



SUBMISSION ON BEHALF OF THE AUSTRALIAN FEDERATION OF
EMPLOYERS AND INDUSTRIES (AFEI)

AM2008/79

AWARD MODERNISATION

AFEI
Australian Federation of
Employers & Industries

AUSTRALIAN INDUSTRIAL RELATIONS COMMISSION
AWARD MODERNISATION PROCESS
AM2008/79 HEALTH AND WELFARE SERVICES (REMAINDER)
SOCIAL AND COMMUNITY SERVICES

**SUBMISSION OF THE AUSTRALIAN FEDERATION OF EMPLOYERS
AND INDUSTRIES**

1. The Australian Federation of Employers and Industries ("AFEI") makes the following submission in respect of Matter AM2008/79 – Health and Welfare Services (Remainder) Social and Community Services. AFEI has structured this submission to provide a detailed analysis of the social and community services sector (part 1) and then submission in relation to award modernisation impact on the sector (part 2) and AFEI's draft Social and Community Services Employees modern Award (part 3):

Part 1 – The Social and Community Services Sector

- An introduction to the sector
- Structure of the sector
- Funding and revenue for the sector
- Nature of the work in the sector
- Workers in the sector
- Trends and developments in the sector
- The current situation in the sector

Part 2 – Impact of Award Modernisation

- Award modernisation in the sector
- Cost increases in the sector
- Modern Award coverage in the sector

Part 3 – Draft Award

- AFEI Draft Award
2. AFEI submits a draft Social and Community Services Employees Award for the consideration of the Australian Industrial Relations Commission (“the Commission”), to be read in conjunction with this submission.

PART 1

An introduction to the Social and Community services sector

3. The Community Services Sector in Australia has been going through a period of considerable pressure and change. Increased costs of service delivery; significantly more competition for funding and income generally created by competitive tendering and a major increase in the efforts by all services to increase their non government income; inadequate yearly funding indexation: the increased requirements of government funding departments for accountability; increased compliance requirements: the ever growing needs of clients and the difficulties that arise from many organisations being unable to accumulate reserves and indeed capital assets as stipulated in their funding contracts all make managing a not-for-profit community service far more complex than a decade ago. As will be argued later in this submission, the structural pressures over the last few years are now being accelerated and deepened by the current economic situation in Australia.

4. There are currently no fully reliable statistics on the number of organisations and employees in the Community Sector. However, based on work by Professor Lyons¹ and others² it is estimated that in 2008 there were 5800 not-for-profit (NFP) organisations in the Community Sector employing 260,000 people in Australia. Total income was estimated to be between \$20 billion, of which an estimated 62 per cent came from Government, 25 per cent from fees and 13 per cent from donations, sponsorship and investment.³ A further analysis of funding and revenue streams is discussed later in this submission. These organisations provided vital services for nearly 3 million Australian in 2008 with a wide range of services including the following.

- Youth centres
- Refugees (Youth, Women, Families,)
- Disability
- Migrant resource centres
- Home-based community services to frail aged
- Day centres for older Australians, including frail aged
- Homelessness support services
- Community housing Services
- Drug and alcohol services
- Employment/training services for people with a disability
- Sexual assault/domestic violence services
- Family relationship services
- Individual and family relationship counselling
- Legal services
- A range of health services.

¹ Mark Lyons, *The Third Sector 2001 The Contribution of non profits and cooperative enterprises in Australia*, Allen and Unwin, Australia and Tirrania Sunhood and Chris Marks and Mary Waterford, *The Way Forward, Tackling the Issues confronting small community organisations*. Song, 2006

² Australian Community Services Survey Report 2009, Australian Council of Social Services July 2009 p4.

³ Australian Institute of Mental Health and Welfare, *Australian Welfare 2007 Report*.

5. The Community Services Sector also contains over 300 peak bodies or associations which provide advocacy, policy development, and information, and sometimes workforce development, consultancy and other support to their member organisations.

6. By way of an important summary of the unusual features that are the hallmarks of the social and community sector, Glynn J of the NSW Industrial Relations Commission observed about the sector:
 - *it is dependent for the most part upon the generosity of others, either government or private donors;*
 - *people in the industry cannot be certain from year to year or from programme to programme whether funding will be received to be able to continue a programme beyond a particular funding period, thereby promoting a degree of uncertainty in respect of both planning and employment. Bluntly put, for the employee, when funding runs out, employment ceases;*
 - *it produces no product as a whole other than people who have been cared for or looked after in some way;*
 - *no commercial motive: fees charged for services not set even to meet the costs of those services;*
 - *no profit motive ...*⁴

Structure of the sector

7. There is a complexity of size and structure of NFP organisations. A number of categories can be identified.
 1. Large (in excess of 100 staff) national and multi-service organisations that operate programs across a number of the service types identified above.

⁴ Social and Community Services (State) Award, NSW Industrial Relations Commission, Glynn J 6 August 1990.

2. Large national and regional services that focus on one area of service provision though they will usually have a number of different programs within this category.
 3. Medium-sized (50 plus staff) multi-service and single service type organisations.
 4. Small usually single service and local providers (under 50 staff. but often they have just a few staff).
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8. While the majority of services are provided by NFP operations, a growing number of for-profit operations are also involved in the Sector. These for-profit companies mainly focus on in-home care and residential support. The combination of different sizes and services provides choice and local involvement but also creates fragmentation and considerable differences in the cost structure of these services.
 9. An important factor in the delivery of community services is that many NFP organisations operate in regional, country and remote locations. These face particular challenges, especially in transport and other costs.

Funding and revenue for the sector

10. Income to fund the services provided by for the NFPs come from a number of sources:
 1. Government Grants – these may be for one year to three years and may or may not be renewed subject to performance, alternatively, they are re-tendered. Grants are provided for ongoing services or for one-off projects. Generally services can only guarantee employment for workers directly involved in the delivery of the programs for the period of the grants.

2. Grants or contracts for the delivery of specific programs are obtained through a competitive tendering process. The tenders generally request organisations to indicate the level of services they can provide for the yearly amount in the tender or sometimes the government department will specify the outputs required from the grant income. These government contracts are monitored and managed by the relevant Federal or State Government Departments. In many cases the NFP organisation will be required to meet Quality Standards and be subject to external operational as well as financial audits.
 3. Fee for services paid by clients, many of which are generally notional or small and a contribution rather than the full recovery of costs.
 4. Full fee recovery.
 5. Donation and sponsorship from the general public or businesses.
 6. Investment income.
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11. The organisations in the Sector are subject to ever more intense competition for funds at the same time as there are great pressures on the demand for their services and a high level of uncertainty about the continuation of much of their income.
 12. Notwithstanding the varied sources of income (illustrated in Figure 1 below), employers within the sector experience difficulties with limited funding received by state, federal government and private revenue sources. The significant majority of funding for organisations in the social and community sector is derived from sources outside of typical fee-for-service model commonplace in other service-based industries⁵:

⁵ ACOSS Paper Australian Community Sector Survey Report 2009 Volume 1, p. 17

Distribution of Funding Sources for Community Sector Organisations

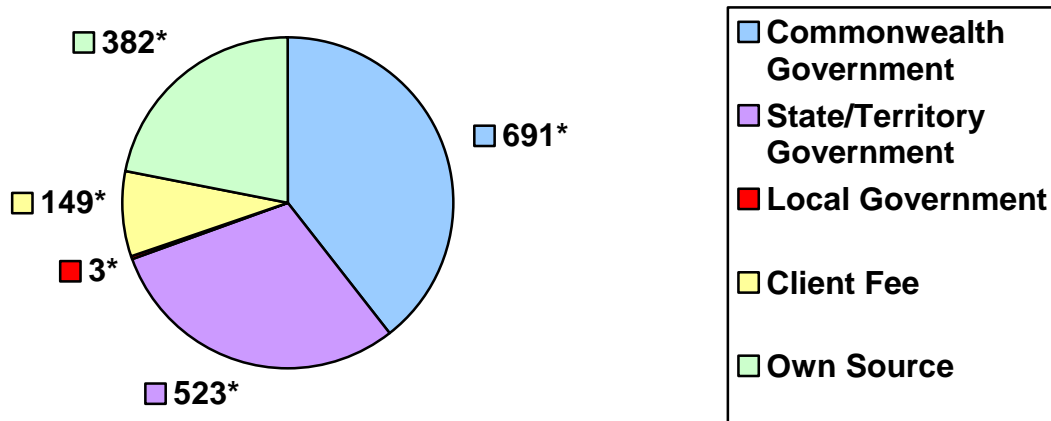


FIGURE 1

13. Consequently, having regard to the break down set out above in paragraphs 10 - 12, AFEI submits that the Commission should ensure that its consideration takes into account the unique position of this sector. Employers in this sector do not exert the same level or type of influence on their revenue stream as employers in other profit-driven industries. Their ability to absorb labour cost increases is therefore equally limited.

14. Further complicating the situation for organisations within the social and community sector is an increasing demand for their services. There has been a 19 per cent increase in the demand for services of organisations in the community sector between 2006-07 to 2007-08. Unfortunately, organisations have not been able to keep up with the increase in demand, with an increase of 17.3 per cent in people being turned away from organisations providing such services.⁶

⁶ ACOSS Paper Australian Community Sector Survey Report 2009, Volume 1, p 11.

15. In another example of funding difficulties, the NCOSS 2009-10 budget submission to the NSW Government details the shortfalls in service provision funding. The budget submission, which outlined the break down of a budgeted allocation of \$2.3 billion in 2009-10 to the NSW Department of Ageing, Disability and Home Care, demonstrated a real term cut in funding to Home Care Service of NSW and the Ageing Program.
16. AFEI submits that the Commission should have regard to this high demand for social and community services across Australia, and the constraints on funding while formulating a modern Award for this sector.

Nature of work in the sector

17. According to the NSW Council of Social Service:

“The non-government community services sector provides vitally important services to the most vulnerable and marginalized sections of our community. Services include long term housing, mental health, drug and alcohol, women’s health, crisis and supported accommodation, family support, disability services, support for older people, transport, legal domestic and family violence as well as employment, education and training programs.”

18. As set out above, the Social and Community Services sector is a diverse and complex in nature. Indeed, in the making of a Social and Community Services Employees (State) Award, the Full Bench of the Industrial Relations Commission of NSW observed:

“There is no dispute nor we observe could there be on the evidence before us, that the industry is characterised by great diversity in the scope of its operations and the size of its individual employers (from small community based activities employing less than five employees to conglomerates involved in multi-faceted State-wide

activities) but also by its extremely high levels of dependency on external funding mainly from federal and State and to a lesser extent from local government bodies.”⁷

19. AFEI submits that the social and community sector can be broadly categorised into 4 groups:

Social and community services: This group performs the most extensive range of duties. Specifically, this group is involved in the provision of social, welfare and community work that include services designed to aid individuals, groups, or communities to improve quality of life, and personal and social relationships. Typical work performed in such service delivery includes, but is not necessarily limited to the distribution of information, counselling, training and referral, policy development and general co-ordination of activities such as workshops.

Disability care: This group is primarily involved in the provision of care for disabled persons in arrangements such as accommodation support services, community residential units, private nursing homes or hostels for the disabled as opposed to specific co-ordination of the work of disabled persons.

Home care: This group provides home care services (such as domestic work) in private residences where the occupant of the residence is funded by a government or non-government body.

Crisis assistance supported housing: This group is engaged in the provision of crisis support accommodation and related support services for clients in a time of an emergency. This group may deal with clients who are homeless.

⁷ Para 192, Matter No IRC 5544 of 1998: Social and Community Services Employees (State) Award IRC NSW Full Bench.

