



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

WA award summary

# Restaurant, Tearoom and Catering Workers Award

**1 July 2020 – 31 December 2020**

About this award summary

This WA award summary is a summary of the state Restaurant, Tearoom and Catering Workers Award and does not include all obligations required by the award. It is important that you also refer to the full Restaurant, Tearoom and Catering Workers 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.

This WA award summary includes information on the provisions of the COVID-19 General Order issued by the Western Australian Industrial Relations Commission (WAIRC) on 14 April 2020 which applies until 31 March 2021 unless extended, and information on the provisions of the COVID-19 JobKeeper General Order issued by the WAIRC on 15 May 2020 which applies until 28 March 2021 unless extended.

## 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 WA award summary applies to businesses in the <b>state industrial relations system</b>. It covers businesses which operate as:</p> <ul style="list-style-type: none"> <li>✓ <b>sole traders</b> (e.g. Jane Smith trading as Jane’s Café)</li> <li>✓ <b>unincorporated partnerships</b> (e.g. Jane and Bob Smith trading as Jane’s Café)</li> <li>✓ <b>unincorporated trust arrangements</b> (e.g. Jane and Bob Smith as trustees for Jane’s Café)</li> <li>✓ <b>incorporated associations and other non-profit bodies</b> that are not trading or financial corporations</li> </ul> <p>This summary does <b>not</b> cover businesses and organisations in the national 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 (e.g. Smith Pty Ltd trading as Jane’s Café)</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 Restaurant, Tearoom and Catering Workers Award?</p>	<p>The Restaurant, Tearoom and Catering Workers Award applies to businesses in the state industrial relations system which are:</p> <ul style="list-style-type: none"> <li>✓ cafes and restaurants (not part of a hotel or motel or licenced club)</li> <li>✓ take away food outlets</li> <li>✓ catering establishments servicing weddings, parties, festivals and sporting events</li> <li>✓ catering contractors</li> </ul> <p>The Award may also apply to some school canteens run by P&amp;Cs in Government schools – please call Wageline on 1300 655 266 to discuss coverage for school canteens.</p> <p>The Restaurant Tearoom and Catering Workers Award does <b>not</b> apply to state system businesses in Western Australia trading as:</p> <table border="0"> <tr> <td>• Red Rooster</td> <td>• KFC</td> <td>• McDonalds</td> </tr> <tr> <td>• Pizza Hut</td> <td>• Chicken Treat</td> <td>• Subway</td> </tr> <tr> <td>• Hungry Jacks</td> <td>• Chooks Fresh and Tasty</td> <td>• Heros Pizza</td> </tr> </table> <p>These businesses are covered by the Fast Food Outlet Award. View this Award on the WA Industrial Relations Commission website <a href="http://www.wairc.wa.gov.au">www.wairc.wa.gov.au</a> or call Wageline for details.</p>	• Red Rooster	• KFC	• McDonalds	• Pizza Hut	• Chicken Treat	• Subway	• Hungry Jacks	• Chooks Fresh and Tasty	• Heros Pizza
• Red Rooster	• KFC	• McDonalds								
• Pizza Hut	• Chicken Treat	• Subway								
• Hungry Jacks	• Chooks Fresh and Tasty	• Heros Pizza								
<p><b>Step 3</b> - is the employee’s job covered by the Restaurant, Tearoom and Catering Workers Award?</p>	<p>The Restaurant, Tearoom and Catering Workers Award sets pay rates, working hours and other employment arrangements for full time, part time and casual employees in the business covered by the award working as:</p> <table border="0"> <tr> <td>✓ wait and bar staff</td> <td>✓ baristas</td> </tr> <tr> <td>✓ chefs, cooks, kitchen and catering staff</td> <td>✓ counter staff in cafes and take away food outlets</td> </tr> </table>	✓ wait and bar staff	✓ baristas	✓ chefs, cooks, kitchen and catering staff	✓ counter staff in cafes and take away food outlets					
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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 7 details record keeping requirements.

This 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.

Employees who believe that they have been underpaid, or wish to make an anonymous report of wage theft, should visit the [Making a complaint about underpayment of wages or entitlements](#) page for more information.



## 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 2020**. The 2020 State Wage Order increased pay rates effective from the first pay period on or after 1 January 2021.

