b> means any shift finishing after midnight and at or before 8.00 am or where the majority of time worked is between the hours of midnight and 8.00 am.</p> <p><b>22.2</b> An employee who works an afternoon shift must be paid at <b>115%</b> of the minimum hourly rate.</p> <p><b>22.3</b> An employee who works a night shift must be paid at <b>120%</b> of the minimum hourly rate.</p> <p><b>22.4</b> An employee who works a night shift which does not rotate or alternate with another shift or day work must be paid at <b>125%</b> of the minimum hourly rate.</p> <p><b>22.5</b> The shiftwork penalty rates in clauses 22.2 , 22.3 and 22.4 are not payable where an employee is entitled to another penalty rate for overtime, weekends or public holidays.</p>	<p>Afternoon shift rates range from \$26.27 - \$30.38.</p> <p>Night shift rates range from \$27.41 - \$31.70.</p> <p>Permanent night shift rates range from \$28.55 - \$33.03</p>
50.	<p><a href="#"><i>Pharmaceutical Industry Award 2020</i></a></p>	<p><b>20. Shift penalty rates</b></p> <p><b>20.2 Afternoon and night shift penalty rates</b></p> <p><b>(a)</b> An employee who works on afternoon or night shift must be paid <b>115%</b> of the minimum hourly rate for the shift.</p> <p>...</p> <p><b>(c)</b> An employee who is required to work on permanent night shift must, during such engagement, period or cycle, be paid <b>130%</b> of the minimum hourly rate for all time worked during ordinary working hours on such night shift.</p>	<p>Shift penalties are paid <b>hourly</b>.</p> <p>Afternoon and night shift rates range from \$27.69 - \$30.28</p> <p>Permanent night shift rates range from \$31.30 - \$34.23</p>
51.	<p><a href="#"><i>Port Authorities Award 2020</i></a></p>	<p><b>19. Overtime and penalty rates</b></p> <p>...</p> <p><b>19.7 Shiftwork penalty rates</b></p> <p><b>(a)</b> An employee whilst on afternoon shift as defined will be paid a penalty rate of <b>112.5%</b> of the employee's ordinary hourly minimum rate of pay.</p>	<p>Shift penalties are paid <b>hourly</b>.</p> <p>Afternoon shift rates range from \$25.44 - \$78.46</p> <p>Night shift rates range from \$26.00 - \$80.20.</p>

	Award	Shiftwork clause	Summary																		
		<p>(b) An employee whilst on night shift as defined will be paid a penalty rate of <b>115%</b> of the employee's ordinary hourly minimum rate of pay.</p>																			
52.	<p><a href="#"><i>Ports, Harbours and Enclosed Water Vessels Award 2020</i></a></p>	<p><b>19. Shiftwork</b> ... <b>19.2 Shiftwork rates</b></p> <table border="1" data-bbox="521 451 1314 582"> <thead> <tr> <th>Type of shift</th> <th>% of the ordinary hourly rate</th> </tr> </thead> <tbody> <tr> <td>Afternoon shift</td> <td>115</td> </tr> <tr> <td>Night shift</td> <td>115</td> </tr> <tr> <td>Permanent night shift</td> <td>130</td> </tr> </tbody> </table>	Type of shift	% of the ordinary hourly rate	Afternoon shift	115	Night shift	115	Permanent night shift	130	<p>Shift penalties are paid <b>hourly</b>.</p> <p>Afternoon / night shift rates range from \$29.14 - \$35.27.</p> <p>Permanent night shift rates range from \$32.94 - \$39.87.</p>										
Type of shift	% of the ordinary hourly rate																				
Afternoon shift	115																				
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53.	<p><a href="#"><i>Poultry Processing Award 2020</i></a></p>	<p><b>20. Penalty rates</b> ... <b>20.2</b> An employee will be paid the following rates for all ordinary hours worked during the following periods.