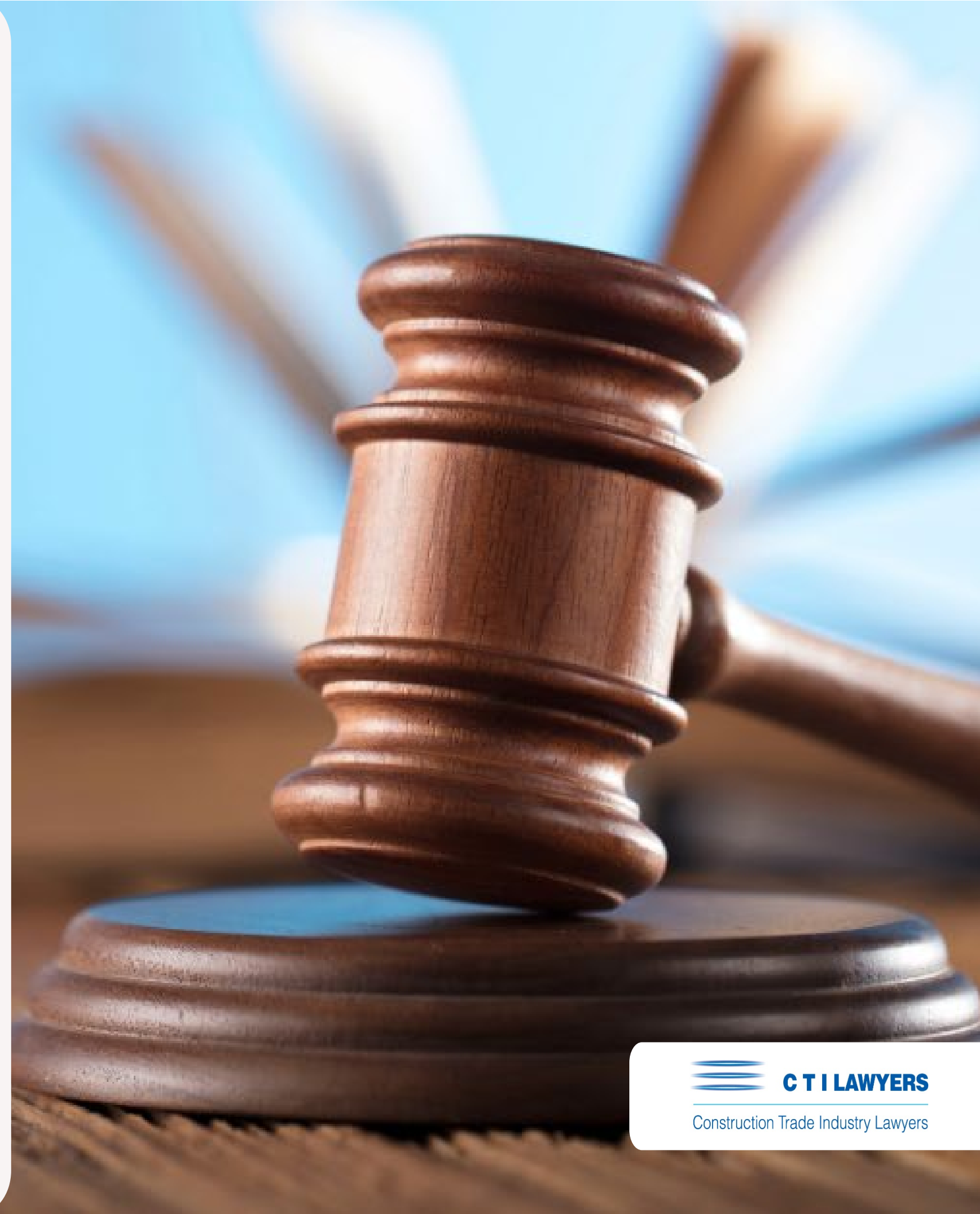




# **CTI Lawyers t/as NECA Legal Webinar Series: Session 2**

Rights and Obligations under the  
Electrical Award and the National  
Employment Standards