**Adults – 20 years and older – applicable from the first pay period on or after 1 July 2020 until end of last pay period commenced in December 2020 (new rates applied from first pay period on or after 1 January 2021).**

Classifications (See page 14 for definitions)	Full time/part time employee				Casual employee (Rate includes casual loadings)		
	Fortnightly	Hourly Mon - Fri*	Hourly Sat/Sun	Public holiday (min 4 hours)	Hourly Mon - Fri	Hourly Sat/Sun	Public holiday
Introductory (max 3 months)	\$1,493.90	\$19.66	\$29.48	\$49.14	\$24.57	\$29.48	\$44.23
Level 1	\$1,530.10	\$20.13	\$30.20	\$50.33	\$25.17	\$30.20	\$45.30
Level 2	\$1,584.50	\$20.85	\$31.27	\$52.12	\$26.06	\$31.27	\$46.91
Level 3	\$1,624.30	\$21.37	\$32.06	\$53.43	\$26.72	\$32.06	\$48.09
Level 4	\$1,701.80	\$22.39	\$33.59	\$55.98	\$27.99	\$33.59	\$50.38
Level 5	\$1,794.50	\$23.61	\$35.42	\$59.03	\$29.51	\$35.42	\$53.13
Level 6	\$1,836.50	\$24.16	\$36.25	\$60.41	\$30.21	\$36.25	\$54.37

\*A full time or part time employee must receive an extra **\$1.66 per hour** for any ordinary hours worked prior to 7:00 am or after 7:00 pm on Monday to Friday. If the employee works the majority of their ordinary hours in a shift between midnight and 7.00 am they must instead be paid **\$1.75 per hour** extra for each such hour or part hour.

### Annualised salary

Full and part time employees may agree with their employer to be paid an annualised salary, which must be equivalent to their normal wage plus at least 25%, and be sufficient to cover what the employee would have been entitled to if they had received all their overtime and penalty rates entitlements. More details are in Clause 24 of the Award.

### Higher duties

An employee who is performing work for two or more hours in any day at a higher classification level than their normal level must be paid the higher pay rate for those hours. If the employee is required to perform higher duties for more than half of one day or one shift, they must be paid the higher wage rate for the whole day or shift.

**Apprentices rates of pay – applicable from the first pay period on or after 1 July 2020 until end of last pay period commenced in December 2020 (new rates applied from first pay period on or after 1 January 2021).**

Employers are required to pay an apprentice for the time spent at off the job training as normal working hours.

Apprentice	Fortnightly Mon - Fri	Hourly Mon - Fri	Hourly Sat - Sun	Hourly Public Holiday
1st year- under 21	\$936.00	\$12.32	\$18.47	\$30.79
1st year - 21 or over - Adult apprentice	\$1,276.40	\$16.79	\$25.19	\$41.99
2nd year	\$1,276.40	\$16.79	\$25.19	\$41.99
3rd year	\$1,497.60	\$19.71	\$29.56	\$49.26

\*A full time or part time employee must receive an extra **\$1.66 per hour** for any ordinary hours worked prior to 7:00 am or after 7:00 pm on Monday to Friday. If the employee works the majority of their ordinary hours in a shift between midnight and 7.00 am they must instead be paid **\$1.75 per hour** extra for each such hour or part hour.

### Trainees

For pay rates for registered trainees working under the Restaurant, Tearoom and Catering Workers Award, please contact Wageline on 1300 655 266.

## Juniors – under 20 years of age

- Junior employees are paid a percentage of the ‘lowest adult rate’. Those starting work in the restaurant/café industry who have not yet demonstrated the competency requirements of a Level 1 may be paid the **applicable percentage of the Introductory Level** for a period of up to three months. After this time, juniors must be paid the **applicable percentage of a Level 1**.
- Junior employees, who already possess the competencies of a Level 1 when first engaged, must be paid the **applicable percentage of a Level 1** from their commencement.
- Under the *Children and Community Services Act 2004*, it is illegal to employ children under the age of 13 in this industry, except if the child is working as part of a school program or in a family business or a not-for-profit organisation.

**Junior rates as a % of the Introductory Rate – applicable from the first pay period on or after 1 July 2020 until end of last pay period commenced in December 2020 (new rates applied from first pay period on or after 1 January 2021).**

Age (per cent)	Full time/Part time employee				Casual employee (Rate includes casual loading)		
	Fortnightly	Hourly Mon - Fri*	Hourly Sat/Sun	Public Holiday (min 4 hours)	Hourly Mon - Fri	Hourly Sat/Sun	Public Holiday
Under 16 (50%)	\$747.00	\$9.83	\$14.74	\$24.57	\$12.29	\$14.74	\$22.12
16 (60%)	\$896.30	\$11.79	\$17.69	\$29.48	\$14.74	\$17.69	\$26.54
17 (70%)	\$1,045.70	\$13.76	\$20.64	\$34.40	\$17.20	\$20.64	\$30.96
18 (80%)	\$1,195.10	\$15.73	\$23.59	\$39.31	\$19.66	\$23.59	\$35.38
19 (90%)	\$1,344.50	\$17.69	\$26.54	\$44.23	\$22.11	\$26.54	\$39.80