</p> <table border="1" data-bbox="521 743 1630 1072"> <thead> <tr> <th>Ordinary hours worked on:</th> <th>% ordinary hourly rate</th> </tr> </thead> <tbody> <tr> <td colspan="2"><b>Monday to Friday—shiftworkers</b></td> </tr> <tr> <td>Early morning shift</td> <td>110</td> </tr> <tr> <td>Afternoon shift or night shift</td> <td>115</td> </tr> <tr> <td>Permanent night shift</td> <td>125</td> </tr> <tr> <td colspan="2"><b>Weekend work—all employees (including shiftworkers)</b></td> </tr> <tr> <td>Saturday</td> <td>150</td> </tr> <tr> <td>Sunday</td> <td>175</td> </tr> <tr> <td>Public holiday</td> <td>250</td> </tr> </tbody> </table>	Ordinary hours worked on:	% ordinary hourly rate	<b>Monday to Friday—shiftworkers</b>		Early morning shift	110	Afternoon shift or night shift	115	Permanent night shift	125	<b>Weekend work—all employees (including shiftworkers)</b>		Saturday	150	Sunday	175	Public holiday	250	<p>Shift penalties are paid <b>hourly</b>.</p> <p>Afternoon / night shift rates range from \$26.83 - \$29.37</p> <p>Permanent night shift rates range from \$29.16 - \$31.93</p>
Ordinary hours worked on:	% ordinary hourly rate																				
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<b>Weekend work—all employees (including shiftworkers)</b>																					
Saturday	150																				
Sunday	175																				
Public holiday	250																				
54.	<p><a href="#"><i>Premixed Concrete Award 2020</i></a></p>	<p><b>21. Penalty rates</b></p> <p><b>21.1</b> An employee will be paid the following penalty rates for all ordinary hours worked by the employee during the following periods.</p> <table border="1" data-bbox="521 1246 1615 1343"> <thead> <tr> <th>Ordinary hours worked:</th> <th>Penalty rate</th> <th>Casual penalty rate (includes casual loading)</th> </tr> </thead> <tbody> <tr> <td> </td> <td> </td> <td> </td> </tr> </tbody> </table>	Ordinary hours worked:	Penalty rate	Casual penalty rate (includes casual loading)				<p>Shift penalties are paid <b>hourly</b>.</p> <p>(Rates below include the industry allowance)</p> <p>Afternoon / night shift rates range from \$27.57 - \$30.97</p>												
Ordinary hours worked:	Penalty rate	Casual penalty rate (includes casual loading)																			

	Award	Shiftwork clause				Summary						
				<b>% of ordinary hourly rate</b>		Permanent night shift rates range from \$31.16 - \$35.01						
Ordinary hours—no penalty rate	See clause 13.1 .	100%	125%									
Public holiday	All hours on a public holiday	250%	275%									
<b>Shiftworkers</b>												
Afternoon	Any shift finishing after 6.00 pm and at or before midnight	115%	140%									
Night	Any shift finishing after midnight and at or before 8.00 am	115%	140%									
Permanent night shift		130%	155%									
Public holiday	Any shift where all or part of the shift is on a public holiday	250%	275%									
55.	<a href="#"><u>Rail Industry Award 2020</u></a>	<p><b>21. Penalty rates</b> ...</p> <p><b>21.2 Shiftwork allowances</b>  <b>(a)</b> For each hour worked on early morning shift or afternoon shift an employee will be paid <b>\$3.47</b> .  <b>(b)</b> For each hour worked on night shift, an employee will be paid <b>\$4.12</b> .  <b>(c)</b> For each hour worked on permanent night shift, an employee will be paid <b>\$7.82</b> .</p>				<p>Shift allowance payable per <b>hour</b>.</p> <p><u>Clerical, administration and professional employees:</u></p> <ul style="list-style-type: none"> <li>• Afternoon shift rates range from \$27.25 - \$49.87</li> <li>• Night shift rates range from \$27.90 - \$50.52</li> <li>• Permanent night shift rates range from \$31.60 - \$54.22.</li> </ul>						

	Award	Shiftwork clause	Summary						
			<p><u>Technical and civil infrastructure employees:</u></p> <ul style="list-style-type: none"> <li>• Afternoon shift rates range from \$26.69 - \$34.29</li> <li>• Night shift rates range from \$27.34 - \$34.94</li> <li>• Permanent night shift rates range from \$31.04 - \$38.64</li> </ul> <p><u>Operations employees:</u></p> <ul style="list-style-type: none"> <li>• Afternoon shift rates range from \$26.08 - \$37.46</li> <li>• Night shift rates range from \$26.73 - \$38.11</li> <li>• Permanent night shift rates range from \$30.43 - \$41.81</li> </ul>						