20. Employers within the social and community sector may also employ supporting employees to the employees responsible for service delivery. Such support employees may include ancillary staff such as clerical employees, cleaners, maintenance and others. Currently in existing industrial arrangements across Australia, such ancillary support staff are not included in the broader social and community services Awards and NAPSAs. It is AFEI's respectful submission that this division should be maintained as set out in paragraph 48 below.
21. As a consequence of this complexity, a range of industrial instruments have been made by the Australian Industrial Relations Commission and State commissions to provide entitlements for employees engaged across the sector.

Workers in the sector

22. Staff are by far the largest cost of operating a Community Sector organisation. A survey of its relevant members by AFEI in July 2009⁸ indicates that 72 per cent of respondent had labour costs which were in excess 70 per cent of total operating costs and 98 per cent of labour costs were in excess of 50 per cent of total costs. Any changes in labour costs therefore have a major impact on the costs of the organisations.
23. Funding and other factors make the employment of part-time and casual staff significant in this sector. Approximately 87 per cent of staff in the sector are female.⁹ The sector is a significant employer of part-time and casual staff.

⁸ Australian Federation of Employers and Industries, *Not For Profit Members Survey*, July 2009

⁹ *Australian Community Sector Survey, 2009*, Australian Council of Social Services, July 2009

24. The turnover of staff is also high (21 per cent per annum in 2008¹⁰ in large part because of the casual and part-time time nature of the workforce and also the requirements of the people attracted to the work).
25. In addition to wages, a significant number of services now can provide PBI¹¹ and DGB tax status and this provides considerable tax advantages and tax packaging arrangements.¹²
26. The majority of Community Sector organisations require, because of limited funding and the requirements of clients, flexibility in the hours staff are willing to work. It is difficult to plan rostering and the allocation of staff as many clients' needs change, they are often in widely different geographical locations and may require short-term support.
27. Weekend work can be critical for some clients but it is a major cost problem for service providers as many are insufficiently funded for night or weekend support to clients and yet many clients need and expect this. Consequently an increase in the cost of providing evening, night, weekend and flexible services for client support would be devastating for many services impacting significantly on their ability to meet their contractual obligations let alone maintain a reasonable service to those in need of support.
28. In the ACT, for example, a number of organisations have had to dramatically cut their weekend and evening services as funding limitations and cost increases mean it is impossible under the current ACT Award to meet the high costs of weekend work.¹³

¹⁰ Ibid.

¹¹ Ibid. An estimated 41 per cent of services had PBI and /or DGB status in early 2009d

¹² The number of employees taking advantage of the tax packaging continues to increase in the sector.

¹³ Based on information provided from a survey by Ray Bennett, Com Management, July 2009.

29. Not-for-profit organisations (NFPs) offer casual, flexible employment to many people. However, a large proportion of their workforce depends on continuity of employment and obtaining as many casual or part-time permanent hours as possible. At the same time, many NFPs find it very difficult to offer longer term guaranteed employment and regular hours.
30. Volunteers are, of course, a key feature of many services though this raises management, OHS and a range of other issues. Generally services do not substitute volunteers for paid staff and this practice is largely, and appropriately, disappearing. However, the Board of Management or Management Committee inevitably consist of volunteers. The non-staff costs that have to be met by NFPs include accounting, administration, insurance, IT and other infrastructure, buildings, cars and support services.
31. This overview of the Community Services Sector indicates how complex and diverse it is. The already fragmented Sector has in recent times been largely adversely affected by a number of developments.

Trends and developments in the sector

32. The next few years will be difficult ones for the Social and Community Sector. There are already critical underlying pressures that organisations are having to cope with and the current economic situation in Australia has merely highlighted long standing and deep seated problems which organisations in the Community Sector are having to cope with. The challenges and pressures include:
 - There has been inadequate indexation of funding for many years. In the AFEI July survey, 80 per cent of respondents reported they had reduced employee numbers because of increased labour costs in the last three years and 55 per cent

reported wage and other costs exceeded the indexed increase in funding under their grant agreements.¹⁴

- It is estimated the rate for delivering an hour of support to clients has increased over the last four years by five to seven per cent per annum, compared to an increase in funding of two to three per cent per annum.¹⁵ This high level of cost increase reflects the changing structure of service delivery hours with more night and weekend support needed, higher costs of employing labour including on-costs and the higher costs of providing the infrastructure – such as vehicles and petrol, human resources and OH&S support, administration and legal and Department compliance.
- The operating costs of services have, on average, over the last four years increased at an annual rate of approximately seven per cent and these costs as a proportion of overall costs have risen 16 to 20-21 per cent of the total budget.¹⁶

33. Infrastructure costs include what are usually defined as operating expenses minus brokerage or service provision purchasing costs.

They include the following expenses:

- Vehicle and Car
- Security
- Travel expenses
- Meals
- Catering
- Auditing, Legal and Consultancy costs
- Volunteer expenses

¹⁴ AFEI Not For Profit Members Survey July 2009

¹⁵ Identified from the Australian Council for Social Services Annual Community Services Survey 2003 to 2009 and Com Management.

¹⁶ Based on: ABS Not For Profit Organisations in Australia in 2006-07, Catalogue NO 8160 and Australian Community Sector Survey, 2009, Australian Council of Social Services, July 2009 and Research by Com Management

- Office expenses
- Leasing
- Rent
- Office expenses
- Insurance
- Workers Compensation
- Consumables
- Transport excluding that provided for clients as a service incorporated into the grants

34. Many of these infrastructure costs, such as workers' compensation, vehicles and the cost of petrol, etc., have all risen faster than the rate of increase in funding in aggregate or on a per capita basis and consequently have had a noticeable effect on NFPs' budgets. As an example, Workers' Compensation costs are a particular area of vulnerability for NFPs, both the high cost of premiums and also the impact of claims history on adjustments to these premiums.

35. The expectations of the funding bodies and indeed the needs of clients continue to rise. The Government Funding Departments, for example, require much greater documentation and reporting than a few years ago.

36. There has been a significant increase in the amount of resources used for OH&S, Quality Assurance, reporting and other management activities that are not directly measured in the budgets but which divert resources and place unfunded pressures on organisations. It is difficult to estimate the cost of these non-measured infrastructure costs, but would be one to two per cent of the budget per year.

37. A significant, and difficult to quantify, cost increase for services has been the growing amount of resources that have had to be provided to meet what might be termed compliance and contractual obligations. While it is recognised these costs are part of the obligations of an organisation, there is strong evidence that these have increased at a faster rate than the growth of funding from Government. These costs include:
- Occupational Health and Safety
 - Quality Assurance/Accreditation
 - Increasing compliance obligations in the employment of staff
 - Increasing funding body reporting requirements
 - The administration time and costs in reporting on their financial and operational outcomes.
38. These costs have been compounded by what most members consider to be the unduly complex nature of Government reporting process.
39. In addition to the cost pressures identified above services report that the level of funding provided by government is significantly lower for the hours of service expected. Community expectations are rightly increasing about the amount and standard of support that should be given to people with disabilities and other needs.
40. The longer term structural problems facing the sector are of even more concern. All community service organisations in Australia remain deeply committed to providing high quality and continuously improving support to people with disabilities to help them achieve as fulfilling a life as possible. The record of community services in Australia remains excellent, but there is no doubt that pressures are building up – especially in the level and method of resources/funding available – that are making the task of delivering services at an adequate, let alone best practice, level more and more difficult. Concerns about the future of community services,

and indeed the long-term sustainability of some organisations, have prompted much discussion and are very real.

The current situation in the sector

41. The underlying longer term problems are occurring against a background of rapid pressures on services that include the following:

- Increased and additional needs of current service users as a result of the economic downturn but also the ageing population.
- An increase in the number of service users.
- A possible reduction in individual and business donations.
- A possible change in government funding priorities as the immediate demands of the unemployed, struggling businesses and others create a need for high levels of government spending. In some cases it will mean increased funding in some areas and services and in others, while not necessarily a cutback, there could be a reduction in priority and growth.
- An increased need for services to be as cost effective as possible as the government copes with the requirement to eventually repay debt as a consequence of the necessary spending surge such as the \$41 billion package announced in February 2009.
- A probable increase in people looking for work experience and support from the sector as a method of returning to the workforce following redundancy.
- Older staff putting off retiring as they seek to re-build their savings.

PART 2

Award modernisation in the social and community services sector

42. Whilst the Ministerial Request relating to Award Modernisation has stated the “creation of modern awards is not intended to ... increase costs for employers”, the outcome across all industries will be significant cost increases due to the standardisation of terms and conditions across Australia. Whilst employee organisations may argue that such cost increases are offset by a reduction in costs in other areas, such argument does not take into account the availability of take home pay orders.¹⁷ Consequently, employers could only face an increase in labour costs as part of the Award Modernisation process.
43. The inability of employers in the social and community sector to absorb any significant costs increases is outlined above. As set out in paragraph 10 – 16 of this submission, employers have a large dependency on Commonwealth and State government funding. Labour costs account for a high percentage of overall costs in such organisations. Furthermore most employers in the sector believe that government funding is insufficient to cover the true costs of contracted services.¹⁸ Consequently, any cost increase in labour has a direct and significant impact on the levels of service provided to individuals and communities.
44. The industrial consideration of the reliance on funding is well developed across all jurisdictions. Glynn J in her decision to make a social and community services award in NSW in 1990 observed:

¹⁷ Fair Work (Transitional Provisions and Consequential Amendments) Act 2009, Schedule 5 Part 3 Item 9(1).

¹⁸ See also Australian Community Sector Survey ACOSS Paper June 2008, p. 23

“The evidence shows that employers themselves are singularly helpless to generate additional funds to pay additional costs... Without additional funding being in place ... results of immediate implementation could be most unfortunate: While some employees would take home increased pay packets, others would lose their jobs to the extent the increases of those pay packets were unfunded.”¹⁹

Cost increases in the sector

45. Given the unique nature and pressures of the social and community sector, the cumulative effects of the cost and other pressures (such as award modernisation) on the social and community sector have produced the following outcomes:

- A reduction in the number hours of direct service provision to existing clients.
- A reduction in the quality of services provided as coordinators and specialist resources are stretched to manage existing clients whose needs are increasing and manage clients as hours spent away from direct support and toward administrative activities increase.
- Increased reliance on more voluntary work hours, which while in principle is of value, should not be relied on for the support of people with long-term or particular needs.
- A reduction in the resources available for training community services' staff.
- Reduced opportunities to develop service quality and innovation.
- Difficulty in meeting the legal, compliance obligations involved in OH&S and other legislated requirements due to inadequate resources.
- Increased risk from workers' compensation and litigation arising from managing difficult clients with minimum resources.

¹⁹ Social and Community Services Employees (State) Award, Glynn J

46. In summary, a large number of organisations providing community services are managing to cope with the current challenges but are struggling and any significant labour cost increases would cause serious difficulties.

Modern award coverage in sector

47. It is the submission of AFEI that one modern Award should be made to cover employers engaging employees employed for service delivery in the groups of the social and community services and other general welfare work. To this end, AFEI has submitted a draft Social and Community Services Employees Award 2010 covering employers and employees engaged in this type of work.
48. In an approach that is consistent with the approach of the Commission in the industries of Health and Welfare services (excluding social and community services) (AM2008/13), AFEI submits that the Commission should make a separate modern award for ancillary support and care staff that are not directly involved in the service delivery to the client. Such an Award would be akin to a 'general services award' and cover employees not engaged in service delivery of social and welfare work.
49. Similar to the making of the Health Professionals and Support Services Award 2010 which provides for a support services stream containing various ancillary staff for nurses and medical professional staff and the making of a Educational Services (General Staff) exposure draft award for teachers, a modern Social and Community Services Award should have a similar counterpart.
50. AFEI supports the creation of a separate award for disability care given the unique nature of the work undertaken in this group. AFEI's submission in relation to disability care is set out in paragraph 79 - 82 of this submission.

