

Clerks—Private Sector Award 2015—plain language award-specific clauses

This document compares the Exposure Draft of *Clerks—Private Sector Award 2015* published on 11 October 2016 (revised ED) with the award specific clauses of the plain language exposure draft.

Plain language versions of clauses that are common to other modern awards and standard provisions (as described at paragraph 5 of the [Statement](#) of 15 July 2016) will be subject to broader consultation. The plain language drafts of these clauses are generally not reproduced in this comparison document. However, some common clauses have been included where they provide important context to award specific clauses, such as certain coverage clauses.

Comments in the first and second columns as well as changes agreed by the parties are shown in red.

The sequence of the comparison tables follows the revised ED (first column).

EXPOSURE DRAFT—Clerks—Private Sector Award 2015 (11 October 2016)	Re-drafted clause	Drafter comments
<p>Clerks—Private Sector Award 2015 Table of Contents</p> <p>Part 1— Application and Operation</p> <ol style="list-style-type: none"> 1. Title and commencement 2. The National Employment Standards and this award 3. Coverage 4. Award flexibility 5. Facilitative provisions <p>Part 2— Types of Employment and Classifications</p> <ol style="list-style-type: none"> 6. Types of employment 7. Classifications <p>Part 3— Hours of Work</p> <ol style="list-style-type: none"> 8. Ordinary hours of work (other than shiftworkers) 9. Breaks 	<p>Clerks—Private Sector Award 2017 Table of Contents</p> <p>Part 1— Application and Operation of this award</p> <ol style="list-style-type: none"> 1. Title and commencement 2. Definitions 3. The National Employment Standards and this award 4. Coverage 5. Effect of variations made by the Fair Work Commission 6. Award flexibility for individual arrangements 7. Facilitative provisions for flexible working practices <p>Part 2— Types of Employment and Classifications</p> <ol style="list-style-type: none"> 8. Types of employment 9. Full-time employment 10. Part-time employment 11. Casual employment 12. Classifications <p>Part 3— Hours of Work</p> <ol style="list-style-type: none"> 13. Ordinary hours of work (employees not engaged on shifts) 14. Rostered days off (employees not engaged on shifts) 15. Breaks (employees not engaged on shifts) 	<p>See the Statement issued 10 May 2016 regarding the structure that Group 4 exposure drafts now follow. Further, the Statement issued 15 July 2016 confirmed the intention for the revised structure to be applied to all exposure drafts.</p> <p>The Commission is mindful that Citizen co-design research with small business conducted in 2012 found a preference for awards to be, or at least appear to be shorter.¹ This issue has also been canvassed in qualitative research to support plain language re-drafting activities.</p> <p>We have identified provisions that are considered a high priority for award users. We have organised these high priority provisions into separate clauses so that they are accessible from the table of contents.</p>
<p>Part 4— Wages and Allowances</p> <ol style="list-style-type: none"> 10. Minimum wages 11. Allowances 12. Superannuation <p>Part 5— Penalties and Overtime</p> <ol style="list-style-type: none"> 13. Overtime rates and penalties (other than shiftworkers) 14. Shiftwork 	<p>Part 4— Minimum Wages and Allowances</p> <ol style="list-style-type: none"> 16. Minimum wages 17. Payment of wages 18. Annualised salaries 19. Allowances 20. Superannuation <p>Part 5— Penalty Rates and Overtime</p> <ol style="list-style-type: none"> 21. Penalty rates (employees not engaged on shifts) 22. Overtime (employees not engaged on shifts) 23. Rest period after working overtime (employees not engaged on shifts) 24. Time off instead of payment for overtime (employees not engaged on shifts) <p>Part 6—Shiftwork</p>	<p>We have created a separate part for shiftwork. Only one in 10 clerical and administrative workers perform shiftwork.² The specific shiftwork part has enabled us to separate provisions specific to shiftworkers from those affecting the majority of employees. While this adds some length to the award it means that the majority of users will not need to engage with that part. Users who are looking for provisions for shiftworkers will find all the relevant provisions in one place.</p> <p>Penalty rates and overtime have been separated out.</p> <p>Provisions replicated include: hours of work, penalty rates, overtime. An allowance was moved to the new shiftwork part.</p>

¹ Fair Work Commission; Citizen Co-Design with Small Business Owners; available from: <https://www.fwc.gov.au/documents/sites/awardsmodernfouryr/citizen-codesign-report.pdf>; p27-29.

² Estimate based on unpublished analysis of the Household, Income and Labour Dynamics in Australia dataset.

EXPOSURE DRAFT—Clerks—Private Sector Award 2015 (11 October 2016)	Re-drafted clause	Drafter comments
	25. Shiftwork definitions 26. Penalty rates for shiftwork 27. Ordinary hours of work and rostering for shiftwork 28. Breaks for shiftwork 29. Overtime for shiftwork 30. Time off instead of payment for overtime for shiftwork 31. Rest period after working overtime for shiftwork 32. Transport of employees allowance for shiftwork	
Part 6— Leave, Public Holidays and Other NES Entitlements 15. Annual leave 16. Personal/carer’s leave and compassionate leave 17. Parental leave and related entitlements 18. Public holidays 19. Community service leave 20. Termination of employment 21. Redundancy Part 7— Consultation and Dispute Resolution 22. Consultation 23. Dispute resolution	Part 7— Leave, Public Holidays 32. Annual leave 33. Personal/carer’s leave and compassionate leave 34. Parental leave and related entitlements 35. Public holidays 36. Community service leave Part 8— Consultation and Dispute Resolution 37. Consultation about major workplace change 38. Consultation about changes to rosters or hours of work 39. Dispute resolution Part 9—Termination of Employment and Redundancy 20. Termination of employment 21. Redundancy 22. Job search entitlement	
Schedule A —Classification Structure and Definitions Schedule B —Summary of Hourly Rates of Pay Schedule C —Summary of Monetary Allowances Schedule D — Supported Wage System Schedule E —National Training Wage Schedule F —2016 Part-day Public Holidays Schedule G —Agreement to Take Annual Leave in Advance Schedule H—Agreement to Cash Out Annual Leave Schedule I—Definitions	Schedule A —Classification Structure and Definitions Schedule B —Summary of Hourly Rates of Pay Schedule C —Summary of Monetary Allowances Schedule D — Supported Wage System Schedule E —National Training Wage Schedule F —2016 Part-day Public Holidays Schedule G —Agreement to Take Annual Leave in Advance Schedule H—Agreement to Cash Out Annual Leave Schedule I —Agreement for Time Off Instead of Payment for Overtime	
Part 1—Application and Operation 1. Title and commencement 1.1 This award is the <i>Clerks—Private Sector Award 2015</i> . 1.2 This modern award, as varied, commenced operation on 1 January 2010. 1.3 A variation to this award does not affect any right, privilege, obligation or liability that a person acquired, accrued or incurred under the award as it existed prior to that variation. 1.4 Schedule I—Definitions sets out definitions that apply in this award. 1.5 Neither the making of this award nor the operation of any transitional	Part 1—Application and Operation of this award 1. Title and commencement 1.1 This is the <i>Clerks—Private Sector Award [2017]</i> . 1.2 This modern award, as varied, commenced operation on 1 January 2010. 1.3 Neither the making of this award nor the operation of any transitional arrangements is intended to result in a reduction in the take-home pay of employees covered by this award. 1.4 On application by or on behalf of an employee who suffers a reduction in take-home pay as a result of the making of this award or the operation of any transitional arrangements, the Fair Work Commission may make any order it	Clause 1 covers multiple topics. Consistent with the pilot, it has been split into separate clauses dealing with title and commencement (clause 1) and definitions (clause 2). Clause 1.3 of the EXPOSURE DRAFT— <i>Clerks—Private Sector Award 2015</i> (11 October 2016) (revised ED) has been moved to the newly created clause 5 of the plain language re-draft. It has not been reproduced in this document as it is <i>common</i> to other modern awards and will be subject to broader consultation in 2017. Clause 1.4 of the revised ED has been removed. Definitions appear at clause 2 of the plain language re-draft.

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<p>arrangements is intended to result in a reduction in the take-home pay of employees covered by the award. On application by or on behalf of an employee who suffers a reduction in take-home pay as a result of the making of this award or the operation of any transitional arrangements, the Fair Work Commission may make any order it considers appropriate to remedy the situation.</p> <p><i>References to transitional arrangements removed - obsolete</i></p>	<p>considers appropriate to remedy the situation</p>	
	<p>Clause 2 — Definitions - see Schedule I of the Exposure Draft</p>	
<p>2. The National Employment Standards and this award</p> <p>2.1 The National Employment Standards (NES) and this award contain the minimum conditions of employment for employees covered by this award.</p> <p>2.2 Where this award refers to a condition of employment provided for in the NES, the NES definition applies.</p> <p>2.3 The employer must ensure that copies of the award and the NES are available to all employees to whom they apply, either on a notice board which is conveniently located at or near the workplace or through accessible electronic means.</p>	<p>3. The National Employment Standards and this award</p> <p>3.1 The National Employment Standards (NES) and this award contain the minimum conditions of employment for employees covered by this award.</p> <p>3.2 Where this award refers to a condition of employment provided for in the NES, the NES definition applies.</p> <p>3.3 The employer must ensure that copies of this award and of the NES are available to all employees to whom they apply, either on a notice board conveniently located at or near the workplace or through accessible electronic means.</p>	
<p>3. Coverage</p> <p>3.1 This occupational award covers employers in the private sector throughout Australia with respect to their employees engaged wholly or principally in clerical work, including administrative duties of a clerical nature, and to those employees.</p> <p>3.2 Clerical work includes recording, typing, calculating, invoicing, billing, charging, checking, receiving and answering calls, cash handling, operating a telephone switchboard and attending a reception desk.</p>	<p>4. Coverage</p> <p>4.1 This occupational award covers:</p> <p>(a) private sector employers throughout Australia who engage employees wholly or principally in clerical and administrative work described in Schedule A—Classification Structure and Definitions; and</p> <p>(b) private sector employees of employers mentioned in paragraph (a) who are wholly or principally performing clerical and administrative work described in Schedule A—Classification Structure and Definitions.</p>	<p>The Fair Work Ombudsman (FWO) submits that ‘clerical work’ and the term ‘clerk’ are not commonly used to describe employees carrying out functions covered by the Clerks Award. Qualitative research examined the utility of the ‘clerical work’ definition and revealed the term ‘administrative work’ to be more relevant and contemporary. The plain language re-draft has therefore included the term ‘administrative’ in the coverage clause as well as the word ‘clerical’.</p> <p>The definition of ‘clerical work’ in the revised ED focuses on tasks and duties performed by lower classification levels and does not reflect the range of duties contemplated in Schedule A—Classification Structure and Definitions. A definition appearing in the coverage clause should be as broad as possible to reflect the full range of duties and functions across the classification structure.</p>
<p>3.3 This award does not cover:</p> <p>(a) an employer bound by a modern award that contains clerical classifications; or</p> <p>(b) employers covered by the following industry awards with respect to employees covered by the awards:</p> <ul style="list-style-type: none"> • <i>Aged Care Award 2015</i>; • <i>Airline Operations—Ground Staff Award 2015</i>; • <i>Airport Employees Award 2015</i>; • <i>Alpine Resorts Award 2015</i>; • <i>Animal Care and Veterinary Services Award 2015</i>; • <i>Banking, Finance and Insurance Award 2015</i>; 	<p>4.2 However, this occupational award does not cover employers and employees covered by a modern award that contains clerical and administrative classifications, including any of the following modern awards:</p> <p>(a) <i>Aged Care Award 2016</i>; or</p> <p>(b) <i>Airline Operations—Ground Staff Award 2016</i>; or</p> <p>(c) <i>Airport Employees Award 2016</i>; or</p> <p>(d) <i>Alpine Resorts Award 2016</i>; or</p> <p>(e) <i>Animal Care and Veterinary Services Award 2016</i>; or</p> <p>(f) <i>Banking, Finance and Insurance Award 2016</i>; or</p> <p>(g) <i>Black Coal Mining Industry Award 2016</i>; or</p> <p>(h) <i>Business Equipment Award 2016</i>; or</p>	

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<ul style="list-style-type: none"> • <i>Black Coal Mining Industry Award 2015;</i> • <i>Business Equipment Award 2015;</i> • <i>Contract Call Centres Award 2015;</i> • <i>Educational Services (Post-Secondary Education) Award 2015;</i> • <i>Educational Services (Schools) General Staff Award 2015;</i> • <i>Fitness Industry Award 2015;</i> • <i>General Retail Industry Award 2015;</i> • <i>Health Professionals and Support Services Award 2015;</i> • <i>Higher Education Industry—General Staff—Award 2015;</i> • <i>Hospitality Industry (General) Award 2015;</i> • <i>Legal Services Award 2015;</i> • <i>Market and Social Research Award 2015;</i> • <i>Rail Industry Award 2015;</i> • <i>Restaurant Industry Award 2015;</i> • <i>Sporting Organisations Award 2015;</i> or • <i>Telecommunications Services Award 2015.</i> 	<ul style="list-style-type: none"> (i) <i>Children Services Award 2016;</i> or (j) <i>Contract Call Centres Award 2016;</i> or (k) <i>Educational Services (Post-Secondary Education) Award 2016;</i> or (l) <i>Educational Services (Schools) General Staff Award 2016;</i> or (m) <i>Fitness Industry Award 2016;</i> or (n) <i>General Retail Industry Award 2016;</i> or (o) <i>Health Professionals and Support Services Award 2016;</i> or (p) <i>Higher Education Industry—General Staff—Award 2016;</i> or (q) <i>Hospitality Industry (General) Award 2016;</i> or (r) <i>Legal Services Award 2016;</i> or (s) <i>Market and Social Research Award 2016;</i> or (t) <i>Rail Industry Award 2016;</i> or (u) <i>Restaurant Industry Award 2016;</i> or (v) <i>Sporting Organisations Award 2016;</i> or (w) <i>Telecommunications Services Award 2016.</i> 	
<p>3.4 This award does not cover:</p> <ul style="list-style-type: none"> (a) employees excluded from award coverage by the <i>Fair Work Act 2009</i> (Cth) (the Act); (b) employees who are covered by a modern enterprise award or an enterprise instrument (within the meaning of the <i>Fair Work (Transitional Provisions and Consequential Amendments) Act 2009</i> (Cth)), or employers in relation to those employees; or (c) employees who are covered by a State reference public sector modern award or a State reference public sector transitional award (within the meaning of the <i>Fair Work (Transitional Provisions and Consequential Amendments) Act 2009</i> (Cth)), or employers in relation to those employees. 	<p>4.4 However, this occupational award does not cover any of the following:</p> <ul style="list-style-type: none"> (a) employees excluded from award coverage by the Act; or <p>NOTE: See section 143(7) of the Act.</p> <ul style="list-style-type: none"> (b) employees covered by a modern enterprise award or an enterprise instrument; or (c) employees covered by a State reference public sector modern award or a State reference public sector transitional award; or (d) employers of employees mentioned in paragraph (a), (b) or (c). 	
<p>3.5 This award covers any employer which supplies on-hire employees in classifications set out in Schedule A—Classification Structure and Definitions and those on-hire employees, if the employer is not covered by another modern award containing a classification which is more appropriate to the work performed by the employee. This subclause operates subject to the exclusions from coverage in this award.</p> <p>3.6 This award covers employers which provide group training services for trainees engaged in any of the occupations set out at Schedule A—Classification Structure and Definitions and those trainees engaged by a group training service hosted by a company to perform work at a location where the activities described herein are being performed. This subclause</p>	<p>4.5 If an employer is covered by more than one award, an employee of the employer who is engaged wholly or principally in clerical and administrative work is covered by the award containing the classification that is most appropriate to the work performed by the employee and the industry in which they work.</p> <p>4.3 This occupational award also covers:</p> <ul style="list-style-type: none"> (a) on-hire employees working in a classification defined in Schedule A—Classification Structure and Definitions and the on-hire employers of those employees; and 	<p><i>These clauses are common to other modern award exposure drafts. They will be dealt with via a separate process.</i></p>

