



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

WA Award Summary

Children's Services (Private) Award

1 July 2019

About this Award Summary

This WA Award Summary is a summary of the state Children's Services (Private) Award and does not include all obligations required by the award. It is important that you also refer to the full Children's Services (Private) Award that is available on the WA Industrial Relations Commission website 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 or by contacting Wageline on 1300 655 266.

This WA Award Summary was updated in April 2020 to include information on the provisions of the COVID-19 General Order issued by the Western Australian Industrial Relations Commission (WAIRC) on 14 April 2020. The COVID-19 General Order applies until 31 July 2020 unless extended. The WA Award Summary was further updated in May 2020 to include information on the provisions of the COVID-19 JobKeeper General Order issued by the WAIRC on 15 May 2020. The COVID-19 JobKeeper General Order applies until 28 September unless extended.

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>Step 1 Is the business in the state system?</p> | <p>This WA Award Summary applies to businesses in the state industrial relations system. It covers businesses which operate as:</p> <ul style="list-style-type: none"> ✓ sole traders (eg Jane Smith trading as Jane’s Childcare) ✓ unincorporated partnerships (eg Jane and Bob Smith trading as Jane’s Childcare) ✓ unincorporated trust arrangements (eg Jane and Bob Smith as trustees for Jane’s Childcare) <p>This summary does not apply to businesses in the national industrial relations system which operate as:</p> <ul style="list-style-type: none"> ✗ Pty Ltd businesses (eg Smith Pty Ltd trading as Jane’s Childcare) ✗ incorporated partnerships or incorporated trusts ✗ incorporated associations and other non-profit bodies (that are trading or financial corporations) <p>For more information visit the Guide to who is in the WA state system page. If the business or organisation is in the national system visit the Fair Work Ombudsman website www.fairwork.gov.au</p> |
| <p>Step 2 Is the business covered by the Children’s Services (Private) Award?</p> | <p>The Children’s Services (Private) Award applies to businesses in the state industrial relations system which are private nurseries, private child care or private day care facilities which provide care for children and which do not receive recurrent funding from the State or Federal Governments.</p> |
| <p>Step 3 Is the employee’s job covered by the Children’s Services Private?</p> | <p>The Children’s Services (Private) 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"> ✓ Child care workers ✓ Cooks and kitchen hands ✓ Directors and assistant directors ✓ Pre-school teachers ✓ Cleaners and gardeners |



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 Children’s Services (Private) 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 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). Current rates applied from the first pay period on or after **1 July 2019**.

| Award Level | Level | Weekly | Hourly | Casual (includes 20% loading) |
|--|-------|------------|---------|----------------------------------|
| Children's Services Employee Level 1 Grade One | | | | |
| Cleaner | 1.1 | \$789.40 | \$20.77 | \$24.93 |
| Kitchen Hand | 1.2 | \$796.70 | \$20.97 | \$25.16 |
| Children's Services Employee Level 1 Grade Two (Cook/Gardener) | | | | |
| On commencement | 1.3 | \$801.20 | \$21.08 | \$25.30 |
| After 1 year in the industry | 1.4 | \$810.30 | \$21.32 | \$25.59 |
| Children's Services Employee Level 2 | | | | |
| On Commencement | 2.1 | \$789.40 | \$20.77 | \$24.93 |
| After 1 year in the industry | 2.2 | \$799.60 | \$21.04 | \$25.25 |
| After 2 years in the industry | 2.3 | \$809.90 | \$21.31 | \$25.58 |
| After 3 years in the industry | 2.4 | \$820.30 | \$21.59 | \$25.90 |
| Children's Services Employee Level 2 E Worker | | | | |
| On commencement | 2.5 | \$837.80 | \$22.05 | \$26.46 |
| After 1 year in the industry | 2.6 | \$846.60 | \$22.28 | \$26.73 |
| Children's Services Employee Level 3 | | | | |
| On commencement | 3.1 | \$850.90 | \$22.39 | \$26.87 |
| After 1 year in the industry | 3.2 | \$876.50 | \$23.07 | \$27.68 |
| After 2 years in the industry | 3.3 | \$900.30 | \$23.69 | \$28.43 |
| CSE Level 3 holding AQF Certificate IV | 3.4 | \$920.40 | \$24.22 | \$29.07 |
| CSE Level 3 holding AQF Diploma in Children's Services or CSE Level 3 who is an E worker | 3.5* | \$944.10 | \$24.84 | \$29.81 |
| Children's Services Employee Level 4 | | | | |
| On commencement | 4.1 | \$987.60 | \$25.99 | \$31.19 |
| After 1 year in the industry | 4.2 | \$1,000.80 | \$26.34 | \$31.60 |
| After 2 years in the industry | 4.3 | \$1,013.70 | \$26.68 | \$32.01 |
| Children's Services Employee Level 5 | | | | |
| On commencement | 5.1 | \$1,027.50 | \$27.04 | \$32.45 |
| After 1 year in the industry | 5.2 | \$1,040.50 | \$27.38 | \$32.86 |
| After 2 years in the industry | 5.3 | \$1,053.50 | \$27.72 | \$33.27 |
| CSE Level 5 holding AQF 6 | 5.4 | \$1,057.00 | \$27.82 | \$33.38 |
| Children's Services Employee Level 6 | | | | |
| Level 6 Grade 1 | | | | |
| On commencement | 6.1 | \$1,172.20 | \$30.85 | \$37.02 |
| After 1 year in the industry | 6.2 | \$1,185.30 | \$31.19 | \$37.43 |
| After 2 years in the industry | 6.3 | \$1,198.30 | \$31.53 | \$37.84 |