PART 3

Draft Award - AFEI

Introduction

51. The industrial arrangements and terms and conditions for employees from state to state vary significantly. Whilst this issue confronting the Commission is not unique to this sector, the limited ability for employers within the sector to cope with cost increases commonly associated with the Award Modernisation process is exacerbated by the characteristics of the sector outlined above. AFEI submits that the Commission should have high regard to dependency on funding and fundraising and the potential for service delivery to be adversely affected in circumstances of cost increases arising from the creation of a modern award.

52. Consequently, AFEI has prepared a draft Award for this sector that considers the nature of the work undertaken by employees within the sector within the revenue constraints faced by employers. In the course of preparing the AFEI Draft Award for this sector, AFEI has had regard to:

- the diversity of funding sources
- the nature of the industry and necessity for flexibility in working arrangements;
- the prevalence of certain conditions across states;
- the ease with which a specific award term could be applied in a jurisdiction where it had historically not applied;
- previous considerations and decisions of this and other state commissions

53. In applying these considerations, AFEI has been guided by the statutory objects of Part 10A of the Workplace Relations Act [s576A] and the consolidated Award Modernisation request from the Minister for Workplace Relations.

Form of AFEI draft award

54. AFEI has submitted the draft Award in a form recommended and supplied by the Commission.

Standard Clauses

55. AFEI recognises that a number of award clauses are settled and, across industries, have been inserted into Modern Awards already made. These clauses include:

- Access to the award and the National Employment Standards
- The National Employment Standards and this award
- Award flexibility
- Consultation regarding major workplace change
- Dispute resolution
- Termination of employment
- Redundancy

Clause 10 - Types of employment

56. Under the draft award, an employee may be engaged on a full time, part-time or casual basis. The draft award provides for these categories of employment as they are representative of existing award and NAPSA conditions in force across Australia. Generally speaking, most industrial instruments in force provide for full-time employment being 38 hours per week or an average thereof.

57. Part-time employment has been defined to be a person who works a specified minimum number of hours being less than those worked by a full-time employee. This definition has been derived wholly from the NSW NAPSA (Clause 5) and replicates the minimum engagement for a part-time employee.
58. The specification of a minimum number of hours has the correct balance between providing a part-time employee with security of hours, however there must be sufficient flexibility for the employer in respect of roster arrangements. The specification of a 2-hour minimum engagement is also a balanced compromise between a three hour minimum engagement (currently found in the Community Services Awards/NAPSAs in Northern Territory, South Australia) and no part-time minimum engagement (currently found in Victoria, ACT and Western Australia).
59. AFEI has adopted a casual loading of 25% in the draft award, notwithstanding the fact that currently the Awards listed have a lesser casual loading:
- Social and Community Services Employees (State) Award [NSW – NAPSA];
 - Social and Community Services Industry – Community Services Workers – Northern Territory Award 2002;
 - Social and Community Services Employees – Western Australia Award 2002
 - Social and Community Services Employees – South Australia [NAPSA – SA];
 - Community Services Award [NAPSA – TAS]
60. Accordingly, AFEI submits that the Commission should have regard to the increase in casual loadings across a large number of jurisdictions when determining the final form of the award.

61. AFEI submits that a 2-hour minimum casual engagement is appropriate within the sector.

Clause 13 – Classification structure

62. AFEI has adopted the South Australian classification structure in the draft Award. AFEI is of the view that this classification structure, in its existing terms, provides an appropriate and clear means for classifying employees within the sector. The classification structure:

- has a sufficient number of levels to classify employees performing work contemplated by the draft Award;
- has seven levels, which is viewed as a compromise between New South Wales (6 levels) and Western Australia (9 levels);
- provides clear and practical characteristics of each level; and
- clearly establishes the necessary requirements of each level.

Clause 14 – Minimum Wages

63. AFEI has not included minimum wage rates within the attached draft award AFEI intends to file supplementary submissions in respect of appropriate rates to be inserted in the draft award.

Clause 13.9 – Exemptions

64. AFEI submits that the inclusion of an exemption rate is an essential component of a modern Award within the social and community services sector. The draft Award provides for a seven-level classification structure with Levels 6 and 7 holding broad management responsibilities. Employees engaged in such capacities and in receipt of an appropriately loaded rate should not be subject to Award conditions.

65. AFEI submits that is this a settled term with New South Wales and should not be disturbed. In prior negotiations for a new Award in NSW (2001 and 2006), the exemption clause was not disturbed, nor was it raised by the Australian Services Union as a substantial bargaining point.

Clause 13.10 and 13.11 – Incremental placement and advancement

66. The provisions in relation to incremental placement and advancement ensure that employees covered by the proposed Award would progress through the incremental levels within each grade, however ensure that employers retain appropriate discretion to manage the employee's classification.

67. It would be an undesirable outcome to have all employees advance steps within each level simply on the basis of 12 months continuous service. Twelve months of continuous service does not necessarily mean 12 months of appropriate or productive service. It would be far more advantageous to allow an employer to recognise "satisfactory service" after a fair and objective assessment of the service has taken place through a 'Staff Development and Appraisal Scheme'.

68. The ability for an employer to acknowledge "satisfactory service" is particularly useful in a sector that has many employees that do not generally have the financial means to pay 'above-award' rates to recognise good service.

69. Further supporting the inclusion of a "satisfactory service" rating prior to advancement within a classification level is its current inclusion (in some form) in the following Awards/NAPSAs:

- Social and Community Services Award [NAPSA – SA];
- Social and Community Services (ACT) Award 2001;

- Social and Community Services – Western Australia Award 2002;
- Social and Community Services Industry – Community Services Workers – Northern Territory Award 2002.

Clause 15.6 – Sleepover allowance

70. Sleepovers at the employer's premises are an essential component of the work of employees within the social and community sector. AFEI submits that this existing provision should be maintained when a modern Award is made for this sector. Sleepovers are an inexpensive, practical and accepted way to ensure that out of hours services can be provided where an employee may or may not be called upon to attend to a client during the night.
71. Sleepovers are currently found within industrial instruments in NSW, Victoria and Tasmania. AFEI submits that the sleepover provisions in a modern social and community Award should be the terms of the AFEI Draft Award. These terms are an amalgamation of the NSW and Victorian sleepover provisions, and AFEI submits would be easy for employers and employees to apply and enable existing sleepover arrangement to be preserved.

Clause 22 – Hours of work

72. By the very nature of the industry, services in this sector cannot be strictly limited to the traditional notion of ordinary hours during the day. Employers face difficulty in predicting when peak periods of client service will occur. In some cases, employers may have 24 hour operations, where continued service delivery necessitates ordinary hours to be worked over 24 hours (for example, group homes).

73. This difficulty in respect of when service delivery is required during the day/night is demonstrated by the span of ordinary hours provisions in the primary social and community services instruments in Victoria and NSW:

Instrument	Span of ordinary hours
Social and Community Services – Victoria – Award 2000	No ordinary span
Social and Community Services Employees (State) Award [NSW – NAPSA]	6.00am to 8.00pm Monday to Sunday

74. As a consequence of the unpredictable nature of social and community work, AFEI has adopted a variation of the Victorian ordinary hours of work clause to enable services to be provided at hours where necessary. It would appear that this arrangement has existed uncontested in Victoria for a number of years. AFEI is of the view that such arrangements would present significant benefits to employers within the sector.

75. Such an arrangement would also be consistent with the objects of the Award Modernisation process, where:

“Modern Awards ... must be economically sustainable, and promote flexible modern work practices and the efficient and productive performance of work”²⁰

76. In the event that the Commission is minded to not insert the hours of work provision based on the proposal by AFEI, AFEI submits that the span of ordinary hours should not be more restrictive than the span currently existing with the Social and Community Services Employees (State) Award [NSW – NAPSA]. The preservation of the existing span in New South Wales is essential to ensure services continue have viable operations.

²⁰ Workplace Relations Act, 1996 (Cth), s576A (2)(c)

Clause 25 – Overtime and penalty rates

77. AFEI submits that overtime for part-time employees should be payable only once that part-time employee has worked full-time equivalent hours. This is the prevailing standard within NSW and was the standard the Australian Services Union adopted in their application for a new Social and Community Services Employees (State) Award in NSW (Matter No IRC 5544 of 1998).
78. Such part-time overtime provisions ensure that that employers are better able to offer permanent and secure employment whilst ensuring that they are able to reasonably cover unplanned service gaps such as changes in client rosters or numbers, sickness, annual leave, or service growth. In the absence of such flexibility (currently present in NSW), AFEI submits employers would be less likely to offer part-time employment and instead favour a casual workforce that is able to respond to changing demand.

Disability care

79. AFEI notes the submissions of The Endeavour Foundation and Centacare from Queensland requesting the maintenance of the terms and conditions of the Disability Support Workers Award – State 2003 [NAPSA – QLD]. AFEI supports the distinction of disability support workers as identified in the coverage provisions of the Queensland NAPSA.
80. In NSW, this distinction between the work of typical social and community services employees and disability care workers has been reflected in the coverage provisions of the Charitable Sector, Aged and Disability Care Services (State) Award [NAPSA – NSW]. In earlier stages of the Award modernisation process, the Commission was minded to create a separate Aged Care Award. In creating four

modern Awards in the Health and Welfare Services (excluding social and community services), the Commission observed:

*“We have not adopted the proposal by the Health Services Union to create one award. This approach would have constituted a significant departure from the existing pattern of regulation.”*²¹

81. AFEI submits that the Commission should adopt a similar approach when considering the modern award coverage of disability care workers. Due to the specific nature of their work, a separate disability care award is warranted.

82. AFEI notes our submissions made in respect of matter AM2008/80 – Health and Welfare Services (remainder) – Supported Employment Services in respect of employers engaged in supported employment services (SES). Whilst supported employment work is distinct from disability care work, AFEI recognises the potential for overlapping award coverage where SES employers also provide care or residential work. AFEI submits that the modern award statutory framework does stop 2 awards covering a single employer where work can be distinguished. AFEI further submits that such distinction can be made in this area of employment.

Summary

83. In summary, AFEI submits that the Commission should make three modern Awards in the matter AM2008/79:
 - A Social and Community Services Employees Award – covering employees engaged in the service delivery element of social work

²¹ Australian Industrial Relations Commission, Award Modernisation decision, [2009] AIRCFB 345, p.34

- A Social and Community Ancillary and Care Employees Award – covering employees engaged in the support and care functions of social and community work
- A Disability Care Employees Award – covering employees providing care for people with disabilities.

24 July 2009

Social and Community Services Employees Award 2010

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Part 1—Application and Operation

1. Title

This award is the *Social and Community Services Employees Award 2010*.

2. Commencement date

This award commences on 1 January 2010.

3. Definitions and interpretation

3.1 In this award, unless the contrary intention appears:

Act means the *Workplace Relations Act 1996* (Cth)

Commission means the Australian Industrial Relations Commission or its successor

employee has the meaning in the Act

employer has the meaning in the Act

enterprise award has the meaning in the Act

NAPSA means notional agreement preserving a State award and has the meaning in the Act

NES means National Employment Standards

Social and Community Services Sector means the client service delivery of social, welfare, community services work.

standard rate means the minimum wage for a "**insert key classification**" in clause "**insert cross-reference to classification**"

"**insert industry specific definitions in alphabetical order**"

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

4. Coverage

4.1 This industry award covers employers throughout Australia in the Social and Community Service Sector and their employees in the classifications listed in clause 13 - Classifications of this Award to the exclusion of any other modern award. The award does not cover employers in the following industries:

"**insert any exclusions**"

- 4.2** The award does not cover an employee excluded from award coverage by the Act.
- 4.3** The award does not cover an employer bound by an enterprise award with respect to any employee who is covered by the enterprise award.
- 4.4** Where an employer is covered by more than one award, an employee of that employer is covered by the award classification which is most appropriate to the work performed by the employee and to the environment in which the employee normally performs the work.