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<p>operates subject to the exclusions from coverage in this award.</p> <p>3.7 Where an employer is covered by more than one award, an employee of that employer is covered by the award classification which is most appropriate to the work performed by the employee and to the environment in which the employee normally performs the work.</p>	<p>(b) trainees employed by a group training employer and hosted by an employer covered by this award working in a classification defined in <u>Schedule A—Classification Structure and Definitions</u> and the group training employers of those trainees.</p>																																																																			
	<p>5. Effect of variations made by the Fair Work Commission A variation of this award made by the Fair Work Commission does not affect any right, privilege, obligation or liability acquired, accrued or incurred under this award.</p>																																																																			
<p>4. Award flexibility <i>Standard clause not reproduced.</i></p>	<p>6. Award flexibility for individual arrangements <i>Standard clause not reproduced.</i></p>	<p><i>This clause is standard to other modern award exposure drafts. It will be dealt with via a separate process.</i></p>																																																																		
<p>5. Facilitative provisions</p> <p>5.1 A facilitative provision provides that the standard approach in an award provision may be departed from by agreement between an employer and an individual employee, or an employer and the majority of employees in the enterprise or part of the enterprise concerned.</p> <p>5.2 Facilitative provisions in this award are contained in the following clauses:</p> <table border="1" data-bbox="192 892 1023 1690"> <thead> <tr> <th>Clause</th> <th>Provision</th> <th>Agreement between an employer and:</th> </tr> </thead> <tbody> <tr> <td>8.2(b)</td> <td>Altering span of hours</td> <td>An individual or majority of employees</td> </tr> <tr> <td>8.4</td> <td>Substitute days</td> <td>An individual</td> </tr> <tr> <td>8.6</td> <td>Make-up time</td> <td>An individual</td> </tr> <tr> <td>13.5(c)</td> <td>Time off instead of overtime</td> <td>An individual</td> </tr> <tr> <td>14.2</td> <td>Shiftwork—Altering span of hours</td> <td>An individual or majority of employees</td> </tr> <tr> <td>14.3(b)</td> <td>Shiftwork—ordinary hours of work</td> <td>The majority of employees</td> </tr> <tr> <td>15.4</td> <td>Annual leave in advance</td> <td>An individual</td> </tr> <tr> <td>18.2</td> <td>Substitution of public holidays</td> <td>The majority of employees An individual or majority of employees</td> </tr> </tbody> </table>	Clause	Provision	Agreement between an employer and:	8.2(b)	Altering span of hours	An individual or majority of employees	8.4	Substitute days	An individual	8.6	Make-up time	An individual	13.5(c)	Time off instead of overtime	An individual	14.2	Shiftwork—Altering span of hours	An individual or majority of employees	14.3(b)	Shiftwork—ordinary hours of work	The majority of employees	15.4	Annual leave in advance	An individual	18.2	Substitution of public holidays	The majority of employees An individual or majority of employees	<p>7. Facilitative provisions for flexible working practices</p> <p>7.1 This award contains facilitative provisions which allow agreement between an employer and an individual employee, or the majority of employees, on how specific award provisions are to apply at the workplace.</p> <p>7.2 The following clauses have facilitative provisions:</p> <p>Table 1—Facilitative provisions</p> <table border="1" data-bbox="1157 913 2033 1963"> <thead> <tr> <th>Clause</th> <th>Provision</th> <th>Agreement between an employer and:</th> </tr> </thead> <tbody> <tr> <td>13.6</td> <td>Altering spread of hours</td> <td>An individual or majority of employees</td> </tr> <tr> <td>13.10</td> <td>Make-up time</td> <td>An individual</td> </tr> <tr> <td>14.5(a)</td> <td>Substitution of rostered days off</td> <td>An individual</td> </tr> <tr> <td>14.6(a)</td> <td>Banking rostered days off</td> <td>An individual</td> </tr> <tr> <td>17.2(b)</td> <td>Monthly pay periods</td> <td>A majority of employees</td> </tr> <tr> <td>24.1</td> <td>Time off instead of payment for overtime</td> <td>An individual</td> </tr> <tr> <td>27.1</td> <td>Shiftwork—averaging ordinary hours</td> <td>An individual or majority of employees</td> </tr> <tr> <td>27.4</td> <td>Shiftwork—beginning and end of shifts</td> <td>An individual</td> </tr> <tr> <td>27.5</td> <td>Shiftwork—make-up time</td> <td>An individual</td> </tr> <tr> <td>30</td> <td>Shiftwork—time off instead of payment for overtime</td> <td>An individual</td> </tr> <tr> <td>33.4(a)</td> <td>Annual leave in advance</td> <td>An individual</td> </tr> <tr> <td>36.3</td> <td>Substitution of public holidays</td> <td>An individual or majority of employees</td> </tr> </tbody> </table>	Clause	Provision	Agreement between an employer and:	13.6	Altering spread of hours	An individual or majority of employees	13.10	Make-up time	An individual	14.5(a)	Substitution of rostered days off	An individual	14.6(a)	Banking rostered days off	An individual	17.2(b)	Monthly pay periods	A majority of employees	24.1	Time off instead of payment for overtime	An individual	27.1	Shiftwork—averaging ordinary hours	An individual or majority of employees	27.4	Shiftwork—beginning and end of shifts	An individual	27.5	Shiftwork—make-up time	An individual	30	Shiftwork—time off instead of payment for overtime	An individual	33.4(a)	Annual leave in advance	An individual	36.3	Substitution of public holidays	An individual or majority of employees	
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<p>Part 2—Types of Employment and Classifications</p> <p>6. Types of employment</p>	<p>Part 2—Types of Employment and Classifications</p> <p>8. Types of employment</p> <p>An employee covered by this award must be one of the following:</p> <p>8.1 a full-time employee; or</p> <p>8.2 a part-time employee; or</p> <p>8.3 a casual employee.</p>	<p>We have included clause 8 to introduce the topics covered by the part consistent with plain language draft guideline 8.2.</p>
<p>6.1 Full-time employment</p> <p>A full-time employee is an employee who is engaged to work the number of hours regarded as the full-time hours at the particular workplace. The full-time hours must be 38 or less per week.</p>	<p>9. Full-time employment</p> <p>Each of the following is a full-time employee:</p> <p>9.1 an employee who is engaged to work 38 ordinary hours per week; or</p> <p>9.2 an employee who is engaged to work the number of ordinary hours (fewer than 38) per week that is considered full-time at the workplace by the employer.</p> <p>NOTE: The number of ordinary hours worked per week by a full-time employee may be averaged over a period of up to 4 weeks or over an agreed roster period. See clause <u>13.4</u> (Ordinary hours of work)</p>	<p>The underlying objective of this subclause is to say that if you are engaged to work 38 ordinary hours per week you are a full-time employee. The revised ED reverses what needs to be said.</p> <p>New clause 9.2 separates out the concept of a number of hours fewer than 38 being considered full-time by the employer.</p>
<p>6.2 Part-time employment</p> <p>Part-time employment provisions may be affected by AM2014/196</p> <p>(a) A part-time employee:</p> <p>(i) is engaged to work less than the full-time hours at the workplace on a reasonably predictable basis;</p> <p>(ii) has reasonably predictable hours of work; and</p> <p>(iii) receives, on a pro rata basis, pay and conditions equivalent to those of full-time employees who do the same kind of work.</p> <p>(b) At the time of engagement the employer and the part-time employee will agree in writing on a regular pattern of work, specifying at least:</p> <p>(i) the number of hours worked each day,</p> <p>(ii) which days of the week the employee will work; and</p> <p>(iii) the actual starting and finishing times each day.</p>	<p>10. Part-time employment</p> <p>10.1 An employee who is engaged to work for fewer ordinary hours than 38 per week (or the number mentioned in clause 9.2) and whose hours of work are reasonably predictable is a part-time employee.</p> <p>10.2 This award applies to a part-time employee in the same way that it applies to a full-time employee except as otherwise expressly provided by this award.</p> <p>10.3 A part-time employee is entitled to payments in respect of annual leave, personal/carer's leave, compassionate leave or public holidays on a proportionate basis.</p> <p>10.4 At the time of engaging a part-time employee, the employer must agree in writing with the employee to all of the following:</p> <p>(a) the number of hours to be worked each day; and</p> <p>(b) the days of the week on which the employee will work; and</p> <p>(c) the times at which the employee will start and finish work each day.</p>	<p>Clause 10 separates out the definition of a part-time employee from their terms and conditions of employment.</p>

EXPOSURE DRAFT—Clerks—Private Sector Award 2015 (11 October 2016)	Re-drafted clause	Drafter comments
<p>(c) Changes in hours may only be made by agreement in writing between the employer and employee. Changes in days can be made by the employer giving one week’s notice in advance of the changed hours.</p> <p>(d) An employer is required to roster a part-time employee for a minimum of three consecutive hours on any shift.</p> <p>(e) All time worked in excess of the hours as agreed under clause 6.2(b) or varied under clause 6.2(c) will be overtime and paid for at the rates prescribed in clause 13—Overtime rates and penalties (other than shiftworkers).</p> <p>(f) A part-time employee employed under the provisions of this clause must be paid for ordinary hours worked at the minimum hourly rate prescribed for the class of work performed.</p>	<p>Clauses 10.5 and 10.6 have been re-drafted with reference to a submission made by the ASU during the 2008 award modernisation process (see para’s 98–100). Parties are asked to confirm whether the re-drafted clauses accurately reflect the intention of current modern award clause 11.4.</p> <p>10.5 Changes to the number of hours to be worked under clause <u>10.4(a)</u> must be agreed in writing between the employer and employee.</p> <p>10.6 The days worked under clause <u>10.4(b)</u> may be changed by the employer by giving the employee 7 days’ notice of the change.</p> <p>10.7 An employer must roster a part-time employee on any shift for a minimum of 3 consecutive hours.</p> <p>10.8 All time worked in excess of the number of ordinary hours agreed under clause <u>10.4</u> or varied under clause <u>10.5</u> is overtime and must be paid at the overtime rate in accordance with clause <u>22—Overtime</u>.</p>	<p>In clause 6.2(c) of the revised ED it’s unclear what ‘changes in hours’ means. The clause may have been based on clause 13.5 of the <i>Clerical and Administrative Employees (Victoria) Award 1999 (AP773032CRV)</i>. During the 2008 award modernisation process the ASU expressed concern that the clause that appeared in the exposure draft allowed for unilateral variation of work hours.³ The ASU suggested either using a clause they had drafted or a clause from the General Retail exposure draft. The General Retail exposure draft allowed for change to an employee’s roster but not the number of hours.⁴ Based on this information we have re-drafted the clause so that changes to how many hours an employee works must be in writing. Changes to when an employee works may be made by the employer as long as they give the employee a week’s notice.</p> <p>Paragraph (f) of the revised ED relates to wages and should only be dealt with in the clause titled “Wages”. It is not good practice to say the same thing twice.</p>
<p>6.3 Casual employment</p> <p>Casual employment provisions may be affected by AM2014/197</p> <p>(a) A casual employee is an employee who is engaged and paid as a casual employee.</p> <p>(b) Casual loading</p> <p>(i) For each ordinary hour worked, a casual employee must be paid:</p> <ul style="list-style-type: none"> • the minimum hourly rate; and • a loading of 25% of the minimum hourly rate, <p>for the class of work performed.</p> <p>(ii) This loading is instead of entitlements to leave and other matters from which casuals are excluded by the terms of this award and the NES.</p> <p>(c) Casual employees must be paid at the termination of each engagement, or weekly or fortnightly in accordance with usual payment methods for full-time employees.</p> <p>(d) Casual employees are entitled to a minimum payment of three hours’ work at the appropriate rate for each engagement.</p> <p>Parties are asked whether clause 6.3(d) should specify the minimum payment applies ‘for each engagement’.</p>	<p>11. Casual employment</p> <p>11.1 An employee who is not covered by clause <u>9—Full-time employment</u> or clause <u>10—Part-time employment</u> must be engaged and paid as a casual employee.</p> <p>11.2 An employer must pay a casual employee for each ordinary hour worked a loading of 25% on top of the minimum hourly rate otherwise applicable under clause <u>16—Minimum wages</u>.</p> <p>NOTE: The casual loading is payable instead of other entitlements (such as entitlement to paid leave) from which casuals are excluded by the terms of this award and the NES. See Part 2-2 of the Act.</p> <p>11.3 An employer may determine the pay period of a casual employee as being weekly, fortnightly or at the end of each engagement.</p> <p>11.4 An employer must pay a casual employee for a minimum of 3 hours’ work on each engagement even if they are rostered to work for fewer than 3 consecutive hours.</p>	
<p>7. Classifications</p> <p>7.1 All employees covered by this award must be classified according to the structure set out in Schedule A—Classification Structure and Definitions and paid the minimum wage in clause 10—Minimum wages. Employers</p>	<p>12. Classifications</p> <p>12.1 An employer must classify an employee covered by this award in accordance with <u>Schedule A—Classification Structure and Definitions</u>.</p>	<p>The structure of clause 7 can be improved by dealing with the following concepts in separate subclauses with the requirement for written notification coming last:</p> <p>(1) the employer classifies employees in accordance with Schedule A</p>

³ Australian Services Union submission to the AIRC’s Exposure Draft of the Clerks Private Industry Award, pp. 21-22 at paras 98-100.

⁴ http://www.airc.gov.au/awardmod/databases/retail/Exposure/Retail_exposure_draft.pdf cl 12.8.

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<p>must advise their employees in writing of their classification and of any changes to their classification.</p> <p>7.2 The classification by the employer must be according to the skill level or levels required to be exercised by the employee in order to carry out the principal functions of the employment as determined by the employer.</p> <p>7.3 Year in respect to the minimum wages in clause 10 shall mean any service within the classification level of clerical work, including administrative duties of a clerical nature. The onus is on the employee to provide reasonable evidence to verify their service within the industry.</p>	<p>NOTE: The minimum wages applicable to the classifications in this award are in clause <u>16—Minimum wages</u>.</p> <p>12.2 The classification by the employer must be based on the competencies that the employee is required to have, and the skills that the employee is required to exercise, in order to carry out the principal functions of the employment.</p> <p>12.3 Employers must notify employees in writing of their classification and of any change to it. <i>This clause has been moved to clause 16 and is reproduced here for comparative purposes</i></p> <p>16.2 In calculating years for the purposes of Table 3, any service in the classification level, as described in <u>Schedule A</u>, including administrative and clerical experience with a previous employer, counts towards a year of service.</p>	<p>(2) the factors that the classification must be based on (3) the requirement to notify the employee in writing about their classification.</p> <p>Clause 7.3 of the revised ED relates to when an employee moves from one pay rate to another and has been moved to clause 16.2.</p>
<p>Part 3—Hours of Work</p> <p>8. Ordinary hours of work (other than shiftworkers)</p> <p>8.1 Weekly hours of work—day workers</p> <p>(a) The ordinary hours of work for day workers are:</p> <p>(i) an average of 38 per week but not exceeding 152 hours in 28 days; or</p> <p>(ii) an average of 38 per week over the period of an agreed roster cycle.</p> <p>(b) The ordinary hours of work may be worked from:</p> <p>(i) 7.00 am to 7.00 pm Monday to Friday; and</p> <p>(ii) 7.00 am to 12.30 pm Saturday.</p>	<p>Part 3—Hours of Work</p> <p>13. Ordinary hours of work (employees not engaged on shifts)</p> <p>13.1 Clause <u>13</u> applies to employees who are not engaged on shifts, as defined in clause <u>25</u>.</p> <p>NOTE: Ordinary hours of work for employees engaged on shifts are set out in <u>Part 6—Shiftwork</u>.</p> <p>13.2 The maximum number of ordinary hours of work per week for a full-time employee is 38 or the fewer number considered full-time at the workplace by the employer.</p> <p>13.3 The maximum number of ordinary hours of work per week for a part-time employee is as agreed under clause <u>10</u>.</p> <p>13.4 The maximum number of ordinary hours that can be worked in a week by an employee is an average of:</p> <p>(a) 38 hours per week over a period of up to 4 weeks; or</p> <p>(b) 38 hours per week over a roster period agreed between the employer and the employee.</p> <p>13.5 Ordinary hours may be worked between:</p> <p>(a) 7.00 am and 7.00 pm Monday to Friday; and</p> <p>(b) 7.00 am and 12.30 pm on Saturday.</p>	<p>Clause 8.1 of the revised ED introduces the concept of ‘day workers’ without defining the term. Presumably a day worker is an employee who is not a shiftworker, however, there is no general definition of shiftworker. An application clause has been added to the clauses in this part to make it clear that the provisions do not apply to employees engaged on shifts. Clarifying the operation of award provisions was a difficult task and a judgement call has been made in each case. The parties assistance would be beneficial.</p> <p>The structure of clause 8 of the revised ED has been changed:</p> <p>(1) application clause (2) the maximum ordinary hours for full-time and part-time employees (3) when ordinary hours may be worked (4) alteration of spread of ordinary hours (5) setting ordinary hours by a different award (6) other relevant information</p>
<p>(c) Where an employee works in association with other classes of employees who work ordinary hours outside the span spread prescribed by clause 8.1(b), the ordinary hours that during which ordinary hours may be worked are as prescribed by the modern award that applies to the majority of the employees in the workplace.</p>	<p>13.7 Setting ordinary hours by a different award</p> <p>(a) Clause <u>13.7</u> applies if each of the following applies:</p> <p>(i) one or more employees covered by this award work closely with other employees covered by a different modern award; and</p> <p>(ii) the majority of employees at the workplace are covered by a modern award that sets a spread of hours other than that set out in clause <u>13.5</u>.</p> <p>(b) The employer may direct employees to work the spread of ordinary hours in the modern award that covers the majority of employees at the workplace.</p>	<p>Clause 8.1(c) of the exposure draft is a majority clause. This clause was tested with users who found the concept complex and confusing.</p> <p>The example has been added because small business award users felt it would be beneficial to provide context as to how the clause operates.</p> <p>The clause has been re-drafted to reflect an award modernisation submission by Ai Group in 2008 which suggests that the majority clause is at the employer’s option.</p>

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	<p>EXAMPLE: Employees covered by this award work with employees who are covered by an award that sets ordinary hours of work between 5.30 am and 6.30 pm Monday to Friday. The award that sets ordinary hours of work between 5.30 am and 6.30 pm Monday to Friday covers the majority of employees at the workplace. The employer may direct that employees covered by this award work ordinary hours between 5.30 am and 6.30 pm Monday to Friday (rather than the spread set out in clause <u>13.5</u>).</p> <p>Clause 13.7 has been re-drafted with reference to a submission made in transcript by the AiGroup during the 2008 award modernisation process (see transcript PN2263–PN2268, 30 October 2008). Parties are asked to confirm whether the re-drafted clause accurately reflects the intention of current modern award clause 25.1(b).</p>	
<p>(d) No more than 10 hours are to be worked in any one day (exclusive of meal breaks) except if paid for at overtime rates.</p>	<p>13.8 Ordinary hours of work are continuous, except for rest breaks and meal breaks as specified in clause <u>15—Breaks (employees not engaged on shifts)</u>.</p> <p>13.9 The maximum number of ordinary hours that can be worked on any day is 10, excluding unpaid meal breaks.</p>	<p>Clause 8.1 of the revised ED generally refers to ordinary hours but refers to just “hours” at clause 8.1(d). The clause heading is “Ordinary hours” so it is assumed that this is what each paragraph refers to. We have adopted a consistent approach and used ‘ordinary hours’ throughout this clause.</p>
<p>8.2 Altering span spread of hours</p> <p>(a) The ordinary hours of work are to be worked continuously, except for meal breaks, at the discretion of the employer.</p> <p>(b) The span spread of hours may by be altered by up to one hour at either end, by agreement between an employer and the majority of employees concerned or in appropriate circumstances, between the employer and an individual employee.</p> <p>Parties are asked to confirm whether the span of hours can be increased by one hour at both ends.</p>	<p>13.6 The spread of ordinary hours in clause <u>13.5</u> may be altered by up to one hour at either end of a day:</p> <p>(a) by agreement between the employer and the majority of employees at the workplace covered by this award; or</p> <p>(b) by individual agreement between the employer and the employee.</p> <p>Parties are asked to confirm whether the spread of hours can be increased by one hour at both ends.</p>	
<p>8.3 Notice of rostered days off</p> <p>Where an employee is entitled to a rostered day off during their work cycle, the employer must give the employee four weeks’ notice in advance of the weekday the employee is to take off.</p>	<p>14. Rostered days off (employees not engaged on shifts)</p> <p>Due to lack of clarity in relation to application and operation of the clause, parties are asked to confirm whether the re-drafted clause 14 accurately reflects the intention of current modern award clauses 25.3 and 25.4.</p> <p>14.1 The following rostering arrangements apply to employees who are not engaged on shifts, as defined in clause <u>25</u>.</p> <p>NOTE: Rostered arrangements for employees engaged to work on shifts are set out in <u>Part 6—Shiftwork</u>.</p> <p>14.2 An employer may roster employees according to a rostered day off system in such a way that employees:</p> <p>(a) work longer hours each day during the weekly hours of duty; and</p> <p>(b) take a day off at some later time in the cycle.</p> <p>14.3 An employee who works on a rostered day off basis over a 20 day roster cycle is entitled to 12 rostered days off over each 12 month period.</p> <p>14.4 The employer must give the employee 4 weeks’ notice of the day the employee is to take as a rostered day off.</p>	<p>Clauses 8.3, 8.4 and 8.5 of the revised ED deal with rostering arrangements and imply a rostered day off system without introducing or clearly setting out the parameters. Clause 8.4(c) implies the scope of the RDO system in this award.</p> <p>A new heading has been introduced to clearly signpost the concept of RDOs. New clause 14.2 introduces the general concept of a rostered day off. New clause 14.3 defines the scope of the RDO system consistent with the system implied in current award clause 8.4(c).</p> <p>The clause has been restructured to set out the general rules and then sets out the substitution and alternative banking system under separate subheadings.</p>

