



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

WA award summary

# Social and Community Services (Western Australian) Interim Award

**1 July – 30 November 2020**

About this award summary

This WA award summary is a summary of the state Social and Community Services (WA) Interim Award and does not include all obligations required by the award. It is important that you also refer to the full Social and Community Services (WA) Interim Award that is available on the WA Industrial Relations Commission website [www.waipc.wa.gov.au](http://www.waipc.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?**





## Three Step Check: to make sure this WA award summary is relevant to you

<p><b>Step 1</b> - is the organisation in the state system?</p>	<p>This WA award summary applies to organisations in the <b>state industrial relations system</b>. It covers organisations (and their employees) that operate as:</p> <ul style="list-style-type: none"> <li>✓ <b>sole traders</b></li> <li>✓ <b>unincorporated partnerships</b></li> <li>✓ <b>unincorporated trust arrangements</b></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 cover</b> 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 or Ltd businesses</b> that are trading or financial corporations</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 organisation covered by the Social and Community Services Award?</p>	<p>The Social and Community Services Award applies to the social and community services industry and to each employer within the industry.</p>
<p><b>Step 3</b> - is the employee's job covered by the Social and Community Services Award?</p>	<p>The Social and Community Services Award applies to employees in the social and community services industry who are employed in a classification to which the award applies.</p> <p>The Social and Community Services Award does not apply to people employed:</p> <ul style="list-style-type: none"> <li>• in a service which mainly provides crisis and supported accommodation and/or related support services, except those specifically providing services to people with disabilities;</li> <li>• in a service which mainly provides a community based labour market program; or</li> <li>• in a service which mainly provides family day care and child care services.</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 7 details record keeping requirements.

The Social and Community Services 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.

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). These rates apply from the first pay period on or after **1 July 2020** until the first pay period on or after **1 December 2020**.

The rates listed here include the transitional equal remuneration payment which applies from the first full pay period on or after 1 December 2019 as set out in Schedule 1 – Equal Remuneration Payment of this award.

See Clause 14 of the award for the classification definitions.

Classification	Annual	Weekly	Hourly	Casual (includes 20% loading)
Community Services Worker 1				
1.1	\$40,813	\$782.40	\$20.59	\$24.71
1.2	\$41,993	\$805.00	\$21.18	\$25.42
Community Services Worker 2				
2.1	\$52,137	\$999.40	\$26.30	\$31.56
2.2	\$53,706	\$1,029.50	\$27.09	\$32.51
2.3	\$55,160	\$1,057.40	\$27.83	\$33.39
Community Services Worker 3				
3.1	\$57,728	\$1,106.60	\$29.12	\$34.95
3.2	\$59,213	\$1,135.10	\$29.87	\$35.85
3.3	\$60,343	\$1,156.70	\$30.44	\$36.53
Community Services Worker 4				
4.1	\$62,957	\$1,206.80	\$31.76	\$38.11
4.2	\$64,108	\$1,228.90	\$32.34	\$38.81
4.3	\$65,657	\$1,258.60	\$33.12	\$39.75
4.4	\$68,761	\$1,318.10	\$34.69	\$41.62
Community Services Worker 5				
5.1	\$72,592	\$1,391.50	\$36.62	\$43.94
5.2	\$74,197	\$1,422.30	\$37.43	\$44.91
5.3	\$75,647	\$1,450.10	\$38.16	\$45.79
Community Services Worker 6				
6.1	\$78,804	\$1,510.60	\$39.75	\$47.70
6.2	\$80,439	\$1,542.00	\$40.58	\$48.69
6.3	\$82,078	\$1,573.40	\$41.41	\$49.69
Community Services Worker 7				
7.1	\$84,812	\$1,625.80	\$42.78	\$51.34
7.2	\$86,469	\$1,657.60	\$43.62	\$52.35
7.3	\$88,127	\$1,689.30	\$44.46	\$53.35
Community Services Worker 8				
8.1	\$93,220	\$1,787.00	\$47.03	\$56.43
8.2	\$94,910	\$1,819.40	\$47.88	\$57.45
8.3	\$96,601	\$1,851.80	\$48.73	\$58.48
Community Services Worker 9				
9.1	\$101,253	\$1,941.00	\$51.08	\$61.29

### Trainees

For pay rates for registered trainees in the social and community services industry, please contact Wageline on 1300 655 266.