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

5. Access to the award and the National Employment Standards

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

6. The National Employment Standards and this award

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

7. Award flexibility

- 7.1** Notwithstanding any other provision of this award, an employer and an individual employee may agree to vary the application of certain terms of this award to meet the genuine individual needs of the employer and the individual employee. The terms the employer and the individual employee may agree to vary the application of are those concerning:

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

- 7.2** The employer and the individual employee must have genuinely made the agreement without coercion or duress.

- 7.3** The agreement between the employer and the individual employee must:
- (a) be confined to a variation in the application of one or more of the terms listed in clause 7.1; and
 - (b) not disadvantage the individual employee in relation to the individual employee's terms and conditions of employment.
- 7.4** For the purposes of clause 7.3(b) the agreement will be taken not to disadvantage the individual employee in relation to the individual employee's terms and conditions of employment if:
- (a) the agreement does not result, on balance, in a reduction in the overall terms and conditions of employment of the individual employee under this award and any applicable agreement made under the Act, as those instruments applied as at the date the agreement commences to operate; and
 - (b) the agreement does not result in a reduction in the terms and conditions of employment of the individual employee under any other relevant laws of the Commonwealth or any relevant laws of a State or Territory.
- 7.5** The agreement between the employer and the individual employee must also:
- (a) be in writing, name the parties to the agreement and be signed by the employer and the individual employee and, if the employee is under 18 years of age, the employee's parent or guardian;
 - (b) state each term of this award that the employer and the individual employee have agreed to vary;
 - (c) detail how the application of each term has been varied by agreement between the employer and the individual employee;
 - (d) detail how the agreement does not disadvantage the individual employee in relation to the individual employee's terms and conditions of employment; and
 - (e) state the date the agreement commences to operate.
- 7.6** The employer must give the individual employee a copy of the agreement and keep the agreement as a time and wages record.
- 7.7** An employer seeking to enter into an agreement must provide a written proposal to the employee. Where the employee's understanding of written English is limited the employer must take measures, including translation into an appropriate language, to ensure the employee understands the proposal.
- 7.8** The agreement may be terminated:
- (a) by the employer or the individual employee giving four weeks' notice of termination, in writing, to the other party and the agreement ceasing to operate at the end of the notice period; or
 - (b) at any time, by written agreement between the employer and the individual employee.

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

Part 2—Consultation and Dispute Resolution

8. Consultation regarding major workplace change

8.1 Employer to notify

- (a)** Where an employer has made a definite decision to introduce major changes in production, program, organisation, structure or technology that are likely to have significant effects on employees, the employer must notify the employees who may be affected by the proposed changes and their representatives, if any.
- (b)** **Significant effects** include termination of employment; major changes in the composition, operation or size of the employer's workforce or in the skills required; the elimination or diminution of job opportunities, promotion opportunities or job tenure; the alteration of hours of work; the need for retraining or transfer of employees to other work or locations; and the restructuring of jobs. Provided that where this award makes provision for alteration of any of these matters an alteration is deemed not to have significant effect.

8.2 Employer to discuss change

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

9. Dispute resolution

- 9.1** In the event of a dispute about a matter under this award, or a dispute in relation to the NES, in the first instance the parties must attempt to resolve the matter at the workplace by discussions between the employee or employees concerned and the relevant supervisor. If such discussions do not resolve the dispute, the parties will endeavour to resolve the dispute in a timely manner by discussions between the employee or employees concerned and more senior levels of management as appropriate.
- 9.2** If a dispute about a matter arising under this award or a dispute in relation to the NES is unable to be resolved at the workplace, and all appropriate steps under clause 9.1 have been taken, a party to the dispute may refer the dispute to the Commission.
- 9.3** The parties may agree on the process to be utilised by the Commission including mediation, conciliation and consent arbitration.
- 9.4** Where the matter in dispute remains unresolved, the Commission may exercise any method of dispute resolution permitted by the Act that it considers appropriate to ensure the settlement of the dispute.
- 9.5** An employer or employee may appoint another person, organisation or association to accompany and/or represent them for the purposes of this clause.
- 9.6** While the dispute resolution procedure is being conducted, work must continue in accordance with this award and the Act. Subject to applicable occupational health and safety legislation, an employee must not unreasonably fail to comply with a direction by the employer to perform work, whether at the same or another workplace, that is safe and appropriate for the employee to perform.

Part 3—Types of Employment and Termination of Employment

10. Types of employment

10.1 Full-time employment

A full-time employee shall mean an employee who is engaged to work 38 hours of ordinary time per week in accordance with the provisions of clause xx – Hours of Work of this Award, and who shall be entitled to all the benefits of this Award.

10.2 Part-time employment

- (a) A part-time employee shall mean a person who works a specified minimum number of hours being less than those worked by a full-time employee in a four week period.
- (b) Part-time employees shall be paid a minimum of two hours per shift and a minimum of 6 hours per week.

- (c) Part-time employees shall be paid an hourly rate calculated on the basis of one-thirty eighth of the appropriate weekly rate prescribed by Clause xx – Rates of Pay of this Award.
- (d) Part-time employees shall be entitled to all benefits under this Award on a pro-rata basis.
- (e) Notwithstanding any other provisions of this Award, part-time employees must work the full-time equivalent hours within the ordinary hours identified in Clause 22 – Hours of Work of this Award before overtime is payable.

10.3 Casual employment

- (a) A casual employee is one that is engaged and paid as such.
- (b) A casual employee is an employee engaged as such on an hourly basis, other than as a part-time or full-time employee, to work up to and including 38 ordinary hours per week, worked in accordance with clause xx – Hours of Work of this Award.
- (c) A casual employee will be paid per hour worked at the rate of 1/38th of the weekly rate appropriate to the employee's classification. In addition, a loading of 25% of that rate will be paid as compensation for the casual nature of the work and entitlements generally received by full-time and part-time employees.
- (d) A casual employee shall be paid a minimum of 2 hours at the appropriate rate for each engagement.

11. Termination of employment

11.1 Notice of termination is provided for in the NES.

11.2 Notice of termination by an employee

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

11.3 Job search entitlement

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

12. Redundancy

12.1 Redundancy pay is provided for in the NES.

12.2 Transfer to lower paid duties

Where an employee is transferred to lower paid duties by reason of redundancy, the same period of notice must be given as the employee would have been entitled to if the employment had been terminated and the employer may, at the employer's option, make payment instead of an amount equal to the difference between the former ordinary time rate of pay and the ordinary time rate of pay for the number of weeks of notice still owing.

12.3 Employee leaving during notice period

An employee given notice of termination in circumstances of redundancy may terminate their employment during the period of notice. The employee is entitled to receive the benefits and payments they would have received under this clause had they remained in employment until the expiry of the notice, but is not entitled to payment instead of notice.

12.4 Job search entitlement

- (a) An employee given notice of termination in circumstances of redundancy must be allowed up to one day's time off without loss of pay during each week of notice for the purpose of seeking other employment.
- (b) If the employee has been allowed paid leave for more than one day during the notice period for the purpose of seeking other employment, the employee must, at the request of the employer, produce proof of attendance at an interview or they will not be entitled to payment for the time absent. For this purpose a statutory declaration is sufficient.
- (c) This entitlement applies instead of clause 11.3

12.5 Transitional provisions

- (a) Subject to clause 12.5(b), an employee whose employment is terminated by an employer is entitled to redundancy pay in accordance with the terms of a NAPSA:
 - (i) that would have applied to the employee immediately prior to 1 January 2010, if the employee had at that time been in their current circumstances of employment and no agreement made under the Act had applied to the employee; and
 - (ii) that would have entitled the employee to redundancy pay in excess of the employee's entitlement to redundancy pay, if any, under the NES.
- (b) The employee's entitlement to redundancy pay under the NAPSA is limited to the amount of redundancy pay which exceeds the employee's entitlement to redundancy pay, if any, under the NES.
- (c) This clause does not operate to diminish an employee's entitlement to redundancy pay under any other instrument.

- (d) Clause 12.5 ceases to operate on 31 December 2014.

Part 4—Minimum Wages and Related Matters

13. Classifications

13.1 Classification structure

- (a) An employer will determine the appropriateness or otherwise of a qualification having regard to the nature of work performed within the position.
- (b) An employer will classify an employee under Clause 13.2 to 13.8. An employer may have regard to Schedule A – Classification Structure User Guide and Glossary when classifying an employee within this Classification structure.

13.2 Community Services Worker - Level 1

(a) Characteristics of the level

- (i) A person employed as Community Services Worker Level 1 will work under close direction and undertake routine activities which require the practical application of basic skills and techniques.
- (ii) General features of work in this category consist of performing clearly defined activities with outcomes being readily attainable. Employees' duties at this level will be closely monitored with instruction and assistance being readily available.
- (iii) Freedom to act is limited by standards and procedures. However, with experience, employees at this level may have sufficient freedom to exercise judgement in the planning of their own work within those confines.
- (iv) Positions at this level will involve employees in extensive on-the-job training including familiarisation with the goals and objectives of the workplace.
- (v) Employees will be responsible for the time management of their work and required to use basic numeracy, written and verbal communication skills.
- (vi) Supervision of other staff is not a feature at this level.
- (vii) Oversight of volunteers may be a feature for more experienced employees at this level. At this level, employers are expected to offer substantial internal and/or external training.

(b) Requirements of the job

Some or all of the following are needed to perform work at this level:

(i) Skills, Knowledge, Experience, Qualifications and/or Training

- developing knowledge of the workplace function and operation;
- basic knowledge of administrative practices and procedures relevant to the workplace;
- a developing knowledge of work practices and policies of the relevant work area;
- basic numeracy, written and verbal communication skills relevant to the work area;
- at this level employers are required to offer substantial on the job training;

(ii) Responsibilities

A position at this level may include some of or similar responsibilities to:

- undertake routine activities of a support nature;
- undertake straightforward operation of keyboard equipment including data input and basic word processing at a basic level after having received training;
- provide routine information including general reception duties;
- apply established practices and procedures;
- undertake routine office duties involving filing and/or maintenance of an existing records system;
- under close direction, assist with the development, planning, implementation and evaluation of community services programmes at an elementary level;
- under close direction, undertake work with individual clients at a first contact level;

(iii) Organisational Relationships

- Work under direct supervision

(iv) Extent of Authority

- work outcomes are clearly monitored;
- freedom to act is limited by standards and procedures;
- solutions to problems are found in established procedures and instructions with assistance readily available;

13.3 Community Services Worker - Level 2

(a) Characteristics of the level

- (i) A person employed as a Community Services Worker Level 2 will work under regular direction within clearly defined guidelines and undertake a range of activities requiring the application of acquired skills and knowledge. Employees will be under the direct supervision of a senior worker.
- (ii) General features at this level consist of performing functions which are defined by established routines, methods, standards and procedures with limited scope to exercise initiative in applying work practices and procedures. Assistance will be readily available. Employees may be responsible for a minor function and/or may contribute specific skills to the work of the organisation. In addition, employees may be required to assist senior workers with specific projects.
- (iii) Employees will be expected to have an understanding of work procedures relevant to their work area and may provide assistance to lower classified employees concerning established procedures to meet the objectives of a minor function.
- (iv) Employees will be responsible for managing time, planning and organising their own work and may be required to oversight and/or guide the work of a limited number of lower classified employees. Employees at this level could be required to resolve minor work procedural issues in the relevant work area within established constraints.
- (v) Supervision of other staff is not a feature of this level.
- (vi) Oversight of paid employees or volunteers may be a feature of this level.
- (vii) Employees who have completed an appropriate certificate and are required to undertake work related to that certificate will be appointed to this level.
- (viii) Employees who have completed an appropriate diploma and are required to undertake work related to the diploma will commence at the second incremental step of this level and will advance after twelve full time equivalent months satisfactory service.