EXPOSURE DRAFT—Clerks—Private Sector Award 2015 (11 October 2016)	Re-drafted clause	Drafter comments
<p>8.4 Substitute days</p> <p>(a) An employer may substitute the day an employee is to take off for another day in case of a break down in machinery or a failure or shortage of electrical power or to meet the requirements of the business in the event of rush orders or some other emergency situation.</p> <p>(b) An individual employee, with the agreement of the employer, may substitute the day the employee is to take off for another day.</p> <p>(c) Employees who work on a rostered day off basis each 20 day cycle are entitled to 12 rostered days off in a 12 month period.</p>	<p>14.5 Substitution of rostered days off</p> <p>(a) With the agreement of the employer, an employee may substitute their scheduled rostered day off for another day.</p> <p>(b) The employer may substitute another day for a rostered day off in any of the following circumstances:</p> <p>(i) a machinery breakdown; or</p> <p>(ii) an electrical power shortage or breakdown; or</p> <p>(iii) an unexpected spike in the work required to be performed by the business; or</p> <p>(iv) another emergency situation.</p>	
<p>8.5 Banking System</p> <p>(a) Where the working of the 38 hour week is agreed to in accordance with clause 8 8.4, an employee and the employer may agree to a banking system of up to a maximum of five rostered days off.</p> <p>(i) An employee would therefore work on what would normally have been the employee's rostered day off and accrue an entitlement to bank a rostered day off to be taken at a mutually convenient time for both the employee and the employer.</p> <p>(ii) Not less than five days' notice is to be given before taking the banked rostered day(s) off.</p> <p>(b) No payments or penalty payments are to be made to employees working under this substitute banked rostered day off. However the employer will maintain a record of the number of rostered days banked and will apply the average pay system during the weeks when an employee elects to take a banked rostered day off.</p> <p>(c) Employees terminating employment prior to taking any banked rostered day(s) off must receive one fifth of average weekly pay over the previous six months multiplied by the number of banked substitute days.</p>	<p>14.6 Banking rostered days off</p> <p>(a) The employer and an employee may agree to an arrangement under which the employee works on their normal rostered days off and accumulates up to 5 banked rostered days off that may be taken at times that are convenient to both the employer and employee.</p> <p>(b) The employer must keep a record of the employee's banked rostered days off.</p> <p>(c) The employee must give at least 5 days' notice before taking a banked rostered day off.</p> <p>(d) On the termination of an employee's employment, the employer must pay an employee for any banked rostered day off that has not been taken an amount equal to 20% of the employee's average weekly wages over the period of 6 months immediately before the termination.</p>	<p>Clause 8.5 of the revised ED refers to a banking system, banking rostered days off, substituted banked rostered day off and banked substituted days. We have used the term 'banking rostered days off' consistent with the clause heading.</p> <p>Clause 8.5(b) of the revised ED relates to payment of wages and should only be dealt with in the payment of wages clause.</p>
<p>8.6 Make-up time</p> <p>An employee may elect, with the consent of the employer, to work 'make-up time' under which the employee takes time off during ordinary hours, and works those hours at a later time, during the span of ordinary hours provided in the award.</p>	<p>13.10 The employer and an employee may agree that the employee may take time off during ordinary hours and make up that time by working at another time during ordinary hours</p>	<p>Clause 8.6 of the revised ED has been moved and appears in the plain language draft under 'ordinary hours of work'. It appears here for comparative purposes.</p>

EXPOSURE DRAFT—Clerks—Private Sector Award 2015 (11 October 2016)	Re-drafted clause	Drafter comments								
<p>9. Breaks</p> <p>9.1 Unpaid meal break</p> <p>Parties are asked to clarify whether clause 9.1(a) applies to shift workers.</p> <p>(a) Subject to the provisions of clause 14—Shiftwork of this award, a meal period must be allowed to each employee:</p> <p>(i) of between 30 and 60 minutes; and</p> <p>(ii) taken not later than five hours after starting work and after the resumption of work from a previous meal break.</p> <p>(b) Employees required to work through meal breaks must be paid 200% of the minimum hourly rate for all time so worked until a meal break is allowed.</p>	<p>15. Breaks (employees not engaged on shifts)</p> <p>Due to lack of clarity in relation to application and operation of the clause, parties are asked to confirm whether the re-drafted clause 15 accurately reflects the intention of current modern award clauses 26.1 and 26.2. See also new clause 28 in relation to shiftworkers.</p> <p>15.1 Clause <u>15</u> applies to employees who are not engaged on shifts as defined in clause <u>25</u> and gives them an entitlement to meal breaks and rest breaks.</p> <p>NOTE: Breaks for employees engaged on shifts are set out in <u>Part 6—Shiftwork</u>.</p> <p>15.2 An employee who works the number of hours on any one day specified in an item of column 1 of Table 2—Entitlements to rest break(s) is entitled to a break or breaks as specified in column 2.</p> <p>Table 2—Entitlements to rest break(s)</p> <table border="1" data-bbox="1142 703 2033 1123"> <thead> <tr> <th>Column 1 Hours worked</th> <th>Column 2 Breaks</th> </tr> </thead> <tbody> <tr> <td>At least 3 but not more than 8 on Monday to Friday</td> <td>One 10 minute paid rest break (to be taken at a time determined by the employer)</td> </tr> <tr> <td>More than 8 on Monday to Friday</td> <td>Two 10 minute paid rest breaks (to be taken at a time determined by the employer)</td> </tr> <tr> <td>More than 4 hours overtime on a Saturday morning</td> <td>One 10 minute paid rest break</td> </tr> </tbody> </table>	Column 1 Hours worked	Column 2 Breaks	At least 3 but not more than 8 on Monday to Friday	One 10 minute paid rest break (to be taken at a time determined by the employer)	More than 8 on Monday to Friday	Two 10 minute paid rest breaks (to be taken at a time determined by the employer)	More than 4 hours overtime on a Saturday morning	One 10 minute paid rest break	<p>We have included clause 15.1 consistent with plain language draft guideline 8.2.</p>
Column 1 Hours worked	Column 2 Breaks									
At least 3 but not more than 8 on Monday to Friday	One 10 minute paid rest break (to be taken at a time determined by the employer)									
More than 8 on Monday to Friday	Two 10 minute paid rest breaks (to be taken at a time determined by the employer)									
More than 4 hours overtime on a Saturday morning	One 10 minute paid rest break									
<p>9.2 Paid rest break</p> <p>(a) On each day an employee is required to work eight or more ordinary hours, the employee must be allowed two 10 minute paid rest breaks. If suitable to business operations, the first rest break should be allowed between the time of starting work and the usual meal break. The second rest break should be allowed between the usual meal break and the time of finishing work for the day.</p> <p>(b) On each day an employee is required to work more than three but less than eight ordinary hours, the employee must be allowed one 10 minute paid rest break.</p> <p>(c) An employee who works more than four hours’ overtime on a Saturday morning must be allowed a 10 minute paid rest break taken between the time of starting work and finishing work.</p> <p>(d) Paid rest breaks taken in accordance with clause 9.2 are counted as time worked and should be taken at a time suitable to the employer, taking into account the needs of the business.</p>	<p>15.3 An employee who works more than 5 hours at a time is entitled to one 30 to 60 minute unpaid meal break, to be taken within the first 5 hours of work and within 5 hours after resuming work after a meal break.</p> <p>15.4 An employer must pay an employee who is required to work through their meal break 200% of the minimum hourly rate until a meal break is taken.</p> <p>NOTE: Where suitable to business requirements, the employer will arrange for an employee who is entitled to 2 paid rest breaks to take one rest break before, and one rest break after, their unpaid meal break.</p>	<p>Clause 9.2(a) of the revised ED includes an aspirational statement which is unsuitable for an award clause, para 61 [2016] FWCFB 6836. However, a note has been added after new clause 15.4.</p>								

EXPOSURE DRAFT—Clerks—Private Sector Award 2015 (11 October 2016)	Re-drafted clause	Drafter comments																																																																																				
<p>Part 4—Wages and Allowances</p> <p>10. Minimum wages</p> <p>10.1 Adult employees</p> <p>An employer must pay adult employees the following minimum wages for ordinary hours worked by the employee:</p>	<p>Part 4—Minimum Wages and Allowances</p> <p>16. Minimum wages</p> <p>16.1 An employer must pay an employee who is 21 years of age or older the minimum hourly rate specified in column 3 (or for a full-time employee the minimum weekly rate specified in column 2) in accordance with the employee classification specified in column 1 of Table 3—Minimum rates.</p> <p>NOTE 1: Provisions for calculating rates for an employee aged under 21 years are at clause 16.4.</p>	<p>Clause 10.1 of the revised ED refers to ‘Adult employees’. An adult is commonly understood to be someone who is over 18 years of age. In this award juniors rates may apply to employees who are under 21 years of age. New clause 16.1 refers to an employee who is 21 years of age or older.</p> <p>Explaining how the table works adds to certainty and clarity. This approach is common in legislative drafting. The table number and column numbers facilitate cross-referencing.</p>																																																																																				
<table border="1"> <thead> <tr> <th>Classification</th> <th>Minimum weekly rate Full-time employees</th> <th>Minimum hourly rate</th> </tr> <tr> <td></td> <td colspan="2" style="text-align: center;">(based on 38-hour week)</td> </tr> <tr> <td></td> <td style="text-align: center;">\$</td> <td style="text-align: center;">\$</td> </tr> </thead> <tbody> <tr> <td>Level 1</td> <td></td> <td></td> </tr> <tr> <td> Year 1</td> <td style="text-align: right;">715.20</td> <td style="text-align: right;">18.82</td> </tr> <tr> <td> Year 2</td> <td style="text-align: right;">750.60</td> <td style="text-align: right;">19.75</td> </tr> <tr> <td> Year 3</td> <td style="text-align: right;">774.10</td> <td style="text-align: right;">20.37</td> </tr> <tr> <td>Level 2</td> <td></td> <td></td> </tr> <tr> <td> Year 1</td> <td style="text-align: right;">783.30</td> <td style="text-align: right;">20.61</td> </tr> <tr> <td> Year 2</td> <td style="text-align: right;">797.80</td> <td style="text-align: right;">20.99</td> </tr> <tr> <td>Level 3</td> <td style="text-align: right;">827.30</td> <td style="text-align: right;">21.77</td> </tr> <tr> <td>Call centre principal customer contact specialist</td> <td style="text-align: right;">833.10</td> <td style="text-align: right;">21.92</td> </tr> <tr> <td>Level 4</td> <td style="text-align: right;">868.70</td> <td style="text-align: right;">22.86</td> </tr> <tr> <td>Level 5</td> <td style="text-align: right;">904.00</td> <td style="text-align: right;">23.79</td> </tr> <tr> <td>Call centre technical associate</td> <td style="text-align: right;">990.20</td> <td style="text-align: right;">26.06</td> </tr> </tbody> </table> <p>See Schedule B for a summary of hourly rates of pay including overtime and penalties.</p>	Classification	Minimum weekly rate Full-time employees	Minimum hourly rate		(based on 38-hour week)			\$	\$	Level 1			Year 1	715.20	18.82	Year 2	750.60	19.75	Year 3	774.10	20.37	Level 2			Year 1	783.30	20.61	Year 2	797.80	20.99	Level 3	827.30	21.77	Call centre principal customer contact specialist	833.10	21.92	Level 4	868.70	22.86	Level 5	904.00	23.79	Call centre technical associate	990.20	26.06	<p>Table 3—Minimum rates</p> <table border="1"> <thead> <tr> <th>Column 1 Classification</th> <th>Column 2 Minimum weekly rate</th> <th>Column 3 Minimum hourly rate</th> </tr> </thead> <tbody> <tr> <td>Level 1</td> <td></td> <td></td> </tr> <tr> <td> Year 1</td> <td style="text-align: right;">\$715.20</td> <td style="text-align: right;">\$18.82</td> </tr> <tr> <td> Year 2</td> <td style="text-align: right;">\$750.60</td> <td style="text-align: right;">\$19.75</td> </tr> <tr> <td> Year 3</td> <td style="text-align: right;">\$774.10</td> <td style="text-align: right;">\$20.37</td> </tr> <tr> <td>Level 2</td> <td></td> <td></td> </tr> <tr> <td> Year 1</td> <td style="text-align: right;">\$783.30</td> <td style="text-align: right;">\$20.61</td> </tr> <tr> <td> Year 2</td> <td style="text-align: right;">\$797.80</td> <td style="text-align: right;">\$20.99</td> </tr> <tr> <td>Level 3</td> <td style="text-align: right;">\$827.30</td> <td style="text-align: right;">\$21.77</td> </tr> <tr> <td>Call centre principal customer contact specialist</td> <td style="text-align: right;">\$833.10</td> <td style="text-align: right;">\$21.92</td> </tr> <tr> <td>Level 4</td> <td style="text-align: right;">\$868.70</td> <td style="text-align: right;">\$22.86</td> </tr> <tr> <td>Level 5</td> <td style="text-align: right;">\$904.00</td> <td style="text-align: right;">\$23.79</td> </tr> <tr> <td>Call centre technical associate</td> <td style="text-align: right;">\$990.20</td> <td style="text-align: right;">\$25.06</td> </tr> </tbody> </table> <p>NOTE 2: Provisions for calculating wages for casual employees are at clause 11—Casual employment. Overtime rates are specified in clause 22—Overtime and clause 29—overtime for the shiftwork. Penalty rates are specified in clause 21—Penalty rates and clause 26—Penalty rates for shiftwork.</p> <p>NOTE 3: See Schedule B for a summary of hourly rates of pay including casual wages, overtime, penalties and shiftwork.</p> <p>16.2 In calculating years for the purposes of Table 3, any service in the classification level, as described in <u>Schedule A</u>, including administrative and clerical experience with a previous employer, counts towards a year of service.</p> <p>16.3 An employer may require an employee to provide reasonable evidence to verify their service as mentioned in clause 16.2.</p>	Column 1 Classification	Column 2 Minimum weekly rate	Column 3 Minimum hourly rate	Level 1			Year 1	\$715.20	\$18.82	Year 2	\$750.60	\$19.75	Year 3	\$774.10	\$20.37	Level 2			Year 1	\$783.30	\$20.61	Year 2	\$797.80	\$20.99	Level 3	\$827.30	\$21.77	Call centre principal customer contact specialist	\$833.10	\$21.92	Level 4	\$868.70	\$22.86	Level 5	\$904.00	\$23.79	Call centre technical associate	\$990.20	\$25.06	<p>New clause 16.2 has been moved here, it was clause 7.3 of the revised ED.</p>
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<p>10.2 Junior employees</p> <p>Junior employees must be paid the following percentage of the appropriate wage rate in clause 10.1.</p> <table border="1"> <thead> <tr> <th>Age</th> <th>% of appropriate adult rate</th> </tr> </thead> <tbody> <tr> <td> </td> <td> </td> </tr> </tbody> </table>	Age	% of appropriate adult rate			<p>16.4 Junior employees</p> <p>An employer must pay an employee who is aged as specified in column 1 of Table 4—Junior rates, at least at the percentage specified in column 2 of the minimum rate that would otherwise be applicable under Table 3—Minimum rates:</p>	<p>The need for an explanation of how a table operates will affect whether the junior wages provisions are simpler and easier to understand as they are drafted in the revised ED, or in the table format. User-testing in the pilot found that the paragraph format was just as easy to use as the table format.</p>																																																																																
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<p data-bbox="74 955 371 997">10.3 Payment of wages</p> <p data-bbox="148 1018 1038 1144">(a) Employees must be paid their wages weekly or fortnightly as determined by the employer, or monthly if mutually agreed. Where payment is made monthly it must be on the basis of two weeks in advance and two weeks in arrears.</p> <p data-bbox="222 1165 1038 1270">NOTE: Regulations 3.33(3) and 3.46(1)(g) of <i>Fair Work Regulations 2009</i> set out the requirements for pay records and the content of payslips including the requirement to separately identify any allowance paid.</p> <p data-bbox="148 1291 460 1333">(b) Method of payment</p> <p data-bbox="222 1354 1038 1449">Wages must either be paid by cash, cheque or electronic funds transfer into the bank or financial institution account nominated by the employee.</p>	<p data-bbox="1053 955 1380 997">17. Payment of wages</p> <p data-bbox="1053 1018 2047 1081">17.1 The employer must pay wages by cash or by cheque or by electronic funds transfer into an account nominated by the employee.</p> <p data-bbox="1053 1102 1291 1144">17.2 Pay period</p> <p data-bbox="1142 1165 2047 1228">(a) The employer may determine the pay period of employees as being either weekly or fortnightly.</p> <p data-bbox="1142 1249 2047 1312">(b) The employer and employees may agree to monthly pay periods on the basis of 2 weeks in advance and 2 weeks in arrears.</p> <p data-bbox="1053 1333 2047 1438">NOTE: The Fair Work Regulations, regulation 3.33(3) and 3.46(1)(g), set out the requirements for pay records and the content of payslips including the requirement to separately identify any allowance paid.</p>	<p data-bbox="2062 997 2923 1155">In providing that wages must be paid weekly, fortnightly or monthly clause 10.3(a) of the revised ED is referring to the pay period. It would be more direct to provide that the employer may determine the pay period, which must be either weekly or fortnightly. A separate paragraph is appropriate for the different process required for monthly pay periods. See new draft clause 17.2.</p>																										
<p data-bbox="148 1470 593 1512">(c) Day off coinciding with payday</p> <p data-bbox="222 1533 1038 1732">Where an employee is paid wages by cash or cheque and the employee is, due to their rostered hours by virtue of the arrangement of their ordinary hours, to take a day off on a day which coincides with payday, the employee must be paid no later than the working day immediately following payday. If the employer is able to make suitable arrangements, wages may be paid on the working day preceding payday.</p>	<p data-bbox="1053 1470 1528 1512">17.3 Day off coinciding with payday</p> <p data-bbox="1142 1533 2047 1564">(a) Clause 17.3 applies to an employee if:</p> <p data-bbox="1231 1585 1869 1627">(i) the employee is paid wages by cash or cheque; and</p> <p data-bbox="1231 1648 2047 1711">(ii) due to the arrangement of their ordinary hours the employee has a day off on payday.</p> <p data-bbox="1142 1732 2047 1795">(b) The employer must pay the employee no later than the working day immediately after payday.</p> <p data-bbox="1053 1816 2047 1879">NOTE: The employer may pay the employee on the day before payday if suitable arrangements can be made.</p>	<p data-bbox="2062 1470 2923 1606">We have broken clause 10(c) of the revised ED into separate subparagraphs to clarify the application of the clause. There are a number of hurdles to overcome before terms of the clause applies. The list provides a checklist which assists users to figure out whether the clause is relevant to them.</p>																										
<p data-bbox="148 1911 786 1953">(d) Absences from duty under an averaging system</p> <p data-bbox="222 1974 1038 2005">Where an employee’s ordinary hours in a week are greater or less than</p>	<p data-bbox="1053 1911 1825 1953">17.4 Payment of wages under an averaging or banking system</p> <p data-bbox="1142 1974 2047 2005">(a) Employees who work weekly hours under an averaging system in clause</p>	<p data-bbox="2062 1911 2923 1984">The heading of clause 10.3(d) of the revised ED is vague in its use of the words ‘absences from duty’.</p>																										

