



WA award summary

# Pastrycooks Award

1 July 2021

About this award summary

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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.

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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 (and their employees) that operate as:</p> <ul style="list-style-type: none"> <li>✓ <b>sole traders</b> (e.g. Jane Smith trading as Jane’s Pastries)</li> <li>✓ <b>unincorporated partnerships</b> (e.g. Jane and Bob Smith trading as Jane’s Pastries)</li> <li>✓ <b>unincorporated trust arrangements</b> (e.g. Jane and Bob Smith as trustees for Jane’s Pastries)</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 ‘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 (e.g. 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.</p> <p>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.

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). The tables below provide the rates that apply from the first pay period on or after **1 July 2021**.

### Adult rates of pay

Classification (see page 12)	Weekly	Hourly	Casual (includes 20% loading)
Single hand pastrycook	\$869.30	\$22.88	\$27.45
Pastry cook	\$866.70	\$22.81	\$27.37
Cake decorator	\$817.40	\$21.51	\$25.81
Assistant	\$783.80	\$20.63	\$24.75

### Apprentice rates of pay

Apprentices aged 21 and above must receive the minimum adult apprentice rate of pay **\$665.60** 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%	\$476.70	\$12.54
2nd Year	75%	\$650.00	\$17.11
3rd Year	88%	\$762.70	\$20.07

- An employer is required to pay an apprentice for the time spent at TAFE (or other off the job training) as normal working hours. An employer is not required to pay TAFE fees on behalf of the apprentice.
- If the apprentice is a high school student undertaking a school based apprenticeship they must be paid the relevant hourly rate for the year of their apprenticeship for:
  - all hours spent working on the job; plus
  - hours spent in off the job training (deemed to be 25% of actual hours worked each week).
- Visit the [Pay rates for apprentices](#) page for more information.

### Junior rates of pay

Age	% of Assistant	Weekly	Hourly	Casual (includes 20% loading)
20 years of age	90%	\$705.40	\$18.56	\$22.28
19 years of age	80%	\$627.00	\$16.50	\$19.80
18 years of age	70%	\$548.70	\$14.44	\$17.33
17 years of age	60%	\$470.30	\$12.38	\$14.85
16 years of age	50%	\$391.90	\$10.31	\$12.38
Under 16 years of age	40%	\$313.50	\$8.25	\$9.90

Page 6 details the restrictions on employment of children in this industry.



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



### 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**

### Location Allowance for employees in regional areas

- Employees employed in certain regional towns must be paid the location allowance relevant to that town. Rates listed below are for adult employees working full time. Junior employees, casual employees, part time employees, apprentices and trainees must be paid proportionate location allowance based on the proportion which their weekly wage is to the adult rate under the WA award.
- If an employee has a dependent (a spouse or partner, or a child if there is no spouse or partner) the employee is entitled to receive double the allowance specified for the relevant town except if the dependent also receives a location or district allowance payment as part of their own employment.
- If an employee has a 'partial dependant' (a dependant who receives a district or location allowance of their own which is less than the location allowance the employee is entitled to under this award) the employee is entitled to receive:
  - the relevant location allowance for the employee's town; plus
  - an amount equal to the difference between the employee's location allowance and the amount their partial dependant receives in district or location allowance.
- If an employee receives free board and lodging, or is paid an allowance for board and lodging, the rate of location allowance is adjusted to 66.67% (two thirds) of the rate for the relevant town.

### Location allowance rates effective 1 July 2021

Town	\$ per week	Town	\$ per week	Town	\$ per week
Agnew	\$22.70	Halls Creek	\$53.30	Norseman	\$20.10
Argyle	\$60.80	Kalbarri	\$8.10	Nullagine	\$58.90
Balladonia	\$23.50	Kalgoorlie	\$9.70	Onslow	\$39.50
Barrow Island	\$39.50	Kambalda	\$9.70	Pannawonica	\$29.60
Boulder	\$9.70	Karratha	\$38.20	Paraburdoo	\$29.40
Broome	\$36.50	Koolan Island	\$40.00	Port Hedland	\$31.60
Bullfinch	\$10.60	Koolyanobbing	\$10.60	Ravensthorpe	\$11.90
Carnarvon	\$18.70	Kununurra	\$60.80	Roebourne	\$44.00
Cockatoo Island	\$40.00	Laverton	\$23.20	Sandstone	\$22.70
Coolgardie	\$9.70	Learmonth	\$33.40	Shark Bay	\$18.70
Cue	\$23.30	Leinster	\$22.70	Southern Cross	\$10.60
Dampier	\$31.80	Leonora	\$23.20	Telfer	\$54.20
Denham	\$18.70	Madura	\$24.50	Teutonic Bore	\$22.70
Derby	\$37.90	Marble Bar	\$59.00	Tom Price	\$29.40
Esperance	\$6.60	Meekatharra	\$20.10	Whim Creek	\$37.80
Eucla	\$25.40	Mount Magnet	\$25.20	Wickham	\$36.50
Exmouth	\$33.40	Mundrabilla	\$25.00	Wiluna	\$22.90
Fitzroy Crossing	\$46.10	Newman	\$21.80	Wyndham	\$56.90



## 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 5 days of the week or 10 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 9 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 9 hours, exclusive of meal breaks, and a minimum of 3 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 2 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 12 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 dough makers 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 30 minutes and an hour every 4 hours worked. The first meal break must be taken at such time which is convenient after the completion of 3 hours and before the completion of 5 hours work.
- An employee called upon to work for more than 5 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.