(b) Requirements of the job

Some or all of the following are needed to perform work at this level.

- (i) Skills, Knowledge, Experience, Qualification and/or Training
 - basic skills in oral and written communication with clients and other members of the public;
 - knowledge of established work practices and procedures relevant to the workplace;

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- knowledge of policies relating to the workplace;
- application of techniques relevant to the workplace;
- developing knowledge of statutory requirements relevant to the workplace;
- understanding of basic computing concepts;

(ii) the prerequisites for this would be equivalent to:

- appropriate certificate relevant to the work required to be performed;

or

- will have attained previous experience in a relevant industry, service or an equivalent level of expertise and experience to undertake the range of activities required;

or

- appropriate on-the-job training and relevant experience;

or

- entry point for diploma without experience.

(iii) Responsibilities

A position at this level may include some of or similar responsibilities to:

- undertake a range of activities requiring the application of established work procedures and may exercise limited initiative and/or judgement within clearly established procedures and/or guidelines;
- achieve outcomes which are clearly defined;
- perform tasks including the provision of more than routine information;
- assist senior employees with special projects;
- perform elementary tasks within a community service programme requiring knowledge of established work practices and procedures relevant to the work area;
- assist with administrative functions;
- assist senior employees in the preparation, implementation and evaluation of developmental and/or special programme at an elementary level;
- prepare, implement, and evaluate developmental and/or special programmes for individual clients in consultation with a senior employee;
- accept responsibility for a single programme function within a range of activities.

- (iv) Organisational Relationships
 - Work under regular supervision.
 - Provide limited guidance to a limited number of lower classified employees.
- (v) Extent of Authority
 - work outcomes are monitored;
 - have freedom to act within established guidelines;
 - solutions to problems may require the exercise of limited judgement, with guidance to be found in procedures, precedents, guidelines. Assistance will be available when problems occur.

13.4 Community Services Worker - Level 3

(a) Characteristics of the level

- (i) A person employed as a Community Services Worker Level 3 will work under general direction in the application of procedures, methods and guidelines which are well established. Employees appointed at this level will work under the direct supervision of a senior worker.
- (ii) General features of this level involve solving problems of limited difficulty using knowledge, judgement and work organisational skills acquired through qualifications and/or previous work experience. Assistance is available from senior staff. Employees may receive instruction on the broader aspects of the work. In addition, employees may provide assistance to lower classified employees.
- (iii) Positions at this level allow employees the scope for exercising initiative in the application of established work procedures.
- (iv) At this level employees may be required to provide supervision of Community Service Worker Level 1. Employees with supervisory responsibilities may undertake some complex operational work and may undertake planning and co-ordination of activities within a workplace.
- (v) Employees will be responsible for managing and planning their own work and that of lower classified staff.
- (vi) Supervisors should have a basic knowledge of principles of human resource management and be able to assist subordinate staff with on-the-job training.
- (vii) Three year degree holders will commence at step 1 of this level and will progress to successive steps upon each 12 months full-time equivalent satisfactory service.

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- (viii) A 4 year degree holder will commence at step 2 of this level and will progress to successive steps upon each 12 full time equivalent months satisfactory service.
- (ix) Graduates on completion of 12 full time equivalent months service at step 3 will be advanced to step 1 level 4.

(b) Requirements of the job

Some or all of the following are needed to perform work at this level:

(i) Skills, Knowledge, Experience, Qualifications and/or Training

- thorough knowledge of work activities performed within the workplace;
- sound knowledge of procedural/operational methods of the workplace;
- may utilise limited professional or specialised knowledge;
- working knowledge of statutory requirements relevant to the workplace;
- ability to apply computing concepts;

(ii) The prerequisites for entry to this level would be equivalent to:

- entry level for degree holder;

or

- Diploma with relevant experience;

or

- appropriate certificate with relevant experience, or experience attained through previous appointments, services and/or study of an equivalent level of expertise and/or experience to undertake the range of activities required.

(iii) Responsibilities

To contribute to the operational objectives of the work area, a position at this level may include some of the following inputs or those of a similar value:

- undertake responsibility for various activities in a specialised area;
- exercise responsibility for a function within the work area;
- assist in a range of functions and/or contribute to interpretation of matters for which there are no clearly established practices and procedures although such activity would not be the sole responsibility of the officer;
- supervise the work of other subordinate staff;
 - perform tasks of a sensitive nature including the provision of information requiring a high degree of judgement, initiative and confidentiality;

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- co-ordinate elementary community service programmes or a single programme at a more complex level;
- (iv) Where prime responsibility lies in a "professional" field, officers at this level would undertake at least some of the following:
 - undertake some minor phase of a broad or more complex assignment;
 - provide assistance to senior officers;
 - perform duties of a specialised nature;
 - plan and co-ordinate elementary community-based projects/programmes;
 - perform moderately complex functions including social planning, demographic analysis, survey design and analysis;
- (v) Organisational Relationships
 - Graduates work under direct supervision;
 - works under general supervision;
 - operate as member of a professional team;
 - supervision of other employees
- (vi) Extent of Authority
 - graduates receive instructions on the broader aspects of the work;
 - freedom to act within defined established practices;
 - problems can usually be solved by reference to procedures, documented methods and instructions. Assistance is available when problems occur.

13.5 Community Services Worker - Level 4

(a) Characteristics of the level

- (i) A person employed as a Community Services Worker Level 4 will work under general direction in the application of procedures, methods and guidelines which are well established.
- (ii) Positions at this level allow employees the scope for exercising initiatives in the application of established work procedures.
- (iii) General features at this level require the application of knowledge and skills which may be gained through qualifications and/or previous experience. Positions will involve a range of work functions and may involve the supervision of a section or in the case of a small employer a program or branch.

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- (iv) Employees will be expected to contribute knowledge in establishing procedures in the appropriate work related field.
 - (v) Work at this level requires a sound knowledge of programme, activity, operational policy or service aspects of the work performed within a function or a number of work areas.
 - (vi) Employees require skills in managing time, setting priorities, planning and organising their own work to achieve specific objectives.
 - (vii) Employees will be expected to set outcomes and further develop work methods where general work procedures are not well defined.
 - (viii) Employees at this level may be required to supervise various functions within a defined work area or an activity of a complex nature. In addition, employees will be required to set priorities and monitor workflows in their area of responsibility.
 - (ix) Employees may be required to provide specialist expertise/advice in their relevant discipline.
 - (x) At this level employees may be required to supervise lower classified staff in their day to day work and/or establish the most appropriate operations methods for the section/branch or program.
 - (xi) Graduates with recognised qualification pursuant to this Award who have completed the relevant satisfactory service at level three will progress by yearly full-time equivalent incremental steps to the maximum of this level.
- (b) Requirements of the job

Some or all of the following are needed to perform work at this level:

- (i) Skills, Knowledge, Experience, Qualifications and/or Training
 - knowledge of departmental programmes, policies and activities;
 - sound discipline knowledge gained through experience;
 - knowledge of the role of organisations structure and service;
 - relevant degree with relevant experience;or
 - Associate Diploma with substantial experience;or
 - qualifications in more than one discipline;or
 - less formal qualification with specialised skills sufficient to perform at this level;or

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- attained through previous appointments, services and/or study an equivalent level of experience and expertise to undertake the range of activities required.

(ii) Responsibilities

To contribute to the operational objectives of the work area, a position at this level may include some of the following inputs or those of a similar value:

- responsible for a range of functions within the section and/or department requiring a high level of knowledge and skills;
- undertake responsibility for a moderately complex project;
- undertake a minor phase of a broader or more complex professional assignment;
- assist with the preparation or prepare departmental or section budgets;
- set priorities and monitor workflow in areas of responsibility;
- provide expert advice to lower classified officers;
- exercise judgement and initiative where procedures not clearly defined;
- undertake duties utilising knowledge of procedures and statutory requirements relevant to the work areas;
- operate as a specialist officer in the relevant discipline where decisions made and taken rest with the officer with no reference to a senior officer;

(iii) Where the prime responsibility lies in a "professional" field, officers at this level, would undertake at least some of the following:

- under general direction undertake tasks of a specialised and/or detailed nature;
- provide reports on progress of project activities including recommendations;
- exercise professional judgement within prescribed areas which may include supervision of the function;
- carry out planning studies for particular projects including aspects of design, formulation of policy, implementation procedures and presentation;
- exercise a high level of interpersonal skills in dealing with the public and other organisations;
- plan, develop and operate a community service programme of a moderately complex nature;

- (iv) Organisational Relationships
 - works under general direction;
 - operate as a member of a team;
 - supervision of other employees or works in a specialised field.
- (v) Extent of Authority
 - exercise a degree of autonomy;
 - control projects and/or programmes
 - set outcomes for subordinates;
 - establish priorities and monitor workflow in areas of responsibility;
 - solutions to problems can generally be found in documented techniques, precedents and guidelines or instructions. Assistance is available when required.

13.6 Community Services Worker - Level 5

(a) Characteristics of the level

- (i) A person employed as Community Services Worker Level 5 will operate under limited direction from senior employees and undertake a range of functions for which operational policies, practices and guidelines may need to be developed.
- (ii) General features at this level allow employees the scope to influence the operational activities of the organisation/section. Employees at this level will be expected to contribute to the management of the section and/or department, assist/prepare budgets, establish procedures and work practices etc. In addition, employees at this level will be required to provide expert advice to employees classified at a lower level.
- (iii) Positions at this level will require responsibility for decision making in their particular work area and the provision of expert advice. Employees will be required to provide consultation and assistance relevant to the work organisation/section. Employees will be required to set outcomes for the work area for which they are responsible so as to achieve the objectives of the organisation/section.
- (iv) Employees may exercise managerial responsibility for a work area, work independently as specialists or may be a senior member of a single discipline project team or provide specialist support to a range of programmes/activities.
- (v) Positions at this level may be identified by impact of activities undertaken or achievement of stated outcomes/objectives for the work area.

- (vi) Managing time is essential so outcomes can be achieved. A high level of interpersonal skills is required to resolve organisational issues, negotiate contracts, develop and motivate subordinate staff. Understand and implement effective human resource management practices.

(b) Requirements of the job

Some or all of the following are needed to perform work at this level.

(i) Skills, knowledge, Experience, Qualification and/or Training

- discipline/specialist skill and/or supervision/management abilities exercised within a multi disciplinary or major single function operation;
- discipline knowledge gained through experience, training or education;
- appreciation of the long term goals of the organisation;
- detailed knowledge of programme activities and work practices relevant to the work area;
- knowledge of organisation structures or functions; and
- comprehensive knowledge of organisation policies;
- comprehensive knowledge of requirements relevant to the discipline;
- the prerequisites for entry to this level are a degree with substantial experience.