56.	<a href="#">Road Transport and Distribution Award 2020</a>	<p><b>22. Shiftwork</b> ...</p> <p><b>22.3 Shift rates</b></p> <p>For ordinary hours shiftworkers must be paid as follows:</p> <table border="1" data-bbox="521 1109 1182 1209"> <thead> <tr> <th>Shift</th> <th>% of the ordinary hourly rate</th> </tr> </thead> <tbody> <tr> <td>Afternoon shift</td> <td>117.5%</td> </tr> <tr> <td>Night shift</td> <td>130%</td> </tr> </tbody> </table>	Shift	% of the ordinary hourly rate	Afternoon shift	117.5%	Night shift	130%	<p>Shift penalties are paid <b>hourly</b>.</p> <p>Afternoon shift rates range from \$28.07 - \$32.95</p> <p>Night shift rates range from \$31.06 - \$36.45</p>
Shift	% of the ordinary hourly rate								
Afternoon shift	117.5%								
Night shift	130%								
57.	<a href="#">Salt Industry Award 2020</a>	<p><b>22. Penalty rates</b></p> <p><b>22.1 Shiftwork penalty rates</b></p> <p>(a) A full-time or part-time shiftworker whilst on afternoon or night shift must be paid <b>115%</b> of the ordinary hourly rate.</p>	<p>Shift penalties are paid <b>hourly</b>.</p> <p>(Rates below include the industry allowance)</p>						

	Award	Shiftwork clause	Summary
		<p>(b) A full-time or part-time shiftworker on permanent night shift must be paid <b>130%</b> of the ordinary hourly rate.</p> <p>(c) A casual shiftworker whilst on afternoon or night shift must be paid <b>140%</b> of the ordinary hourly rate.</p> <p>(d) A casual shiftworker on permanent night shift must be paid <b>155%</b> of the ordinary hourly rate.</p>	<p>Afternoon / night shift rates range from \$27.91 - \$32.07</p> <p>Permanent night shift rates range from \$31.55 – 36.26</p>
58.	<p><a href="#">Seafood Processing Award 2020</a></p>	<p><b>20. Penalty rates and shiftwork</b> ...</p> <p><b>20.5 Afternoon and night shift penalty rates</b></p> <p>(a) An employee who works on afternoon or night shift must be paid <b>115%</b> of the minimum hourly rate for such shift.</p> <p>...</p> <p><b>(c) Permanent night shift</b> An employee who:</p> <p>(i) during a period of engagement on shift, works night shift only; or</p> <p>(ii) remains on night shift for a longer period than 4 consecutive weeks; or</p> <p>(iii) works on a night shift which does not rotate or alternate with another shift or with day work so as to give the employee at least one third of their working time off night shift in each shift cycle; must, during such engagement, period or cycle, be paid <b>130%</b> of the minimum hourly rate for all time worked during ordinary working hours on such night shift.</p>	<p>Shift penalties are paid <b>hourly</b>.</p> <p>Afternoon / night shift rates range from \$26.00 - \$30.11.</p> <p>Permanent night shift rates range from \$29.39 - \$34.03.</p>
59.	<p><a href="#">Silviculture Award 2020</a></p>	<p><b>20. Shiftwork</b> ...</p> <p><b>20.10 Shift allowances</b></p> <p>A shiftworker whilst on afternoon or night shift (other than on a Saturday, Sunday or holiday) must be paid at <b>115%</b> of the ordinary hourly rate for the shift.</p>	<p>Shift allowance is paid <b>hourly</b>.</p> <p>(Rates below include the industry allowance)</p>

	Award	Shiftwork clause	Summary
60.	<a href="#">Social, Community, Home Care and Disability Services Industry Award 2010</a>	<p><b>29. Shiftwork</b> ...</p> <p><b>29.3 Shift allowances and penalty rates</b></p> <p><b>(a)</b> An employee who works an afternoon shift will be paid a loading of 12.5% of their ordinary rate of pay for the whole of such shift.</p> <p><b>(b)</b> An employee who works a night shift will be paid a loading of 15% of their ordinary rate of pay for the whole of such shift.</p> <p><b>(c)</b> An employee who works a public holiday shift will be paid a loading of 150% of their ordinary rate of pay for that part of such shift which is on the public holiday.</p>	<p>Afternoon / night shift rates range from \$30.04 - \$33.19</p> <p>Shift penalties are paid <b>hourly</b>.