## Presenter:



Marina Galatoulas



# Webinar Agenda

1. Modern Awards
2. Types of Employment
3. Wage Rates
4. Hours of Work and Rostered Days Off
5. Overtime
6. Breaks
7. Travel and Allowances
8. National Employment Standards
9. Leave
10. Q&As



# 1. Modern Awards





## What is a Modern Award?

- Set minimum pay rates for employees in specific industries
- Set minimum terms and conditions for employees in specific industries
- *Electrical, Electronic and Communications Contracting Award 2020*

*Contracting Award 2020*



## 2. Types of Employment





# Types of Employment

- Full-Time Employment – work an average of 38 hours per week
- Part-Time Employment – work constant hours for less than 38 hours per week
  - Details of employment must be in writing
  - Receive entitlements on a pro rata basis
- Casual Employment – work number of hours required by employer
  - 25% casual loading
  - Right to elect conversion to full-time or part-time Employment after 6 months of employment – must give 4 weeks notice





# 3. Wage Rates





# Rates of Pay

- All-purpose rate of pay is used to calculate the following:
  - Overtime
  - Shift work
  - All forms of paid leave
  - Annual leave loading
  - Public holidays
  - Pro rata payments on termination
- All-purpose rate of pay is inclusive of the allowances in the following table:







# Allowances

Allowance	Description
Industry Allowance	<ul style="list-style-type: none"><li>○ 3.7% of standard weekly rate</li><li>○ Compensates employees for climatic conditions, climbing stairs, muddy conditions, etc.</li></ul>
Tool Allowance (where applicable)	<ul style="list-style-type: none"><li>○ Grade 5 tradesman or above</li></ul>
Electrician’s Licence Allowance	<ul style="list-style-type: none"><li>○ 3.6% of standard weekly rate</li><li>○ Electrical workers required to use unrestricted licence</li></ul>
Leading Hand Allowance	<ul style="list-style-type: none"><li>○ 3 to 10 employees – 4.3% of standard weekly rate</li><li>○ 11 to 20 employees – 6.0%</li><li>○ More than 20 employees – 8.1%</li></ul>
Rate for Ordering Materials Allowance	<ul style="list-style-type: none"><li>○ 2.0% of weekly standard rate</li><li>○ When employee is in charge of job with duration of more than 1 week and needs to order materials</li></ul>
Nominee Allowance	<ul style="list-style-type: none"><li>○ 9.2% of weekly standard rate</li><li>○ Holds relevant licence and acts as nominee for electrical contractor</li></ul>
Electrical Distribution Line Maintenance and Tree Clearing Allowance	<ul style="list-style-type: none"><li>○ 7.7% of weekly standard rate</li></ul>



# Electrical Workers – as at 1 November 2020

Award rates of pay (gross) for electrical workers - to apply from the fpp to commence on or after 1 November 2020

Grade	Minimum Weekly Rate	Tool Allow'n	Industry Allow'n	Total Weekly Rate	Electrical Licence Allow'n	All Purpose Weekly Rate	All Purpose (Hourly) Rate	Casual Rate 25%	Travel Allow'n (per day)	Fares Allow'n <sup>1</sup> (per day)	Fares Allow'n <sup>2</sup> (per day)
Grade 1	764.70		32.47	797.17		797.17	20.98	26.23	6.20	20.18	3.62
Grade 2	791.90		32.47	824.37		824.37	21.69	27.11	6.20	20.18	3.62
Grade 3	819.60		32.47	852.07		852.07	22.42	28.03	6.20	20.18	3.62
Grade 4	847.30		32.47	879.77		879.77	23.15	28.94	6.20	20.18	3.62
Grade 5 Unlicensed	877.60	19.95	32.47	930.02		930.02	24.47	30.59	6.20	20.18	3.62
Grade 5 Licensed	877.60	19.95	32.47	930.02	31.59	961.61	25.31	31.64	6.20	20.18	3.62
Grade 6	905.10	19.95	32.47	957.52	31.59	989.11	26.03	32.54	6.20	20.18	3.62
Grade 7	957.60	19.95	32.47	1,010.02	31.59	1,041.61	27.41	34.26	6.20	20.18	3.62
Grade 8	1,006.10	19.95	32.47	1,058.52	31.59	1,090.11	28.69	35.86	6.20	20.18	3.62
Grade 9	1,026.70	19.95	32.47	1,079.12	31.59	1,110.71	29.23	36.54	6.20	20.18	3.62
Grade 10	1,109.50	19.95	32.47	1161.92	31.59	1,193.51	31.41	39.26	6.20	20.18	3.62



