

## 16 Meaning of *base rate of pay*

### *General meaning*

- (1) The ***base rate of pay*** of a national system employee is the rate of pay payable to the employee for his or her ordinary hours of work, but not including any of the following:
- (a) incentive-based payments and bonuses;
  - (b) loadings;
  - (c) monetary allowances;
  - (d) overtime or penalty rates;
  - (e) any other separately identifiable amounts.

### *Meaning for pieceworkers in relation to entitlements under National Employment Standards*

- (2) Despite subsection (1), if one of the following paragraphs applies to a national system employee who is a pieceworker, the employee's ***base rate of pay***, in relation to entitlements under the National Employment Standards, is the base rate of pay referred to in that paragraph:
- (c) the employee is an award/agreement free employee, and the regulations prescribe, or provide for the determination of, the employee's base rate of pay for the purposes of the National Employment Standards.

(Fair Work Regulations 2009)

## 1.09 Meaning of *base rate of pay*—pieceworkers (national system employee)

- (1) For paragraph 16(2)(c) of the Act, this regulation provides for the determination of the base rate of pay for the purposes of the National Employment Standards for a national system employee who is an award/agreement free employee and a pieceworker.

Note: The Act defines ***award/ agreement free employee*** in section 12 and ***pieceworker*** in section 21.

- (2) The base rate of pay, expressed as an hourly rate of pay, is worked out using the formula:

$$\frac{TA}{TH}$$

where:

***TA*** is the total amount earned by the employee during the relevant period.

***TH*** is the total hours worked by the employee during the relevant period.

the ***relevant period*** is:

- (a) for an employee who was continuously employed by the employer for a period of 12 months or more immediately before the base rate of pay is to be worked out—the 12 months before the rate is to be worked out; or

	(b) for an employee who was continuously employed by the employer for a period of less than 12 months immediately before the base rate of pay is to be worked out—that period.
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