</p> <p><u>SACS employees (ERO rates)</u></p> <ul style="list-style-type: none"> <li>• Afternoon shift rates range from \$36.24 - \$71.20</li> <li>• Night shift rates range from \$37.04 - \$72.78</li> </ul> <p><u>Crisis accommodation employees (ERO rates)</u></p> <ul style="list-style-type: none"> <li>• Afternoon shift rates range from \$40.50 - \$60.96</li> <li>• Night shift rates range from \$41.40 - \$62.32.</li> </ul> <p><u>Family day care employees</u></p> <ul style="list-style-type: none"> <li>• Afternoon shift rates range from \$27.59 - \$48.10</li> <li>• Night shift rates range from \$28.20 - \$49.17</li> </ul> <p><u>Home care employees (disability care)</u></p> <ul style="list-style-type: none"> <li>• Afternoon shift rates range from \$27.29 - \$35.82</li> <li>• Night shift rates range from \$27.89 - \$36.61</li> </ul> <p><u>Home care employees (aged care)</u></p>

	Award	Shiftwork clause	Summary												
			<ul style="list-style-type: none"> <li>• Afternoon shift rates range from \$31.38 - \$41.19</li> <li>• Night shift rates range from \$32.08 - \$42.10</li> </ul>												
61.	<a href="#">State Government Agencies Award 2020</a>	<p><b>21. Shiftwork rates</b> ...</p> <p><b>21.2 Payment for shiftwork, Saturdays, Sundays and public holidays</b></p> <p>A shiftworker will be paid the following shift rates for all ordinary hours worked by the employee during the following periods:</p> <table border="1" data-bbox="521 756 1456 1024"> <thead> <tr> <th>Shift</th> <th>Penalty rate % of minimum hourly rate</th> </tr> </thead> <tbody> <tr> <td>Afternoon or rotating night</td> <td>115</td> </tr> <tr> <td>Non-rotating night</td> <td>130</td> </tr> <tr> <td>Saturday (except public holiday)</td> <td>150</td> </tr> <tr> <td>Sunday (except public holiday)</td> <td>200</td> </tr> <tr> <td>Gazetted public holiday</td> <td>250</td> </tr> </tbody> </table>	Shift	Penalty rate % of minimum hourly rate	Afternoon or rotating night	115	Non-rotating night	130	Saturday (except public holiday)	150	Sunday (except public holiday)	200	Gazetted public holiday	250	<p>Shift penalties are paid <b>hourly</b>.</p> <p><u>Administrative stream</u></p> <ul style="list-style-type: none"> <li>• Afternoon and rotating night shift rates range from \$27.12 - \$52.44</li> <li>• Non-rotating night shift rates range from \$30.65 - \$59.28</li> </ul> <p><u>Technical stream</u></p> <ul style="list-style-type: none"> <li>• Afternoon and rotating night shift rates range from \$28.12 - \$44.00</li> <li>• Non-rotating night shift rates range from \$31.79 - \$49.74</li> </ul> <p><u>Professional stream</u></p> <ul style="list-style-type: none"> <li>• Afternoon and rotating night shift rates range from \$32.17 - \$55.19</li> <li>• Non-rotating night shift rates range from \$36.36 - \$62.39</li> </ul>
Shift	Penalty rate % of minimum hourly rate														
Afternoon or rotating night	115														
Non-rotating night	130														
Saturday (except public holiday)	150														
Sunday (except public holiday)	200														
Gazetted public holiday	250														
62.	<a href="#">Stevedoring Industry Award 2020</a>	<p><b>23. Penalty rates</b> ...</p> <p><b>23.2 Payment for shiftworkers</b></p> <p>An employee will be paid the following penalty rates for all ordinary hours worked by the employee during the following periods :</p>	<p>Shift penalties are paid <b>hourly</b></p> <p>Evening shift (Monday – Friday) rates range from \$36.82 - \$51.88</p>												

	Award	Shiftwork clause	Summary
		<p>(a) day shift on Monday to Friday— <b>100%</b> of the ordinary hourly rate;</p> <p>(b) day shift on Saturday— <b>200%</b> of the ordinary hourly rate;</p> <p>(c) day shift on Sunday— <b>250%</b> of the ordinary hourly rate;</p> <p>(d) evening shift on Monday to Friday— <b>150%</b> of the ordinary hourly rate;</p> <p>(e) evening shift on Saturday— <b>200%</b> of the ordinary hourly rate;</p> <p>(f) evening shift on Sunday— <b>250%</b> of the ordinary hourly rate;</p> <p>(g) night shift on Sunday to Friday— <b>200%</b> of the ordinary hourly rate; and</p> <p>(h) night shift on Saturday— <b>250%</b> of the ordinary hourly rate.</p>	<p>Night shift (Sunday – Friday) rates range from \$49.10 - \$69.18</p>