# Apprentice Pay Rates

Award rates of pay (gross) for apprentices (other than adults) who commenced their apprenticeship on or after 1 January 2014 and have completed Year 12 – to apply from the ffpp to commence on or after 1 November 2020

Year	Relativity (Completed Year 12)	Minimum Weekly Rate	Tool Allow'ce	Electrical License Allow'ce	Industry Allow'ce	All Purpose Weekly Rate	All Purpose Hourly Rate	Travel Allow (per day)	Fares Allow (per day)	Fares Allow (per day)
1 <sup>st</sup> Year	55%	482.68	19.95	17.38	17.86	537.87	14.15	3.41	20.18	3.62
2 <sup>nd</sup> Year	65%	570.44	19.95	20.54	21.11	632.03	16.63	4.03	20.18	3.62
3 <sup>rd</sup> Year	70%	614.32	19.95	22.12	22.73	679.12	17.87	4.34	20.18	3.62
4 <sup>th</sup> Year	82%	719.63	19.95	25.91	26.63	792.12	20.85	5.08	20.18	3.62

Award rates of pay (gross) for apprentices (other than adults) who commenced their apprenticeship on or after 1 January 2014 and have NOT completed Year 12 - to apply from the ffpp to commence on or after 1 November 2020

Year	Relativity (Completed Year 12)	Minimum Weekly Rate	Tool Allow'ce	Electrical License Allow'ce	Industry Allow'ce	All Purpose Weekly Rate	All Purpose Hourly Rate	Travel Allow (per day)	Fares Allow (per day)	Fares Allow (per day)
1 <sup>st</sup> Year	50%	438.80	19.95	15.80	16.24	490.78	12.92	3.10	20.18	3.62
2 <sup>nd</sup> Year	60%	526.56	19.95	18.96	19.48	584.95	15.39	3.72	20.18	3.62
3 <sup>rd</sup> Year	70%	614.32	19.95	22.12	22.73	679.12	17.87	4.34	20.18	3.62
4 <sup>th</sup> Year	82%	719.63	19.95	25.91	26.63	792.12	20.85	5.08	20.18	3.62





