



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

WA Award Summary

# Landscape Gardening Industry Award

**1 July 2017**

About this Award Summary

This WA Award Summary is a summary of the state Landscape Gardening Industry Award and does not include all obligations required by the award. It is important that you also refer to the full Landscape Gardening Industry 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.

## How can we help?

- Pay rates
- Leave entitlements
- Long service leave
- Employment arrangements
- Record keeping obligations



## Three Step Check: to make sure this WA Award Summary is relevant to you

<p><b>Step 1</b> Is the business in the state system?</p>	<p>This WA Award Summary applies to businesses in the <b>state industrial relations system</b>. It covers businesses which operate as:</p> <ul style="list-style-type: none"> <li>✓ <b>sole traders</b> (eg Jane Smith trading as Jane’s Landscaping)</li> <li>✓ <b>unincorporated partnerships</b> (eg Jane and Bob Smith trading as Jane’s Landscaping)</li> <li>✓ <b>unincorporated trust arrangements</b>. (eg Jane and Bob Smith as trustees for Jane’s Landscaping)</li> </ul> <p>This summary does <b>not</b> apply to businesses in the national industrial relations system which operate as:</p> <ul style="list-style-type: none"> <li>✗ <b>Pty Ltd businesses</b> (eg Smith Pty Ltd trading as Jane’s Landscaping)</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 business covered by the Landscape Gardening Industry Award?</p>	<p>The Landscape Gardening Industry Award covers businesses in the state industrial relations system that are in the landscape gardening industry.</p>
<p><b>Step 3</b> Is the employee doing a job covered by the Landscape Gardening Industry Award?</p>	<p>The Landscape Gardening Industry Award sets pay rates, working hours and other employment arrangements for employees working as:</p> <ul style="list-style-type: none"> <li>✓ landscape employees</li> <li>✓ landscaping tradespeople</li> </ul>



Employers covered by this WA Award are legally required to keep employment records. Employers can be fined up to \$5,000 for not keeping employment records, for keeping inadequate or fraudulent records, or for not providing records to Industrial Inspectors when required to do so. Page 5 details record keeping requirements.

The Landscape Gardening Industry Award is a legal document that outlines the minimum wages and conditions of employment that must be provided to employees who are covered by the award. Employers and employees cannot agree to lesser conditions.

Industrial Inspectors at the Department of Mines, Industry Regulation and Safety have statutory powers to investigate employee complaints about underpayment of wages or leave entitlements under this WA Award and state employment laws. The Department can prosecute employers in the Industrial Magistrates Court for not paying the rates of pay, including overtime, penalty rates and allowances required by this WA Award.



## Rates of pay

All rates of pay are gross rates (before tax). Current rates applied from the first pay period on or after **1 July 2017**.



**Adult rates of pay – applicable from the first pay period on or after 1 July 2017 until end of last pay period commenced in June 2018 (new rates applied first pay period on or after 1 July 2018)**

Classification	Weekly	Hourly	Casual (Includes 20% loading)
Landscape Employee Grade 1	\$708.90	\$18.66	\$22.39
Landscape Tradesperson	\$759.50	\$19.99	\$23.98

- "Landscape Tradesperson" means an employee who has successfully completed a recognised apprenticeship in a branch or branches of the Horticultural Trade and who produces proof satisfactory to the employer of such qualification or who has by other means achieved a standard of knowledge deemed by the employer as comparable thereto and are appointed in writing as such by the employer.



**Apprentice rates of pay – applicable from the first pay period on or after 1 July 2017 until end of last pay period commenced in June 2018 (new rates applied first pay period on or after 1 July 2018)**

3 Year Term	Age	% of Landscape Tradesperson rate	Weekly	Hourly
1st year	Under 21 years old	55%	\$417.70	\$10.99
	21 years or over	Adult apprentice	\$607.60	\$15.99
2nd year	Under 21 years old	75%	\$569.60	\$14.99
	21 years or over	Adult apprentice	\$607.60	\$15.99
3rd year		88%	\$668.40	\$17.59



**Junior rates of pay – applicable from the first pay period on or after 1 July 2017 until end of last pay period commenced in June 2018 (new rates applied first pay period on or after 1 July 2018)**

Age	% of Landscape Employee Grade 1 rate	Weekly	Hourly	Casual (includes 20% casual loading)
15 years of age	40%	\$283.60	\$7.46	\$8.96
16 years	50%	\$354.50	\$9.33	\$11.19
17 years	60%	\$425.40	\$11.19	\$13.43
18 years	70%	\$496.30	\$13.06	\$15.67
19 years	80%	\$567.20	\$14.93	\$17.91
20 years	90%	\$638.10	\$16.79	\$20.15

- \*Note** – some of the pay rates in the Landscape Gardening Industry Award fall below the minimum wages set by the State Wage Order. In such instances the rates listed here are the legal minimum rate.
- 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.



To receive email updates when WA award pay rates change, subscribe to the Wageline Newsletter at [www.dmirs.wa.gov.au/wageline](http://www.dmirs.wa.gov.au/wageline)



## Hours and overtime

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Ordinary hours are:

- 38 hours a week (or 7 hours and 36 minutes in each working day Monday – Friday)
- between 7:00am and 6:00pm

### Overtime

- All time worked in excess of ordinary hours is deemed overtime. All overtime worked on weekdays is paid for at the rate of time and one half for the first two hours and double time after that.
- All time worked on Saturday before 12.00 noon must be paid for at the rate of time and a half for the first two hours and double time thereafter. All time worked on a Saturday after 12.00 noon or on a Sunday must be paid for at the rate of double time.
- All time worked on a public holiday must be paid at the rate of double time and a half.