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



### Ordinary hours of work

- The ordinary hours for a **full time and part time** employee are:
  - no more than 10 hours in any one day;
  - no more than an average of 38 hours per week;
  - worked over 152 hours within a work cycle not exceeding 28 days; and
  - worked within a designated spread of 12 hours between 6:00am and 8:00pm Monday to Friday to be fixed at the time of engagement and varied only by agreement.
  - For counselling services, ordinary hours may be extended to 10:00pm by mutual agreement with staff.
- The ordinary span of hours for a **part time** and **casual** employee are the same as that for full time employees.
- **Casual** employees must be rostered for no less than 2 consecutive hours per shift.
- A majority of employees and the employer may agree to a system of rostered days off with certain limitations.

### Shift work

- **Shift worker** means an employee who is required to work all or part of their ordinary hours of work outside the spread of ordinary hours on a rostered basis.
- **Day shift** – a shift that commences earlier than 12:00 noon and finishes at or before 7:00pm.
- **Afternoon shift** – a complete rostered shift of any number of hours commencing at or after 12:00 noon and finishing at or after 7:00pm on the same day.
- **Night shift** – a complete rostered shift worked between the hours of 7:30pm and 8:00am inclusive and finishing at or after 12:00 midnight.
- All time worked in excess of 8 hours on a rostered extended night shift is credited towards a rostered day off.
- An employee changing from night duty to day duty or day duty to night duty must be free from duty during the twenty hours immediately preceding the commencement of the changed duty.
- Shift penalty – Monday to Friday:
  - an employee working on an afternoon shift from Monday to Friday must be paid an allowance of 12.5% of the ordinary rate in addition to their normal pay; and
  - an employee working on a night shift from Monday to Friday must be paid an allowance of 15% of the ordinary rate in addition to their normal pay.
- Saturday and Sunday work:
  - an employee must be paid an allowance of 50% of the ordinary rate in addition to their normal pay for ordinary hours worked between midnight Friday and midnight Saturday; and
  - an employee must be paid an allowance of 75% of the ordinary rate in addition to their normal pay for ordinary hours worked between midnight Saturday and midnight Sunday.

### Overtime

- All authorised time worked by employees in excess of ordinary hours of work is overtime.
- Overtime worked on Monday to Saturday is paid at the rate of time and a half for the first three hours and double time thereafter.
- Overtime worked on Sunday is paid at double time.
- All overtime worked by shift workers is paid at the rate of double time.
- An employee who is required to work overtime on a Saturday, Sunday or Public Holiday is to be paid for a minimum of two hours and is not required to work the full two hours if the work is completed in a shorter period.
- Wherever reasonably practicable, an employee who has worked overtime must have at least ten consecutive hours off duty between successive shifts.
- In the case of casual employees, overtime payments are in addition to the 20% casual loading, so that:
  - where time and a half is applicable, the rate will be 170% of the hourly rate; and
  - where double time is applicable, the rate of pay will be 230% of the hourly rate.

## 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

---

#### Non-shift work

- An employee cannot be required to work more than 5 hours without a break for a meal.
- Employees must be allowed an unpaid meal break of between 30 minutes and 1 hour for lunch each day.
- An employee who is required to work during a meal break must be paid at time and a half until a break is provided.
- Where an employee is required by the employer to have a meal with a client(s) as part of the normal work routine, they must be paid for the meal period. They may then elect to take an unpaid meal break.
- By agreement, a part time employee may forgo their unpaid meal break and work continuously. However, they must take an unpaid meal break on any day in which they work more than 6 hours continuously.