(ii) Responsibilities

To contribute to the operational objectives of the work area, a position at this level may include some of the following inputs or those of a similar value:

- undertake significant projects and/or functions involving the use of analytical skills;
- provide advice on matters of complexity within the work area and/or discipline;
- undertake a range of duties within the work area, including problem definition, planning and the exercise of judgement;
- provide advice on policy matters and contribute to their development;
- negotiate on matters of significance within the section and/or department, with other bodies and/or members of the public;
- control and co-ordinate a work area within budgetary constraints;
- exercise a degree of autonomy, within budgetary constraints, in establishing the operation of the work area;
- undertake duties which involve more than one discipline;

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- provide a consultancy service for a range of activities;
- (iii) Where prime responsibility lies in a "professional" field an employee at this level would undertake at least some of the following:
- provide support to a range of activities or programmes;
 - control and co-ordinate projects;
 - contribute to the development of new procedures and methodology;
 - provide expert advice/assistance relevant to the discipline;
 - supervise/manage the operation of a work area;
 - supervise on occasions other professional staff within the discipline;
 - provide consultancy services for a range of activities.
- (iv) Organisational Relationships
- works under limited direction
 - supervision of staff
- (v) Extent of Authority
- may manage a work area in a large organisation or co-ordinate a smaller organisation;
 - exercise a degree of autonomy (advice available on complex or unusual matters);
 - manage significant projects and/or functions.

13.7 Community Services Worker - Level 6

(a) Characteristics of the level

- (i) A person employed as a Community Services Worker Level 6 will operate under limited direction and exercises managerial responsibility for various functions within the department or organisation. An employee at this level may operate as a specialist, either as a member of a specialist team or independently.
- (ii) General features at this level require employees the scope to influence the operational activities of the organisation and would require employees to be involved with establishing operational procedures which impact upon the organisation and/or the sections of the community served by it. Employees at this level will be expected to contribute to management of the organisation or a section thereof, assist or prepare budgets, establish procedures and work practices. Employees will be involved in the formation of programmes and work practices and will be required to provide assistance and/or expert advice to other employees. Employees may be required to negotiate matters on behalf of the organisation.

- (iii) Positions at this level will require responsibility for decision making in the particular work area or the provision of expert advice. Employees will be required to provide consultation or assistance relevant to the workplace. Employees will be required to set outcomes for the work areas for which they are responsible so as to achieve the objectives of the organisation. They may be expected to undertake the control and co-ordination of a programme, project and/or significant work area. Employees require a good understanding of the long term goals of the organisation.
- (iv) The management of staff is normally a feature at this level and employees are responsible for larger organisation.
- (v) Managing time is essential so outcomes can be achieved. A high level of interpersonal skills is required to resolve organisational issues, negotiate contracts, develop and motivate staff. Employees will be required to understand and implement effective staff management and personnel practices.
- (vi) Positions at this level may be identified by impact of activities undertaken or achievement of stated outcomes/objectives for the work area; the level of responsibility for decision making; the exercise of judgement; delegated authority; or the provision of expert advice.

(b) Requirements of the job

Some or all of the following are needed to perform work at this level:

- (i) Skills, Knowledge, Experience, Qualification and/or Training
 - comprehensive knowledge of organisation policies and procedures;
 - specialist skills and/or supervision/management abilities exercised within a multi disciplinary or major single function operation;
 - specialist knowledge gained through experience, training or education;
 - appreciation of the long term goals of the organisation;
 - detailed knowledge of programme activities and work practices relevant to the work area;
 - knowledge of organisation structures and functions;
 - comprehensive knowledge of requirements relevant to the discipline;
 - the prerequisites for entry to this level would be degree with substantial professional experience.

(ii) Responsibilities

A position at this level may include some of or similar responsibilities to:

- undertake significant projects and/or functions involving the use of analytical skills;
- undertake managerial or specialised functions under a wide range of conditions to achieve results in line with organisation goals;
- exercise managerial control, involving the planning, direction, control and evaluation of operations which include providing analysis and interpretation for either a major single or multi specialist operation;
- provide advice on matters of complexity within the work area and/or specialised area;
- undertake a range of duties within the work area, including develop work practices and procedures; problem definition, planning and the exercise of judgement;
- provide advice on policy matters and contribute to their development;
- negotiate on matters of significance to the organisation with other bodies and/or members of the public;
- control and co-ordinate a work area or a larger organisation within budgetary constraints;
- exercise autonomy in establishing the operation of the work area;
- provide a consultancy service for a range of activities and/or to a wide range of clients;

(iii) Where the prime responsibility lies in a specialised field an employee at this level would undertake at least some of the following:

- provide support to a range of activities or programmes;
- control and co-ordinate projects;
- contribute to the development of new procedures and methodology;
- provide expert advice/assistance relevant to the work area;
- supervise/manage the operation of a work area and monitor work outcomes;
- supervise on occasions other specialised staff;
- provide consultancy services for a range of activities.

(iv) Organisational Responsibilities

- works under limited direction from senior staff or management;
- full supervision of other staff, including establishing and monitoring work outcomes.

(v) Extent of Authority

- may manage a work area in a medium to large organisation or multi worksite organisation;
- has significant delegated authority. Selection of methods and techniques based on sound judgement. Exercise autonomy (advice available on complex or unusual matters);
- manage significant projects and/or functions;
- decisions and actions taken at this level may have significant effect on programmes, projects or worksites being managed;
- control projects and/or programmes;
- set outcomes for lower classified staff;
- solutions to problems can generally be found in documented techniques, procedures and guidelines or instructions. Assistance may be available when required.

13.8 Community Services Worker - Level 7

(a) Characteristics of the level

- (i)** A person employed as a Community Services Worker Level 7 will be subject to broad direction from management/the employer and may exercise management responsibility for an organisation. In addition, employees may operate as a senior specialist providing multi-functional advice to other professional employees, the employer, Committee, Board of Management, or clients.
- (ii)** General features of this level require the employee's involvement in the initiation and formulation of extensive projects or programmes which impact on the organisation's goals and objectives. Employees are involved in the identification of current and future options and the development of strategies to achieve desired outcomes.
- (iii)** Additional features include providing financial, specialised, technical, professional and/or administrative advice on policy matters within the organisation and/or about external organisations such as government policy.
- (iv)** In addition, employees will be required to develop and implement techniques, work practices and procedures in all facets of the work area to achieve goals of the organisation.

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- (v) Employees at this level require a high level of proficiency in the application of theoretical approaches in the search of optimal solutions to new problems and opportunities which may be outside of the original field of specialisation.
- (vi) Positions at this level will demand responsibility for decision making within the constraints or organisational policy and require the employees to provide advice and support to all facets of the organisation. Employees will have significant impact upon policies and programmes and will be required to provide initiative, and have the ability to formulate, implement, monitor and evaluate projects and programmes.
- (vii) Positions at this level may be identified by the significant independence of action within the constraints of organisational policy.

(b) Requirements of the job

Some or all of the following are needed to perform work at this level.

(i) Skills, Knowledge, Experience, Qualification and/or Training

- detailed knowledge of policy, programmes, guidelines, procedures and practices of the organisation and external bodies;
- high level of discipline and knowledge;
- detailed knowledge of statutory requirements;
- the prerequisites for entry to this level are a degree with substantial professional experience in the field of specialist expertise.

(ii) Responsibility

A position at this level may include some of the following inputs or those of a similar nature.

- undertake work of significant scope and complexity. A major portion of the work requires initiative;
- undertake duties of innovative, novel and/or critical nature with little or no professional direction;
- undertake functions across a range of administrative, specialist or operational areas which include specific programmes or activities, management of services delivery and the provision of high level advice;
- provide authoritative specialist advice on policy matters and may contribute to the development and review of policies, both internal and external;
- manage extensive programmes or projects in accordance with organisational goals.
- This may require the development, implementation and evaluation of those goals;
- administer complex policy and programme matters;

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- may offer consultancy service;
 - evaluate and develop/revise methodology techniques with the organisation. The application of high level analytical skills in the attainment and satisfying of organisational objectives;
- (iii) where the prime responsibility is in a specialised field, employees at this level would undertake at least some of the following:
- contribute to the development of operational policy;
 - assess and review the standards of work of other specialised personnel/external
 - consultants;
 - initiate and formulate organisational programmes;
 - implement organisational objectives within corporate goals;
 - develop and recommend ongoing plans and programmes.
- (iv) Organisational Relationships
- works under broad direction
 - has management responsibility
 - operates as a senior specialist
 - full supervision of other staff
- (v) Extent of Authority
- manage an organisation or part of an organisation at a higher level than CSW Level 6;
 - authority to implement and initiate change in area of responsibility within organisational goals and constraints;
 - exercise control of organisational elements;
 - accountable for the quality, effectiveness, cost, and timelines of programmes/projects under their control;
 - solutions to problems require analytical approach and elements of development and creativity within the scope of organisational/division policies;
 - methods, procedures and processes are less well defined and employees are expected to contribute to their development and adoption.

13.9 Exemptions

An employee classified as either a Level 5, 6 or 7 under clause 13.1 who is in receipt of at least 5% in excess of the rates of pay set out for the maximum step for their relevant Community Services Worker Level set out within clause x.1 – Wage Rates of this Award, as payable at that time, shall be exempt from the provisions of Part 5 – Hours of Work and related matters of this Award, and from the provisions of Clause xx – Allowances of this Award.

13.10 Incremental placement

- (a) Each employer shall classify each of their employees in accordance with Clause xx – Classifications of this Award and may have regard to Schedule A – Classification User Guide and Glossary of this Award.
- (b) Subject to appropriate transitional arrangements that may be in force for existing employees at the time of the commencement of this Award, all new employees shall be appointed to the first step of the appropriate level.

13.11 Incremental Progression

- (a) At the conclusion of each twelve month period following the commencement date of this Award or entry into a level contained within Clause 13 of this Award, full-time employees will be eligible for incremental progression within each salary level subject to the following:
 - (i) Where an employer adopts and implements the Staff Development and Appraisal Scheme drafted subject to terms of paragraph (ii) progression from the first salary step to the top step within a classification level will be by annual increment subject to the employee having given "satisfactory service" rating for the prior twelve months employment.
 - (ii) An employer may utilise a staff development and appraisal scheme for the purpose of determining "satisfactory service" for progression provided that such a scheme is subject to the following features:
 - foundation in a current and accurate job description.
 - the objectives of staff development and a more efficient and effective workforce.
 - individual training plans where through the application of the staff development and appraisal scheme the need for additional training becomes apparent.
 - appraisal will take place in sufficient time (at least six months prior) to allow improved performance to qualify for an annual increment (if necessary).
 - an avenue of dispute against decisions/assessments
 - (iii) If the employer chooses not to adopt the Staff Development and Appraisal Scheme set out in paragraph (i) and (ii) an employee will advance through the increments after 12 months of continuous service.

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- (iv) Incremental progression for part time and casual employees within the salary range at a classification level will be in accordance with the provisions of 13.11 except that in all circumstances such part time and casual employees must complete 12 months full time equivalent service (or a maximum of 24 months whichever is the sooner).
- (v) No employee will progress to the next increment in less than 12 months.

14. Minimum wages

14.1 Wage Rates

Classification	Wage Rate
Community Services Worker Level 1	
Step 1	
Step 2	
Step 3	
Step 4	
Community Services Worker Level 2	
Step 1	
Step 2	
Step 3	
Step 4	
Community Services Worker Level 3	
Step 1	
Step 2	
Step 3	
Community Services Worker Level 4	
Step 1	
Step 2	
Step 3	
Community Services Worker Level 5	
Step 1	
Step 2	
Step 3	

Community Services Worker Level 6

Step 1

Step 2

Step 3

Community Services Worker Level 7

Step 1

Step 2

Step 3

14.2 Supported wage system

See Schedule B

14.3 National training wage

See Schedule **insert relevant schedule number e.g. B**

15. Allowances

15.1 First Aid Allowance

An employee who holds a current first-aid certificated issued by the St John's Ambulance Association or Australian Red Cross Society or equivalent qualification and who is required by the employer to perform first aid duty at the workplace will be paid an allowance of either \$8.53 per week or \$1.71 per day by the employer.

