



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

## WA Award Summary

# Fruit Growing and Fruit Packing Industry Award

**1 July 2018**

## About this Award Summary

This WA Award Summary is a summary of the state Fruit Growing and Fruit Packing Industry Award and does not include all obligations required by the award. It is important that you also refer to the full Fruit Growing and Fruit Packing Industry Award 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><br/>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> (eg Jane Smith trading as Jane’s Fruit Orchard)</li> <li>✓ <b>unincorporated partnerships</b> (eg Jane and Bob Smith trading as Jane’s Fruit Orchard)</li> <li>✓ <b>unincorporated trust arrangements</b>. (eg Jane and Bob Smith as trustees for Jane’s Fruit Orchard)</li> </ul> <p>This summary does <b>not</b> apply to businesses in the national industrial relations system which operate as:</p> <ul style="list-style-type: none"> <li>✗ <b>Pty Ltd businesses</b> (eg Smith Pty Ltd trading as Jane’s Fruit Orchard)</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><br/>Is the business covered by the Fruit Growing and Fruit Packing Industry Award?</p>       | <p>The Fruit Growing and Fruit Packing Industry Award applies to businesses in the state industrial relations system which are in the fruit growing and fruit packing industry, including the preparation of land, cultivation, planting, care, picking, handling, treating, packing and dispatching of all fresh fruits including tomatoes on or from gardens, farms, orchards and in packing sheds.</p>   |
| <p><b>Step 3</b><br/>Is the employee’s job covered by the Fruit Growing and Fruit Packing Industry Award?</p> | <p>The Fruit Growing and Fruit Packing Industry Award sets pay rates, working hours and other employment arrangements for full time, part time and casual employees working as:</p> <ul style="list-style-type: none"> <li>✓ Packers and sorters</li> <li>✓ Shed hands</li> <li>✓ Orchard hands</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 5 details record keeping requirements.

The Fruit Growing and Fruit Packing Industry Award is a legal document that outlines the minimum wages and conditions 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 2018**.



**Adult rates of pay – applicable from the first pay period on or after 1 July 2018 until end of last pay period commenced in June 2019 (new rates applied first pay period on or after 1 July 2019)**

| Classification   | Weekly<br>(40 hour week) | Hourly  | Casual<br>(includes 20% loading) |
|--|--------------------------|---------|----------------------------------|
| <b>Fruit packing and sorting</b>   |                          |         |                                  |
| Trainee packer and trainee sorter;<br>competent packers and sorters; shed hand | \$765.20                 | \$19.13 | \$22.95                          |
| <b>Fruit growing and picking</b>   |                          |         |                                  |
| Orchard hand (general & machine operator)                                      | \$765.20                 | \$19.13 | \$22.95                          |
| <i>Work in excess of 40 hours but not more than 52 hours per week</i>          |                          | \$28.37 | \$34.04                          |
| <i>Work in excess of 52 hours per week</i>                                     |                          | \$37.88 | \$45.40                          |

- A "Competent Packer" is defined as an employee who packs 500 bushels of apples per week of 40 hours.



**Junior rates of pay – applicable from the first pay period on or after 1 July 2018 until end of last pay period commenced in June 2019 (new rates applied first pay period on or after 1 July 2019)**

| Age      | % of Adult | Weekly<br>(40 hour week) | Hourly  | Casual<br>(includes 20% casual loading) |
|----------|------------|--------------------------|---------|---|
| 15 years | 40%        | \$306.10                 | \$7.65  | \$9.19                                  |
| 16 years | 50%        | \$382.60                 | \$9.57  | \$11.48                                 |
| 17 years | 60%        | \$459.10                 | \$11.48 | \$13.77                                 |
| 18 years | 70%        | \$535.60                 | \$13.39 | \$16.07                                 |
| 19 years | 80%        | \$612.10                 | \$15.31 | \$18.37                                 |
| 20 years | 90%        | \$688.60                 | \$17.22 | \$20.66                                 |

- Some of the pay rates in the Fruit Growing and Fruit Packing Industry Award fall below the minimum wages set by the State Wage Order. In such instances the rates listed here are the legal minimum rate.
- It is illegal to employ children under the age of 15 in this industry, except if the child is working as part of a school program or in a family business. See page 5 for details.