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<p>38 hours and such employee's pay is averaged to avoid fluctuating wage payments, the following applies:</p> <p>(i) The employee will accrue a credit for each day the employee works ordinary hours in excess of the daily average.</p> <p>(ii) The employee will incur a debit for each day of absence from duty other than on annual leave, long service leave, public holidays, paid personal leave, workers compensation, paid compassionate leave, paid family leave, or jury service.</p> <p>(iii) An employee absent for part of a day (other than in the circumstances set out in clause 10.3(d)(ii)) will incur a proportion of the debit for the day, based upon the proportion of the working day that the employee was in attendance.</p>	<p><u>13.4</u> or rostered day off system in clause <u>14</u> must be paid according to the average number of hours worked.</p> <p>EXAMPLE: A full-time employee who works 8 hours per day over 20 working days and takes a regular rostered day off is entitled to be paid according to the regular 38 hour week to avoid fluctuating wage payments.</p> <p>(b) An average pay system applies to employees working under the banked rostered day off system where an employee receives:</p> <p>(i) no additional penalty payments for working more than the average number of hours per week as a result of working on a rostered day off under the banking system; and</p> <p>(ii) no reduction in payment for working less than the average number of hours per week for banked rostered days off taken in a roster cycle.</p>	<p>The clause is confusing and appears to go into unnecessary detail. However, the concept appears fairly simple. The clause may have had its origin in the <i>Clerical and Administrative Employees (Victorian) Award 1995</i> which deals with similar concepts regarding payment of wages under averaging systems. Under that award it is clear that wages are to be paid on the "basis of an average of 38 ordinary hours so as to avoid fluctuating wage payments each week" (see clause 32(e)). An example is included to help clarify the operation of the provision.</p>
<p>10.4 Annualised salaries <i>This clause may be affected by AM2016/13.</i></p>	<p>18. Annualised salaries <i>This clause may be affected by AM2016/13.</i></p>	
<p>Higher duties</p> <p>An employee required by the employer to perform any of the duties of a higher classification level for more than one day must be paid at least the rate applicable to that higher level.</p>		
<p>10.5 Supported wage system</p> <p>For employees who because of the effects of a disability are eligible for a supported wage, see Schedule D— Supported Wage System.</p> <p>10.6 National training wage</p> <p>For employees undertaking a traineeship, see Schedule E—National Training Wage.</p>	<p>16.5 Supported wage system</p> <p>For employees who are eligible for a supported wage, see <u>Schedule D</u>.</p> <p>16.6 National training wage</p> <p>For employees undertaking a traineeship, see <u>Schedule E</u>.</p>	
<p>11. Allowances</p> <p>11.1 Employers must pay to an employee the allowances the employee is entitled to under this clause. See Schedule C for a summary of monetary allowances and method of adjustment.</p>	<p>19. Allowances</p> <p>19.1 Clause 19 gives employees an entitlement to monetary allowances of specified kinds in specified circumstances.</p> <p>NOTE: <u>Schedule C</u> contains a summary of monetary allowances and methods of adjustment.</p>	
<p>11.2 Wage related allowances</p> <p>(a) First aid allowance</p> <p>A weekly allowance of \$11.75 must be paid to an employee who has been trained to provide first aid, is the current holder of appropriate first aid qualifications such as a certificate from St John Ambulance Australia or a similar body and is appointed by an employer to perform first aid duty.</p>	<p>19.2 First aid allowance</p> <p>(a) Clause <u>19.2</u> applies to an employee who:</p> <p>(i) has current first aid qualifications and training such as a certificate from St John Ambulance Australia or a similar body; and</p> <p>(ii) is appointed by the employer to perform first aid duty.</p> <p>(b) The employer must pay the employee an allowance of \$11.75 per week.</p>	<p>We have added an application clause because participants in user testing during the plain language pilot expressed frustration at working through the operation of a clause only to find that it did not apply to them.</p>
<p>(b) Higher duties</p> <p>An employee required by the employer to perform any of the duties of a higher classification level for more than one day must be paid at</p>	<p>19.3 Higher duties allowance</p> <p>The employer must pay an employee required to perform any of the duties of a higher classification for more than one day at least the minimum rate</p>	

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<p style="color: red;">least the rate applicable to that higher level.</p>	<p>applicable to the higher level under Table 3—Minimum wages.</p> <p>NOTE: Classification levels are described in <u>Schedule A</u>.</p>	
<p>11.3 Expense related allowances</p> <p>(a) Transport of employees—shiftworkers</p> <p>The employer will reimburse an employee working shift work for the cost of any transport to and/or from their home when an employee starts or finishes work at a time other than their normal time. This amount will only be paid if reasonable means of transport are not available. The amount will not be paid if the employer provides suitable transport.</p>	<p style="color: red;"><i>Note: The clause below has been moved to the shiftwork part and is reproduced here for comparative purposes</i></p> <p>32. Transport reimbursement for shiftwork</p> <p>(a) Clause 32 applies to an employee working shiftwork to whom all of the following apply:</p> <ul style="list-style-type: none"> (i) the employee starts or finishes work at a time other than their normal time; and (ii) reasonable means of transport are not available to the employee; and (iii) the employer does not provide, or arrange for, a suitable means of transport to or from the employee’s usual place of residence at no cost to the employee. <p>(b) The employer must reimburse the employee the cost they reasonably incurred in taking a commercial passenger vehicle from the employee’s usual place of residence to the place of employment or from the place of employment to the employee’s usual place of residence, whichever is applicable.</p> <p>NOTE: Clause 19—Allowances prescribes allowances that apply to all employees where specified.</p>	<p>We have used an application clause to clarify who the clause applies to with a list of paragraphs that may be used as a type of checklist.</p>
<p>(b) Clothing and footwear</p> <p>(i) The employer will reimburse employees engaged in work damaging to clothing (for example, the use, maintenance or running repairs of office machines or in the receiving and/or despatch of goods) an amount equal to the cost of uniforms and/or protective clothing, except where uniforms and/or protective clothing are provided free of charge by the employer.</p> <p>(ii) The employer will reimburse employees who are constantly required to work under conditions which are wet and damaging to footwear, (e.g. on surfaces periodically hosed down or in wet or muddy conditions) an amount equal to the cost of appropriate protective footwear, except where appropriate protective footwear is provided free of charge by the employer.</p> <p>(iii) When an employee is required to wear and launder a uniform, the cost of the uniform must be reimbursed and the employee must be paid the following applicable allowance for laundry expenses:</p> <ul style="list-style-type: none"> • for a full-time employee - \$3.55 per week; • for a part-time or casual employee – \$0.71 per shift. 	<p>19.4 Clothing and footwear allowance</p> <p>(a) The employer must reimburse an employee who is required to work in conditions damaging to clothing for the cost of purchasing any uniforms and protective clothing not supplied or paid for by the employer.</p> <p>(b) The employer must reimburse an employee who is constantly required to work in conditions that are wet and damaging to footwear for the cost of purchasing appropriate protective footwear not supplied or paid for by the employer.</p> <p>(c) The employer must reimburse an employee who is required to wear a uniform for the cost of purchasing the uniform.</p> <p>(d) If the uniform that is required to be worn by the employee needs to be laundered, the employer must pay the employee an allowance of:</p> <ul style="list-style-type: none"> (i) \$3.55 each week for a full-time employee; or (ii) \$0.71 each shift for a part-time or casual employee. 	<p>The word ‘will’ should not be used in drafting and the expression ‘and/or’ should be avoided in accordance with the plain language draft guideline 5.6.</p> <p>The example in clause 11.3(b)(i) of the revised ED seems out of date.</p> <p>Each provision should be set out separately and drafted in the active voice, imposing the obligation to pay the allowance on the employer.</p>
<p>(c) Meal allowance</p>	<p>19.5 Meal allowance</p>	<p>An application clause has been added because users who participated in user</p>

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<p>(i) An employee required to work for more than one and a half hours of overtime without being given 24 hours' notice after the employee's ordinary time of ending work will be either provided with a meal or paid a meal allowance of \$14.98.</p> <p>(ii) Where such overtime work exceeds four hours, a further meal allowance of \$11.99 will be paid.</p>	<p>(a) Clause <u>19.4</u> applies to an employee if:</p> <p>(i) the employee is required to work overtime of more than 1.5 hours after the employee's ordinary time of ending work; and</p> <p>(ii) the employee was not given at least 24 hours' notice of the requirement to work overtime.</p> <p>(b) The employer must:</p> <p>(i) pay the employee a meal allowance of \$14.98; or</p> <p>(ii) supply the employee with a meal.</p> <p>(c) If the number of hours worked under a requirement mentioned in clause <u>19.4(a)</u> exceeds 4, the employer must pay a further meal allowance of \$11.99.</p>	<p>testing in the pilot expressed frustration at working through the operation of a clause only to find that it did not apply to them.</p> <p>The provision has been drafted in the active voice, imposing the obligation to pay the meal allowance on the employer.</p> <p>Paragraph (c)(i) of the revised ED may be read as requiring 24 hours of notice to be given and not more. The clause has been redrafted to make it clear that <i>at least</i> 24 hours' notice is required.</p>
<p>(d) Vehicle allowance</p> <p>An employee required by the employer to use the employee's motor vehicle in the performance of duties must be paid the following allowances:</p> <p>(i) Motor cars</p> <p>\$0.78 per kilometre with a maximum weekly payment as for 400 kilometres.</p> <p>(ii) Motorcycles</p> <p>\$0.26 per kilometre with a maximum weekly payment as for 400 kilometres.</p> <p>(iii) The employer must pay all expenses including registration, running and maintenance where an employer provides a motor vehicle which is used by an employee in the performance of the employee's duties.</p>	<p>19.6 Vehicle allowance</p> <p>(a) An employer must pay an employee who is required to use their own motor vehicle in performing their duties an allowance of:</p> <p>(i) for a motor car, \$0.78 per kilometre; and</p> <p>(ii) for a motor cycle, \$0.26 per kilometre.</p> <p>(b) The maximum allowance payable is for 400 kilometres.</p> <p>(c) An employer who requires an employee to use a motor vehicle provided by the employer to perform their duties must pay all expenses for the motor vehicle including registration, running costs and maintenance.</p>	<p>Clause 11.3(d) of the revised ED has been redrafted in the active voice, imposing the obligation to pay the allowance on the employer.</p>
<p>(e) Living away from home allowance</p> <p>(i) An employee, required by the employer to work temporarily for the employer away from the employee's usual place of employment, and who is required to sleep away from the employee's usual place of residence, is entitled to the following:</p> <ul style="list-style-type: none"> • the payment of an allowance to cover all fares to and from the place at which the employer requires the employee to work; and • the payment of an allowance to cover all reasonable expenses incurred for board and lodging. <p>(ii) The allowances referred to in clause 11.3(e) are not payable where the fares and the board and lodging are provided by the employer.</p> <p>(iii) In addition to the above, the employee must receive payment at ordinary rates of pay for all time spent in travelling between</p>	<p>19.7 Living away from home allowance</p> <p>(a) Clause <u>19.6</u> applies to an employee to whom all of the following apply:</p> <p>(i) the employee is required temporarily to work away from their usual place of employment; and</p> <p>(ii) the location at which the employee is required to work is one from which it is not reasonably possible to return to their usual place of residence after work; and</p> <p>(iii) the employee is not provided with fares, meals and accommodation by the employer.</p> <p>(b) The employer must pay the employee the following:</p> <p>(i) an allowance to cover all fares to and from the location at which the employer requires the employee to work; and</p> <p>(ii) an allowance to cover all reasonable expenses incurred for meals and accommodation.</p>	<p>Clause 11.3(e)(i) and (ii) of the revised ED includes factors that qualify when allowances must be paid. These factors have been re-drafted into the list as part of the application clause.</p>

EXPOSURE DRAFT—Clerks—Private Sector Award 2015 (11 October 2016)	Re-drafted clause	Drafter comments
<p>the employee’s usual place of employment and the temporary location. This paid time is not to exceed eight hours in 24 hours.</p> <p>See Schedule C for a summary of monetary allowances</p>	<p>(c) The employer must pay an employee ordinary rates of pay for time spent travelling between the employee’s usual place of employment and the temporary location, to a maximum of 8 hours in 24 hours.</p>	
<p>12. Superannuation No change clause not reproduced.</p>	<p>20. Superannuation No change clause not reproduced.</p>	<p>Section 156 of the Fair Work Act states that the Commission “must not review, or make a determination to vary, a default fund term of a modern award” as part of the 4 yearly review.</p>
<p>Part 5—Penalties and Overtime</p> <p>13. Overtime rates and penalties (other than shiftworkers)</p>	<p>Part 5—Penalty Rates and Overtime</p> <p>NOTE: This Part does not apply to shiftworkers. See <u>Part 6—Shiftwork</u> for overtime rates and penalties that apply to shiftworkers.</p> <p>21. Penalty rates (employees not engaged on shifts)</p> <p>21.1 Clause 21 sets out higher rates of pay (penalty rates) for ordinary hours worked at specified times and on specified days.</p> <p>NOTE: Clause 22—Overtime prescribes overtime rates for hours worked in excess of, or outside, ordinary hours.</p> <p>21.2 Saturday</p> <p>An employer must pay an employee at the rate of 125% of the minimum hourly rate for hours worked on a Saturday that are within the spread of ordinary hours specified in clause 13.5(b), as altered under clause 13.6.</p> <p>21.3 Public holidays</p> <p>(a) An employer must pay an employee at the rate of 250% of the minimum hourly rate for hours worked on a public holiday or a substituted day.</p> <p>(b) Despite clause 21.3(a), if an employee works on both a public holiday and the substituted day, the employee is entitled to be paid for one of the days at the penalty rate specified in clause 21.3(a).</p> <p>(c) The employee may choose which day the penalty rate is applied to.</p> <p>(d) An employer must pay an employee who is required to work on a public holiday for a minimum of 4 hours.</p> <p>Due to lack of clarity in relation to application and operation of the clause, parties are asked to confirm whether the re-drafted clause 21.3 accurately reflects the intention of current modern award clauses 31.3 and whether it is better placed in the Penalty rates or Overtime clause.</p>	<p>Part 5 of the revised ED states that it deals with penalties and overtime but it does not clearly identify the penalty rates.</p> <p>New clause 21.2 appears in the revised ED at clause 13.3(a).</p> <p>New clause 21.3 appears in the revised ED at clause 36.5. It is not clear what entitlement applies to an employee who is not working shifts if they work overtime on a public holiday.</p>
<p>13.1 Definition of overtime</p> <p>(a) Overtime is any time worked:</p> <p>(i) within the hours fixed in clause 8—Ordinary hours of work (other than shiftworkers), but in excess of the hours fixed for an ordinary week’s work; or</p> <p>(ii) in excess of 10 hours exclusive of meal breaks in any one day; or</p>	<p><i>Note: The clause below has been moved and is reproduced here for comparative purposes</i></p> <p>22. Overtime (employees not engaged on shifts)</p> <p>22.1 An employer must pay an employee at the overtime rate for any hours worked at the direction of the employer:</p> <p>(a) in excess of the ordinary weekly hours set in clause 13.4;</p> <p>(b) in excess of 10 hours on any one day, excluding unpaid meal breaks;</p>	<p>Clause 13.2 of the revised ED has been drafted as an obligation on the employer to pay at the overtime rate. See new draft clause 22.1.</p>