#### Shift work

- An unpaid meal break of between 30 minutes and 1 hour must be allowed during each shift.
- When an employee is interrupted during a meal break and has to return to duty, the interruption is counted as time worked and the employee is allowed to continue the meal break as soon as practicable. If they are unable to complete the meal break during the remainder of the shift, they must be paid overtime for the time worked.
- Where an employee is required by the employer to have a meal with a client(s) as part of the normal work routine, they must be paid for the duration of the meal period. They may then elect to take an unpaid meal break.
- Shift workers must receive at least one tea break of not less than 10 minutes when working shifts of 4 hours or longer, and this break is counted as time worked.



### Employment of children

---

- There are restrictions on the type of job and working hours for children under 15 years of age. These laws apply to all Western Australian employers.
- As long as the work does not prevent school attendance, children of any age can:
  - work in a family business owned by a relative such as a parent, aunt, uncle or grandparent;
  - perform professionally as an actor, musician, entertainer or in an advertisement; and
  - work for charities and other not-for-profit organisations.
- 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.





## Public holidays

- Full time employees are entitled to public holidays (or days substituted for public holidays) without a 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.
- Under this award:
  - When Christmas Day falls on a Saturday or Sunday, a holiday in lieu is observed on 27 December;
  - When Boxing Day falls on a Saturday or Sunday, a holiday in lieu is observed on 28 December; and
  - When New Year's Day or Australia Day falls on a Saturday or Sunday, a holiday in lieu is observed on the following Monday.
- Easter Saturday is considered a public holiday for the purposes of the Social and Community Services Award.
- When an employee is required to be on duty on a public holiday, the employee is entitled to be paid at the rate of double time and a half or by agreement, the employee may be granted time off in ordinary hours equivalent to the time worked on a mutually agreed day and without loss of pay.
- When a public holiday other than Easter Saturday falls on an employee's rostered day off, the employee is entitled to a day in lieu to be taken at an agreed time.
- Visit the [Public Holidays in Western Australia](#) page to view the public holiday dates.



## Allowances

Allowance	When allowance is paid	Rate
First Aid	If an employee is required by an employer to perform first aid duty at the workplace and holds a current first aid certificate.	<b>\$10.22</b> per week
Location	Where working in certain regional towns in Western Australia (paid on a proportionate basis to casual/part time employees and apprentices).	Visit the <a href="#">Location Allowance</a> page for the amount payable for each town or Clause 18.10 of the award
On Call	Employee has written instruction to remain at employee's residence or to otherwise be immediately contactable by telephone or paging system outside of normal hours of duty in case of a call to immediately return to duty.	The On Call allowance from 1 July 2020 is <b>\$5.62</b> per hour
Availability	Employee has written instruction to remain contactable outside normal hours of duty and available and in a fit state for recall to duty.	The Availability allowance from 1 July 2020 is <b>\$2.81</b> per hour.
Overtime Meal	See the full award on the WA Industrial Relations Commission website <a href="http://www.wairc.wa.gov.au">www.wairc.wa.gov.au</a> for details on overtime meal allowances.	
Motor Vehicle Allowance	See the full award on the WA Industrial Relations Commission website <a href="http://www.wairc.wa.gov.au">www.wairc.wa.gov.au</a> for details on motor vehicle allowance.	

The Social and Community Services Award contains a number of allowances for employees. Details of these allowances can be found in the award which is available on the WA Industrial Relations Commission website [www.wairc.wa.gov.au](http://www.wairc.wa.gov.au).



## Employment records

---

- Employers are legally required to keep employment records which demonstrate that employees have been paid all entitlements under the Social and Community Services 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 Social and Community Services Award, such as overtime hours worked and allowances paid. Contact [Wageline](#) or view the full Social and Community Services Award on the WA Industrial Relations Commission website [www.waipc.wa.gov.au](http://www.waipc.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

- On pay days, an employer must provide each employee with a statement in writing of the gross salary and allowances to which the employee is entitled, the amount of deductions taken from the gross salary, superannuation payments and net wages payable. The written statement must also indicate the distinction between ordinary hours and overtime and the amount of penalties.
- 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.