- \*A full time or part time employee must receive an extra **\$1.66 per hour** for any ordinary hours worked prior to 7:00 am or after 7:00 pm on Monday to Friday. If the employee works the majority of their ordinary hours in a shift between midnight and 7.00 am they must instead be paid **\$1.75 per hour** extra for each such hour or part hour.
- Please note employees under 15 years of age cannot be employed before 6am or after 10pm.

**Junior rates as a % of a Level 1 – rates of pay – applicable from the first pay period on or after 1 July 2020 until end of last pay period commenced in December 2020 (new rates applied from first pay period on or after 1 January 2021).**

Age (per cent)	Full time/Part time employee				Casual employee (Rate includes casual loading)		
	Fortnightly	Hourly Mon - Fri*	Hourly Sat/Sun	Public Holiday (min 4 hours)	Hourly Mon - Fri	Hourly Sat/Sun	Public Holiday
Under 16 (50%)	\$765.10	\$10.07	\$15.10	\$25.17	\$12.58	\$15.10	\$22.65
16 (60%)	\$918.06	\$12.08	\$18.12	\$30.20	\$15.10	\$18.12	\$27.18
17 (70%)	\$1,071.10	\$14.09	\$21.14	\$35.23	\$17.62	\$21.14	\$31.71
18 (80%)	\$1,224.10	\$16.11	\$24.16	\$40.27	\$20.13	\$24.16	\$36.24
19 (90%)	\$1,377.10	\$18.12	\$27.18	\$45.30	\$22.65	\$27.18	\$40.77

- \*A full time or part time employee must receive an extra **\$1.66 per hour** for any ordinary hours worked prior to 7:00 am or after 7:00 pm on Monday to Friday. If the employee works the majority of their ordinary hours in a shift between midnight and 7.00 am they must instead be paid **\$1.75 per hour** extra for each such hour or part hour.
- Please note employees under 15 years of age cannot be employed before 6am or after 10pm.



To receive email updates when WA award pay rates change, subscribe to [Wageline News](#).



## Ordinary working hours, penalty rates and overtime – full time employees

- Full time employees are engaged in ongoing employment.
- Full time employees can be employed on a three month probation, which can be extended for up to a further three months provided it is extended before the end of the first three month period and the extension is reasonable.

### Ordinary hours of work

The ordinary hours for a full time employee are:

- 76 hours of work per fortnight;
- no more than 10 days in any fortnight;
- a minimum of 4 hours and no more than 10 hours per shift; and
- a maximum spread of shift of 12 hours.

### Overtime and penalty rates

When penalty rates apply for a full time employee	Penalty rates
If an employee works ordinary hours on a Saturday or Sunday	Time and a half
If an employee works on a public holiday	Double time and a half (minimum payment of four hours)
If an employee works any ordinary hours prior to 7.00 am or after 7.00 pm on any day, Monday to Friday	Extra <b>\$1.66 per hour</b> for each such hour, or part of an hour worked
If an employee works the majority of their ordinary hours between midnight and 7.00 am, Monday to Friday	Extra <b>\$1.75 per hour</b> for each such hour, or part of an hour worked

When overtime applies for a full time employee	Overtime rates
If an employee works more than: <ul style="list-style-type: none"> <li>• 10 hours per day</li> <li>• 10 days per fortnight</li> <li>• 76 hours per fortnight</li> </ul>	<ul style="list-style-type: none"> <li>• Monday to Friday - time and a half for the first two hours and double time after that</li> <li>• Saturday or Sunday - double time</li> </ul>
If an employee works outside the maximum 12 hour daily spread of shift	<ul style="list-style-type: none"> <li>• Monday to Friday - time and a half for the first two hours and double time after that</li> <li>• Saturday or Sunday - double time</li> </ul>
If an employee works overtime on a Saturday or Sunday	Double time

By agreement, time off during ordinary hours (calculated at the applicable overtime rate) can be granted instead of payment for overtime.



## Ordinary working hours, penalty rates and overtime – part time employees

- Part time employees are engaged in ongoing employment.
- Part time employees can be employed on a three month probation, which can be extended for up to a further three months provided it is extended before the end of the first three month period and the extension is reasonable.