### Piecework

Piecework agreements may be entered into between the employer and the employee subject to the piecework rate being fixed and reviewed as necessary from time to time so as to enable the 'average competent employee' to earn during ordinary working hours not less than 15 per cent above the hourly rate of the class of work performed. Such an hourly rate is to be ascertained by dividing the appropriate weekly rate by 40.



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



### Meal breaks (fruit packing and sorting)

- Each fruit packing or sorting employee is entitled to a meal break of not less than half an hour and not more than one hour after five hours of work.

- An employee who is required to postpone their meal break for more than one hour must be paid at overtime rates until released for a meal.



## Ordinary working hours, penalty rates and overtime

### Fruit packing and sorting:

- Ordinary hours of work are 40 per week or 8 in each working day (Monday to Friday) and except for meal breaks, must be worked continuously between 7:00am and 5:00pm.
- The spread of hours may be varied by agreement between the employer and employee concerned.
- All time worked in excess of ordinary hours on any day Monday to Friday must be paid for at the rate of time and one half for the first two hours and double time after that.
- All time worked in excess of ordinary hours on a Saturday before 12.00 noon must be paid for at the rate of time and one half for the first two hours and double time after that. All such time worked on a Saturday after 12.00 noon or on a Sunday must be paid for at the rate of double time.
- All time worked on a public holiday or substituted public holiday must be paid for at the rate of double time and a half.

### Fruit growing and picking:

- There are no fixed hours of duty for workers employed in this area.
- Employees who work for more than 40 hours per week must be paid the appropriate hourly rates as specified in the wages table on page 3.



## Allowances

| Allowance                                   | When allowance is paid   | Rate   |
|---|--|--|
| Meal Money (Fruit packing and sorting only) | If required to work two or more hours overtime without previous day notification and not provided with a meal. | <b>\$9.15</b> for a meal, and <b>\$6.10</b> for a second or subsequent meal. |
| District Allowance                          | The Award provides weekly district allowances for working in certain areas of Western Australia.               | See Clause 18 of the Award for details.                                      |



## Public holidays

- 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 a public holiday falls on a Saturday or Sunday, the following Monday will be considered to be the public holiday. 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 Fruit Growing and Fruit Packing Award.
- If a fruit packing or sorting employee works on a public holiday or substituted public holiday, they must be paid at the rate of double time and a half.
- Visit the [Public Holidays in Western Australia](#) page to view the public holiday dates.



## 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 Fruit Growing and Fruit Packing Industry 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 Fruit Growing and Fruit Packing Industry Award, such as overtime hours worked and allowances paid. Contact [Wageline](#) or view the full Fruit Growing and Fruit Packing Industry 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 template](#) help small business employers meet their legal obligations for time and wages record keeping and keep accurate employee leave records.



## Deductions from pay

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An employer may only deduct from an employee's pay an amount which

- 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.



## Employment of children

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- Under the *Children and Community Services Act 2004*, it is illegal to employ children under the age of 15 in this industry, except if the child is working as part of a school program or in a family business.
- School aged children must not be employed during school hours, unless participating in a school program.
- Visit the [When children can work in Western Australia](#) page for more information.



## 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 Fruit Growing and Fruit Packing Industry Award but does **not** include all details on leave obligations and entitlements. Full details of conditions are contained in the Fruit Growing and Fruit Packing Industry 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. 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 Fruit Growing and Fruit Packing 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%. 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 3.077 hours of annual leave for each completed week of work.
  - A part time employee accrues the relevant proportion of 3.077 hours annual leave for each completed week of work.
- Wageline's [Annual Leave Calculation Guide](#) can assist with calculating 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.
- Wageline's [Long Service Leave Calculation Guide](#) can assist with calculating long service leave entitlements.
- Wageline's [record keeping templates](#) include a long service leave record template.



### Resignation by the employee

- Full time and part time employees are required to provide notice of resignation to the employer based on their years of service, as per the table below.
- A casual employee is required to provide one hour's notice of termination.

### Termination

- An employer is required to give a casual employee one hour's notice of termination.
- 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.

### 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.