## Leave entitlements

### Quick reference guide

Leave entitlement	Full time	Part time	Casual
Annual leave	✓	✓	✗
Personal leave (sick & carer's leave)	✓	✓	✗
Unpaid carer's 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 Social and Community Services Award but does **not** include all details on leave obligations and entitlements. Visit the WA Industrial Relations Commission website [www.wairc.wa.gov.au](http://www.wairc.wa.gov.au) for full details of conditions contained in the Social and Community Services Award, the *Minimum Conditions of Employment Act 1993* and the *Long Service Leave Act 1958*.

### Bereavement leave

- Bereavement leave is a minimum entitlement from the *Minimum Conditions of Employment Act 1993*.
- Under the *Minimum Conditions of Employment Act 1993* 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.
- The Social and Community Services Award also contains provisions regarding bereavement leave which are more beneficial in certain circumstances, including:
  - Full time and part time employees are entitled to take up to three days bereavement leave on each occasion of a death within Australia of the employee's immediate family or household.
  - Full time and part time employees are also entitled to take up to three days bereavement leave on each occasion of the death outside Australia of a member of the employee's immediate family or household, where the employee travels outside Australia to attend the funeral.
  - Employees who are Indigenous Australians are entitled to extended bereavement leave in accordance with the requirements of their culture and community, provided that the extended leave totals no more than five days leave.

### 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.

### 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 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.



- An employee who is regularly rostered for duty over seven days of the week or who works permanent night shift is entitled to up to five weeks of annual leave for each year of completed service (that is, they accrue up to an additional week of leave each year). For further details of how this additional leave accrues refer to Clause 24.2 of the award.
- Full time and part time employees stationed in any locality in WA north of the 24<sup>th</sup> parallel of South Latitude or in Carnarvon are entitled to additional annual leave – full time employees are entitled to an additional 38 hours leave and part time employees are entitled to an additional one week of leave calculated on the basis of average weekly number of hours worked over the previous 12 months.
- Annual leave is a minimum entitlement in the *Minimum Conditions of Employment Act 1993* and the Social and Community Services 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%. Shift workers are to be paid an average of the shift penalties they would have received had they been working, or 17.5%, whichever is the higher.
- On termination, annual leave loading 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.
- 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 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.

## 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

The long service leave entitlement for full time, part time and casual employees is:

- after 10 years of continuous employment with the one and the same employer –  $8\frac{2}{3}$  (8.667) weeks of leave on ordinary pay; and
- for every 5 years of continuous employment with the one and the same employer after the initial 10 years –  $4\frac{1}{3}$  (4.333) weeks of leave on ordinary pay.

### 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\frac{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\frac{2}{3}</math> (8.667) weeks of leave if they have completed 10 years of continuous employment; and</li> <li>• an additional <math>4\frac{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\frac{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\frac{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 (referred to in the award as personal 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 time 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 days' 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.

### **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 other who are compelled to self-isolate are not entitled to unpaid pandemic leave.

### Aboriginal and Torres Strait Islander ceremonial leave

An employee legitimately required by the employee's Aboriginal or Torres Strait Islander tradition to be absent from work for ceremonial purposes will be entitled to up to 10 working days unpaid leave in any one year.



## Resignation, termination and redundancy

### Resignation by the employee

Full time and part time employees are required to provide the same notice period for resignation from their position as the employer is required to provide the employee in respect of termination, but there is no requirement on the employee to give additional notice based on the age of the employee concerned.

### 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
1 year or less	1 week
Over 1 year and up to the completion of 3 years*	2 weeks
Over 3 years and up to the completion of 5 years*	3 weeks
Over 5 years of completed service*	4 weeks

\*Employees over 45 years of age with not less than two years continuous service are entitled to an additional week's notice.

### Redundancy

- Redundancy occurs where an employer has made a definite decision that the employer no longer wishes the job the employee has been doing to be done by anyone and that decision leads to the termination of employment of the employee, except where this is due to the ordinary and customary turnover of labour.
- 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.
- The Social and Community Services ward contains an entitlement to severance pay for employees when an employee is made redundant, including severance entitlements that apply to employees working for a small employer which employs fewer than 15 employees. Please view Clause 12 – Redundancy of the award, which is available at [www.wairc.wa.gov.au](http://www.wairc.wa.gov.au) or contact Wageline for details of redundancy and severance provisions.

### 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.