### Ordinary hours of work

The ordinary hours for a part time employee are:

- a minimum of 20 hours per fortnight;
- a maximum of 10 days per fortnight;
- a minimum of 3 hours and no more than 10 hours per shift;
- a maximum spread of shift of 12 hours; and
- the employer and employee may agree to the employee working additional ordinary hours in a particular pay period (up to a maximum of 76 hours) and these extra hours are paid for at ordinary rates of pay.

### Overtime and penalty rates

When penalty rates apply for part time employee	Penalty rates
If an employee works ordinary hours on a Saturday or Sunday	Time and a half
If an employee works on a public holiday or a substituted public holiday	Double time and a half (minimum payment of four hours)
If an employee works any ordinary hours prior to 7.00 am or after 7.00 pm on any day, Monday to Friday	Extra \$1.66 per hour for each such hour, or part of an hour worked
If an employee works the majority of their ordinary hours between midnight and 7.00 am, Monday to Friday	Extra \$1.75 per hour for each such hour, or part of an hour worked

When overtime applies for a part time employee	Overtime rates
If an employee work more than: <ul style="list-style-type: none"> <li>10 hours per day</li> <li>10 days per fortnight</li> <li>76 hours per fortnight</li> </ul>	<ul style="list-style-type: none"> <li>Monday to Friday - time and a half for the first two hours and double time after that</li> <li>Saturday or Sunday - double time</li> </ul>
If an employee is directed to work outside their rostered hours of duty - i.e. where the employer and employee have not agreed on the employee working additional ordinary hours in a particular pay period (up to a maximum of 76) at ordinary rates.	<ul style="list-style-type: none"> <li>Monday to Friday - time and a half for the first two hours and double time after that</li> <li>Saturday or Sunday - double time</li> </ul>
If an employee works outside the daily maximum 12 hour spread of shift.	<ul style="list-style-type: none"> <li>Monday to Friday - time and a half for the first two hours and double time after that</li> <li>Saturday or Sunday - double time</li> </ul>
All overtime worked on a Saturday or Sunday	Double time

- By agreement, time off during ordinary hours (calculated at the applicable overtime rate) can be given instead of payment for overtime.
- Specific hours provisions apply for part time school canteen workers - see Clause 51 of the award.



### Ordinary working hours – casual employees

- A casual employee must be informed, before they are employed, that they are employed on a casual basis and that they have no entitlement to paid sick leave or annual leave.
- A casual employee must be provided with a minimum of two consecutive hours of work per shift.

When penalty rates apply for a casual employee	Penalty rates
If an employee works Monday to Friday	25% loading
If an employee works on a Saturday or Sunday	50% loading
If an employee works on a public holiday	125% loading

### COVID-19 JobKeeper General Order

The COVID-19 JobKeeper General Order issued by the Western Australian Industrial Relations Commission on 15 May 2020 has introduced temporary provisions for employers and employees who are participating in the Commonwealth JobKeeper scheme.

The state system JobKeeper provisions allow employers to give certain directions to employees and make certain requests of them, including provisions that allow employers to:

- issue a 'JobKeeper enabling direction' to temporarily alter or reduce an employee's working hours (which may be reduced to nil), change an employee's duties and change their location of work; and
- request that an employee change their days/times of work.

There are a range of specific rules and requirements about the state system JobKeeper provisions. The [State system COVID-19 JobKeeper provisions](#) page of the Wageline website has detailed information.

These new provisions apply from 15 May 2020 until 28 March 2021, unless extended.



## Meal breaks – all employees

- All employees are entitled to:
  - an unpaid meal break of between 30 and 60 minutes after not more than 6 hours of work; and
  - a 10 minute paid break if the shift is 6 or more hours long.
- If it is not possible for the employer to grant a meal break on any day, the meal break must be treated as time worked and the employee must be paid a 50% loading on the employee's ordinary hourly rate, until the employee is released for a meal.