EXPOSURE DRAFT—Clerks—Private Sector Award 2015 (11 October 2016)	Re-drafted clause	Drafter comments								
<p>(iii) outside the hours fixed in clause 8.</p> <p>(b) For the purposes of this clause, hours fixed for an ordinary week’s work means the hours of work fixed in an establishment in accordance with clause 8 or varied in accordance with the relevant clauses of this award.</p> <p>(c) For the purposes of administering the provisions contained in this clause, the minimum period for which an employee must be paid overtime is one half hour per week.</p>	<p>(c) outside the spread of hours in clause <u>13.5</u>, as altered under clause 13.6;</p> <p>(d) for overtime worked on a rostered day off that is not substituted or banked;</p> <p>(e) for part-time employees, in excess of the number of hours that the employee has agreed to work under clause <u>10.4</u> or varied under clause 10.5.</p> <p>22.2 For the purposes of this clause, ordinary weekly hours means the hours of work fixed in a workplace in accordance with clause <u>13—Ordinary hours of work</u> or varied in accordance with the relevant clauses of this award.</p> <p>22.3 An employee is entitled to be paid overtime when the total overtime an employee has worked in one week reaches a minimum of half an hour.</p>									
<p>13.2 Payment for working overtime</p> <p>(a) An employee working overtime must be paid 150% of the minimum hourly rate for the first two hours and 200% of the minimum hourly rate thereafter calculated on a daily basis.</p> <p>(b) An employee who works 38 hours Monday to Friday must be paid a minimum of three hours at overtime rates for work performed on a Saturday, provided that such employee is ready, willing and available to work such overtime.</p> <p>13.3 Payment for working Saturdays and Sundays</p> <p>(a) Work within the span spread of ordinary hours on Saturday in accordance with clause 8.1(b)(ii) will be paid at the rate of 125% of the minimum hourly rate.</p> <p>(b) All work done on a Sunday must be paid for at the rate of 200% of the minimum hourly rate.</p> <p>(c) An employee required to work on a Sunday is entitled to not less than four hours’ pay at penalty rates provided the employee is available for work for four hours.</p>	<p>22.4 Payment for working overtime</p> <p>(a) The overtime rate in clause <u>22.1</u> is the relevant percentage specified in column 2 of Table 5 (depending on when the overtime was worked as specified in column 1) of the minimum hourly rate of the employee, under clause <u>16—Minimum rates</u>, calculated daily.</p> <p>Table 5—Overtime rates for employees who are not engaged on shifts</p> <table border="1" data-bbox="1231 955 1932 1213"> <thead> <tr> <th>Column 1 Hours of overtime worked per day</th> <th>Column 2 Overtime rate (% of minimum hourly rate)</th> </tr> </thead> <tbody> <tr> <td>Monday to Saturday—first 2 hours</td> <td>150%</td> </tr> <tr> <td>Monday to Saturday—after 2 hours</td> <td>200%</td> </tr> <tr> <td>Sunday—all day</td> <td>200%</td> </tr> </tbody> </table> <p>(b) An employer must pay an employee a minimum of 3 hours at overtime rates for work performed on a Saturday where an employee has worked 38 hours or more over Monday to Friday.</p> <p>(c) An employer must pay an employee who is required to work overtime on a Sunday for a minimum of 4 hours.</p> <p><i>Note: The clause below has been moved to clause 21.2 and is reproduced here for comparative purposes</i></p> <p>21.2 An employer must pay an employee at the rate of 125% of the minimum hourly rate for hours worked on a Saturday that are within the spread of ordinary hours specified in clause 13.5(b), as altered under clause 13.6.</p>	Column 1 Hours of overtime worked per day	Column 2 Overtime rate (% of minimum hourly rate)	Monday to Saturday—first 2 hours	150%	Monday to Saturday—after 2 hours	200%	Sunday—all day	200%	<p>The use of a Table with an introductory provision explaining how it works is an effective way to convey information concisely.</p>
Column 1 Hours of overtime worked per day	Column 2 Overtime rate (% of minimum hourly rate)									
Monday to Saturday—first 2 hours	150%									
Monday to Saturday—after 2 hours	200%									
Sunday—all day	200%									
<p>13.4 Rest period after working overtime</p> <p>(a) Length of the rest period</p> <p>When overtime work is necessary it will be arranged where possible wherever reasonably practicable for employees to have at least 10 consecutive hours off duty between the work of successive days.</p>	<p>23. Rest period after working overtime (employees not engaged on shifts)</p> <p>23.1 Clause 23 applies to full-time and part-time employees who are not working shifts.</p> <p>23.2 When overtime is required to be worked, employees must, wherever reasonably practical, have at least 10 consecutive hours off duty between hours worked on successive days.</p>	<p>Clause 13.4 of the revised ED has been re-organised to logically:</p> <ol style="list-style-type: none"> (1) state who the clause applies to (2) set out the general entitlement (3) set out restrictions and exceptions to the general rule (4) specify penalties 								
<p>(b) Where the employee does not get a 10 hour rest</p> <p>(i) The following conditions apply to an employee (other than a</p>	<p>23.3 Despite clause <u>23.2</u>, where an employee, due to overtime worked, would be required to start work before having had 10 consecutive hours off duty:</p>									

EXPOSURE DRAFT—Clerks—Private Sector Award 2015 (11 October 2016)	Re-drafted clause	Drafter comments
<p>casual employee) who works so much overtime that the employee has not had at least 10 consecutive hours off duty between the end of the employee’s ordinary hours of work on one day and the start of the employee’s ordinary hours of work on the next day:</p> <ul style="list-style-type: none"> • the employee must be released from duty after that overtime is finished until the employee has had 10 consecutive hours off duty, and • there will be no loss of pay for ordinary hours of work time which occur during this absence. <p>Parties are asked to consider whether the words “end of the employee’s ordinary hours” in clause 13.3(b)(i) should be “end of overtime”.</p>	<p>(a) the employer must release the employee from duty until the employee has had 10 consecutive hours off duty; and</p> <p>(b) the employee must not suffer any loss of pay for an absence during ordinary hours as a result.</p>	
<p>(ii) The following conditions apply to an employee who, on the instructions of the employer, resumes or continues work without having had 10 consecutive hours off duty in accordance with clause 13.4(b)(i):</p> <ul style="list-style-type: none"> • the employee must be paid at 200% of the minimum hourly rate during until the employee is released from duty; • the employee is then entitled to be absent for 10 consecutive hours; and • there will be no loss of pay for ordinary hours of work time which occur during this absence. 	<p>23.4 Where an employee resumes or continues work without having at least 10 consecutive hours off duty in accordance with clause <u>23.3</u> all of the following apply:</p> <p>(a) the employer must pay 200% of the minimum hourly rate until the employee is released from duty; and</p> <p>(b) the employer must release the employee from duty until the employee has had 10 consecutive hours off duty; and</p> <p>(c) the employee must not suffer any loss of pay for an absence during ordinary hours as a result.</p>	
<p>(c) The provisions of this clause apply in the case of shiftworkers as if eight hours were substituted for 10 hours when overtime is worked:</p> <p>(i) for the purposes of changing shift rosters;</p> <p>(ii) where a shiftworker does not report for duty and a day worker or a shiftworker is required to replace such shiftworker; or</p> <p>(iii) where a shift is worked by arrangement between the employees themselves.</p>	<p><i>Note: Clause 13.4(c) has been moved to the shiftwork part</i></p>	
<p>(d) When an employee has not substituted nor banked the rostered day off and therefore works overtime on the rostered day off, the rate of pay must be calculated in accordance with the provisions of clause 13.113.2.</p>	<p><i>Note: The clause below has been moved to clause 22.1 and is reproduced here for comparative purposes</i></p> <p>22.1 An employer must pay an employee at the overtime rate for any hours worked at the direction of the employer:</p> <p>...</p> <p>(d) for overtime worked on a rostered day off that is not substituted or banked;</p>	

EXPOSURE DRAFT—Clerks—Private Sector Award 2015 (11 October 2016)	Re-drafted clause	Drafter comments
<p>13.5 Return to duty</p> <p>(a) Where an employee is required to return to duty after the usual finishing hour of work for that day the employee must be paid at the overtime rates prescribed in clause 13.1(a) but must receive a minimum payment as for three hours' work.</p> <p>(b) Clause 13.4 does not apply where the work is continuous (subject to a meal break of not more than one hour) with the completion or commencement of ordinary working time.</p> <p>(c) Overtime worked in the circumstances specified in clause 13.5, must not be regarded as overtime for the purpose of clause 13.4.</p>	<p>22.5 Return to duty</p> <p>(a) An employer must pay an employee at the overtime rate specified in clause 22.4 where an employee is required to return to duty after the usual finishing hour of work for that day.</p> <p>(b) The employer must pay an employee a minimum payment of 3 hours under a requirement in clause 22.5(a).</p> <p>(c) Overtime prescribed in clause 23—<u>Rest period after working overtime (employees not engaged on shifts)</u> is not regarded as overtime for the purpose of clause 22.5.</p> <p>(d) Clause 22.5 does not apply where the work is continuous (subject to a meal break of not more than one hour) with the start or finish of ordinary working time.</p>	
<p>13.6 Time off instead of overtime <i>This clause was the subject of a separate Full Bench, see determination PR587147.</i></p>	<p>24. Time off instead of payment for overtime (employees not engaged on shifts) <i>This clause was the subject of a separate Full Bench, see determination PR587147.</i></p>	
<p>14. Shiftwork</p> <p>14.1 Definitions</p> <p>In this clause:</p> <p>(a) Afternoon shift means any shift finishing after 7.00 pm and at or before midnight.</p> <p>(b) Night shift means any shift finishing after midnight, and at or before 7.00 am.</p> <p>(c) Permanent night shift means a night shift which does not rotate with another shift or shifts or day work and which continues for a period of four consecutive weeks or longer.</p>	<p>Part 6—Shiftwork</p> <p>25. Shiftwork definitions</p> <p>25.1 An employee may be employed to work ordinary hours in accordance with the following shift definitions:</p> <div data-bbox="1062 1035 2003 1165" style="border: 1px solid black; background-color: #e0e0e0; padding: 5px;"> <p>Feedback from the FWO and users indicate confusion about when and how these provisions apply. Given the different provisions for employees on shiftwork, including rostering and breaks, parties are asked to clarify when the provision in this part applies.</p> </div> <p>(a) afternoon shift means any shift finishing after 7.00 pm and at or before midnight;</p> <p>(b) night shift means any shift finishing after midnight, and at or before 7.00 am;</p> <p>(c) permanent night shift means a night shift which does not rotate with another shift or shifts or day work and which continues for a period of 4 consecutive weeks or longer.</p>	<p>Some provisions relating to shiftwork are dispersed through the award and some are included or repeated in clause 14 of the revised ED. Further, because there is no definition for 'shiftworker' it is unclear when some clauses in clause 14 apply.</p> <p>A new part has been created for shiftwork because data suggests that these provisions do not apply to most clerical and administrative workers. The provisions could be dispersed throughout the award. However, that approach also raises issues such as frequent cross referencing, increased exclusion and application clauses, overlapping provisions that are similar but not identical which can create confusion.</p>
<p>14.2 Altering span spread of hours</p> <p>By agreement between the employer and the majority of employees concerned or in appropriate cases an individual employee, the span spread of hours over which shifts may be worked may be altered by up to one hour at either end of the span spread.</p> <div data-bbox="92 1686 1032 1785" style="border: 1px solid black; background-color: #e0e0e0; padding: 5px;"> <p>Parties are asked to confirm whether the span of hours can be increased by one hour at both ends.</p> </div>	<p>25.2 The spread of hours in clause 25.1 may be altered by up to one hour at either end of the shift:</p> <p>(a) by agreement between the employer and the majority of employees at the workplace covered by this award; or</p> <p>(b) by individual agreement between the employer and employee.</p> <div data-bbox="1062 1707 2003 1806" style="border: 1px solid black; background-color: #e0e0e0; padding: 5px;"> <p>Parties are asked to confirm whether the span of hours can be increased by one hour at both ends.</p> </div>	<p>Clause 14.2 of the revised ED has been reproduced in this part.</p>
<p>14.3 Ordinary hours of work</p> <p>(a) The ordinary hours of work for shiftworkers are to be an average of 38 hours per week and must not exceed 152 hours in 28 consecutive days.</p>	<p><i>Note: The clause below has been moved to clause 27 and is reproduced here for comparative purposes</i></p> <p>27. Ordinary hours of work and rostering for shiftwork</p>	<p>Clauses 14.3 and 14.4 of the revised ED both contain provisions dealing with ordinary hours of work. A new heading has been added to clearly signpost that the clause deals with ordinary hours and rostering. Clauses relevant to that topic have been included under the new heading. The clauses throughout the award should be drafted consistently. Similar structure and wording to</p>

EXPOSURE DRAFT—Clerks—Private Sector Award 2015 (11 October 2016)	Re-drafted clause	Drafter comments																
<p>(b) By agreement between the employer and the majority of employees concerned, a roster system may operate on the basis that the weekly average of 38 ordinary hours is allowed over a period which exceeds 28 consecutive days but does not exceed 12 months.</p> <p>(c) Not more than 10 ordinary hours are to be worked in any one day.</p>	<p>27.1 The maximum number of ordinary hours that can be worked in a week is:</p> <p>(a) an average of 38 hours over a 4 week period; or</p> <p>(b) an average of 38 hours over a roster period, not exceeding 12 months, as agreed between an employer and the employees.</p> <p>27.2 The maximum number of ordinary hours that can be worked in any day is 10, including paid breaks.</p>	<p>clause 14 of the plain language re-draft has been used.</p>																
<p>14.4 Hours, shift allowances and meal interval</p> <p>(a) Notwithstanding any other provisions of this award an employee may be employed on shifts, in which case the ordinary hours for a week’s work are to be 38, and must be performed in shifts not exceeding six shifts of 10 hours each. A Sunday may be included.</p> <p>(b) Times of beginning and ending the shift of an employee may in any case be varied by agreement between the employer and the employee or in the absence of agreement may be varied by at least one week’s notice given by the employer to the employee.</p>	<p><i>Note: The clause below has been moved to clause 27 and is reproduced here for comparative purposes</i></p> <p>27.3 The following rostering arrangements apply to an employee who works shifts over the 4 week roster period in clause <u>27.1(a)</u>:</p> <p>(a) a maximum of 6 shifts of 10 hours can be worked; and</p> <p>(b) a Sunday may be included.</p> <p>27.4 Changes to the times at which the employee will start and finish a shift may be made:</p> <p>(a) by the employer giving the employee at least 7 days’ notice of the change; or</p> <p>(b) at any time by the employer and employee by mutual agreement.</p> <p>27.5 The employer and an employee may agree that the employee may take a period of ordinary hours as time off and make up that time off by working at another time during which the employee may work ordinary hours.</p>																	
<p>(c) A shiftworker must be paid the following rates for work done during ordinary hours:</p> <table border="1" data-bbox="264 1213 1029 1470"> <thead> <tr> <th>Shift</th> <th>Penalty rate (% of minimum hourly rate)</th> </tr> </thead> <tbody> <tr> <td>Afternoon or night</td> <td>115%</td> </tr> <tr> <td>Permanent night</td> <td>130%</td> </tr> <tr> <td>Saturday, Sunday or public holiday</td> <td>150%</td> </tr> </tbody> </table>	Shift	Penalty rate (% of minimum hourly rate)	Afternoon or night	115%	Permanent night	130%	Saturday, Sunday or public holiday	150%	<p>26. Penalty rates for shiftwork</p> <p>26.1 An employer must pay an employee working ordinary hours in accordance with clause <u>25.1</u> (Shiftwork definitions) the relevant percentage specified in column 2 of Table 6 (depending on when the shift was worked as specified in column 1) of the minimum hourly rate of the employee, under clause <u>16—Minimum wages</u>.</p> <p>Table 6—Penalty rates for shiftwork</p> <table border="1" data-bbox="1160 1413 1997 1682"> <thead> <tr> <th>Column 1 Shift</th> <th>Column 2 Penalty rate (% of minimum hourly rate)</th> </tr> </thead> <tbody> <tr> <td>Afternoon or night</td> <td>115%</td> </tr> <tr> <td>Permanent night</td> <td>130%</td> </tr> <tr> <td>Saturday, Sunday or public holiday</td> <td>150%</td> </tr> </tbody> </table>	Column 1 Shift	Column 2 Penalty rate (% of minimum hourly rate)	Afternoon or night	115%	Permanent night	130%	Saturday, Sunday or public holiday	150%	<p>Clause 14.4(c) of the revised ED has been redrafted in the active voice, imposing the obligation to pay the allowance on the employer. See new clause 26.1.</p>
Shift	Penalty rate (% of minimum hourly rate)																	
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Afternoon or night	115%																	
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Saturday, Sunday or public holiday	150%																	
<p>(d) Where ordinary shift hours commence between 11.00 pm and midnight on a Sunday or public holiday, the ordinary time worked before midnight does not entitle the shiftworker to the Sunday or public holiday rate. Provided that the ordinary time worked by a shiftworker on a shift commencing before midnight on the day preceding a Sunday or public holiday and extending into a Sunday or public holiday is regarded as ordinary time worked on such Sunday or public holiday.</p>	<p>26.2 Despite clause <u>26.1</u>:</p> <p>(a) an employee who starts an ordinary shift between 11.00 pm and midnight on a Sunday or public holiday that extends into the next day that is not a public holiday is not entitled to the Sunday or public holiday penalty rate for the time worked on that Sunday or public holiday; but</p> <p>(b) an employee who starts an ordinary shift between 11.00 pm and midnight on the day before a Sunday or public holiday that extends into</p>																	