| Award Level | Level | Weekly | Hourly | Casual (includes 20% loading) |
|------------------------------------|-------|------------|---------|----------------------------------|
| Level 6 Grade 2 | | | | |
| On commencement | 6.4 | \$1,238.10 | \$32.58 | \$39.10 |
| After 1 year in the industry | 6.5 | \$1,248.50 | \$32.86 | \$39.43 |
| After 2 years in the industry | 6.6 | \$1,261.70 | \$33.20 | \$39.84 |
| Level 6 Grade 3 | | | | |
| On commencement | 6.7 | \$1,275.20 | \$33.56 | \$40.27 |
| After 1 year in the industry | 6.8 | \$1,288.40 | \$33.91 | \$40.69 |
| After 2 years in the industry | 6.9 | \$1,301.40 | \$34.25 | \$41.10 |
| Pre-school Teachers Level 7 | | | | |
| | 7.1 | \$952.20 | \$25.06 | \$30.07 |
| | 7.2 | \$987.60 | \$25.99 | \$31.19 |
| | 7.3 | \$1,023.00 | \$26.92 | \$32.31 |
| | 7.4 | \$1,051.10 | \$27.66 | \$33.19 |
| | 7.5 | \$1,077.40 | \$28.35 | \$34.02 |
| | 7.6 | \$1,112.70 | \$29.28 | \$35.14 |
| | 7.7 | \$1,151.60 | \$30.31 | \$36.37 |
| | 7.8 | \$1,183.40 | \$31.14 | \$37.37 |
| | 7.9 | \$1,211.80 | \$31.89 | \$38.27 |
| | 7.10 | \$1,247.30 | \$32.82 | \$39.39 |
| | 7.11 | \$1,282.60 | \$33.75 | \$40.50 |

* Note: Pay Level 3.5 is fixed at the mid-point between the Level 3.3 and Level 4.1 rates.

- An Assistant Director who holds an Advanced Diploma (AQF 6) must be paid no less than Level 5.4
- A Director or Assistant Director who holds a Graduate Certificate in Child Care Management or equivalent will be paid an all-purpose allowance of **\$52.68** per week (calculated at 5% of the weekly rate for Assistant Director (Pay Level 5.3))
- Visit the WA Industrial Relations Commission website www.wairc.wa.gov.au to view classification descriptions in Clause 24 of the Children's Services (Private) Award for details on job duties for each classification.



Junior child care workers

Junior employees can only be paid junior rates if they are employed as a Children Services Employee (Level 2).

| Junior child care workers | Level | Weekly | | | | Hourly |
|-------------------------------|-------|-------------------|-------------------|-------------------|-------------------|----------------------------|
| | | 20 years (95%) | 19 years (85%) | 18 years (75%) | 17 years (60%) | 15 or 16 years (50%) |
| On commencement | 2.1 | \$749.90 | \$671.00 | \$592.10 | \$473.60 | \$10.39 |
| After 1 year in the industry | 2.2 | \$759.60 | \$679.70 | \$599.70 | \$479.80 | \$10.52 |
| After 2 years in the industry | 2.3 | \$769.40 | \$688.40 | \$607.40 | | |
| After 3 years in the industry | 2.4 | \$779.30 | \$697.30 | \$615.20 | | |

- 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.



Trainees

For pay rates for registered trainees working in the childcare industry, please contact Wageline on 1300 655 266.



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



Employment records

- Employers are legally required to keep employment records which demonstrate that employees have been paid all entitlements under the Children's Services (Private) 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 Children's Services (Private) Award, such as overtime hours worked and allowances paid. Contact [Wageline](#) or view the full Children's Services (Private) Award on the WA Industrial Relations Commission website 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

- An employer must provide a payslip to an employee each time they are paid which includes the gross salary, the net wages payable and show details of all deductions made.
- Wageline's [Employment record obligations for WA award employers](#) publication includes a payslip template.



Employment of children

- 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.



Allowances

| Allowance | When allowance is paid | Rate |
|--------------------|--|--|
| Meal Allowance | If the employee is required to work two hours or more after the usual finishing time, without being notified on the previous day or earlier, they must be provided with a meal or paid an allowance. | Meal allowance of \$9.85 per occasion |
| Location Allowance | If working in certain regional towns in Western Australia (paid on a proportionate basis to casual/part time employees and apprentices). | Visit the Location Allowance page for the amount payable for each town or Clause 12 of the Award |



Meal breaks

- Employees must receive an unpaid meal break of between 30 minutes and one hour after no more than five hours of work. All employees must also receive a 10 minute paid tea break between the second and third hour of work provided that employees responsible for supervising children continue supervision during the tea break.
- If an employee is required to work for more than five hours without a meal break, all time worked in excess of five hours must be paid at overtime rates.