## Allowances

Allowance	When allowance is paid	Rate
Split shift	If a full time or part time employee works their ordinary hours in more than one period on any one day (split shift).	\$2.70 per day
Meal money	If an employee is required to work two or more hours of overtime on any day without being notified on the previous day (or earlier) and the employer has not supplied a substantial meal.	\$11.30 per meal
Location allowance	If working in certain regional towns in Western Australia (paid on a proportionate basis to casual and part time employees, juniors and apprentices).	Visit the <a href="#">Location Allowance</a> page for the amount payable for each town or Clause 41 of the award
Protective clothing	If required to wash dishes, clean toilets or handle detergents, acids, soaps or any injurious substances and the employer has not supplied rubber gloves.	\$3.90 per fortnight, or \$1.95 if working less than 38 hours per fortnight
Employee's knives	If an employee is required to use their own knives.	\$14.40 per fortnight, or \$7.20 if working less than 38 hours per fortnight
Uniforms and laundry allowance	<b>Cooks</b> - If a cook wears the ordinary apparel usually worn by cooks such as black and white check trousers, white shirt, white apron and cap and the employer has not paid for their laundering. <b>Other employees</b> - If the employer requires a special uniform (as defined in the award) and the employer has not paid for the laundering. (Such a uniform must be provided by the employer).	\$11.00 per fortnight, or \$5.50 per fortnight for employees working less than 38 ordinary hours per fortnight \$7.20 per fortnight, or \$3.60 for employees working less than 38 ordinary hours per fortnight



## Employment records

- Employers are legally required to keep employment records which demonstrate that employees have been paid all entitlements under the Restaurant Tearoom and Catering Workers 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 Restaurant Tearoom and Catering Workers Award, such as overtime hours worked and allowances paid. Contact [Wageline](#) or view the full Restaurant Tearoom and Catering Worker's 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 [Employment record obligations for WA award employers](#) publication helps state system employers keep correct employment records. The publication features helpful step by step guides to record keeping and Wageline's new look [record keeping templates](#).

### Payslips

- It is recommended that employers provide a pay slip to each employee showing the number of ordinary hours and overtime hours for each pay period and the wages and any allowances paid and any deductions made.
- If a payslip is not provided, the employer must grant the employee access to the time and wages record at the time of payment.
- Wageline's [Employment record obligations for WA award employers](#) publication includes a payslip template.



### 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; and
- the employer is authorised or required to deduct by law or a court order.



### Public holidays

- Under the Restaurant, Tearoom and Catering Workers' Award, when a public holiday falls on a Saturday or Sunday, the public holiday is observed on that actual day.
- Full time employees who would normally be required to work on one or more of the designated public holidays under the award, but who are not required to work because it is a public holiday, are entitled to be paid for that day. Part time employees who would normally be required to work on one or more of the designated public holidays under the award, but who are not required to work because it is a public holiday, are entitled to be paid for that day.
- If an employee is required to work on a public holiday, public holiday pay rates will apply.
- If any public holiday under the award falls on a full time employee's non-working day (referred to as a 'rostered day off'), the public holiday is observed on the next rostered working day. In this situation the next rostered working day is considered to be a public holiday, while the non-working day is not. If the employee is required to work on the next rostered working day, they are entitled to be paid at public holiday rates of pay.
- Visit the [Public Holidays in Western Australia](#) page to view the public holiday dates.





## Employment of children

- Under the *Children and Community Services Act 2004*, the minimum age for employment in a restaurant, cafe, fast food or takeaway food business is 13 years of age, except if the child is working as part of a school program or in a family business.
- A child who is 13 or 14 years old may work in a restaurant, café or fast food or takeaway food outlet between 6 am and 10 pm (excepting school hours) if the employer has obtained written permission from their parent or guardian.
- A person must not employ a child of compulsory school age during the hours when the child is required to attend school or otherwise participate in an educational program of a school.
- There are significant penalties for breaching the employment of children laws:
  - employing a child without the permission of a parent – a fine of up to \$24,000 or \$120,000 for a corporation
  - employing a child before 6am or after 10pm – a fine of up to \$24,000 or \$120,000 for a corporation.

### Resources for businesses which employ children

- The [Employment of children laws – shop, restaurant, fast food or takeaway food business](#) page provides specific information for employers and store managers.
- A template form for gaining written parental permission for employing children under 15 is available.
- Conducting a self-audit will assist retail and food industry employers to ensure all employment arrangements comply with the child employment laws. Wageline's [Self-Audit Checklist](#) for this industry is a tool to help employers to conduct a self-audit of compliance with the child employment laws.



## Leave entitlements

### Quick reference guide

Leave entitlement	Full time	Part time	Casual
Annual leave	✓	✓	✗
Sick and carers leave	✓	✓	✗
Unpaid carers leave	✓	✓	✓
Bereavement leave	✓	✓	✓
Unpaid parental leave	✓	✓	✓
Long Service leave	✓	✓	✓
Unpaid pandemic leave	✓	✓	✓

This WA award summary covers the basic leave entitlements for employees covered by the Restaurant, Tearoom and Catering Workers Award but does **not** include all details on leave obligations and entitlements. Full details of conditions are contained in the Restaurant, Tearoom and Catering Workers 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*.