63.	<p><a href="#"><i>Storage Services and Wholesale Award 2020</i></a></p>	<p><b>20. Shiftwork</b> ...</p> <p><b>20.4 Shift penalty rates</b></p> <p>(a) An employee while on early morning shift will be paid for such shift at <b>112.5%</b> of the minimum hourly rate.</p> <p>(b) An employee while on afternoon shift will be paid for such shift at <b>115%</b> of the minimum hourly rate.</p> <p>(c) An employee while on night shift will be paid for such shift at <b>130%</b> of the minimum hourly rate.</p> <p>(d) Employees required to work ordinary shifts on a public holiday will be paid in accordance with clause 22.3 , instead of their shift penalty rate.</p>	<p>Shift penalty rates are paid <b>hourly</b>.</p> <p>Afternoon shift rates range from \$27.69 - \$30.28.</p> <p>Night shift rates range from \$31.30 - \$34.23</p>
64.	<p><a href="#"><i>Sugar Industry Award 2020</i></a></p>	<p><b>30. Shiftwork</b> ...</p> <p><b>30.5 Afternoon and night shift allowances —other than field sector</b></p>	<p>Shift penalties are paid <b>hourly</b>.</p> <p><u>Milling, distillery, refinery and maintenance employees</u></p>



	Award	Shiftwork clause	Summary
		<p>(a) Employees other than field sector workers, whilst engaged on afternoon shift and night shift, must be paid a shift allowance for each such shift of <b>15%</b> in addition to the minimum hourly rate applicable.</p> <p>(b) Employees other than field sector workers, required to work afternoon or night shift continuously or employees required to work afternoon and night shift, without rotation to day shift, must be paid <b>30%</b> in addition to the minimum hourly rate instead of any other shift allowance.</p> <p><b>30.6 Afternoon shift and night shift rates—field sector</b> Field sector employees whilst engaged on afternoon shift and night shift, must be paid for each shift as follows:</p> <p>(a) afternoon shift— <b>112.5%</b> of the minimum hourly rate; or</p> <p>(b) night shift— <b>115%</b> of the minimum hourly rate</p> <p>for the employee's employment classification.</p>	<ul style="list-style-type: none"> <li>• Afternoon / night shift rates range from \$26.00 - \$34.52</li> <li>• Non-rotating shift rates range from \$29.39 - \$39.03.</li> </ul> <p><u>Bulk terminal operations employees</u></p> <ul style="list-style-type: none"> <li>• Afternoon / night shift rates range from \$26.00 - \$37.11</li> <li>• Continuous afternoon or night shift rates range from \$29.39 - \$41.95</li> </ul> <p><u>Field sector employees</u></p> <ul style="list-style-type: none"> <li>• Afternoon shift rates range from \$25.67 – \$30.17.</li> <li>• Night shift rates range from \$26.24 – \$30.84.</li> </ul>
65.	<a href="#">Supported Employment Services Award 2020</a>	<p><b>21. Penalty rates</b></p> <p><b>21.1</b> An employee who works their ordinary hours in a shift which finishes after 6.00 pm and at or before 12.00 midnight Monday to Friday, will be paid at <b>115%</b> of their ordinary hourly rate for the whole shift.</p> <p><b>21.2</b> By agreement between an employer and employee, an employee who works their hours in a rotating roster shift which finishes after 12.00 midnight and at or before 8.00 am Monday to Friday, will be paid at <b>130%</b> of their ordinary hourly rate for the whole shift.</p>	<p>Penalties are paid <b>hourly</b>.</p> <p>Afternoon shift rates range from \$5.77 - \$34.18</p> <p>Night shift rates range from \$6.53 - \$38.64</p>
66.	<a href="#">Telecommunications Services Award 2020</a>	<p><b>21. Penalty rates</b> ...</p> <p><b>21.2 Shiftwork penalty rates</b></p> <p>(a) Employees on an afternoon shift are entitled to <b>115%</b> of the ordinary hourly rate.</p>	<p>Shift penalties are paid <b>hourly</b>.</p> <p>Afternoon / night shift rates range from \$27.69 – \$38.07.</p>

	Award	Shiftwork clause	Summary
