



**Please note – This is a previous WA award summary and does not contain the current rates of pay**

WA Award Summary

# Pastrycooks Award

**1 July 2017**

## About this Award Summary

This WA Award Summary is a summary of the state Pastrycooks Award and does not include all obligations required by the award. It is important that you also refer to the full Pastrycooks Award that is available on the WA Industrial Relations Commission website [www.wairc.wa.gov.au](http://www.wairc.wa.gov.au)

Provisions of other employment legislation also apply to employees and have been included in this WA Award Summary where appropriate. You may need to refer to the *Minimum Conditions of Employment Act 1993*, the *Long Service Leave Act 1958*, and the *Industrial Relations Act 1979* for full details.

This document is formatted for viewing on the Wageline website and contains web links to other relevant information. If you are using a printed copy in which links are not visible, all additional information can be found at [www.dmirs.wa.gov.au/wageline](http://www.dmirs.wa.gov.au/wageline) or by contacting Wageline on 1300 655 266.

## How can we help?

- Pay rates
- Leave entitlements
- Long service leave
- Employment arrangements
- Record keeping obligations



## Three Step Check: to make sure this WA Award Summary is relevant to you

<p><b>Step 1</b> - is the business in the state system?</p>	<p>This information applies to businesses in the <b>state industrial relations system</b>. It covers businesses (and their employees) that operate as:</p> <ul style="list-style-type: none"> <li>✓ <b>sole traders</b> (eg Jane Smith trading as Jane’s Pastries)</li> <li>✓ <b>unincorporated partnerships</b> (eg Jane and Bob Smith trading as Jane’s Pastries)</li> <li>✓ <b>unincorporated trust arrangements</b> (Jane and Bob Smith as trustees for Jane’s Pastries)</li> </ul> <p>This information does <b>not</b> cover businesses and organisations in the national ‘fair work’ industrial relations system which operate as:</p> <ul style="list-style-type: none"> <li>✗ <b>Pty Ltd businesses</b> that are trading or financial corporations (eg Smith Pty Ltd trading as Jane’s Pastries)</li> <li>✗ <b>incorporated partnerships or incorporated trusts</b></li> <li>✗ <b>incorporated associations and other non-profit bodies</b> (that are trading or financial corporations)</li> </ul> <p>For more information visit the <a href="#">Guide to who is in the WA state system</a> page. If the business or organisation is in the national system visit the Fair Work Ombudsman website <a href="http://www.fairwork.gov.au">www.fairwork.gov.au</a></p>
<p><b>Step 2</b> - is the business covered by the Pastrycooks Award?</p>	<p>The Pastrycooks Award covers many types of businesses in the state industrial relations system. Businesses covered include:</p> <ul style="list-style-type: none"> <li>✓ Bakeries</li> <li>✓ Cake shops</li> </ul>
<p><b>Step 3</b> - is the employee’s job covered by the Pastrycooks Award?</p>	<p>The Pastrycooks Award sets pay rates, working hours and other employment arrangements for employees working as:</p> <ul style="list-style-type: none"> <li>✓ Pastrycooks</li> <li>✓ Cake decorators</li> </ul>



Employers covered by this WA Award are legally required to keep employment records. Employers can be fined up to \$5,000 for not keeping employment records, for keeping inadequate or fraudulent records, or for not providing records to Industrial Inspectors when required to do so. Page 6 details record keeping requirements.

The Pastrycooks Award is a legal document that outlines the minimum wages and condition of employment that must be provided to employees who are covered by the award. Employers and employees cannot agree to lesser conditions.

Industrial Inspectors at the Department of Mines, Industry Regulation and Safety have statutory powers to investigate employee complaints about underpayment of wages or leave entitlements under this WA Award and state employment laws. The Department can prosecute employers in the Industrial Magistrates Court for not paying the rates of pay, including overtime, penalty rates and allowances required by this WA Award.



## Rates of pay

All rates of pay are gross rates (before tax). Current rates applied from the first pay period on or after **1 July 2017**.