### Long service leave

- Long service leave is a paid leave entitlement for employees who have continuous employment with 'one and the same employer' for a specified period. Full time, part time and casual employees are entitled to long service leave under the *Long Service Leave Act 1958*.
- To be entitled to long service leave an employee's employment with their employer must be continuous. The amount of their long service leave is determined by the employee's period of continuous employment.

- There are a range of paid and unpaid absences or interruptions to an employee's employment that count towards the employee's period of employment for the purposes of accruing long service leave. Some other types of absences do not break an employee's continuous employment, but do not count towards an employee's period of employment for the purposes of accruing long service leave. See the [Long service leave – What is continuous employment](#) page for more information.
- 'The one and the same employer' also includes employers who previously owned a business, where there has been a transmission of business. This means an employer who buys or otherwise acquires 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 a sale of business contract.

<b>Taking long service leave</b>	
<p>The long service leave entitlement for full time, part time and casual employees is:</p> <ul style="list-style-type: none"> <li>• after 10 years of continuous employment with the one and the same employer – <math>8^{2/3}</math> (8.667) weeks of leave on ordinary pay; and</li> <li>• for every 5 years of continuous employment with the one and the same employer after the initial 10 years – <math>4^{1/3}</math> (4.333) weeks of leave on ordinary pay.</li> </ul>	
<b>When employment ceases</b>	
Employee with between 7 and 10 years of continuous employment	<p>When an employee with at least 7 but less than 10 years of continuous employment resigns or is terminated, they are entitled to pro rata long service leave on the basis of <math>8^{2/3}</math> (8.667) weeks for 10 years of continuous employment. This entitlement:</p> <ul style="list-style-type: none"> <li>• is calculated on the employee's entire period of employment; that is, years, months, weeks and days;</li> <li>• applies to employees who resign, are made redundant, die or whose employer has terminated them for any reason other than serious misconduct; and</li> <li>• does not apply to an employee whose employer has terminated them for serious misconduct.</li> </ul>
Employee with 10 or more years of continuous employment	<p><b>Full entitlement – 10 years or more of continuous employment</b></p> <p>An employee who resigns or whose employment is terminated for any reason is entitled to:</p> <ul style="list-style-type: none"> <li>• <math>8^{2/3}</math> (8.667) weeks of leave if they have completed 10 years of continuous employment; and</li> <li>• an additional <math>4^{1/3}</math> (4.333) weeks of leave for each subsequent 5 years after the initial 10 years of continuous employment.</li> </ul> <p><b>Pro-rata entitlement – more than 10 years of continuous employment</b></p> <p>When an employee with more than 10 years but less than 15 years of continuous employment resigns or is terminated they are entitled to pro rata leave. This entitlement:</p> <ul style="list-style-type: none"> <li>• is calculated on the basis of <math>8^{2/3}</math> weeks for 10 years of continuous employment for each year of employment since they completed 10 years of continuous employment;</li> <li>• is calculated on completed years of employment only; that is, it does not include months, weeks or days; and</li> <li>• does not apply to an employee whose employer has terminated them for serious misconduct.</li> </ul> <p>This pro rata entitlement (calculated on the basis of <math>8^{2/3}</math> weeks for 10 years of continuous employment) will also apply to each year of employment since an employee completed 15, 20, 25, 30, 35 years etc. of employment.</p>

- The [Long service leave](#) pages of the Wageline website contain extensive information on:
  - What counts as continuous employment, including details on the impact of various types of paid and unpaid absences or interruptions on continuous employment
  - What happens when business ownership changes
- The [WA long service leave calculator](#) can provide an estimate of an employee's long service leave entitlement when employment ends as a result of resignation, dismissal, death or redundancy. The WA long service leave calculator is available at [www.dmirs.wa.gov.au/lslcalculator](http://www.dmirs.wa.gov.au/lslcalculator).

## 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 exceed 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 [Employment record obligations for WA award employers](#) publication includes a leave record template.

## 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 four weeks of paid annual leave 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 Restaurant, Tearoom and Catering Workers 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 an employee would have received any additional rates for work performed in ordinary hours, had he or she not been on leave, and this would be a greater amount than the 17.5% loading, then such additional rates must be paid in lieu of the 17.5% loading.
- On termination, annual leave loading of 17.5% is paid out on fully accrued annual leave entitlements for completed years of employment. Annual leave loading is not paid on proportionate leave (leave accrued in an incomplete year of employment) 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 service.
  - Visit Wageline's [Annual leave calculation guide](#) to work out annual leave entitlements.
- Wageline's [Employment record obligations for WA award employers](#) publication includes a leave record template.
- The COVID-19 General Order has implemented new annual leave flexibility provisions enabling employers and employees to agree to an employee taking twice as much annual leave at half pay or to agree for the employee to take annual leave in advance.
- These provisions apply to all full time and part time employees covered by this WA award effective from 14 April 2020 until 31 March 2021, unless extended.