		<p>(b) Except as provided for in clause 21.2(c), employees on a night shift are entitled to <b>115%</b> of the ordinary hourly rate.</p> <p>(c) An employee who:</p> <ul style="list-style-type: none"> <li>(i) during a period of engagement on shift, works night shift only; or</li> <li>(ii) remains on night shift for a longer period than 4 consecutive weeks; or</li> <li>(iii) works on a night shift which does not rotate or alternate with afternoon shift or with day work so as to give the employee at least one third of the working time off night shift in each shift cycle;</li> </ul> <p>is entitled to <b>130%</b> of the ordinary hourly rate for time worked on such permanent night shift. This penalty is in substitution for and not cumulative upon the night shift penalty prescribed in clause 21.2(b) .</p>	<p>Permanent night shift rates range from \$31.30 - \$43.03</p>
<p>67.</p>	<p><a href="#">Timber Industry Award 2020</a></p>	<p><b>27. Penalty rates and shiftwork arrangements</b> ...</p> <p><b>27.3 Rates for shiftworkers</b></p> <p><b>(b) Payment for ordinary shifts</b></p> <ul style="list-style-type: none"> <li><b>(i) Day shift</b> An employee whilst on day shift will be paid the ordinary hourly rate.</li> <li><b>(ii) Afternoon shift</b> An employee whilst on afternoon shift will be paid <b>115%</b> of the ordinary hourly rate.</li> <li><b>(iii) Night shift—rotating</b> An employee whilst on night shift which rotates with another shift will be paid <b>115%</b> of the ordinary hourly rate.</li> <li><b>(iv) Night shift—non-rotating</b> An employee who, other than at the employee’s own request works night shifts only will be paid <b>130%</b> of the ordinary hourly rate.</li> </ul>	<p>Shift penalties are paid <b>hourly</b>.</p> <p><u>General Timber Stream and Wood and Timber Furniture Stream</u></p> <p>Afternoon / night rotating shift rates range from \$26.00 - \$32.86</p> <p>Non-rotating night shift rates range from \$29.39 - \$37.14</p> <p><u>Pulp and Paper Stream</u></p> <p>Afternoon / night rotating shift rates range from \$27.27 - \$33.80</p>

	Award	Shiftwork clause	Summary																																																			
		<p>(v) Where in any establishment bound by the provisions of this award at which an employee working on shift is engaged and the majority of the employees working on shiftwork receive higher shift premiums for working such shifts, then those higher shift rates will be paid to the employee in substitution for the shift rates prescribed by clause 27.3 .</p> <p>(vi) If agreement is reached a system of averaging the shift rates may apply.</p>	<p>Non-rotating night shift rates range from \$30.82 - \$38.21</p>																																																			
<p>68.</p>	<p><a href="#">Transport (Cash in Transit) Award 2020</a></p>	<p><b>21. Shiftwork</b> ... <b>21.8 Shiftwork rates—shiftworkers</b></p> <p>Shiftworkers must be paid the following shift rates for all ordinary hours of shift worked during the following periods:</p> <table border="1" data-bbox="521 695 1615 1394"> <thead> <tr> <th>Shift</th> <th>Shift rates</th> <th>Casual shift rates</th> </tr> <tr> <td></td> <th colspan="2">% of ordinary hourly rate</th> </tr> </thead> <tbody> <tr> <td colspan="3"><b>Afternoon shift</b></td> </tr> <tr> <td>Rotating afternoon shift</td> <td>115</td> <td>140</td> </tr> <tr> <td>Permanently working afternoon shift</td> <td>117.5</td> <td>142.5</td> </tr> <tr> <td>Afternoon shift (where the shift continues for fewer than 5 consecutive afternoons</td> <td></td> <td></td> </tr> <tr> <td>—first 3 hours</td> <td>150</td> <td>175</td> </tr> <tr> <td>—after 3 hours</td> <td>200</td> <td>225</td> </tr> <tr> <td colspan="3"><b>Night shift</b></td> </tr> <tr> <td>Rotating night shift</td> <td>120</td> <td>145</td> </tr> <tr> <td>Permanently working night shift</td> <td>130</td> <td>155</td> </tr> <tr> <td>Night shift (where the shift continues for fewer than 5 