Public holidays

- A full time employee is entitled to public holidays (or days substituted for public holidays) without deduction of pay. A part time employee is entitled to a public holiday (or day substituted for a public holiday) 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 if a public holiday falls on a Saturday or Sunday (except ANZAC Day), 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.
- Hours worked on a public holiday or substituted holiday must be paid at the rate of double time and a half or if the employee agrees paid at time and a half and the employee is allowed to observe the holiday on a mutually agreed day.
- Visit the [Public Holidays in Western Australia](#) page to view the public holiday dates.



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
- the employer is authorised or required to deduct by law or a court order.



Hours and overtime

Ordinary hours

- The ordinary hours of work are an average of 38 per week to be worked on one of the following bases:
 - 38 hours within a work cycle not exceeding seven consecutive days
 - 76 hours within a work cycle not exceeding 14 consecutive days
 - 114 hours within a work cycle not exceeding 21 consecutive days
 - 152 hours within a work cycle not exceeding 28 consecutive days
- The ordinary hours of work are to be worked Monday to Friday between the hours of 7.00am and 6.00pm.
- Hours must be worked continuously except for meal breaks. A maximum of five hours may be worked prior to a meal break. Where an employee works more than five hours without a meal break, all time worked in excess of five hours must be paid at overtime rates.
- The method of implementing a 38 hour week must comply with Clause 8 of the Children's Services (Private) Award. Visit the WA Industrial Relations Commission website www.wairc.wa.gov.au to view the award.
- Casual and part time employees must be paid for at least three hours per day.
- A part time employee who is employed to regularly work less than 20 hours per week may with the consent of the employer, elect to be paid as a 'casual'.

Overtime

- All work on Monday to Friday beyond the ordinary hours or outside the spread of hours (Monday to Friday between the hours of 7.00am and 6.00pm) must be paid for at the rate of time and one half for the first two hours and double time after that.
- Work on a Saturday or Sunday must be paid at the rate of double time.

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 September 2020, unless extended.



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 | ✓ | ✓ | ✓ |
| Unpaid pandemic leave | ✓ | ✓ | ✓ |

This WA Award summary covers the basic leave entitlements for employees covered by the Children's Services (Private) Award but does **not** include all details on leave obligations and entitlements. Visit the WA Industrial Relations Commission website www.wairc.wa.gov.au for full details of conditions contained in the Children's Services (Private) Award, 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, 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 is a minimum entitlement in the *Minimum Conditions of Employment Act 1993* and the Children's Services (Private) 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 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.
- 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 July 2020, 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 July 2020, 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 the 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.



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 exceed 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 [Employment record obligations for WA award employers](#) publication includes a 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.



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"> • after 10 years of continuous employment with the one and the same employer – $8^{2/3}$ (8.667) weeks of leave on ordinary pay; • for every 5 years of continuous employment with the one and the same employer after the initial 10 years – $4^{1/3}$ (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 $8^{2/3}$ (8.667) weeks for 10 years of continuous employment. This entitlement:</p> <ul style="list-style-type: none"> • is calculated on the employee's entire period of employment; that is, years, months, weeks and days • applies to employees who resign, are made redundant, die or whose employer has terminated them for any reason other than serious misconduct • does not apply to an employee whose employer has terminated them for serious misconduct. |
| Employee with 10 or more years of continuous employment | <p>Full entitlement – 10 years or more of continuous employment</p> <p>An employee who resigns or whose employment is terminated for any reason is entitled to:</p> <ul style="list-style-type: none"> • $8^{2/3}$ (8.667) weeks of leave if they have completed 10 years of continuous employment • an additional $4^{1/3}$ (4.333) weeks of leave for each subsequent 5 years after the initial 10 years of continuous employment. <p>Pro-rata entitlement – more than 10 years of continuous employment</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"> • is calculated on the basis of $8^{2/3}$ weeks for 10 years of continuous employment for each year of employment since they completed 10 years of continuous employment • is calculated on completed years of employment only; that is, it does not include months, weeks or days • does not apply to an employee whose employer has terminated them for serious misconduct. <p>This pro rata entitlement (calculated on the on the basis of $8^{2/3}$ 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.



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*. The Children's Services (Private) Award also contains provisions regarding bereavement leave which may be more beneficial in certain circumstances. Visit the WA Industrial Relations Commission website www.wairc.wa.gov.au to view the award.



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 July 2020 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 July 2020 (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 July 2020, 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 others who are compelled to self-isolate are not entitled to unpaid pandemic leave.



Resignation, termination and redundancy

Resignation by the employee

- Full time and part time employees are required to provide:
 - one week's notice if they are employed as a Childcare Support Employee (Grade 1 or 2) or Childcare Giver and have been employed for less than one year.
 - two weeks' notice in all other circumstances.

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 – Child Care Support Employee (Grade 1 or 2) or Child Care Giver 2 weeks – all other employees |
| 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.
- The Children's Services (Private) Award also contains specific award provisions relating to redundancy – please contact Wageline on 1300 655 266 for information.

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.