15.2 Meal Allowance

An employee required to work overtime for more than two hours, without being notified on the previous day or earlier that the employee will be required to work, will either be supplied with a meal by the employer or paid an allowance of \$10.00 per meal. Such payment need not be made to employees living in the same locality as their workplace who can reasonably return home for meals.

15.3 Motor Vehicle Allowance

Where an employee is required and authorised by their employer to use their motor vehicle in the course of their duty, they shall be paid an amount of \$0.57 per kilometre travelled during such use.

15.4 On-Call Allowance

(a) An employee may be required from time to time to be on call in order to maintain out of hours services. For the avoidance of doubt, maintenance of *out of hours services* may include telephone calls, irrespective of length, during that 24 hour period.

(b) An employee required to be on call shall be paid an allowance of \$17.68 per 24 hour period or for any part of that 24 hour period.

- (c) Where employees are required to attend the workplace when on call the provisions of Clause xx.x - Call Back shall apply.

15.5 Call-Back Allowance

An employee who is recalled to work after leaving the place of employment shall be paid at the appropriate overtime rate set out in Clause x – Overtime of this Award for such time so re-called.

15.6 Sleepover Allowance

- (a) Where an employer requires an employee to sleepover on the employer's premises (or premises nominated by the employer), for a period outside that of the employee's normal rostered hours of duty, the employee shall be paid a sleepover allowance equivalent to three hours payment at the employee's ordinary rate of pay.
- (b) The sleepover allowance is compensation for the sleepover and for all necessary work up to two hours duration during the sleepover period. Any necessary work in excess of two hours during the sleepover period shall be compensated at overtime rates prescribed in clause xx.x(a) of this Award in addition to the sleepover allowance.
- (c) Where an employee is required by the employer to sleep away from home due to work requirements as set out in xx.6(a) of this Award, in addition to the allowance provided for in xx.6(a), the employer shall:
 - (i) Reimburse to the employee the costs of single, private sleeping, bathroom and meal accommodation, costs of the purchase of linen, cutlery, crockery and blankets and the costs of regular laundering and/or maintenance of such items.
 - (ii) The provision of xx.6(c)(i) shall not apply where the items described therein are provided and maintained by the employer.

15.7 Adjustment of expense related allowances

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

Allowance	Applicable Consumer Price Index figure
Meal allowance	Take away and fast foods sub-group
Clothing, equipment and tools allowance	Clothing and footwear group
Tools allowance	Tools component of the household appliances, utensils and tools sub-group
Vehicle/travel allowance	Private motoring sub-group

16. District allowances

16.1 Northern Territory

An employee in the Northern Territory is entitled to payment of a district allowance in accordance with the terms of an award made under the *Workplace Relations Act 1996* (Cth):

- (a) that would have applied to the employee immediately prior to 1 January 2010, if the employee had at that time been in their current circumstances of employment and no agreement made under that Act had applied to the employee; and
- (b) that would have entitled the employee to payment of a district allowance.

16.2 Western Australia

An employee in Western Australia is entitled to payment of a district allowance in accordance with the terms of a NAPSA or an award made under the *Workplace Relations Act 1996* (Cth):

- (a) that would have applied to the employee immediately prior to 1 January 2010, if the employee had at that time been in their current circumstances of employment and no agreement made under that Act had applied to the employee; and
- (b) that would have entitled the employee to payment of a district allowance.

16.3 This clause ceases to operate on 31 December 2014.

17. Accident pay

17.1 Subject to clause 17.2, an employee is entitled to accident pay in accordance with the terms of:

- (a) a NAPSA that would have applied to the employee immediately prior to 1 January 2010 or an award made under the *Workplace Relations Act 1996* (Cth) that would have applied to the employee immediately prior to 27 March 2006, if the employee had at that time been in their current circumstances of employment and no agreement made under the *Workplace Relations Act 1996* (Cth) had applied to the employee; and

- (b) that would have entitled the employee to accident pay in excess of the employee's entitlement to accident pay, if any, under any other instrument.

17.2 The employee's entitlement to accident pay under the NAPSA or award is limited to the amount of accident pay which exceeds the employee's entitlement to accident pay, if any, under any other instrument.

17.3 This clause does not operate to diminish an employee's entitlement to accident pay under any other instrument.

17.4 This clause ceases to operate on 31 December 2014.

18. Higher duties

- (a) An employee who is called upon by the employer to perform the duties of another employee in a higher classification under this Award for a period of five consecutive working days or more shall be paid for the period for which duties are assumed at the rate not less than the minimum rate prescribed for the classification applying to the employee so relieved.

- (b) For the avoidance of doubt, this clause shall not be read so as to prevent the employer requiring an employee to perform work in a higher classification for a period of less than 5 days whilst maintaining that employee's ordinary rate of pay.

19. Payment of wages

19.1 Wages shall be paid weekly or fortnightly or monthly in each pay week:

- (a) in cash;
- (b) by cheque, where the majority of employees agree; or
- (c) by electronic funds transfer into a bank account nominated by the employee.

20. Salary Packaging

20.1 Where agreed between the employer and a full-time or part-time employee, an employer may offer salary packaging in respect of salary. Neither the employer nor the employee may be compelled to enter into a salary packaging agreement.

20.2 Salary packaging shall mean that an employee will have part of their salary packaged into a fringe benefit which does not constitute a direct payment to the employee but is payable to a bona fide third party.

20.3 The terms and conditions of such a package shall not, when viewed objectively, be less favourable than the entitlements otherwise available under the award and shall be subject to the following provisions:

- (a) the employer shall ensure that the structure of any agreed remuneration package complies with taxation and other relevant legislation;

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- (b) where there is an agreement to salary package, the agreement shall be in writing and made available to the employee;
- (c) the employee shall have access to details of the payments and transactions made on their behalf. Where such details are maintained electronically, the employee shall be provided with a printout of the relevant information;
- (d) the employer has the right to vary or withdraw from a salary packaging agreement and/or withdraw from offering salary packaging in the event of amendments to legislation that are detrimental to, or increase the costs of, salary packaging arrangements;
- (e) in the event that the employer withdraws from a salary packaging agreement, the individual employee's salary will revert to that specified in Table 1, Rates of Pay of this Award;
- (f) notwithstanding any of the above arrangements, the employer or employee may cancel any salary packaging agreements by the giving of one month's notice of cancellation to the other party;
- (g) the calculation of entitlements concerning occupational superannuation and annual leave loading on annual leave pursuant to Clause 38.2 - Annual Leave, will be based on the value of the employee's total salary as outlined in Table 1, Rates of Pay of this Award;
- (h) unless there is agreement between the employer and the employee to the contrary, all salary packaging arrangements shall cease during any period of leave without pay, including periods of unpaid sick leave.

21. Superannuation

21.1 Superannuation legislation

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

21.2 Employer contributions

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

21.3 Voluntary employee contributions

- (a) Subject to the governing rules of the relevant superannuation fund, an employee may, in writing, authorise their employer to pay on behalf of the employee a specified amount from the post-taxation wages of the employee into the same superannuation fund as the employer makes the superannuation contributions provided for in clause 21.2.
- (b) An employee may adjust the amount the employee has authorised their employer to pay from the wages of the employee from the first of the month following the giving of three months' written notice to their employer.
- (c) The employer must pay the amount authorised under clauses 21.3(a) or (b) no later than 28 days after the end of the month in which the deduction authorised under clauses 21.3(a) or (b) was made.

21.4 Superannuation fund

Unless, to comply with superannuation legislation, the employer is required to make the superannuation contributions provided for in clause 21.2 to another superannuation fund that is chosen by the employee, the employer must make the superannuation contributions provided for in clause 21.2 and pay the amount authorised under clauses 21.3(a) or (b) to one of the following superannuation funds:

- (a) "insert name of fund(s)"; or
- (b) "insert name of fund(s)"; or
- (c) any superannuation fund to which the employer was making superannuation contributions for the benefit of its employees before 12 September 2008, provided the superannuation fund is an eligible choice fund.

Part 5—Hours of work and related matters

22. Ordinary hours of work and rostering

22.1 The hours for an ordinary week's work shall be 38 and shall be worked either:

- (a) in a week of five days in shifts not exceeding eight hours each; or
- (b) in a fortnight of 76 hours in ten shifts not exceeding eight hours each; or
- (c) in a four week period of 152 hours to be worked as nineteen shifts each of eight hours, subject to practicability; or
- (d) or by mutual agreement either:
 - (i) in a week of four days in shifts not exceeding ten hours; or
 - (ii) in a fortnight of 76 hours in eight shifts not exceeding ten hours each; or
- (e) or another mutually agreed method, provided that the length of any ordinary shift shall not exceed twelve hours.

22.2 Subject to the provisions of this clause 80 hours may be worked in any two consecutive weeks but not more than 48 ordinary hours may be worked in any of such weeks.

22.3 The particular hours of work arrangement for each employee shall be recorded in writing in the wage record or on a document to be kept with the wage record, with a notation that the arrangement has either been stipulated under clause xx.1 (a), (b) or (c) hereof or agreed to under clauses xx.1 (d) or (e) hereof. Where the hours have been set by agreement, the notation should be signed by the employee.

23. Weekend work

23.1 An employee who works ordinary hours on a Saturday shall be paid a loading of 25% in addition to their ordinary rate of pay.

23.2 An employee who works ordinary hours on a Sunday shall be paid a loading of 50% in addition to their ordinary rate of pay.

24. Breaks

24.1 An employee shall not be required to work more than 5 hours continuously without a meal break of not less than 30 minutes and not more than 60 minutes. Such meal break shall not be counted as time worked, and except where required by the employer under clause xx.3 below, the employee shall be free of all duty during such interval.

24.2 Where an employee is required by the employer to work during a meal break and continuously thereafter, the employee will be paid at the rate of time and a half in addition to any penalty rate applying for the time worked, until released from duty for a meal break. Provided that this clause shall not apply where an employer requires an employee to have their meal break in accordance with clause xx.3 below.

24.3 Where an employee is required to have their meal on the premises including to have a meal with clients, that time shall be paid as ordinary time and xx.1 does not apply.

25. Overtime and penalty rates

25.1 Only authorised overtime shall be worked.

25.2 Overtime shall be paid where an employee works in excess of the ordinary hours set out in Clause 22.

25.3 Overtime shall be paid as time and a half for the first three hours and double time thereafter;

25.4 By agreement with the employer, an employee may take the proportionate time off in lieu of payment of such overtime at an hour for hour basis.

25.5 Requirement to work reasonable overtime

Subject to paragraph 25.5 (a) below, an employer may require an employee to work reasonable overtime at overtime rates.

- (a) An employee may refuse to work overtime in circumstances where the working of such overtime would result in the employee working hours which are unreasonable having regard to:
 - (i) Any risk to employee's health and safety;
 - (ii) The employees' personal circumstances including any family responsibilities;
 - (iii) The need of the workplace or enterprise;
 - (iv) The notice (if any) given by the employer of the overtime and by the employee of his or her intention to refuse it; and
 - (v) Any other relevant matter.

26. Shift Work

26.1 Definitions

- (a) Evening Shift means any shift which finishes after 8.00pm and at or before 12.00 midnight Monday to Friday.
- (b) Night Shift means any shift which finishes after 12.00 midnight or commences before 6.00am Monday to Friday.
- (c) A Public Holiday Shift means any time worked between midnight on the night prior to the public holiday and midnight of the public holiday.

26.2 Engagement in Shift Work

Where an employer wishes to engage an employee in shift work, the employer shall advise the employee in writing, specifying the period over which the shift is ordinarily worked.

26.3 Shift Loadings

- (a) An employee who works an evening shift shall be paid a loading of 12.5% on their ordinary rate of pay for the whole of such shift.
- (b) An employee who works a night shift shall be paid a loading of 15% on their ordinary rate of pay for the whole of such shift.
- (c) An employee who works a Public Holiday shift shall be paid a loading of 150% on their ordinary rate of pay for that part of such shift.