**Adult rates of pay – applicable from the first pay period on or after 1 July 2017 until end of last pay period commenced in June 2018 (new rates applied first pay period on or after 1 July 2018)**

Classification	Weekly	Hourly	Casual (includes 20% loading)
Single hand pastrycook	\$793.20	\$20.87	\$25.05
Pastry cook	\$790.90	\$20.81	\$24.98
Cake decorator	\$744.80	\$19.60	\$23.52
Assistant	\$713.40	\$18.77	\$22.53



**Apprentice rates of pay – applicable from the first pay period on or after 1 July 2017 until end of last pay period commenced in June 2018 (new rates applied first pay period on or after 1 July 2018)**

Apprentices aged 21 and above must receive the minimum adult apprentice rate of pay **\$607.60 per week** or the appropriate rate, whichever is the higher, for ordinary hours of work.

3 Year Term	% of Pastrycook	Weekly	Hourly
1st Year	55%	\$435.00	\$11.45
2nd Year	75%	\$593.20	\$15.61
3rd Year	88%	\$696.00	\$18.32



**Junior rates of pay – applicable from the first pay period on or after 1 July 2017 until end of last pay period commenced in June 2018 (new rates applied first pay period on or after 1 July 2018)**

Age	% of Assistant	Weekly	Hourly	Casual (includes 20% loading)
Under 16 years of age	40%	\$285.40	\$7.51	\$9.01
16 years of age	50%	\$356.70	\$9.39	\$11.26
17 years of age	60%	\$428.00	\$11.26	\$13.52
18 years of age	70%	\$499.40	\$13.14	\$15.77
19 years of age	80%	\$570.70	\$15.02	\$18.02
20 years of age	90%	\$642.10	\$16.90	\$20.28

- Page 5 details the restrictions on employment of children in this industry.

To receive email updates when WA award pay rates change, subscribe to the Wageline Newsletter at [www.dmirs.wa.gov.au/wageline](http://www.dmirs.wa.gov.au/wageline)



## Deductions from pay

An employer may deduct from an employee's pay an amount:

- the employer is authorised, in writing, by the employee to deduct and pay on behalf of the employee
- the employer is authorised to deduct and pay on behalf of the employee under the relevant WA award
- the employer is authorised or required to deduct by law or a court order.



## Hours and overtime

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- The ordinary hours of work are an average of 38 hours per week to be worked on one of the bases prescribed by the award. Ordinary hours must be worked over any five days of the week or ten days per fortnight. Two clear days off per week must be granted to each employee and one must be either a Saturday or Sunday. On one day of the week, employees may work up to nine ordinary hours.
- Except for dough making, ordinary hours must be worked between the hours specified as follows:
  - On Monday to Wednesday the starting time must not be earlier than 12:01am with a finishing time not later than 6:00pm
  - On Thursday the starting time must not be earlier than 12:01am with a finishing time not later than 6:00pm with a further starting time of not earlier than 10:00pm on that day, which is counted as time worked on a Friday, with a finishing time of not later than 6:00pm on that day.
  - On Saturday the starting time must not be earlier than 10:00pm on the preceding Friday with a finishing time of not later than 12 noon on that day. Time worked between 10:00pm and midnight is counted as time worked on a Saturday.
- Employees may be employed in ordinary hours between 6:00pm and 9:00pm daily for the purpose of cleaning duties only.
- Notwithstanding the provisions above, the ordinary hours for part time employees must not be more than 35 hours per week. A part time employee may be employed within ordinary hours for a maximum of nine hours, exclusive of meal breaks, and a minimum of three hours on any day.
- All time worked on any day or in any week in excess of or outside the ordinary hours of work is considered overtime and must be paid for at the rate of time and a half for the first two hours and double time after that. All overtime worked on Sundays must be paid for at the rate of double time. In the calculating of overtime rates, each day stands alone. Please view the Pastrycooks Award on the WA Industrial Relations Commission website [www.wairc.wa.gov.au](http://www.wairc.wa.gov.au) or contact **Wageline** on **1300 655 266** to ensure that correct overtime rates are paid.

### Additional rates

- All ordinary hours worked before 6:00am Monday to Saturday inclusive must be paid at the rate of time and a half.
- Employees engaged between 6:00pm and 9:00pm for the purpose of performing cleaning duties must be paid at the rate of time and one-quarter.
- All work performed in ordinary hours between 6:00am and noon on a Saturday must be paid for at the rate of time and one-quarter. All work performed in ordinary hours on a Sunday must be paid for at the rate of double time except for doughmakers when such time must be paid for at the rate of time and one half.
- Any employee who is required to work on any rostered day off must be paid at overtime rates except that where Sunday is a normal rostered day off and an employee is required to work, double time must be paid.
- These additional rates are not to be part of the ordinary rate of pay for the purpose of calculating an entitlement to overtime.