consecutive nights)</td> <td></td> <td></td> </tr> <tr> <td>—first 3 hours</td> <td>150</td> <td>175</td> </tr> <tr> <td>—after 3 hours</td> <td>200</td> <td>225</td> </tr> <tr> <td>Permanently working alternate night and afternoon shift:</td> <td></td> <td></td> </tr> <tr> <td>—when on afternoon shift</td> <td>117.5</td> <td>142.5</td> </tr> <tr> <td>—when on night shift</td> <td>130</td> <td>155</td> </tr> </tbody> </table>	Shift	Shift rates	Casual shift rates		% of ordinary hourly rate		<b>Afternoon shift</b>			Rotating afternoon shift	115	140	Permanently working afternoon shift	117.5	142.5	Afternoon shift (where the shift continues for fewer than 5 consecutive afternoons			—first 3 hours	150	175	—after 3 hours	200	225	<b>Night shift</b>			Rotating night shift	120	145	Permanently working night shift	130	155	Night shift (where the shift continues for fewer than 5 consecutive nights)			—first 3 hours	150	175	—after 3 hours	200	225	Permanently working alternate night and afternoon shift:			—when on afternoon shift	117.5	142.5	—when on night shift	130	155	<p>Shift penalties are paid <b>hourly</b>.</p> <p>(Rates below include the industry allowance)</p> <p>Rotating afternoon shift rates range from \$30.11 - \$31.72</p> <p>Permanent afternoon shift rates range from \$30.76 - \$32.41</p> <p>Permanent night shift rates range from \$34.04 - \$35.85</p> <p>Rotating night shift rates range from \$31.42 - \$33.10</p>
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69.	<a href="#">Vehicle Repair, Services and Retail Award 2020</a>	<p><b>25. Shiftwork penalty rates</b> ...</p> <p><b>25.2</b> An employee working on afternoon or night shift will except on a Saturday, Sunday or a public holiday be paid an amount equal to the following relevant percentage of the appropriate minimum hourly rate:</p> <table border="1" data-bbox="521 655 1637 954"> <thead> <tr> <th>Shift</th> <th>% of minimum hourly rate</th> </tr> </thead> <tbody> <tr> <td>Night shift only</td> <td>130</td> </tr> <tr> <td>Afternoon shift only</td> <td>118</td> </tr> <tr> <td>Alternating afternoon and night shifts</td> <td>120</td> </tr> <tr> <td>Alternating day and night shifts—rate for the night shift</td> <td>112.5</td> </tr> <tr> <td>Alternating day, afternoon and night shifts—rate for the afternoon and night shift</td> <td>112.5</td> </tr> <tr> <td>Alternating day and afternoon shifts—rate for the afternoon shift</td> <td>112.5</td> </tr> </tbody> </table> <p><b>25.3</b> An employee engaged on an afternoon or night shift which does not continue for at least 5 successive working days or such shorter work cycle as may be worked pursuant to clause 22 — Ordinary hours of work and rostering will be paid at <b>150%</b> of the minimum hourly rate for each such shift.</p>	Shift	% of minimum hourly rate	Night shift only	130	Afternoon shift only	118	Alternating afternoon and night shifts	120	Alternating day and night shifts—rate for the night shift	112.5	Alternating day, afternoon and night shifts—rate for the afternoon and night shift	112.5	Alternating day and afternoon shifts—rate for the afternoon shift	112.5	<p>Shift penalties are paid <b>hourly</b>.</p> <p><u>RS&amp;R employees</u></p> <p>Afternoon shift only rates range from \$26.68 - \$30.89</p> <p>Night shift only rates range from \$29.39 - \$34.03</p> <p>Alternating afternoon and night shift rates range from \$27.13 - \$31.42</p> <p>Afternoon / night shift that does not continue for at least 5 successive shifts \$33.92 - \$39.27</p> <p><u>Console operators, driveway attendants and roadhouse attendants</u></p> <p>Afternoon shift only rates range from \$26.68 - \$29.35</p> <p>Night shift only rates range from \$29.39 - \$32.33</p> <p>Alternating afternoon and night shift rates range from \$27.13 - \$29.84</p>
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70.	<a href="#">Waste Management Award 2020</a>	<p><b>20. Shiftwork</b> ...</p>	<p>Shift penalties are paid <b>hourly</b>.</p>														