26.4 Shifts are to be worked in one continuous block of hours that may include meal breaks and sleepover.

27. Broken Shifts

- 27.1** An employee who is required to work a broken shift will be paid an additional 10% calculated on the ordinary time rates prescribed by Clause x – Minimum Wages of this Award (provided that in the case of a broken shift being worked on a Saturday or Sunday, the 10% loading will be payable in addition to the relevant weekend penalty) for the hours actually worked in that broken shift as compensation for having worked a broken shift.

Part 6—Leave and Public Holidays

28. Annual leave

Annual leave is provided for in the NES.

****insert any other relevant award provisions**

29. Personal/carer's leave and compassionate leave

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

30. Community service leave

Community service leave is provided for in the NES.

31. Public holidays

31.1 Public holidays are provided for in the NES.

31.2 Payment for working on a public holiday

Where an employee who is not a shift a worker is required to and does work on a public holiday, the employee shall:

- (a) Choose to be paid and in such case the employee would receive their ordinary pay for the day plus payment for actual time worked at single time; or
- (b) Choose to take the equivalent time off and in such case the employee would receive their ordinary pay for the day and the equivalent time off for the actual time worked; or
- (c) Subject to mutual agreement between the employee and the employer, aggregate the equivalent time off with annual leave entitlements.

Schedule A—Classification Structure – User Guide and Glossary

A.1 Introduction - User Guide

- (a) The aim of this classification process is to ensure as far as practicable, that work features, responsibilities, qualifications and any other aspect of work value are evaluated in comparable terms irrespective of discipline.
- (b) A single salary structure for classified employees comprising seven distinctive levels is incorporated within the Award to facilitate the ready and precise classification of all occupations.
- (c) To enable positions to be correctly classified, two separate and sequential processes need to occur.

A.2 Position Analysis

- (a) This involves the gathering and documenting of information about the position and describing it in a form which can be used to compare the work features, responsibilities, qualifications and any other aspect of the job with the classification criteria.
- (b) The information recorded must be a true and accurate record of the current duties and responsibilities.
- (c) The standard job description format is the most appropriate method to be used.
- (d) The quality and extent of the information gathered is very important in this process.

A.3 Position Evaluation

- (a) After the job description is complete a systematic comparison with the classification criteria needs to be undertaken. This assessment is used to determine the appropriate classification of the position.

A.4 Steps In Classifying A Position

The steps in classifying a position using the classification criteria are:

- (a) identify the role and purpose of the position to be classified.
- (b) analyse and compare the work levels described with the job description to ascertain the most likely classification level for the position.
- (c) all aspects of the job description, i.e. requirements of the job, responsibilities, organisational relationships, extent of authority etc. must be considered against the total criteria for the level. (The total responsibilities of the position must be compared with the total responsibilities of the level rather than comparison with selected parts.)
- (d) the job description should be tested against more than one level for appropriateness.
- (e) the benchmark positions, as attachments to the criteria, may be used to assist with classification determination where some doubt exists in borderline situations.

A.5 Glossary / Description Of Work

Action:	Smallest component of work e.g. opening a filing cabinet.
Task:	Unit of work (group of actions) forming a consistent or significant part of an activity.
Activity:	Group of related tasks which may constitute a significant part of a function eg, maintain a filing system.
Function:	A collection of activities which may constitute the whole or part of a work area.
Work area:	The area in which the officer works, be it a function/section/department or whole organisation.

A.6 Definitions

Apply:	Administer, put to practical use, use as relative or suitable, employ for a particular purpose.
Assist:	To help, to give support to, to lend aid.
Basic:	Fundamental, uncomplicated.
Complex:	

(a) Complex

Denotes work wherein the predominant feature is the consideration of the impact of interactive elements as they relate to the total job rather than focussing on any segment in isolation.

(b) Moderately complex

To a lower degree than complex, less extensive.

(c) Limited complexity

Relates to work which involves the application of established principles, practices and procedures. Generally, actions and responses which can be readily identified and repeated from previous experience.

(d) Very complex

The application of a comprehensive knowledge of established practices and procedures as they affect all aspects of the range of operation, or an in depth knowledge of the operation. Generally responses require a high level of analytical skills with the work drawing together a range of aspects and the method selected from range of genuine alternatives.

- Contribute:** Help to bring about, supply.
- Control:** To exercise directing, guiding or restraining power over, to check or regulate, to keep within limits.
- Co-ordinate:** To bring into such relation that all things co-ordinated take part in a common action to integrate.
- Critical:** An indicator that a component, issue or decision is fundamental to subsequent actions, considerations and decisions; crucial.

Direction:

(a) Close direction

Officers receive detailed instruction on job requirements, methods to be adopted and unusual or difficult features. Officer's work is subject to checking at all stages.

(b) Regular direction

Officers receive instruction on job requirements, methods to be adopted on unusual or difficult features. Officers work is subject to progress checking.

(c) General direction

Officers receive instruction usually covering only the broader aspects of the work. In some situations, detailed instructions may be necessary. The work of experienced and competent officers, is subject to final checking and, only as required, progress checking.

(d) Limited direction

Officers receive limited instructions which clearly state objectives. Officers have a significant degree of competence and experience and are able to achieve the objective by conforming to instructions but with minimal guidance.

(e) Broad direction

Officers normally receive instructions in the form of broadly stated objectives. Extensive knowledge and experience enables officers to contribute to the determination of goals and objectives.

Develop:	Develop, developing.
Discipline:	An identified occupation.
Element:	Component, part of.
Elementary:	Rudiments of first principles, in the first stages, slight.
Enforcement:	Act of enforcing - giving effect to.
Establish:	To set up, to institute, to place on a firm basis.
Exercise:	To bring to bear or employ actively (as in exercising authority or influence).

Experience:

(a) Experienced

This having worked in a relevant field for sufficient time to have sufficient understanding of the basic principles of the discipline, to have ability to successfully undertake the majority of normal requirements of the work situation and to have a good appreciation of the activities involved.

(b) Considerable experience

This means having worked in a relevant field for sufficient time to ensure competence or undertake and advise on a full range of normal requirements of the work situation and to have the ability to perform a variety of activities involving special, unusual or complex features of the work.

(c) Extensive experience

This means having worked in a relevant field for sufficient time to ensure ability to control and advise on the full range of activities and to be expert in terms of a wide variety of special, unusual or complex features of the work.

Extensive:	Large, far reaching, comprehensive.
Facilitate:	To make easy or less difficult (usually by doing something to advance the accomplishment of an act).
Formulate:	To develop, to devise a statement of policy or procedures, to put in a systematised statement, as in statement of procedure.
Function:	A collection of activities which may constitute the whole or part of a work area.
Graduate:	Degree holder.
Guidance:	Course of events arranged.
Identify:	To establish the identity of, to associate with some interest.

Implement:	To carry out, to perform acts essential to the execution of a plan or programme, to give effect to.
Initiate:	To originate, to introduce in the first instance, to cause or bring to pass by original act, as in organising a plan, policy or procedure.
Innovative:	Relates to the extent to which there is a requirement to vary from or make changes to accepted processes and systems.
Instruction:	Imparted to another, directions given.
Interpret:	To clarify or explain, translate.
Judgement:	Application of an amalgam of knowledge and experience to derive appropriate decisions.
Knowledge:	An understanding of techniques, principles, procedures and practices gained through either study of the relevant theory/discipline or through experience gained over time. (a) Developing knowledge A learning process which will lead to knowledge of. (b) Working knowledge Sufficient to perform function. (c) Sound knowledge Well founded, reliable. (d) Comprehensive knowledge Embracing a wider range. (e) Detailed/thorough knowledge Complete.
Maintain:	To keep possession of, to hold or keep in any condition, to keep up to date or current, as to maintain records.
Major:	Greater, more important.
Manage:	To control, to exercise control or domination over, bring under influence, conduct/direct the working of, responsible for direction, quality, outcome, operation of.
Management:	The technique or practice of managing or controlling.
Minor:	Smaller, subordinate.
Moderate:	To keep within reasonable bounds, measured, not large, medium, not excessive.

Monitor:	Check on a regular basis.
Negotiate:	To confer with other with a view to reaching agreement.
Novel:	Extension and application of theoretical principles beyond the normally accepted environment, ie. creative research or the introduction of new technology.
Objective:	Goal, purpose, end.
Operate:	To conduct or perform a group of activities or functions.
Operation:	An action or series of actions done to produce a particular result.
Operational:	In working order and ready to use.
Operational responsibility:	Answerable for the day to day running.
Oversight:	To look after, guide the work of others, to allocate work without quality/quantity control.
Perform:	To carry out, to execute some action, to carry out to the finish, to accomplish.
Practice:	Habitual action, method.
Prepare:	To make ready for a particular purpose.
Process:	Course of action, method of operation, to subject to some special treatment, to handle in accordance with a prescribed procedure, as in processing work or requisition.
Professional:	Requires in its application levels of theoretical knowledge which have been attained only through tertiary.
Programme:	A specially arranged selection of things to be done, a plan, schedule or procedure, to arrange or work out a sequence of operations to be performed.
Project:	A proposal, scheme or design, detailed study of a particular subject.
Provide:	To supply for use, to furnish, to take precautionary measures in view of possible need.

Regulatory:	To control, to rule.
Responsible:	Liable to be called to account, answerable, accountable for actions.
Review:	To rework in order to correct or improve, to make a new, improved or up to date version of.
Routine:	Regular course of procedure, unvarying performance of certain acts, performed by rule.
Significant:	Noteworthy, of considerable amount of effect or importance.
Sound discipline /knowledge:	Extensive, reliable, substantial.
Supervision:	To direct, to inspect with authority, to guide and instruct with immediate responsibility for purpose of performance, to superintend, to lead, to allocate work and check against given standards. (a) Direct supervision To control the progress, quality, quantity of. (b) Regular supervision Systematic. (c) General supervision Ongoing, not going into detail.
Straight forward:	Relates to work which is clear cut and directly aligned with the employees experience and training.
Substantial:	To provide ample quantity, ample or considerable amount.
Support:	To uphold, to contribute to the success of, to form a secondary part, subordinate.
Technical oversight:	To look at, look after the technical aspect of an activity/function.
Underlying:	Fundamental, to form the basis or foundation.
Utilise:	To make use of.

Schedule B—Supported Wage System

B.1

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

B.2

In this schedule:

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

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

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

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

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

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

B.3

Eligibility criteria

B.3.1

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

B.3.2

This schedule does not apply to any existing employee who has a claim against the employer which is subject to the provisions of workers compensation legislation or any provision of this

award relating to the rehabilitation of employees who are injured in the course of their employment.

Aged Care Award 2010 MA000018 This award does not come into force until 1 January 2010
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B.4

Supported wage rates

B.4.1

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

Assessed capacity (clause B.5)	Relevant minimum wage
%	%
10	10
20	20
30	30
40	40
50	50
60	60
70	70
80	80
90	90

B.4.2

Provided that the minimum amount payable must be not less than \$69 per week.

B.4.3

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

B.5

Assessment of capacity

B.5.1

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

B.5.2

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

B.6

Lodgement of SWS wage assessment agreement

B.6.1

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

B.6.2

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

B.7

Review of assessment

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

B.8

Other terms and conditions of employment

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

B.9

Workplace adjustment

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

B.10

Trial period

B.10.1

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

B.10.2

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

B.10.3

The minimum amount payable to the employee during the trial period must be no less than \$69 per week.

B.10.4

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

B.10.5

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

A.1.1

Schedule B— "Insert Schedule Heading"

B.1

B.1.1

(a)

(i)