



Employment rights in WA – a guide for workers

This guide for Western Australian workers tells you about:

- key minimum entitlements for pay rates and leave; and
- where to find more information on pay rates and employment rights for the work that you are doing.

Before you start - are you covered by the state or national industrial relations system?

Two different industrial relations systems operate in WA, the state system and the national fair work system. The two systems have different employment rights and obligations. Which of these two systems covers a particular employee depends on the type of business structure of the employer.

The state system covers businesses and organisations (and their employees) that operate as:

- sole traders (e.g. Jane Smith trading as Jane's Café)
- unincorporated partnerships (e.g. Jane and Bob Smith trading as Jane's Café)
- unincorporated trust arrangements (e.g. Jane and Bob Smith as trustees for the Smith Family Trust trading as Jane's Café)
- incorporated associations and other not-for-profit organisations that are not trading or financial corporations.

The national system covers businesses and organisations (and their employees) that operate as:

- Pty Ltd businesses that are trading or financial corporations (e.g. Smith Pty Ltd trading as Jane's Café)
- incorporated partnerships (e.g. Smith Pty Ltd and Bob Smith trading as Jane's Café)
- incorporated trust arrangements (e.g. Smith Pty Ltd as trustee for the Smith Family Trust trading as Jane's Café)
- incorporated associations and other not-for-profit organisations that are trading or financial corporations.

If you are not sure which system covers your work, you can contact Wageline on 1300 655 266 and provide the name of the business or the ABN and Wageline can assist with a business search over the phone.

Where to get help and information - state system employees

Visit www.dmirs.wa.gov.au/wageline for information on your pay, working hours and leave entitlements or call Wageline on 1300 655 266.

Visit www.dmirs.wa.gov.au/longserviceleave for long service leave information.

Where to get help and information - national system employees

Visit www.fairwork.gov.au for information on your pay, working hours and leave entitlements, except for long service leave, or call 13 13 94.

Visit www.dmirs.wa.gov.au/longserviceleave for long service leave information.

Employment rights in WA - Pay rates

Many industries and occupations are covered by an 'award' which is a formal document which sets the pay rates, working hours and other employment arrangements specifically for that industry or occupation. Different awards will cover you based on whether your employer is in the state or national industrial relations system, for example:

- The national *Restaurant Industry Award* will apply to a national system employer that operates a restaurant.
- The state *Restaurant, Tearoom and Catering Workers Award* will apply to a state system employer that operates a restaurant.

You do not need to agree to be covered by an award for the award to apply to you. An award applies automatically if you or your employer are in the right industry or occupation. An applicable award will cover full time, part time and casual employees, including junior employees, and workers on visas. When you are covered by an award, your employer is required by law to pay you the award pay rates, including any penalty rates (higher pay rates) for working weekends or overtime.

If your industry or occupation is not covered by an award, you will be entitled to the minimum rate of pay. If you are entitled to the minimum rate of pay, your employer is required by law to pay you this rate. Minimum rates of pay apply to full time, part time and casual employees, including junior employees, workers on visas, and workers in metropolitan and regional areas.

- Employees in the state system can find WA award and minimum rates of pay information on the Wageline website at www.dmirs.wa.gov.au/wageline or can contact Wageline on 1300 655 266.
- Employees in the national system can find award and minimum rates of pay information on the Fair Work Ombudsman website at www.fairwork.gov.au or can contact the Fair Work Ombudsman on 13 13 94.

Employment rights in WA - Leave entitlements

When you start a job, your employer should tell you whether your job is full time, part time or casual. Full time and part time employees usually work a set number of hours a week and get paid annual leave, paid sick and carer's leave. Casual employees usually work a roster that changes each week, and receive a casual loading (a higher pay rate) but do not get paid annual or sick leave. Full time, part time and casual employees all have an entitlement to paid long service leave, which may also apply if you leave your job after 7 years of employment.

- For employees in the state system information on leave entitlements is available on the Wageline website – visit www.dmirs.wa.gov.au/wageline
- For employees in the national system information on leave entitlements is available on the Fair Work Ombudsman website – visit www.fairwork.gov.au and long service leave information is available at www.dmirs.wa.gov.au/longserviceleave

Employment rights in WA – Superannuation

Most employees are entitled to superannuation. Superannuation must be paid by the employer to the employee's nominated superannuation fund. Visit the Australian Taxation Office website at www.ato.gov.au for information on superannuation entitlements.

Check the **How to check your pay and get help with underpayments** guide for workers available at www.dmirs.wa.gov.au/employmentrights for information about:

- how to work out the minimum pay rate you should be paid for the work that you are doing; and
- how to seek help if you think that you have not been paid correctly.