EXPOSURE DRAFT—Clerks—Private Sector Award 2015 (11 October 2016)	Re-drafted clause	Drafter comments
	that Sunday or public holiday is entitled to the Sunday or public holiday penalty rate for the time worked on that day.	
	<p>26.3 Public holidays</p> <p>(a) An employer must pay an employee who is required to work on a public holiday for a minimum of 4 hours.</p> <p>(b) If an employee works on both a public holiday and the substituted day, the employee is entitled to be paid for one of the days at the penalty rate specified in clause <u>26.1</u>.</p> <p>(c) The employee may choose which day the penalty rate is applied to.</p> <p>Due to lack of clarity in relation to application and operation of the clause, parties are asked to confirm whether the re-drafted clause 26.3 accurately reflects the intention of current modern award clause 31.3 and whether it applies to shiftworkers (see also clause 29).</p>	New clause 26.3 appears in the revised ED at clause 36.5.
<p>(e) A shiftworker must be allowed a twenty minute paid meal break during each shift. The meal break must be counted as time worked and taken up to five hours after starting a shift.</p>	<p>28. Breaks for shiftwork</p> <p>Due to lack of clarity in relation to application and operation of the clause parties are asked to confirm whether the re-drafted clause 28 accurately reflects the intention of current modern award clauses 26.1, 26.2 and 28.4(f).</p> <p>28.1 Clause <u>28</u> gives employees working shifts an entitlement to meal breaks and rest breaks.</p> <p>28.2 An employee working a shift defined in clause <u>25.1</u> is entitled to one 20 minute paid meal break per shift which is to be:</p> <p>(a) taken within 5 hours of starting the shift; and</p> <p>(b) counted as time worked.</p> <p>28.3 An employer must pay an employee who is required to work through their meal break 200% of the minimum hourly rate until a meal break is taken.</p> <p>28.4 Paid rest break</p> <p>(a) An employee working more than 3 hours and fewer than 8 hours is entitled to one paid 10 minute rest break.</p> <p>(b) An employee working 8 hours or more is entitled to two paid 10 minute rest breaks.</p> <p>(c) An employee working more than 4 hours overtime on Saturday morning must be allowed a paid 10 minute rest break.</p> <p>(d) The employer is responsible for determining the suitable time for taking a rest break in accordance with paragraphs (a) and (b).</p> <p>NOTE: Where suitable to business requirements, the employer will arrange for an employee who is entitled to 2 paid rest breaks to take one rest break before and one rest break after their unpaid meal break.</p>	<p>Clause 9.1 of the revised ED is unclear in its application to employees working shifts. It appears that clause 9.1(b) applies to all employees. We have drafted new clause 28 consistent with new clause 15.2 (relating to meal breaks).</p> <p>Rest breaks have been included.</p>
<p>14.5 Overtime</p> <p>(a) Where a shiftworker works overtime, the employer must pay the shiftworker overtime rates as follows:</p>	<p>29. Overtime for shiftwork</p> <p>29.1 An employer must pay an employee on shiftwork overtime rates at the relevant percentage specified in column 2 of Table 7 (depending on when the overtime was worked as specified in column 1) of the minimum hourly wage of the</p>	The clauses referred in clause 14.5(b) the revised ED have been reproduced throughout this part.

EXPOSURE DRAFT—Clerks—Private Sector Award 2015 (11 October 2016)	Re-drafted clause	Drafter comments																														
<table border="1" data-bbox="267 184 1023 661"> <thead> <tr> <th>For all time worked:</th> <th>Overtime rate (% of minimum hourly rate)</th> </tr> </thead> <tbody> <tr> <td>In excess of the ordinary weekly hours fixed in this clause</td> <td></td> </tr> <tr> <td>first 3 hours</td> <td>150%</td> </tr> <tr> <td>after 3 hours</td> <td>200%</td> </tr> <tr> <td>In excess of ordinary daily hours on an ordinary shift</td> <td></td> </tr> <tr> <td>first 2 hours</td> <td>150%</td> </tr> <tr> <td>after 2 hours</td> <td>200%</td> </tr> </tbody> </table> <p data-bbox="192 682 1023 787">(b) Clause 13.5(e) Clause 13.6(a)—Time off instead of overtime and clause 8.6—Make-up time, apply to shiftworkers as well as day workers.</p>	For all time worked:	Overtime rate (% of minimum hourly rate)	In excess of the ordinary weekly hours fixed in this clause		first 3 hours	150%	after 3 hours	200%	In excess of ordinary daily hours on an ordinary shift		first 2 hours	150%	after 2 hours	200%	<p data-bbox="1157 184 1929 220">employee, under clause <u>16</u>—Minimum wages as follows:</p> <p data-bbox="1157 231 1602 262">Table 7—Overtime rates for shiftwork</p> <table border="1" data-bbox="1157 273 2003 829"> <thead> <tr> <th>Column 1 For all time worked:</th> <th>Column 2 Overtime rate (% of minimum hourly rate)</th> </tr> </thead> <tbody> <tr> <td>In excess of the ordinary weekly hours fixed in clause 27.1</td> <td></td> </tr> <tr> <td>first 3 hours</td> <td>150%</td> </tr> <tr> <td>after 3 hours</td> <td>200%</td> </tr> <tr> <td>In excess of ordinary daily hours on an ordinary shift</td> <td></td> </tr> <tr> <td>first 2 hours</td> <td>150%</td> </tr> <tr> <td>after 2 hours</td> <td>200%</td> </tr> <tr> <td>Saturday, Sunday or public holiday that is not an ordinary working day</td> <td>200%</td> </tr> </tbody> </table>	Column 1 For all time worked:	Column 2 Overtime rate (% of minimum hourly rate)	In excess of the ordinary weekly hours fixed in clause 27.1		first 3 hours	150%	after 3 hours	200%	In excess of ordinary daily hours on an ordinary shift		first 2 hours	150%	after 2 hours	200%	Saturday, Sunday or public holiday that is not an ordinary working day	200%	
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<p data-bbox="74 850 727 892">14.6 Work on Saturday, Sunday or public holiday</p> <p data-bbox="192 913 1023 1165">A shiftworker whose ordinary working period does not include a Saturday, a Sunday or a public holiday (as prescribed in Division 10 of the NES) as an ordinary working day must, if required to work on any such day be paid 200% of the minimum hourly rate for work done with a minimum payment of four hours at 200% of the minimum hourly rate if the employee is available for work during such four hours. This provision for minimum payment does not apply where the work on such day is continuous with the commencement or completion of the employee’s ordinary shift.</p>	<p data-bbox="1038 850 2033 913">29.3 An employer must pay an employee for a minimum of 4 hours at the overtime rate specified in clause <u>29.1</u> where the employee:</p> <p data-bbox="1157 934 2033 1176">(a) is required to work on a Saturday, a Sunday or a public holiday (as prescribed in Division 10 of Part 2.2 of the Act); and</p> <p data-bbox="1157 1029 2033 1092">(b) would not have been ordinarily rostered to work that day under clause <u>27.3</u>; and</p> <p data-bbox="1157 1113 2033 1176">(c) the work is not continuous with the start or finish of the employee’s ordinary shift.</p>	<p data-bbox="2047 913 2923 1008">Clause 14.6 of the revised ED provides a minimum engagement subject to a number of qualifications. We have separated out each qualification so that users can easily identify and check each one.</p>																														
<p data-bbox="74 1207 534 1249">14.7 Special rates not cumulative</p> <p data-bbox="192 1270 1023 1396">The overtime rates prescribed in clauses 14.5 and 14.6 are in substitution for and not in addition to the shift allowances prescribed in clause 14.4. The special rates prescribed are in substitution for and not in addition to the shift allowances prescribed.</p>	<p data-bbox="1038 1207 1869 1249">29.2 Penalty rates for shiftwork are not cumulative on overtime rates.</p>	<p data-bbox="2047 1207 2923 1281">Consistency in language is preferable. The special rates referred to in clause 14.7 of the revised ED are the shift penalty rates.</p>																														
	<p data-bbox="1038 1428 1810 1470">30. Time off instead of payment for overtime for shiftwork</p> <p data-bbox="1038 1480 1973 1522"><i>This clause was the subject of a separate Full Bench, see determination PR587147.</i></p>																															
	<p data-bbox="1038 1543 1736 1585">31. Rest period after working overtime for shiftwork</p> <p data-bbox="1038 1606 1944 1648">31.1 Clause 31 applies to full-time and part-time employees working shifts.</p> <p data-bbox="1038 1669 2033 1732">31.2 The provisions of clause <u>31</u> apply when overtime is worked in any of the following circumstances:</p> <p data-bbox="1157 1753 2033 1963">(a) for the purposes of changing shift rosters; or</p> <p data-bbox="1157 1806 2033 1879">(b) where an employee working a shift does not report for duty and another employee is required to work their shift; or</p> <p data-bbox="1157 1900 2033 1963">(c) where a shift is worked by arrangement between the employees themselves.</p>	<p data-bbox="2047 1543 2923 1617">Clause 13.4 of the revised ED has been reproduced in this part in accordance with clause 13.4(c).</p>																														

EXPOSURE DRAFT—Clerks—Private Sector Award 2015 (11 October 2016)	Re-drafted clause	Drafter comments
	<p>31.3 When overtime is necessary employees must, wherever reasonably practical, have at least 8 consecutive hours off duty between hours worked on successive days.</p> <p>31.4 Despite clause <u>31.3</u>, where an employee, due to overtime worked, would be required to start work before having had 8 consecutive hours off duty:</p> <ul style="list-style-type: none"> (a) the employer must release the employee from duty until the employee has had 8 consecutive hours off duty; and (b) the employee must not suffer any loss of pay for an absence during ordinary hours as a result. <p>31.5 Where an employee resumes or continues work without having at least 8 consecutive hours off duty in accordance with clause <u>31.3</u> all of the following apply:</p> <ul style="list-style-type: none"> (a) the employer must pay 200% of the minimum hourly rate until the employee is released from duty; and (b) the employer must release the employee from duty until the employee has had 8 consecutive hours off duty; and (c) the employee must not suffer any loss of pay for an absence during ordinary hours as a result. 	
	<p>32. Transport reimbursement for shiftwork</p> <ul style="list-style-type: none"> (a) Clause <u>32</u> applies to an employee working shiftwork to whom all of the following apply: <ul style="list-style-type: none"> (i) the employee starts or finishes work at a time other than their normal time; and (ii) reasonable means of transport are not available to the employee; and (iii) the employer does not provide, or arrange for, a suitable means of transport to or from the employee’s usual place of residence at no cost to the employee. (b) The employer must reimburse the employee the cost they reasonably incurred in taking a commercial passenger vehicle from the employee’s usual place of residence to the place of employment or from the place of employment to the employee’s usual place of residence, whichever is applicable. <p>NOTE: Clause 19—Allowances prescribes allowances that apply to all employees where specified.</p>	<p>Clause 32(b) uses the words “commercial passenger vehicle” to cover commercial services such as Uber in addition to taxis. The word “reasonably” is intended to ensure that reimbursement is not required for more expensive options such as hire cars or Uber Black if a more reasonably priced option is available.</p>
<p>Part 6—Leave, Public Holidays and Other NES Entitlements</p> <p>15. Annual leave</p> <p>15.1 Annual leave is provided for in the NES.</p> <p>15.2 Definition of shiftworker</p> <p>For the purpose of the additional week of annual leave provided for in the NES, a shiftworker is a seven day shiftworker who is regularly rostered to</p>	<p>Part 7—Leave and Public Holidays</p> <p><i>The annual leave clause has been amended to incorporate PR582986</i></p> <p>33. Annual leave</p> <p>NOTE: Where an employee is receiving overaward payments resulting in the employee’s base rate of pay being higher than the rate specified under this award, the employee is be entitled to receive the higher rate while on a period of paid annual leave (see ss.16 and</p>	

EXPOSURE DRAFT—Clerks—Private Sector Award 2015 (11 October 2016)	Re-drafted clause	Drafter comments
<p>work on Sundays and public holidays in a business in which shifts are continuously rostered 24 hours a day for seven days a week.</p> <p>15.3 Annual leave loading</p> <p>(a) During a period of annual leave an employee will receive a loading calculated on the rate of wage prescribed in clause 10—Minimum wages. Annual leave loading payment is payable on leave accrued.</p> <p>NOTE: Where an employee is receiving overaward payments such that the employee's base rate of pay is higher than the rate specified under this award, the employee is entitled to receive the higher rate while on a period of paid annual leave (see ss.16 and 90 of the Act).</p> <p>(b) The loading is as follows:</p> <p>(i) Day work</p> <p>Employees who would have worked on day work only had they not been on leave—17.5% or the relevant weekend penalty rates, whichever is the greater but not both.</p> <p>(ii) Shiftwork</p> <p>Employees who would have worked on shiftwork had they not been on leave—a loading of 17.5% or the shift loading (including relevant weekend penalty rates) whichever is the greater but not both.</p> <p>15.4 Annual leave in advance</p> <p>(a) An employer and employee may agree in writing to the employee taking a period of paid annual leave before the employee has accrued an entitlement to the leave.</p> <p>(b) An agreement must:</p> <p>(i) state the amount of leave to be taken in advance and the date on which the leave is to commence; and</p> <p>(ii) be signed by the employer and employee and, if the employee is under 18 years of age, by the employee's parent or guardian.</p> <p>Note: An example of the type of agreement required by clause 15.4 is set out at Schedule G —Agreement to Take Annual Leave in Advance. There is no requirement to use the form of agreement set out at Schedule G —Agreement to Take Annual Leave in Advance.</p> <p>(c) The employer must keep a copy of any agreement under clause 15.4 as an employee record.</p> <p>(d) If, on the termination of the employee's employment, the employee has not accrued an entitlement to all of a period of paid annual leave already taken in accordance with an agreement under clause 15.4, the employer may deduct from any money due to the employee on termination an amount equal to the amount that was paid to the employee in respect of any part of the period of annual leave taken in advance to which an entitlement has not been accrued.</p> <p><i>The rest of this clause was the subject of a separate Full Bench, see determination PR582986</i></p>	<p>90 of the Act).</p> <p>33.1 Annual leave is provided for in the NES.</p> <p>33.2 Definition of shiftworker</p> <p>A shiftworker, for the purposes of the NES, is an employee who is a seven day shiftworker who is regularly rostered to work on Sundays and public holidays in a business in which shifts are continuously rostered 24 hours a day for seven days a week.</p> <p>33.3 Annual leave loading</p> <p>(a) During a period of annual leave an employee will receive a loading calculated on the rate of wage prescribed in clause 16—Minimum wages of this award in addition to their minimum rate of pay.</p> <p>(b) Annual leave loading payment is payable on leave accrued.</p> <p>(c) The loading will be as follows:</p> <p>(i) Day work</p> <p>Employees who would have worked on day work only had they not been on leave—17.5% or the relevant weekend penalty rates, whichever is the greater but not both.</p> <p>(ii) Shiftwork</p> <p>Employees who would have worked on shiftwork had they not been on leave—a loading of 17.5% or the shift loading (including relevant weekend penalty rates) whichever is the greater but not both.</p> <p><i>Clauses 33.5 – 33.9 were the subject of a separate Full Bench, see determination PR582986</i></p>	

EXPOSURE DRAFT—Clerks—Private Sector Award 2015 (11 October 2016)	Re-drafted clause	Drafter comments
<p>16. Personal/carer's leave and compassionate leave</p> <p>16.1 Personal/carer's leave and compassionate leave are provided for in the NES.</p> <p>16.2 Personal/carer's leave for casual employees</p> <p>(a) Casual employees are entitled to be not available for work or to leave work to care for a person who is sick and requires care and support or who requires care due to an emergency.</p> <p>(b) Such leave is unpaid. A maximum of 48 hours absence is allowed by right with additional absence by agreement.</p>	<p>34. Personal/carer's leave and compassionate leave</p> <p>34.1 Personal/carer's leave and compassionate leave are provided for in the NES.</p> <p>34.2 Personal/carer's leave for casual employees</p> <p>(a) A casual employee is entitled to be unavailable for work or to leave work to care for a person who:</p> <p>(i) is sick and requires care and support; or</p> <p>(ii) requires care due to an emergency.</p> <p>(b) 48 hours' absence is allowed by right, with additional absence by agreement.</p> <p>(c) Casual employees are not entitled to paid leave under clause 34.2(a).</p>	
<p>17. Parental leave and related entitlements</p> <p>Parental leave and related entitlements are provided for in the NES.</p>	<p>35. Parental leave and related entitlements</p> <p>Parental leave and related entitlements are provided for in the NES.</p>	
<p>18. Public holidays</p> <p>Public holidays provisions may be affected by AM2014/301</p> <p>18.1 Public holiday entitlements are provided for in the NES.</p> <p>18.2 An employer and the employees either the majority of employees or an individual employee, may agree to may by agreement substitute another day for a public holiday.</p> <p>18.3 An employee other than a shiftworker working on a public holiday or a substituted day must be paid at 250% of the minimum hourly rate. Where both a public holiday and substitute day are worked, public holiday penalties are payable on one of those days at the election of the employee. An employee required to work on a public holiday is entitled to not less than four hours' pay at penalty rates provided the employee is available to work for four hours.</p>	<p>36. Public holidays</p> <p>36.1 Public holidays entitlements are provided for in the NES.</p> <p>36.2 Where an employee works on a public holiday they will be paid in accordance with clause 21.3(a) (penalty rates for employees not working shifts), clause 26.1 (penalty rates for employees working shifts) or clause 29.1 (overtime for shiftwork).</p> <p>36.3 Substitution of public holidays by agreement</p> <p>An employer and the employees may by agreement substitute another day for a public holiday.</p>	
<p>19. Community service leave</p> <p>Community service leave is provided for in the NES.</p>	<p>37. Community service leave</p> <p>Community service leave is provided for in the NES.</p>	
<p>20. Termination of employment</p> <p><i>Standard clause not reproduced.</i></p> <p>20.3 Job search entitlement</p> <p><i>Standard clause not reproduced.</i></p>	<p>Part 9—Termination of Employment and Redundancy</p> <p>41. Termination of employment</p> <p><i>Standard clause not reproduced.</i></p> <p>43 Job search entitlement</p> <p><i>Standard clause not reproduced.</i></p>	<p><i>These clauses are standard to other modern award exposure drafts. They will be dealt with via a separate process.</i></p>
<p>21. Redundancy</p> <p><i>Standard clause not reproduced.</i></p> <p>21.2 Transfer to lower paid duties</p> <p><i>Standard clause not reproduced.</i></p> <p>21.3 Employee leaving during notice period</p>	<p>42. Redundancy</p> <p><i>Standard clause not reproduced.</i></p> <p>42.2. Transfer to lower paid job on redundancy</p> <p><i>Standard clause not reproduced.</i></p> <p>42.3. Employee leaving during redundancy notice period</p>	<p><i>These clauses are standard to other modern award exposure drafts. They will be dealt with via a separate process.</i></p>

