



Pay rates for café and restaurant staff

Legal employment obligations of café and restaurant business owners

Owners of café and restaurant businesses which operate in the state industrial relations system must pay all employees at least the legally required pay rates for this sector.

The *Restaurant, Tearoom and Catering Workers Award* sets the pay rates for the café and restaurant sector, and it is unlawful for employers to pay employees less than the rate of pay outlined in this WA Award.

The pay rates in the *Restaurant, Tearoom and Catering Workers Award* apply:

- in all metropolitan and regional areas of Western Australia;
- to all employees working in a café or restaurant as wait staff, baristas, kitchenhands, counterhands, chefs, cooks and other roles related to the preparation of food and serving of customers;
- to all full time, part time and casual staff; and
- to all staff working on student visas, working holiday visas and temporary skilled visas.

Industrial inspectors at the Department of Mines, Industry Regulation and Safety can initiate enforcement action against employers in the Industrial Magistrates Court for not paying the correct rates of pay.

Cafés or restaurants are in the state industrial relations system where the businesses 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** (Jane and Bob Smith as trustees for Jane's Café).

Key employment obligations for café and restaurant business owners:

- ✓ Pay all staff at least the WA award rate of pay **for every hour worked**.
- ✓ Pay all staff the higher weekend pay rates and public holiday pay rates required by the WA award. Required pay rates for adult full time, part time and casual staff are in the table below.
- ✓ Keep employment records for all staff of the business, as outlined on page 4 of this brochure.
- ✓ Provide leave entitlements for all staff as required by the *Restaurant, Tearoom and Catering Workers Award*, the *Minimum Conditions of Employment Act 1993* and the *Long Service Leave Act 1958*. A quick reference guide to leave obligations is on page 3 this brochure.

Pay rates

The rates below are the minimum pay rates for staff working in a café or restaurant who are covered by the state industrial relations system. All rates of pay are gross rates (before tax). These rates apply from the first pay period on or after **1 January 2021**.

Classifications	Full time and part time employees				Casual employees (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)	\$1,520.00	\$20.00	\$30.00	\$50.00	\$25.00	\$30.00	\$45.00
Level 1	\$1,556.90	\$20.49	\$30.73	\$51.21	\$25.61	\$30.73	\$46.09
Level 2	\$1,612.20	\$21.21	\$31.82	\$53.03	\$26.52	\$31.82	\$47.73
Level 3	\$1,652.70	\$21.75	\$32.62	\$54.37	\$27.18	\$32.62	\$48.93
Level 4	\$1,731.60	\$22.78	\$34.18	\$56.96	\$28.48	\$34.18	\$51.26
Level 5	\$1,825.90	\$24.03	\$36.04	\$60.06	\$30.03	\$36.04	\$54.06
Level 6	\$1,868.60	\$24.59	\$36.88	\$61.47	\$30.73	\$36.88	\$55.32

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

Other pay rate obligations

See the WA Award summary for the *Restaurant, Tearoom and Catering Workers Award* available at www.dmirs.wa.gov.au/wageline or contact Wageline on 1300 655 266 for information on:

- rates of pay for junior staff (under 20 years of age);
- rates of pay for apprentices and trainees;
- working hours, overtime and rostering requirements;
- information on annualised salary arrangements under this WA award; and
- other allowances required to be paid to staff working in particular situations, including location allowance required to be paid to staff in some regional towns.

Leave obligations - Quick reference guide

This quick reference guide shows basic leave entitlements for full time, part time and casual employees. For extensive information on all types of leave, visit the Wageline website.

Leave entitlement	Full time employees	Part time employees	Casual employees
Paid annual leave	✓	✓	✗
Paid sick and carer's leave	✓	✓	✗
Unpaid carer's leave	✓	✓	✓
Paid bereavement leave	✓	✓	✓
Unpaid parental leave	✓	✓	✓
Paid long service leave	✓	✓	✓

Restrictions on employment of children under 15 years of age in cafes and restaurants

There are restrictions on the employment of children in a business that is a café, restaurant, takeaway food or fast food store:

- **13 years old** is the youngest a child can work for a business in this sector;
- a child who is 13 or 14 can only work **between 6am and 10pm**, and outside of school hours;
- written permission from a parent is a legal requirement if you employ a 13 or 14 year old;
- a child is considered to be working whether they are paid or not paid for the work they do;
- business owners can face substantial fines of up to \$24,000, or up to \$120,000 for an incorporated employer, for:
 - employing children under 13 years of age, or
 - employing 13 or 14 year olds outside the permitted hours, or
 - employing 13 or 14 year olds without written permission from a parent.

There are exclusions if the child is working in a family business owned by a relative such as a parent, aunt, uncle or grandparent, or the organisation is a charity or not-for-profit organisation.



Contact Wageline

 www.dmirs.wa.gov.au/wageline

 **1300 655 266**



 Translating and Interpreting Service 13 14 50

Employment records

Business owners must keep employment records for all employees of the business which detail:

- ✓ the employee's name
- ✓ the employee's date of birth if under 21 years of age
- ✓ the date the employment started
- ✓ daily start and finish time and meal breaks taken
- ✓ the number of ordinary hours and the number of overtime hours worked each day and the totals for each pay period
- ✓ total number of hours worked each week
- ✓ the gross and net amounts paid to the employee, including any allowances paid
- ✓ all pay deductions and the reasons for them
- ✓ all leave taken, whether paid, partly paid or unpaid
- ✓ all information required to calculate long service leave entitlements and payment
- ✓ name of the WA award (for the café and restaurant sector this is the *Restaurant, Tearoom and Catering Workers Award*)
- ✓ employment status (whether full time, part time or casual)
- ✓ employee classification level under the award (the *Restaurant, Tearoom and Catering Workers Award* has 6 classification levels, based on the duties of the employee)
- ✓ 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.

Employment records must be in English. Employment records can be either written or electronic. Records must be retained for seven years after employment has ended. Employers can be penalised up to \$5,000 for not keeping employment records, or for keeping inadequate or fraudulent records.

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 record keeping templates help state system employers meet their legal obligations for employment records.

The templates are available at
www.dmirs.wa.gov.au/employmentrecords

Disclaimer

The Department of Mines, Industry Regulation and Safety has prepared this brochure to provide information on pay rates, leave and record keeping requirements. 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.