# 4. Hours of Work and Rostered Days Off (RDOs)



# Hours of Work

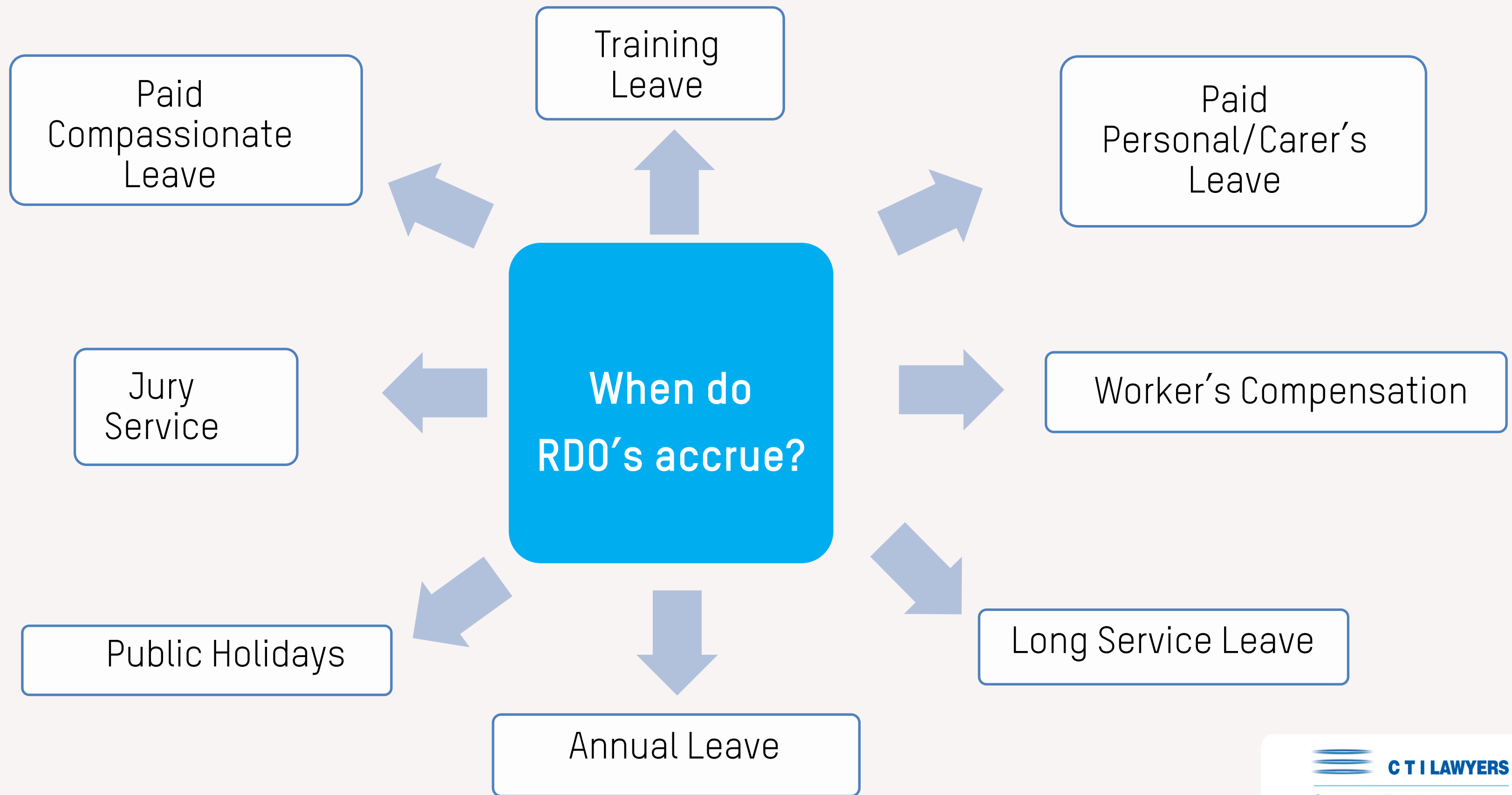
- Average of 38 hours per week on the following basis:
  - 38 hours within a work cycle not exceeding 7 consecutive days;
  - 76 hours within a work cycle not exceeding 14 consecutive days;
  - 114 hours within a work cycle not exceeding 21 consecutive days; or
  - 152 hours within a work cycle not exceeding 28 consecutive days.
- Electrical Award – ordinary hours of work are between 6am and 6pm



# Rostered Days Off (RDOs)

- RDOs are not compulsory!
- System for RDOs:
  - Employee's must be notified 4 weeks in advance that a day has been allocated as the RDO;
  - RDO's are not to be allocated on public holidays;
  - RDO's may be substituted in either the current work cycle or next succeeding work cycle; and
  - If an employee works on an RDO, they are paid in addition to the payment for the day off, for work performed in ordinary hours at time and a half, and for work outside ordinary hours at double time.
- RDOs will not accrue when taking an RDO or whilst on any period of unpaid leave







# 5. Overtime





# Overtime / Penalty Rates

- Work undertaken beyond an employee's ordinary hours of work.
- No apprentice under 18 years of age will be required to work overtime or shift work unless they so desire.
- Where an employee is required to work on Saturday, Sunday or a Public Holiday they are entitled to payment of a minimum of 4 hours at the appropriate penalty rate