### Meal breaks

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- An employee must be allowed a meal break of between half an hour and an hour every four hours worked. The first meal break must be taken at such time which is convenient after the completion of three hours and before the completion of five hours' work.
- An employee called upon to work for more than five hours after commencing work and who has not been granted a meal break must be paid overtime rates until the meal break is granted, or until the end of the shift, whichever is the earlier.
- Meal breaks must not be included as working time.



## Allowances

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### Location allowance

An employee working in specified regional towns in Western Australia is entitled to a weekly location allowance. Visit the [Location allowance](#) page for details.

### Meal allowance

When an employee, without being notified on the previous day or earlier, is required to continue working after the usual knock-off time for more than two hours, they must be provided with any meal required, or must be paid **\$11.15**. This does not apply in the case of an employee living in the same locality as the place of employment who can reasonably return home for a meal.

### Leading hand allowance

In addition to the appropriate total weekly wage prescribed by the award a leading hand must be paid if placed in charge of:

- |  |         |
|--|---------|
| • Less than four other employees                 | \$16.50 |
| • Four or more but less than ten other employees | \$26.10 |
| • Ten or more but less than 20 other employees   | \$39.90 |
| • More than 20 other employees                   | \$51.50 |



## Public holidays

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- Full time employees are entitled to public holidays (or days substituted for public holidays) without deduction of pay. Part time employees are entitled to public holidays (or days substituted for public holidays) without deduction of pay if they would ordinarily be required to work on that day if it was not a public holiday.
- If a public holiday falls on a Saturday or Sunday, the following Monday will be considered to be the public holiday. However, if Boxing Day falls on a Sunday or Monday, the following Tuesday will be considered to be the public holiday. When a public holiday is substituted with another day, the public holiday itself is no longer considered a public holiday for the purposes of the award.
- For public holiday rates of pay please call **Wageline** on **1300 655 266**, or view the Pastrycooks Award on the WA Industrial Relations Commission website [www.wairc.wa.gov.au](http://www.wairc.wa.gov.au)
- Visit the [Public Holidays in Western Australia](#) page to view the public holiday dates.



## Employment of children

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- A child who is 13 or 14 years old may work in a **business which is considered to be a shop or restaurant** between 6am and 10pm (excepting school hours) if the employer has obtained written permission from their parent or guardian.
- Children under 15 cannot be employed in other occupations or workplaces covered by this WA Award except if the child is working as part of a school program or in a family business or a not-for-profit organisation.
- School aged children must not work in school hours except as part of a school program.
- Visit the [Employment of children laws in WA – shop, restaurant, fast food or takeaway food businesses](#) page for more information about employing children under the age of 15 years, including a template for written parental permission.



## Employment records

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- Employers are legally required to keep employment records which demonstrate that employees have been paid all entitlements under the Pastrycooks Award and relevant legislation.
- Employers must keep all employment records for at least seven years after they are made for both current and past employees. Records relating to long service leave must be kept for seven years from the date employment ends.
- Employers can be fined up to \$5,000 by the Industrial Magistrates Court for not keeping employment records or for keeping inadequate or fraudulent records. A common requirement that employers fail to observe is a lack of detail in keeping employment records.
- Employers must keep records that detail:
  - Employee's name
  - Date of birth if under 21 years of age
  - Date employee commenced with the employer
  - Total number of hours worked each week
  - The gross and net amounts paid to the employee
  - All information required to calculate long service leave entitlements and payment
  - All pay deductions and reasons for them
  - Name of WA award that applies
  - Daily start and finish time and meal breaks taken
  - Employment status (full time, part time, casual)
  - Employee's classification under the award
  - All leave taken, whether paid, partly paid or unpaid
  - Any other information necessary to prove that the wages received by an employee comply with the requirements of the Pastrycooks Award, such as overtime hours worked and allowances paid. Contact [Wageline](#) or view the full Pastrycooks Award on the WA Industrial Relations Commission website [www.wairc.wa.gov.au](http://www.wairc.wa.gov.au) for details.
- Employment records can be written or electronic as long as they are in a form that can be printed. Time and wage books can be used to keep employment records, however, it is the employer's responsibility to ensure the time and wage book includes all of the required information.
- The records must be in English.
- Wageline's [record keeping templates](#) help small business employers meet their legal obligations for time and wages record keeping and keep accurate employee leave records.