- The annual leave at half pay provisions in the COVID-19 General Order are:
  - Instead of an employee taking paid annual leave at full pay, the employee and their employer may agree to the employee taking twice as much leave at half pay.  
Example: Instead of an employee taking one week's annual leave at full pay, the employee and their employer may agree to the employee taking two weeks' annual leave at half pay. In this example:
    - the employee's pay for the two weeks' leave is the same as the pay the employee would have been entitled to for one week's leave at full pay; and
    - one week of leave is deducted from the employee's annual leave accrual.
  - Any agreement to take twice as much annual leave at half pay must be recorded in writing and signed by the employee (and a parent/guardian if the employee is under 18).
  - The employer must keep the written agreement as part of the employee's employment record.
  - The agreed period of leave must start before 31 March 2021, but may end after that date.
- The granting annual leave in advance provisions in the COVID-19 General Order are:
  - An employee and employer may agree to an employee taking a period of annual leave in advance of the entitlement being accrued if all of the following conditions are met:
    - any agreement to annual leave in advance must be recorded in writing and signed by the employee (and a parent/guardian if the employee is under 18); and
    - the written agreement must state the amount of leave to be taken in advance and the date on which the leave will commence; and
    - the employer must keep the written agreement as part of the employee's employment record.
  - If, on the termination of the employee's employment, the employee has not accrued an entitlement to all of the period of paid annual leave taken in advance, 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. This provision will continue to apply notwithstanding the expiration of the General Order.
  - Where an agreement has been reached under this clause and the leave commenced before the expiration of the General Order, then the arrangement may continue to operate for the period agreed between the parties.

### 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 2 days need not be consecutive.
- Bereavement leave is a minimum entitlement from the *Minimum Conditions of Employment Act 1993*.

### 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

### Unpaid pandemic leave

- The COVID-19 General Order has implemented a new entitlement to unpaid pandemic leave for all employees working under this WA award. The new provision is effective from 14 April 2020 and applies until 31 March 2021 unless extended.
- The unpaid pandemic leave provisions in the COVID-19 General Order are:
  - (1) Subject to subclauses (2) and (3), an employee is entitled to take up to two weeks' unpaid leave if the employee is required, by government or medical authorities or acting on the advice of a medical practitioner, to self-isolate or is otherwise prevented from working by measures taken by government or medical authorities in response to the COVID-19 pandemic. An employer and employee may agree that the employee may take more than two weeks' unpaid pandemic leave.
  - (2) The employee must give their employer notice of the taking of leave under subclause (1) and of the reason the employee requires the leave, as soon as practicable. This may be a time after the leave has started.

- (3) The employee who has given their employer notice of taking leave under subclause (1) must, if required by the employer, give the employer evidence that would satisfy a reasonable person that the leave is taken for a reason given in subclause (1).
- (4) Leave taken under subclause (1) does not affect any other paid or unpaid leave entitlement of the employee and counts as service for the purposes of entitlements.
- (5) Such leave:
  - (a) is available in full immediately rather than accruing progressively during any period of service;
  - (b) will be available until 31 March 2021 (unless extended by further variation depending on the duration of the COVID-19 pandemic);
  - (c) will be available to full time, part time and casual employees (it is not pro rata); and
  - (d) must start before 31 March 2021, but may end after that date.
- (6) It is not necessary for employees to exhaust their paid leave entitlements before accessing unpaid pandemic leave.
- (7) Such unpaid leave does not operate on a 'per occasion' basis and is available once for those employees compelled to self-isolate, even if they are required to self-isolate on more than one occasion.
- (8) Those caring for others who are compelled to self-isolate are not entitled to unpaid pandemic leave.



## Resignation, termination and redundancy

### Resignation by the employee

- Full time and part time employees must give:
  - in the first year of service - at least one day's notice
  - in the second year of service - at least one week's notice
  - in the third and succeeding years - at least two weeks' notice
- A casual employee must give one hour's notice to the employer.
- A probationary employee must give one day's notice to the employer, during the probationary period.

### Termination notice periods

- An employer must give a casual employee one hour's notice of termination.
- An employer must give a probationary employee one day'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.