	Award	Shiftwork clause	Summary												
		<p><b>20.3 Shift rates</b></p> <p>Shiftworkers must be paid the following rates for ordinary hours worked on shifts as follows:</p> <table border="1" data-bbox="521 325 1464 461"> <thead> <tr> <th></th> <th>Weekly employees</th> <th>Casual employees</th> </tr> <tr> <th></th> <th colspan="2">% of the ordinary hourly rate</th> </tr> </thead> <tbody> <tr> <td>Afternoon shift</td> <td>117.5</td> <td>142.5</td> </tr> <tr> <td>Night shift</td> <td>130</td> <td>155</td> </tr> </tbody> </table>		Weekly employees	Casual employees		% of the ordinary hourly rate		Afternoon shift	117.5	142.5	Night shift	130	155	<p>(Rates below include the industry allowance)</p> <p>Afternoon shift rates range from \$31.45 - \$38.32</p> <p>Night shift rates range from \$34.80 - \$42.39</p>
	Weekly employees	Casual employees													
	% of the ordinary hourly rate														
Afternoon shift	117.5	142.5													
Night shift	130	155													
71.	<p><a href="#">Water Industry Award 2020</a></p>	<p><b>21. Shiftwork</b> ...</p> <p><b>21.10 Shiftwork penalties</b></p> <p>(a) Shiftwork penalties apply to an employee who is employed as a shiftworker and works according to a pre-determined roster or working pattern which provides coverage for more than one shift per day and beyond the span of hours in clause 13.2(b) .</p> <p><b>(b) Shiftwork penalty rates</b></p> <p>(i) 115% of the minimum hourly rate for ordinary time worked on a rostered afternoon shift; and</p> <p>(ii) 130% of the minimum hourly rate for ordinary time worked on a rostered night shift.</p>	<p>Shift penalties are paid <b>hourly</b>.</p> <p>Afternoon shift rates range from \$27.72 - \$44.52</p> <p>Night shift rates range from \$31.33 - \$50.32</p>												
72.	<p><a href="#">Wine Industry Award 2020</a></p>	<p><b>23. Penalty rates</b></p> <p><b>23.4 Shiftworkers</b></p> <p>(a) For the purposes of this award:</p> <p>(i) <b>afternoon shift</b> means any shift finishing after 6.00 pm and at or before midnight; and</p> <p>(ii) <b>night shift</b> means any shift finishing after midnight and at or before 8.00 am.</p> <p><b>(b) Afternoon and night shift penalty rates</b></p> <p>(i) <b>Afternoon and night shift</b></p>	<p>Shift penalties are paid <b>hourly</b>.</p> <p>Afternoon and night shift rates range from \$26.37 - \$32.00</p> <p>Permanent night shift rates range from \$29.81 - \$36.18.</p>												

	Award	Shiftwork clause	Summary
		<p>An employee who works on afternoon or night shift must be paid at <b>115%</b> of the minimum hourly rate.</p> <p><b>(ii) Permanent night shift</b></p> <p>An employee who:</p> <ul style="list-style-type: none"> <li>• during a period of engagement on shift, works night shift only; or</li> <li>• remains on night shift for a longer period than 4 consecutive weeks; or</li> <li>• works on a night shift which does not rotate or alternate with another shift or with day work so as to give the employee at least one third of their working time off night shift in each shift cycle,</li> </ul> <p>must be paid at <b>130%</b> of the minimum hourly rate for all time worked during ordinary working hours on such night shift.</p>	
<p>73.</p>	<p><a href="#"><u>Wool Storage, Sampling and Testing Award 2020</u></a></p>	<p><b>22. Penalty rates</b> ...</p> <p><b>22.2 Shiftwork penalty rates</b></p> <p><b>(a) Full-time and part-time shiftworkers or continuous shiftworkers</b></p> <p><b>(i)</b> A shiftworker or continuous shiftworker whilst on afternoon shift or night shift must be paid <b>115%</b> of the minimum hourly rate.</p> <p><b>(ii)</b> A shiftworker or continuous shiftworker whilst on permanent night shift must be paid <b>130%</b> of the minimum hourly rate.</p>	<p>Shift penalties are paid <b>hourly</b>.</p> <p>Afternoon and night shift rates range from \$26.59 - \$31.56.</p> <p>Permanent night shift rates range from \$30.06 - \$35.67.</p>