## Payslips

- All employees must receive a payslip for each pay period which includes the amounts paid for penalty loadings, overtime and the gross amount, as well as any deductions and the net wage.
- Visit the [Record keeping requirements page](#) for Wageline's payslip and record keeping templates.



## Leave entitlements

### Quick reference guide

Leave entitlement	Full time	Part time	Casual
Annual leave	✓	✓	✗
Sick and carer's leave	✓	✓	✗
Unpaid carer's leave	✓	✓	✓
Bereavement leave	✓	✓	✓
Unpaid parental leave	✓	✓	✓
Long service leave	✓	✓	✓

This WA Award summary covers the basic leave entitlements for employees covered by the Pastrycooks Award but does **not** include all details on leave obligations and entitlements. Full details of conditions are contained in the Pastrycooks Award on the WA Industrial Relations Commission website [www.wairc.wa.gov.au](http://www.wairc.wa.gov.au), the *Minimum Conditions of Employment Act 1993* and the *Long Service Leave Act 1958*.



### Annual leave

- Full time employees are entitled to a minimum of four weeks of paid annual leave for each year of completed service, up to 152 hours. Part time employees are entitled to a minimum of annual leave of four weeks per year paid on a pro rata basis according to the number of hours they are required ordinarily to work in a four week period. Casual employees are not entitled to annual leave.
- Annual leave is a minimum entitlement in the *Minimum Conditions of Employment Act 1993* and the Pastrycooks Award sets out additional requirements regarding annual leave and annual leave loading.
- During a period of annual leave an employee must be paid annual leave loading of 17.5%. If the employee would have received any additional rates for work performed in ordinary hours, had they not been on leave during the relevant period and such additional rates would have entitled them to a greater amount than the loading of 17.5%, then such additional rates must be added to their ordinary rate of wage in lieu of the 17.5% loading. Annual leave loading is not paid on pro rata leave paid out on termination.
- Annual leave accrues on a weekly basis:
  - A full time employee accrues 2.923 hours of annual leave for each completed week of work.
  - A part time employee accrues the relevant proportion of 2.923 hours annual leave for each completed week of work.
  - Visit Wageline's [Annual Leave Calculation Guide](#) to work out annual leave entitlements.
  - Wageline's [record keeping templates](#) include an annual leave record template.



### Parental leave

- Employees, including eligible casual employees, are entitled to the unpaid parental leave entitlements in the National Employment Standards of the *Fair Work Act 2009*, as well as a number of more beneficial conditions contained in the *Minimum Conditions of Employment Act 1993* (a return to work after parental leave on a modified basis and a reversion to pre-parental leave working conditions). Visit the [Parental leave](#) page for more details.



### Bereavement leave

- All employees, including casual employees, are entitled to two days paid bereavement leave on the death of a spouse, de facto partner, parent, step-parent, grandparent, child, step-child, grandchild, sibling or any other member of the employee's household. The two days need not be consecutive.
- Bereavement leave is a minimum entitlement from the *Minimum Conditions of Employment Act 1993*.



## Sick and carer's leave

- Sick and carer's leave entitles a full time or part time employee to paid time off work due to either illness or injury to themselves (sick leave), or because they have to care for an ill or injured family or household member (carer's leave).
- Full time and part time employees are entitled to paid sick and carer's leave equal to the number of hours they would ordinarily work in a two week period, up to 76 hours per year. Sick and carer's leave is a cumulative entitlement, and any leave not taken in one year can be carried over to the next year.
- Sick and carer's leave accrues on a weekly basis for full and part time employees.
- In the first year of employment, a full time or part time employee can use any paid sick and carer's leave that they have accrued to date for caring purposes.
- In the second and subsequent years of employment, a full time employee can only use a maximum of 76 hours of their accrued sick leave entitlement for caring purposes, or a part time employee the relevant proportion of 76 hours based on their ordinary hours of work.
- An employee is entitled to up to two days of unpaid carer's leave per occasion if an employee does not have sufficient paid leave accrued or has exceeded the maximum amount of carer's leave that can be taken in any 12 month period.
- Casual employees are not entitled to paid sick leave or paid carer's leave. Casual employees can access up to two day's unpaid carer's leave per occasion.
- Sick and carer's leave is a minimum entitlement from the *Minimum Conditions of Employment Act 1993*.
- Wageline's [Sick Leave Calculation Guide](#) can assist with calculating sick and carer's leave entitlements.
- Wageline's [record keeping templates](#) include a sick and carer's leave record template.