### 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.



## Classifications / Job duties

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### Introductory

An employee may be paid at the Introductory Rate if they are entering the hospitality industry and have not demonstrated the competency requirements of Level 1 (please see below). An employee may be paid at the Introductory Rate for a **maximum of three months**, unless the employee and employer reach a written agreement that further training is required.

### Food and Beverage employees

**Food and Beverage Attendant Grade 1 (Level 1)** means an employee who is engaged in any of the following:

- picking up glasses;
- emptying ashtrays;
- general assistance to food and beverage attendants of a higher grade not including service to customers;
- removing food plates;
- setting and/or wiping down tables;
- cleaning and tidying of associated areas.

**Food and Beverage Attendant Grade 2 (Level 2)** means an employee who has not achieved the appropriate level of training and who is engaged in any of the following:

- supplying, dispensing or mixing of liquor including the sale of liquor from the bottle department;
- assisting in the cellar or bottle department;
- undertaking general waiting duties of both food and/or beverage including cleaning of tables;
- receipt of monies;
- attending a snack bar;
- engaged on delivery duties.

**Food and Beverage Attendant Grade 3 (Level 3)** means an employee who has the appropriate level of training and is engaged in any of the following:

- supplying, dispensing or mixing of liquor including the sale of liquor from the bottle department;
- assisting in the cellar or bottle department, where duties could include working up to 4 hours per day (averaged over the relevant work cycle) in the cellar without supervision;
- undertaking general waiting duties of both food and liquor including cleaning of tables;
- receipt and dispensing of monies;
- engaged on delivery duties; or
- In addition to the tasks performed by a food and beverage attendant grade 2 the employee may also be involved in:
  - the operation of a mechanical lifting device; or
  - attending a wagering (e.g. TAB) terminal, electronic gaming terminal or similar terminal.
- and/or means an employee who is engaged in any of the following:
  - full control of a cellar or liquor store (including the receipt, delivery and recording of goods within such an area);
  - mixing a range of sophisticated drinks;

- supervising food and beverage attendants of a lower grade;
- taking reservations, greeting and seating guests;
- training food and beverage attendants of a lower grade.

**Food and Beverage Attendant (Tradesperson) Grade 4 (Level 4)** means an employee who has completed the appropriate level of training or who has passed the appropriate trade test and who carries out specialised skilled duties in a fine dining room or restaurant.

**Food and Beverage Supervisor (Level 5)** means an employee who has the appropriate level of training including a supervisory course and who has the responsibility for supervision, training and co-ordination of food and beverage staff, or stock control for a bar or series of bars.

### **Kitchen employees**

**Kitchen Attendant Grade 1 (Level 1)** means an employee engaged in any of the following:

- general cleaning duties within a kitchen or food preparation area and scullery, including the cleaning of cooking and general utensils used in a kitchen and restaurant;
- assisting employees who are cooking;
- assembly and preparation of ingredients for cooking; or
- general pantry duties.

**Kitchen Attendant Grade 2 (Level 2)** means an employee who has the appropriate level of training and who is engaged in specialised non-cooking duties in a kitchen or food preparation area or supervision of kitchen attendants.

**Kitchen Attendant Grade 3 (Level 3)** means an employee who has the appropriate level of training including a supervisory course, and has the responsibility for the supervision, training and co-ordination of kitchen attendants of a lower grade.

**Cook Grade 1 (Level 2)** means an employee who carries out cooking of breakfasts and snacks, baking, pastry cooking or butchering.

**Cook Grade 2 (Level 3)** means an employee who has the appropriate level of training and who performs cooking duties including baking, pastry cooking or butchering.

**Cook (Tradesperson) Grade 3 (Level 4)** means a “commi chef” or equivalent who has completed an apprenticeship or has passed the appropriate trade test, and who is engaged in cooking, baking, pastry cooking or butchering duties.

**Cook (Tradesperson) Grade 4 (Level 5)** means a “demi chef” or equivalent who has completed an apprenticeship or has passed the appropriate trade test and who is engaged to perform general or specialised cooking, butchering, baking or pastry cooking duties and/or supervises and trains other cooks and kitchen employees.

**Cook (Tradesperson) Grade 5 (Level 6)** means a “chef de partie” or equivalent who has completed an apprenticeship or has passed the appropriate trade test in cooking, butchering, baking or pastry cooking and has completed additional appropriate training and who performs any of the following:

- general and specialised duties including supervision or training of other kitchen staff;
- ordering and stock control; or
- who has sole responsibility for other cooks and other kitchen employees in a single kitchen establishment.

### **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.