Day	Penalty Rates
Monday – Friday	Time and a half for the first 2 hours and double time thereafter
Saturday	Time and a half for the first 2 hours and double time thereafter
Sunday	Double time
Public Holidays	Double time and a half



# Overtime – What is reasonable?

In determining whether additional hours are reasonable or unreasonable, the following must be taken into consideration:

1. Any risk to employee health and safety from working the additional hours;
2. The employee's personal circumstances including family responsibilities;
3. The needs of the workplace;
4. Whether the employee is entitled to receive overtime for the additional hours;
5. Any notice by the employer of a request to work overtime;
6. Any notice by employee of their intention to refuse such request;
7. The usual patterns of work in the industry;
8. The nature of the employee's role and their level of responsibility; and
9. Any other relevant matter.

# Overtime – Casual Employees

- As at 20 November 2020, employers must pay overtime for casual employees on the rate that is inclusive of the casual loading (Clause 20.1(b) of the Award).

## Example:

A Grade 5 licensed electrician is entitled to \$25.31 per hour. A casual employee is entitled to \$25.31 plus a 25% loading, namely \$31.64. When the casual employee works overtime they are entitled to:

- \$47.46, which is time and a half of the casual employees rate of pay ( $1.5 \times \$31.64$ ) or 187.5% of the ordinary rate of pay ( $1.875 \times \$25.31$ );
- \$63.28, which is double time of the casual employee rate ( $2 \times \$31.64$ ) or 250% of the ordinary rate of pay ( $2.5 \times \$25.31$ ); or
- \$79.10 which is double time and a half ( $2.5 \times \$31.64$ ) or 312.5% of the ordinary rate of pay ( $3.125 \times \$25.31$ ).



# Shiftwork

- Afternoon Shift – finishing after 6pm and at or before midnight
- Night shift – finishing after midnight and at or before 8am
- Shift allowances:
  - 15% more than employee's ordinary rate
  - If the shift does not continue for at least 5 successive afternoons/nights, payment of 150% of ordinary rate is to be made for the first 2 hours and 200% thereafter
- Permanent night shift: 30% more than their ordinary rate
  - Night shift only engagements;
  - Remains on night shift for no longer than 4 consecutive weeks; or
  - Works on a night shift which does not rotate or alternate with another shift or with day work so as to give the employee at least one third of their working time off night shift in each shift cycle.



# 6. Breaks



# Breaks

Breaks	Description
Meal Break	Unpaid meal break of at least 30 minutes after every 6 hours of work  Shift workers – paid meal break of 20 minutes per shift
Rest Break	Paid 10 minute rest break as close to the middle of their normal start time and lunch break

- Employees entitled to a paid 20 minute rest break after each 4 hours of overtime worked, provided they are required to work beyond the rest break.
- Where the employer directs the employee to work during their meal break, the employee is entitled to payment at time and a half until such time that the employee has taken their 30 minute unpaid meal break.



# Breaks Between Shifts

- 10 hour rest period in between shifts
- If this is not provided, the employee should not be required to return to work until the 10 hours has expired
- Where an employee's normal shift overlaps with the 10 hour rest period, they shall be entitled to be paid their ordinary rate of pay for their time not worked, which would usually form part of their normal shift.



# Example

Tony's usual start time is 7:30am and finish time is 3:30pm.

On Monday, Arthur requests Tony to work an additional 8 hours of overtime, so that Tony completes his duties at 11:30pm on Monday.

Tony is entitled to a 10-hour rest period, meaning he is not required to commence work until 9:30am on Tuesday morning.

Because Tony's usual shift commences at 7:30am, he will be entitled to be paid from 7:30am to 9:30am at his ordinary hourly rate despite not actually commencing work until 9:30am.