## 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 6.00am and 10.00pm (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 (e.g. work experience placement) or in a family business.
- 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. Employers often fail to keep sufficient detail in their 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 [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

- 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.
- Wageline's [Employment record obligations for WA award employers](#) publication includes a payslip template.



## Deductions from pay

An employer may **only** make a deduction from an employee's pay if:

- the employee has agreed to the deduction in writing, (as part of a written employment contract or otherwise) and the deduction is paid on behalf of the employee;
- the employer is authorised by the WA award to make the deduction and the deduction is paid on behalf of the employee; or
- the employer is required by a court or a State or federal law to make the deduction (e.g. tax that must be withheld from the employee's pay).



## 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 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.



## 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*.

### 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*.

### 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.

## 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 a member of their family or household who requires care or support because they are sick, injured or affected by an unexpected emergency (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 is carried over to the next year.
- Sick and carer's leave accrues on a weekly basis for full and part time employees. Wageline's [Sick leave calculation guide](#) can assist with calculating sick and carer's leave entitlements.
- 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*.
- Visit Wageline's [Sick leave](#) page for definitions of 'member of the family or household' or for more information.
- 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 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.
- 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 work.
  - 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.

## 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.

Taking long service leave	
<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>	
When employment ceases	
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).



### 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.

### 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.

### 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.
- When an employee has been made redundant they are entitled to receive:
  - the appropriate notice period or pay in lieu of notice, as outlined in the termination section above;
  - paid leave for job interviews;
  - any unpaid wages;
  - any unused accrued and pro rata annual leave;
  - any unused accrued long service leave;
  - pro rata long service leave (if applicable); and
  - severance pay (if applicable).
- Visit the [Redundancy – General information](#) page for information on redundancy obligations.

### Award severance pay – Employers who employ less than 15 employees

- Employers covered by the Pastrycooks Award who employ less than 15 employees must pay the severance pay entitlements in the award when an employee is made redundant, as outlined in the table below.
- Award severance pay does not need to be paid to casual employees, apprentices, employees who have been engaged for a specific period of time or for a specified task or tasks, or employees terminated as a consequence of conduct that justifies instant dismissal.

Period of continuous service with employer	Award severance pay
less than 1 year	nil
1 year but less than 2 years	4 weeks
2 years but less than 3 years	6 weeks
3 years but less than 4 years	7 weeks
4 years and over	8 weeks

\*An employee's period of continuous service includes any service with that business under a previous employer where there has been a transmission of the business.

### Severance pay – Employers who employ 15 or more employees

- Employers covered the Pastrycooks Award by who employ 15 or more employees must pay severance pay when an employee is made redundant, as outlined in the table below.

Period of continuous service*	Number of weeks severance pay
Less than 1 year	Nil
1 year and less than 2 years	4 weeks
2 years and less than 3 years	6 weeks
3 years and less than 4 years	7 weeks
4 years and less than 5 years	8 weeks
5 years and less than 6 years	10 weeks
6 years and less than 7 years	11 weeks
7 years and less than 8 years	13 weeks
8 years and less than 9 years	14 weeks
9 years and less than 10 years	16 weeks
10 years and over	12 weeks

\*An employee's period of continuous service includes any service with that business under a previous employer where there has been a transmission of the business.

- These severance pay requirements do not apply to probationary employees, apprentices and trainees, casual and contract employees or employees terminated due to serious misconduct or for other reasons not related to redundancy.
- Redundancy pay is calculated based on the applicable number of weeks' severance multiplied by ordinary time earnings. Ordinary time earnings excludes overtime, penalty rates, and allowances.
- If the employee resigns during the notice period, they are entitled to the same severance pay they would receive if they had worked until the end of the notice period. However, in this circumstance the employee is not entitled to payment in lieu of notice.
- Visit the [Redundancy payments](#) page for more information on redundancy payments.



## Classifications

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- An "**Assistant**" shall mean a worker employed in sweeping up, scrubbing tables, greasing tins, sifting and emptying flour, bringing in fuel, packing cakes, breaking eggs, grinding or shelling almonds, papering tins, washing utensils, labelling tins and boxes, wrapping cakes or flour, breaking ice for ice-cream machines, emptying trays, jamming tarts, simple icing and piping, weighing out raw materials, operating machines or other similar work. A worker whose duties include "ornamenting" as referred to in the pastrycook classification and "simple icing and piping" shall be deemed to come within the provisions of a pastrycook.
- A "**Cake Decorator**" shall mean a person skilled in the art and employed in decorating and ornamenting cakes.
- A "**Pastrycook**" shall mean a worker other than an assistant, or a duly registered apprentice, or an apprentice on probation, or a junior worker, who is employed in making up, baking or ornamenting cakes, pastry, sponge goods and yeast goods for sale. Provided that such a worker may be required by the employer to perform assistant's work.
- A "**Single hand Pastrycook**" shall mean a tradesperson pastrycook employed in a bakehouse where there is no other tradesperson pastrycook employed.

### Disclaimer

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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.