## Long service leave

- Full time, part time and casual employees are entitled to long service leave (LSL).
- Long service leave is an entitlement from the *Long Service Leave Act 1958*.
- The length of continuous employment for an employee's long service leave entitlement is based on the total time with the business, rather than any one employer. An employer who buys a business or part of a business will take on the long service leave obligations for existing employees if there has been a transmission of business. This applies regardless of anything written in the sale contract.

Amount of continuous employment with same business	Amount of leave
After <b>10 years</b> of continuous employment	8 <sup>2/3</sup> weeks
For every <b>5 years</b> of continuous employment after this initial 10 years	4 <sup>1/3</sup> weeks
When an employee is terminated (except for serious misconduct) or resigns after they have completed <b>between 7 and 10 years</b> continuous employment	The employee is entitled to be paid out for LSL on a proportionate basis. LSL payment is worked out on a pro-rata basis for the entire period of employment, including years, months and days
When an employee is terminated or resigns after they have worked continuously for <b>10 or more years</b>	The employee is entitled to be paid out for LSL. LSL payment is worked out on completed years of service only

- An employee who has completed a full qualifying period of service (e.g. 10 years) is entitled to be paid out their full long service leave entitlement (e.g. 8<sup>2/3</sup> weeks) on termination, regardless of the circumstances of the termination.
- Where an employee has a period of service that is less than the full qualifying period and they were terminated by their employer for serious misconduct, they are not entitled to **pro rata** LSL.
- Visit the [Long Service Leave](#) page for more details and a calculation guide.
- Wageline's [record keeping templates](#) include a long service leave record template.





### Resignation by the employee

- A casual employee can resign by providing one hour's notice to the employer.
- Full time and part time employees are required to provide:

Period of continuous service	Period of notice
During the first month	1 day
2 months or more but less than 1 year	1 week
1 year or more but less than 3 years	2 weeks
3 years or more but less than 5 years	3 weeks
5 years and over	4 weeks

### Termination

- An employer is required to give a casual employee one hour's notice of termination.
- Prior to terminating an apprentice, an employer must contact the Department of Training and Workforce Development Apprenticeship Office on 13 19 54 to discuss any proposed termination of an apprentice.
- Except in cases of serious misconduct, an employer is required to give full time and part time employees the following period of notice of termination (or payment in lieu):

Period of continuous service	Notice period
Not more than 1 year	1 week
More than 1 year but not more than 3 years*	2 weeks
More than 3 years but not more than 5 years*	3 weeks
More than 5 years*	4 weeks

- \*Employees over 45 years of age with two or more years of continuous service must receive an additional week's notice.
- These obligations are in the *Fair Work Act 2009* which applies rather than the notice provisions in the Pastrycooks Award.

### Redundancy

- An employee is redundant when their employer has made a definite decision that they no longer wish the job the employee has been doing to be done by anyone.
- An employer has a number of obligations in redundancy situations and may be required to pay severance pay. Visit the [Redundancy](#) page for redundancy obligations.

### Dismissal requirements

- Under State laws, employees cannot be dismissed if to do so would be harsh, unfair or oppressive. There must be a valid and fair reason for dismissal, such as:
  - consistent unsatisfactory work performance (which has been raised with the employee and the employee given further training and an opportunity to improve their work performance)
  - inappropriate behaviour or actions or
  - serious misconduct.
- The [Dismissal information](#) page outlines obligations and requirements when an employee is terminated.

### Disclaimer

The Department of Mines, Industry Regulation and Safety has prepared this WA award summary to provide information on pay rates and major award provisions. It is provided as a general guide only and is not designed to be comprehensive or to provide legal advice. The Department does not accept liability for any claim which may arise from any person acting on, or refraining from acting on, this information.