EXPOSURE DRAFT—Clerks—Private Sector Award 2015 (11 October 2016)	Re-drafted clause	Drafter comments
<p><i>Standard clause not reproduced.</i></p> <p>21.4 Job search entitlement <i>Standard clause not reproduced.</i></p>	<p><i>Standard clause not reproduced.</i></p> <p>43. Job search entitlement <i>Standard clause not reproduced.</i></p>	
<p>Part 7—Consultation and Dispute Resolution</p> <p>22. Consultation</p> <p>22.1 Consultation regarding major workplace change <i>Standard clause not reproduced.</i></p> <p>22.2 Consultation about changes to rosters or hours of work <i>Standard clause not reproduced.</i></p> <p>23. Dispute resolution <i>Standard clause not reproduced.</i></p>	<p>Part 8—Consultation and Dispute Resolution</p> <p>38. Consultation about major workplace change <i>Standard clause not reproduced.</i></p> <p>39. Consultation about changes to rosters or hours of work <i>Standard clause not reproduced.</i></p> <p>40. Dispute resolution <i>Standard clause not reproduced.</i></p>	<p><i>These clauses are standard to other modern award exposure drafts. They will be dealt with via a separate process.</i></p>
<p>Schedule A—Classification Structure and Definitions</p> <p>The classification criteria in this schedule provides guidelines to determine the appropriate classification level of persons employed pursuant to this award. In determining the appropriate level, consideration must be given to both the characteristics and typical duties/skills. The characteristics are the primary guide to classification as they indicate the level of basic knowledge, comprehension of issues, problems and procedures required and the level of supervision or accountability of the position. The totality of the characteristics must be read as a whole to obtain a clear understanding of the essential features of any particular level and the competency required. The typical duties/skills are a non-exhaustive list of duties/skills that may be comprehended within the particular level. They are an indicative guide only and at any particular level employees may be expected to undertake duties of any level lower than their own. Employees at any particular level may perform/utilise one such duty/skill, or many of them, depending on the particular work allocated.</p> <p>The key issue to be looked at in properly classifying an employee is the level of competency and skill that the employee is required to exercise in the work they perform, not the duties they perform per se. It will be noted that some typical duties/skills appear in more than one level, however when assigning a classification to an employee this needs to be done by reference to the specific characteristics of the level. For example, whilst word processing and copy typing are first specifically mentioned at Level 2 in terms of typical duty/skill, it does not mean that as soon as an employee operates a word processor or typewriter they automatically become Level 2. They would achieve a Level 2 classification when they have achieved the level of skill and competency envisaged by the characteristics and the relevant indicative duty(ies)/skill(s) of a Level 2. Level 1 in this structure is to be viewed as the level at which employees learn and gain competence in the basic clerical skills required by the employer, which in most cases would lead to progression through the classification structure as their competency and skills increase and are utilised.</p>	<p>Schedule A—Classification Structure and Definitions</p> <p>A.1 Classifying employees</p> <p>A.1.1 This schedule sets out the classification descriptions for employees covered by this award.</p> <p>A.1.2 An employer must classify an employee in accordance with the level of competency and skill required to be exercised.</p> <p>A.1.3 Consideration must be given to both the competencies and typical duties and skills in order to determine the appropriate level. However, the competencies are the primary indicator of classification.</p> <p>A.1.4 The competencies must be read as a whole. They describe general competencies and skills based on required knowledge, comprehension of issues and procedures as well as the necessary supervision or accountability of the level.</p> <p>A.1.5 The typical duties and skills are non-exhaustive lists of those that may be required. They are a guide only and employees may be expected to undertake duties of a lower classification. Depending on the particular task, employees at a given level may perform one or more duty or skill listed.</p> <p>NOTE: Some duties and skills appear in more than one level, however assigning a classification needs to be done by reference to the specific competencies of the level. For example, an employee must be classified at Level 2 when they have achieved the level of skill and competency outlined in the characteristics and perform relevant indicative duties and skills. Therefore, an employee who operates a word processor or typewriter is not automatically to be classified at Level 2 despite word processing and copy typing being first specifically mentioned at Level 2.</p>	<p>There are two paragraphs of text under Schedule A of the revised ED which include guidelines to classifying employees. Guidelines would not generally be thought to be legally enforceable, however, the word ‘must’ appears twice in the first paragraph. Further, an employer who misclassified an employee may risk liability.</p> <p>Where there appears to be an obligation on the employer, we have stated that obligation clearly and consistent with clause 12 of the plain language re-draft. The word ‘competency’ rather than ‘characteristic’ has been used consistent with clause 12.</p> <p>We have removed unnecessary detail that does not have legal effect consistent with plain language draft guideline 8.3.</p> <p>Aspirational statements have been excluded consistent with para 61 [2016] FWCFB 6836.</p> <p>A note has been added.</p> <p>Each level has been organised by setting out the competencies first and then the list of duties.</p> <p>Archaic and out of date terminology has been removed, consistent with plain language draft guideline 6.20.</p>
<p>A.1 Level 1</p> <p>A.1.1 Characteristics</p> <p>Employees at this level may include the initial recruit who may have limited relevant experience. Initially work is performed under close direction using established practices, procedures and instructions.</p>	<p>A.2 Level 1</p> <p>A.2.1 Competencies</p> <p>(a) Employees at this level include initial recruits who have limited relevant experience and perform routine clerical and office functions.</p> <p>(b) Employees at this level have the competencies and skills required to:</p>	

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<p>Such employees perform routine clerical and office functions requiring an understanding of clear, straightforward rules or procedures and may be required to operate certain office equipment. Problems can usually be solved by reference to established practices, procedures and instructions.</p> <p>Employees at this level are responsible and accountable for their own work within established routines, methods and procedures and the less experienced employees' work may be subject to checking at all stages. The more experienced employee may be required to give assistance to less experienced employees in the same classification.</p> <p>A.1.2 Typical duties/skills</p> <p>Indicative typical duties and skills at this level may include:</p> <ol style="list-style-type: none"> (1) Reception/switchboard, e.g. directing telephone callers to appropriate staff, issuing and receiving standard forms, relaying internal information and initial greeting of visitors. (2) Maintenance of basic records. (3) Filing, collating, photocopying, etc. (4) Handling or distributing mail including messenger service. (5) Recording, matching, checking and batching of accounts, invoices, orders, store requisitions, etc. (6) The operation of keyboard and other allied equipment in order to achieve competency as prescribed in Level 2. (7) Call centre customer contact trainee—customer contact functions with direct supervision. 	<ol style="list-style-type: none"> (i) perform work under close direction using established practices, procedures and instructions; and (ii) work may be subject to checking; and (iii) solve problems by reference to established practices, procedures and instructions; and (iv) operate certain office equipment; and (v) be responsible and accountable for their own work within established routines, methods and procedures. <p>(c) More experienced employees may be required to assist less experienced employees in the same classification.</p> <p>A.2.2 Typical duties and skills</p> <ol style="list-style-type: none"> (a) Reception and switchboard duties including: <ol style="list-style-type: none"> (i) directing telephone callers to appropriate staff; (ii) issuing and receiving standard forms; (iii) relaying internal information; and (iv) greeting visitors. (b) Maintaining basic records. (c) Filing, collating and copying documents. (d) Handling or distributing mail including messenger service. (e) Dealing with accounts, invoices, orders and store requisitions through recording, matching, checking and batching. (f) Operating a keyboard and related business equipment in order to achieve the competency in Level 2. <p>A.2.3 Typical duties and skills—Call centre customer contact trainee</p> <ol style="list-style-type: none"> (a) Customer contact functions with direct supervision. 	

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<p>A.2 Level 2</p> <p>A.2.1 Characteristics</p> <p>This level caters for the employees who have had sufficient experience and/or training to enable them to carry out their assigned duties under general direction.</p> <p>Employees at this level are responsible and accountable for their own work which is performed within established guidelines. In some situations detailed instructions may be necessary. This may require the employee to exercise limited judgment and initiative within the range of their skills and knowledge.</p> <p>The work of these employees may be subject to final checking and as required, progress checking. Such employees may be required to check the work and/or provide guidance to other employees at a lower level and/or provide assistance to less experienced employees at the same level.</p> <p>A.2.2 Typical duties/skills</p> <p>Indicative typical duties and skills at this level may include:</p> <ul style="list-style-type: none"> (i) Reception/switchboard duties as in Level 1 and in addition responding to enquiries as appropriate, consistent with the acquired knowledge of the organisation's operations and services, and/or where presentation, and use of interpersonal skills are a key aspect of the position. (ii) Operation of computerised radio/telephone equipment, micro personal computer, printing devices attached to personal computer, dictaphone equipment, typewriter. (iii) Word processing, e.g. the use of a word processing software package to create, format, edit, correct, print and save text documents, e.g. standard correspondence and business documents. (iv) Stenographer/person solely employed to take shorthand and to transcribe by means of appropriate keyboard equipment. (v) Copy typing and audio typing. (vi) Maintenance of records and/or journals including initial processing and recording relating to the following: <ul style="list-style-type: none"> • reconciliation of accounts to balance; • incoming/outgoing cheques; • invoices; • debit/credit items; • payroll data; • petty cash imprest system; and • letters etc. 	<p>A.3 Level 2</p> <p>A.3.1 Competencies</p> <p>(a) The general competencies and skills required of employees at this level include:</p> <ul style="list-style-type: none"> (i) sufficient experience or training to enable them to carry out their duties under general direction; (ii) the capacity to be responsible and accountable for their own work within established guidelines; (iii) detailed instructions may be necessary in some situations; (iv) the ability to exercise limited judgment and initiative within their skills and knowledge,; and (v) the ability to check work and provide guidance to other employees at a lower level. <p>(b) Employees may be required to provide assistance to less experienced employees at the same level.</p> <p>(c) The work of employees at this level may be subject to final checking and as required, including progress checking.</p> <p>(d) In addition to above characteristics, call centre customer contact officer will have the ability to manage their own work under guidance.</p> <p>(e) A Call centre customer contact officer must be classified at this level if they hold a Certificate II in Telecommunications (Customer Contact) or equivalent and are employed to perform the duties and skills listed under subclause A.3.3.</p> <p>A.3.2 Typical duties and skills</p> <p>(a) In addition to reception and switchboard duties set out in Level 1:</p> <ul style="list-style-type: none"> (i) respond to enquiries consistent with the organisation's operations; (ii) provide general advice and information about the organisation's products and services; and (iii) presentation and interpersonal skills may be key aspect of the position. <p>(b) Operation of business equipment including: computerised radio and telephone equipment, computers, printing devices, dictaphone equipment and typewriters.</p> <p>(c) Computer applications, including using word and excel software, to create and edit documents such as standard correspondence, business documents, graphics, accounting and payroll files.</p> <p>(d) Maintenance of records and journals including initial processing and recording relating to the following:</p> <ul style="list-style-type: none"> (i) reconciliation of accounts to balance; (ii) incoming and outgoing cheques; 	

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<p>(vii) Computer application involving use of a software package which may include one or more of the following functions:</p> <ul style="list-style-type: none"> • create new files and records; • spreadsheet/worksheet; • graphics; • accounting/payroll file; and • following standard procedures and using existing models/fields of information. <p>(viii) Arrange routine travel bookings and itineraries, make appointments.</p> <p>(ix) Provide general advice and information on the organisation’s products and services, e.g. front counter/telephone.</p> <p>(x) Call centre customer contact officer grade 1 is employed to:</p> <ul style="list-style-type: none"> • use known routines and procedures; • have some accountability for quality of outcomes; • receive calls; • use common call centre technology; • enter and retrieve data; • work in a team; • manage own work under guidance; and • provide at least one specialised service (sales and advice for products and services, complaints or fault enquiries or data collection surveys). <p>An employee who holds a Certificate II in Telecommunications (Customer Contact) or equivalent is to be classified at this level when employed to perform the functions defined.</p>	<ul style="list-style-type: none"> (iii) invoices; (iv) debit and credit items; (v) payroll data; (vi) petty cash imprest system; and (vii) letters. <p>(e) Make appointments and arrange routine travel bookings and itineraries.</p> <p>(f) Stenographer, shorthand and transcription, copy typing and audio typing.</p> <p>A.3.3 Typical duties and skills—Call centre customer contact officer grade 1</p> <ul style="list-style-type: none"> (a) Receives calls. (b) Uses common call centre technology. (c) Enters and retrieves data. (d) Works in a team. (e) Provides at least one specialised service including: <ul style="list-style-type: none"> (i) sales and advice for products and services; (ii) complaints or fault enquiries; or (iii) data collection surveys. 	
<p>A.3 Level 3</p> <p>A.3.1 Characteristics</p> <p>Employees at this level have achieved a standard to be able to perform specialised or non-routine tasks or features of the work. Employees require only general guidance or direction and there is scope for the exercise of limited initiative, discretion and judgment in carrying out their assigned duties.</p> <p>Such employees may be required to give assistance and/or guidance (including guidance in relation to quality of work and which may require some allocation of duties) to employees in Levels 1 and 2 and would be able to train such employees by means of personal instruction and demonstration.</p>	<p>A.4 Level 3</p> <p>A.4.1 Competencies</p> <ul style="list-style-type: none"> (a) The general competencies and skills required of employees at this level include: <ul style="list-style-type: none"> (i) the capacity to perform specialised, non-routine tasks or features of the work; (ii) the ability to train employees in lower levels by means of personal instruction and demonstration; and (iii) the ability to give assistance, training and guidance, including in relation to quality of work, to employees in lower levels and 	

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<p>A.3.2 Typical duties/skills</p> <p>Indicative typical duties and skills at this level may include:</p> <ul style="list-style-type: none"> (i) Prepare cash payment summaries, banking report and bank statements; calculate and maintain wage and salary records; follow credit referral procedures; apply purchasing and inventory control requirements; post journals to ledger. (ii) Provide specialised advice and information on the organisation's products and services; respond to client/public/supplier problems within own functional area utilising a high degree of interpersonal skills. (iii) * Apply one or more computer software packages developed for a micro personal computer or a central computer resource to either: <ul style="list-style-type: none"> • create new files and records; • maintain computer based records management systems; • identify and extract information from internal and external sources; or • use of advanced word processing/keyboard functions. (iv) Arrange travel bookings and itineraries; make appointments; screen telephone calls; respond to invitations; organise internal meetings on behalf of executive(s); establish and maintain reference lists/personal contact systems for executive(s). (v) Application of specialist terminology/processes in professional offices. (vi) Call centre customer contact officer grade 2 is employed to: <ul style="list-style-type: none"> • perform a broader range of skilled operations than grade 1; • exercise some discretion and judgment in the selection of equipment, services or contingency measures; • work within known time constraints; • provide multiple specialised services to customers (including complex sales, service advice for a range of products or services, and difficult complaint and fault inquiries); • deployment of service staff using multiple technologies; and • exercise a limited amount of leadership over less experienced employees. <p>An employee who holds a Certificate III (Customer Contact) or equivalent is to be classified at this level when employed to perform the functions defined.</p> <p>* Note: These typical duties/skills may be either at Level 3 or Level 4 dependent upon the characteristics of that particular level.</p> 	<p>allocate duties.</p> <ul style="list-style-type: none"> (b) Employees at this level require general guidance or direction and there is scope for the exercise of limited initiative, discretion and judgment in carrying out their assigned duties. (c) In addition to above characteristics, call centre customer contact officers will have the ability to: <ul style="list-style-type: none"> (i) exercise some discretion and judgment in the selection of equipment, services or contingency measures; and (ii) work within known time constraints. (d) An employee must be classified at this level if they hold a Certificate III (Customer Contact) or equivalent and are employed to perform the duties and skills listed under subclause A.4.2. <p>A.4.2 Typical duties and skills</p> <ul style="list-style-type: none"> (a) Preparing cash payment summaries, banking reports and bank statements; calculating and maintaining wage and salary records; following credit referral procedures; applying purchasing and inventory control requirements; and posting journals to ledger. (b) Providing specialised advice and information on the organisation's products and services. (c) Responding to clients, the public and suppliers' problems within own functional area utilising a high degree of interpersonal skills. (d) *Applying computer software in order to: <ul style="list-style-type: none"> (i) create new files and records; (ii) maintain computer based records management systems; (iii) identify and extract information from internal and external sources; or (iv) use advanced word processing and keyboard functions. (e) Arranging travel bookings and itineraries, making appointments, screening telephone calls, responding to invitations, organising internal meetings, establishing and maintaining reference lists and personal contact systems. (f) Application of specialist terminology and processes in professional offices. <p>A.4.3 Typical duties and skills—Call centre customer contact officer grade 2</p> <ul style="list-style-type: none"> (a) Performing a broader range of skilled operations than grade 1. (b) Providing multiple specialised services to customers (including complex sales, service advice for a range of products or services, and difficult complaint and fault inquiries). (c) Deploying service staff using multiple technologies. <p>* Note: These typical duties and skills may be either at Level 3 or Level 4 dependent on the characteristics of that particular level.</p>	