## 7. Travel and Allowances



Allowance	Amount
Travel Time	\$6.20 per day
Fares Allowance (own vehicle)	\$20.18 per day
Fares Allowance (company vehicle)	\$3.62 per day
Ordinary Time Earnings for time spent travelling in excess of 50km	Minimum payment of ¼ of an hour
Motor Vehicle Allowance	\$0.78 per kilometre from the employee's home to site minus the distance from the employee's home to the employer's depot

# Travel Allowances



# Travel Allowances – Checklist

\*All scenarios address circumstances where the employee starts and finished work on site

Scenario	Travel Time Allowance	Fares Allowance - \$20.18	Fares Allowance - \$3.62	Ordinary Time Earnings for time spent travelling in excess of 50km	Motor Vehicle Allowance
Within 50km of registered depot/office – own transport	PAY	PAY			
Within 50km of registered depot/office – employer provides transport	PAY		PAY		
More than 50km – own transport	PAY	PAY		PAY	PAY
More than 50km – employer provides transport	PAY		PAY	PAY	



# Living Away from Home Allowance

- On distant work, the employer must either:
  - Provide accommodation and a meal allowance of \$16.17 per meal for meals not included in cost of accommodation; or
  - Pay a living away allowance at \$514.05 per week and a meal allowance of \$16.17 per meal.

# 8. National Employment Standards







# National Employment Standards (NES)

The 10 NES are as follows:

1. Maximum weekly hours of work
2. Requests for flexible working arrangements
3. Parental leave
4. Annual leave
5. Personal/Carer's leave, Compassionate leave, and Unpaid Family and Domestic Violence leave
6. Community Service leave
7. Long Service leave
8. Public Holidays
9. Notice of Termination and Redundancy pay
10. Fair Work Information Statement



# Relationship Between Them

- Award and NES form safety net for employee terms and conditions when not covered by an industrial instrument (e.g. Enterprise Agreement)
- NES applies to all employees regardless of income, occupation and industry
- Modern Award's cannot exclude or cut the NES.



# 9. Leave





# Annual Leave

- Full-time employees accrue annual leave on the basis of 2.923 hours for every week of continuous service
- Equivalent to 4 weeks per year
- Continuous shift workers entitled to 5 weeks paid annual leave per year
- During periods of annual leave, employee's are also entitled to an annual leave loading of 17.5% on the employee's all-purpose weekly wage





# Direction to take Annual Leave

- Applicable where employee has accrued more than 8 weeks (10 weeks for continuous shift workers)
- Limited to 25% of the total amount of annual leave accrued

Example: Tony is a full-time electrician and has worked for Lightning Electrics Pty Limited for 2 years.

Tony's total amount of annual leave is applicable to:

$$2.923 \text{ hours} \times 104 \text{ weeks of service} = 304 \text{ hours (40 days)}$$

Arthur, Tony's boss, wants him to take a period of annual leave. The total Arthur can require Tony to take is equivalent to:

$$304 \text{ hours} \times 25\% = 76 \text{ hours (10 days)}.$$





# Parental Leave

- Leave to care for new born or adopted child
- Includes maternity, paternity and adoption leave
- Entitlement of 12 months leave
- Employee must give employer written notice of the leave at least 10 weeks before starting



# Other Leave Entitlements

- **Personal/Carer's Leave**
  - 10 paid days off each year
  - Accrue at 1.462 hours for each week of service
  - Entitlement to a further 2 days unpaid carer's leave for each occasion the employee is required to provide such care and support
- **Compassionate Leave**
  - 2 days off for each occasion a member of the employee's immediate family or their household:
    - Contracts/develops a personal illness that poses a serious threat to his/her life;
    - Sustains a personal injury that poses a serious threat to his/her life; or
    - Dies.

# Other Leave Entitlements

- **Unpaid Family and Domestic Violence Leave**
- **Community Service Leave**
  - Includes:
    - ☐ Jury Service that is required by or under a law of the Commonwealth or of a State or Territory;  
or
    - ☐ A voluntary emergency management activity with a recognised organisation
  - Employees engaged in Jury Service are entitled to payment for the first 10 days of attending jury service.
- **Long Service Leave**
  - Entitlement to 8.667 weeks leave at the employee's ordinary rate of pay at the time when the leave is actually taken after 10 years of service.

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## 10. Q&As



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*Disclaimer: This presentation does not constitute legal advice and reliance should not be placed upon material presented to solve a specific industrial relations issue.*