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<p>A.4 Call centre principal customer contact specialist</p> <p>Employees at this level are employed to:</p> <ul style="list-style-type: none"> • perform a broad range of skilled applications; • provide leadership as a coach, mentor or senior staff member, and provide guidance in the application and planning of skills; • work with a high degree of autonomy with the authority to take decisions in relation to specific customer contact matters; and • take responsibility for the outcomes of customer contact and resolve complex situations. 	<p>A.5 Call centre principal customer contact specialist</p> <p>A.5.1 Competencies</p> <p>The general competencies and skills required of employees at this level include the ability to:</p> <ul style="list-style-type: none"> (a) perform a broad range of skilled applications; (b) provide leadership as a coach, mentor or senior staff member, and provide guidance in the application and planning of skills; (c) work with a high degree of autonomy with the authority to make decisions in relation to specific customer contact matters; and (d) take responsibility for the outcomes of customer contact and resolve complex situations. 	
<p>A.5 Level 4</p> <p>A.5.1 Characteristics</p> <p>Employees at this level will have achieved a level of organisation or industry specific knowledge sufficient for them to give advice and/or information to the organisation and clients in relation to specific areas of their responsibility. They would require only limited guidance or direction and would normally report to more senior staff as required. Whilst not a pre-requisite a principal feature of this level is supervision of employees in lower levels in terms of responsibility for the allocation of duties, co-ordinating work flow, checking progress, quality of work and resolving problems.</p> <p>They exercise initiative, discretion and judgment at times in the performance of their duties.</p> <p>They are able to train employees in Levels 1–3 by personal instruction and demonstration.</p> <p>A.5.2 Typical duties/skills</p> <p>Indicative typical duties and skills at this level may include:</p> <ul style="list-style-type: none"> (i) Secretarial/executive support services which may include the following: maintaining executive diary; attending executive/organisational meetings and taking minutes; establishing and/or maintaining current working and personal filing systems for executive; answering executive correspondence from verbal or handwritten instructions. (ii) Able to prepare financial/tax schedules, calculating costings and/or wage and salary requirements; completing personnel/payroll data for authorisation; reconciliation of accounts to balance. (iii) Advising on/providing information on one or more of the following: <ul style="list-style-type: none"> • employment conditions; • workers compensation procedures and regulations; and 	<p>A.6 Level 4</p> <p>A.6.1 Competencies</p> <ul style="list-style-type: none"> (a) The general competencies and skills required of employees at this level include: <ul style="list-style-type: none"> (i) sufficient organisation or industry specific knowledge to be capable of providing advice and information in relation to specific areas of their responsibility; (ii) the ability to work under limited guidance or direction and report to more senior staff as required; (iii) the capacity to exercise initiative, discretion and judgment in the performance of duties; and (iv) the ability to train employees in Levels 1–3 by personal instruction and demonstration. (b) A principal feature, but not a requirement, of this level is supervision of employees in lower levels. Employees at this level may be required to be responsible for the allocation of duties, co-ordination of work flow, checking of progress, quality of work and resolving problems. (c) In addition to the characteristics set out in paragraphs (a) and (b), call centre customer contact team leaders have the ability to: <ul style="list-style-type: none"> (i) provide leadership in a team leader role and provide guidance to others in the application and planning of skills; and (ii) work with a high degree of autonomy and exercise authority to take decisions in relation to specific customer contact matters. (d) An employee must be classified at this level if they hold a Certificate IV (Customer Contact) or equivalent and are employed to perform the duties and skills under subclause A.6.3. <p>A.6.2 Typical duties and skills</p> <ul style="list-style-type: none"> (a) Secretarial and executive support services including: <ul style="list-style-type: none"> (i) maintaining executive diary; 	

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<ul style="list-style-type: none"> • superannuation entitlements, procedures and regulations. <p>(iv) *Applying one or more computer software packages, developed for a micro personal computer or a central computer resource to either:</p> <ul style="list-style-type: none"> • creating new files and records; • maintaining computer based management systems; • identifying and extract information from internal and external sources; or • using of advanced word processing/keyboard functions. <p>(v) Call centre customer contact team leader is employed to:</p> <ul style="list-style-type: none"> • perform a broad range of skilled applications; • evaluate and analyse current practices; • develop new criteria and procedures for performing current practices; • provide leadership in a team leader role and provide guidance to others in the application and planning of skills; and • work with a high degree of autonomy and exercise authority to take decisions in relation to specific customer contact matters. <p>An employee who holds a Certificate IV (Customer Contact) or equivalent is to be classified at this level when employed to perform the functions defined.</p> <p>* Note: These typical duties/skills may be either at Level 3 or Level 4 dependent upon the characteristics of that particular level.</p>	<ul style="list-style-type: none"> (ii) attending executive and organisational meetings and taking minutes; (iii) establishing and maintaining current working and personal filing systems for executive; and (iv) answering executive correspondence as instructed. <p>(b) Preparation of financial and tax schedules, calculating costings, wage and salary requirements; completing personnel and payroll data for authorisation; reconciliation of accounts to balance.</p> <p>(c) Advising or providing information on one or more of the following:</p> <ul style="list-style-type: none"> (i) employment conditions; (ii) workers compensation procedures and regulations; and (iii) superannuation entitlements, procedures and regulations. <p>(d) *Applying one or more computer software packages to:</p> <ul style="list-style-type: none"> (i) create new files and records; (ii) maintain computer based management systems; (iii) identify and extract information from internal and external sources; or (iv) use advanced word processing/keyboard functions. <p>A.6.3 Typical duties and skills—Call centre customer contact team leader</p> <ul style="list-style-type: none"> (a) Performing a broad range of skilled applications. (b) Evaluating and analysing current practices. (c) Developing new criteria and procedures for performing current practices. <p>* Note: These typical duties and skills may be either at Level 3 or Level 4 dependent upon the characteristics of that particular level.</p>	
<p>A.6 Level 5</p> <p>A.6.1 Characteristics</p> <p>Employees at this level are subject to broad guidance or direction and would report to more senior staff as required.</p> <p>Such employees will typically have worked or studied in a relevant field and will have achieved a standard of relevant and/or specialist knowledge and experience sufficient to enable them to advise on a range of activities and features and contribute, as required, to the determination of objectives, within the relevant field(s) of their expertise.</p> <p>They are responsible and accountable for their own work and may have delegated responsibility for the work under their control or supervision, including, scheduling workloads, resolving operations problems, monitoring the quality of work produced and counselling staff for performance and work related matters.</p>	<p>A.7 Level 5</p> <p>A.7.1 Competencies</p> <p>(a) The general competencies and skills required of employees at this level include:</p> <ul style="list-style-type: none"> (i) sufficient relevant or specialist knowledge and experience to be capable of advising on a range of activities and contribute to the determination of objectives, within the relevant fields of their expertise. (ii) the ability to work subject to broad guidance or direction and report to more senior staff as required; (iii) the capacity to often exercise initiative, discretion and judgment in the performance of their duties; (iv) the ability to train and to supervise employees in lower levels by 	

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<p>They would also be able to train and to supervise employees in lower levels by means of personal instruction and demonstration. They would also be able to assist in the delivery of training courses. They would often exercise initiative, discretion and judgment in the performance of their duties.</p> <p>The possession of relevant post secondary qualifications may be appropriate but are not essential.</p> <p>A.6.2 Typical duties/skills</p> <p>Indicative typical duties and skills at this level may include:</p> <ul style="list-style-type: none"> (i) Apply knowledge of organisation’s objectives, performance, projected areas of growth, product trends and general industry conditions. (ii) Application of computer software packages within either a micro personal computer or a central computer resource including the integration of complex word processing/desktop publishing, text and data documents. (iii) Provide reports for management in any or all of the following areas: <ul style="list-style-type: none"> • account/financial; • staffing; • legislative requirements; and • other company activities. (iv) Administer individual executive salary packages, travel expenses, allowances and company transport; administer salary and payroll requirements of the organisation. (v) Call centre principal customer contact leader is employed to: <ul style="list-style-type: none"> • apply a significant range of fundamental principles and complex techniques across a wide and unpredictable variety of contexts in either varied or highly specialised functions; • co-ordinate the work of a number of teams within a call centre environment; and • have a number of specialists/supervisors reporting to them. <p>An employee who holds a Diploma—Front Line Management or equivalent is to be classified at this level when employed to perform the functions defined.</p>	<p>means of personal instruction and demonstration; and</p> <ul style="list-style-type: none"> (v) the ability to assist in the delivery of training courses. (b) Employees at this level will have the capacity to be responsible and accountable for their own work and may be delegated responsibility for the work under their control or supervision, including, scheduling workloads, resolving operations problems, monitoring the quality of work produced and counselling staff for performance and work related matters. (c) Employees may possess relevant post-secondary qualifications however, this is not essential. (d) In addition to the competencies set out in paragraphs (a) to (c), a call centre principal customer contact leader will have the ability to apply a significant range of fundamental principles and complex techniques across a wide and unpredictable variety of contexts in either varied or highly specialised functions (e) An employee must be classified at this level if they hold a Diploma—Front Line Management or equivalent and is employed to perform the duties and skills under subclause A.7.3. <p>A.7.2 Typical duties and skills</p> <ul style="list-style-type: none"> (a) Applying knowledge of organisation’s objectives, performance, projected areas of growth, product trends and general industry conditions. (b) Application of computer software packages including the integration of complex word processing and desktop publishing, text and data documents. (c) Providing reports for management in any or all of the following areas: <ul style="list-style-type: none"> (i) accounts and finances; (ii) staffing; (iii) legislative requirements; and (iv) other company activities. (d) Administering individual executive salary packages, travel expenses, allowances and company transport; administer salary and payroll requirements of the organisation. <p>A.7.3 Typical duties and skills—Call centre principal customer contact leader</p> <ul style="list-style-type: none"> (a) Co-ordinating the work of a number of teams within a call centre environment. (b) Has a number of specialists/supervisors reporting to them. 	
<p>A.7 Call centre technical associate</p> <p>A call centre technical associate is employed to:</p> <ul style="list-style-type: none"> • apply a significant range of fundamental principles and complex techniques across a wide and unpredictable variety of contexts in relation 	<p>A.8 Call centre technical associate</p> <p>A.8.1 Competencies</p> <ul style="list-style-type: none"> (a) The general competencies and skills required of employees at this level include the ability to: 	

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<p>to either varied or highly specialised functions;</p> <ul style="list-style-type: none"> • contribute to the development of a broad plan, budget or strategy; • work with a high degree of autonomy and be accountable and responsible for themselves and others in achieving outcomes (some supervision may be required); • be involved in the design, installation and management of telecommunications computer equipment and system development; • assess installation requirements; • design systems; • plan and perform installations; and • install and manage data communications equipment and find faults. 	<ul style="list-style-type: none"> (i) apply a significant range of fundamental principles and complex techniques across a wide and unpredictable variety of contexts in relation to either varied or highly specialised functions; (ii) contribute to the development of a broad plan, budget or strategy; and (iii) work with a high degree of autonomy and be accountable and responsible for themselves and others in achieving outcomes (some supervision may be required). <p>A.8.2 Typical duties and skills</p> <ul style="list-style-type: none"> (a) Involvement in the design, installation and management of telecommunications computer equipment and system development. (b) Assessing installation requirements. (c) Designing systems. (d) Planning and perform installations. (e) Installing and manage data communications equipment and find faults. 	
<p>Schedule B—Summary of Hourly Rates of Pay <i>Common clause not reproduced.</i></p> <p>Schedule C—Summary of Monetary Allowances <i>Common clause not reproduced.</i></p> <p>Schedule D— Supported Wage System <i>Common clause not reproduced.</i></p> <p>Schedule E—National Training Wage <i>Common clause not reproduced.</i></p> <p>Schedule F—2016 Part-day Public Holidays <i>Common clause not reproduced.</i></p> <p>Schedule G—Agreement to Take Annual Leave in Advance <i>Common clause not reproduced.</i></p> <p>Schedule H—Agreement to Cash Out Annual Leave <i>Common clause not reproduced.</i></p>	<p>Schedule B—Summary of Hourly Rates of Pay <i>Common clause not reproduced.</i></p> <p>Schedule C—Summary of Monetary Allowances <i>Common clause not reproduced.</i></p> <p>Schedule D— Supported Wage System <i>Common clause not reproduced.</i></p> <p>Schedule E—National Training Wage <i>Common clause not reproduced.</i> <i>The National Training Wage Schedule is being reviewed in AM2016/17.</i></p> <p>Schedule F—2016 Part-day Public Holidays <i>Common clause not reproduced.</i> <i>This clause is being reviewed in AM2016/301.</i></p> <p>Schedule G—Agreement to Take Annual Leave in Advance <i>This schedule is drafted in plain language and common to other awards.</i> <i>No further consultation on this schedule is planned.</i></p> <p>Schedule H—Agreement to Cash Out Annual Leave <i>This schedule is drafted in plain language and common to other awards.</i> <i>No further consultation on this schedule is planned.</i></p>	<p><i>These clauses are common to other modern award exposure drafts. They will be dealt with via a separate process.</i></p>

EXPOSURE DRAFT—Clerks—Private Sector Award 2015 (11 October 2016)	Re-drafted clause	Drafter comments
<p>Schedule I—Definitions</p> <p>In this award, unless the contrary intention appears:</p> <p>Act means the <i>Fair Work Act 2009</i> (Cth)</p> <p>afternoon shift means any shift finishing after 7.00 pm and at or before midnight</p> <p>clerical work includes recording, typing, calculating, invoicing, billing, charging, checking, receiving and answering calls, cash handling, operating a telephone switchboard and attending a reception desk</p> <p>defined benefit member has the meaning given by the <i>Superannuation Guarantee (Administration) Act 1992</i> (Cth)</p> <p>employee means national system employee within the meaning of the Act</p> <p>employer means national system employer within the meaning of the Act</p> <p>exempt public sector superannuation scheme has the meaning given by the <i>Superannuation Industry (Supervision) Act 1993</i> (Cth)</p>	<p>2. Definitions</p> <p>In this award:</p> <p>Act means the <i>Fair Work Act 2009</i> (Cth).</p> <p>afternoon shift, see clause 25.1(a).</p> <p>defined benefit member has the meaning given by the <i>Superannuation Guarantee (Administration) Act 1992</i> (Cth).</p> <p>employee means a national system employee as defined by section 13 of the Act.</p> <p>employer means a national system employer as defined by section 14 of the Act.</p> <p>enterprise instrument has the meaning given by subitem 2(1) of Schedule 6 to the Fair Work (Transitional Provisions and Consequential Amendments) Act 2009 (Cth).</p> <p>exempt public sector superannuation scheme has the meaning given by the <i>Superannuation Industry (Supervision) Act 1993</i> (Cth).</p> <p>Fair Work Regulations means the <i>Fair Work Regulations 2009</i> (Cth).</p>	<p><i>Some definitions are common to other modern award exposure drafts. They will be dealt with via a separate process.</i></p>
<p>minimum hourly rate means the minimum hourly rate prescribed in clause 10—Minimum wages</p> <p>MySuper product has the meaning given by the <i>Superannuation Industry (Supervision) Act 1993</i> (Cth)</p> <p>NES means the National Employment Standards as contained in sections 59 to 131 of the <i>Fair Work Act 2009</i> (Cth)</p>	<p>minimum hourly rate means the minimum hourly rate prescribed in clause 16—Minimum wages.</p> <p>MySuper product has the meaning given by the <i>Superannuation Industry (Supervision) Act 1993</i> (Cth).</p> <p>National Employment Standards, see Part 2-2 of the Act. Divisions 3 to 12 of Part 2-2 of the Act constitute the <i>National Employment Standards</i>. An extract of section 61 of the Act is reproduced below.</p> <p>The National Employment Standards are minimum standards applying to employment of employees. The minimum standards relate to the following matters:</p> <ul style="list-style-type: none"> (a) maximum weekly hours (Division 3); (b) requests for flexible working arrangements (Division 4); (c) parental leave and related entitlements (Division 5); (d) annual leave (Division 6); (e) personal/carer's leave and compassionate leave (Division 7); (f) community service leave (Division 8); (g) long service leave (Division 9); (h) public holidays (Division 10); (i) notice of termination and redundancy pay (Division 11); (j) Fair Work Information Statement (Division 12). 	

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<p>night shift means any shift finishing after midnight, and at or before 7.00 am</p> <p>on-hire means the on-hire of an employee by their employer to a client, where such employee works under the general guidance and instruction of the client or a representative of the client</p> <p>permanent night shift means a night shift which does not rotate with another shift or shifts or day work and which continues for a period of four consecutive weeks or longer</p> <p>standard rate means the minimum weekly wage for a Level 2, Year 1 in clause 10.1—Minimum wages</p>	<p>night shift, see clause <u>25.1(b)</u>.</p> <p>on-hire means the on-hire of an employee by their employer to a client, where such an employee works under the general guidance and instructions of the client or a representative of the client.</p> <p>permanent night shift, see clause <u>25.1(c)</u>.</p> <p>shiftworker, see clause <u>33.2</u>. standard rate means the minimum weekly wage for a Level 2, Year 1 in clause <u>16.1</u>.</p> <p>State reference public sector modern award has the meaning given by subitem 3(2) of Schedule 6A to the <i>Fair Work (Transitional Provisions and Consequential Amendments) Act 2009</i> (Cth).</p> <p>State reference public sector transitional award has the meaning given by subitem 2(1) of Schedule 6A to the <i>Fair Work (Transitional Provisions and Consequential Amendments) Act 2009</i> (Cth).</p> <p>Table 1—Facilitative provisions means the Table in clause <u>7.2</u>.</p> <p>Table 2—Entitlements to rest break(s) means the Table in clause <u>15.2</u>.</p> <p>Table 3—Minimum wages means the Table in clause <u>16.1</u>.</p> <p>Table 4—Junior wages means the Table in clause <u>16.4</u>.</p> <p>Table 5—Overtime rates for employees who are not engaged on shifts means the Table in clause <u>22.4</u>.</p> <p>Table 6—Penalty rates for shiftwork means the Table in clause <u>26.1</u>.</p> <p>Table 7—Overtime rates for shiftwork means the Table in clause <u>29.1</u>.</p> <p>Table 8—Period of notice means the Table in clause <u>41.1</u>.</p>	