## Casual employees

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- Before engagement, an employee must be notified by the employer or by the employer's representative whether the duration of his or her employment is expected to exceed one month and, if he or she is hired as a casual employee, he or she must be advised accordingly.
- An employee is deemed to be a casual employee
  - If the expected duration of the employment is less than one month, or
  - If the employee was not notified by the employer (as required above) and the employee is dismissed through no fault of his or her own within one month of commencing employment.
- The employment of a casual employee may be terminated by the giving or receiving of one hour's notice.



## Meal breaks

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- A meal break of not less than half an hour or more than one hour is to be allowed. An employee must not be required to work more than five hours without a meal break.
- If an employee is required for duty during any meal break whereby the meal break is postponed for more than one hour, the employee must receive overtime rates until they are released for a meal.



## Public holidays

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- 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 WA award.
- If an employee works on a public holiday or substituted public holiday they must be paid at the rate of double time and one half.
- Visit the [Public Holidays in Western Australia](#) page to view the public holiday dates.



## Employment records

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- Employers are legally required to keep employment records which demonstrate that employees have been paid all entitlements under the Landscape Gardening Industry Award and relevant legislation.
- Employers must keep all employment records for at least seven years after they are made for both current and past employees. Records relating to long service leave must be kept for seven years from the date employment ends.
- Employers can be fined up to \$5,000 by the Industrial Magistrates Court for not keeping employment records or for keeping inadequate or fraudulent records. A common requirement that employers fail to observe is a lack of detail in keeping employment records.
- Employers must keep records that detail:
  - Employee's name
  - Date of birth if under 21 years of age
  - Date employee commenced with the employer
  - Total number of hours worked each week
  - The gross and net amounts paid to the employee
  - All information required to calculate long service leave entitlements and payment
  - All pay deductions and reasons for them
  - Name of WA award that applies
  - Daily start and finish time and meal breaks taken
  - Employment status (full time, part time, casual)
  - Employee's classification under the award
  - All leave taken, whether paid, partly paid or unpaid
  - Any other information necessary to prove that the wages received by an employee comply with the requirements of the Landscape Gardening Industry Award, such as overtime hours worked and allowances paid. Contact [Wageline](#) or view the full Landscape Gardening Industry Award on the WA Industrial Relations Commission website [www.wairc.wa.gov.au](http://www.wairc.wa.gov.au) for details.
- Employment records can be written or electronic as long as they are in a form that can be printed. Time and wage books can be used to keep employment records, however, it is the employer's responsibility to ensure the time and wage book includes all of the required information.
- The records must be in English.
- Wageline's [record keeping templates](#) help small business employers meet their legal obligations for time and wages record keeping and keep accurate employee leave records.



## Deductions from pay

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An employer may 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.



## Employment of children

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



## Allowances

Allowance	When allowance is paid	Rate
Meal Money	An employee, required to work overtime for more than two hours, must be supplied with a meal by the employer or be paid <b>\$12.50</b> for a meal and, if owing to the amount of overtime worked, a second or subsequent meal is required the employee must be supplied with such meal or paid <b>\$8.75</b> . Meal money provisions do not apply: <ul style="list-style-type: none"> <li>if the employee was notified the previous day or earlier that he/she is required to work overtime or</li> <li>if the employee lives in the same locality as their place of work and can reasonably go home for a meal.</li> </ul>	Meal money of <b>\$12.50</b> per occasion, and <b>\$8.75</b> for a second or subsequent meal.
Location Allowance	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 of the Award
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.	
Leading hand Allowance	A leading hand must be paid if placed in charge of: <ul style="list-style-type: none"> <li>not less than 3 nor more than 10 staff</li> <li>more than 10 and not more than 20 staff</li> <li>more than 20 staff</li> </ul>	<b>\$25.47 per week</b> <b>\$39.08 per week</b> <b>\$50.27 per week</b>



## 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 Landscape Gardening Industry Award but does **not** include all details on leave obligations and entitlements. Full details of conditions are contained in the Landscape Gardening Industry Award on the WA Industrial Relations Commission website [www.wairc.wa.gov.au](http://www.wairc.wa.gov.au), the *Minimum Conditions of Employment Act 1993* and the *Long Service Leave Act 1958*.



### 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 2 days need not be consecutive.



## 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 Landscape Gardening Industry 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%. Annual leave loading is not paid on pro rata leave paid out 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.
- Wageline's [Annual Leave Calculation Guide](#) can assist with calculating annual leave entitlements.
- Wageline's [record keeping templates](#) include an annual leave record template.



## 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 [record keeping templates](#) include a sick and carer's 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

- Full time, part time and casual employees are entitled to long service leave (LSL).
- Long service leave is an entitlement from the *Long Service Leave Act 1958*.
- The length of continuous employment for an employee's long service leave entitlement is based on the total time with the business, rather than any one employer. An employer who buys a business or part of a business will take on the long service leave obligations for existing employees if there has been a transmission of business. This applies regardless of anything written in the sale contract.

Amount of continuous employment with same business	Amount of leave
After <b>10 years</b> of continuous employment	8 <sup>2/3</sup> weeks
For every <b>5 years</b> of continuous employment after this initial 10 years	4 <sup>1/3</sup> weeks
When an employee is terminated (except for serious misconduct) or resigns after they have completed <b>between 7 and 10 years</b> continuous employment	The employee is entitled to be paid out for LSL on a proportionate basis. LSL payment is worked out on a pro-rata basis for the entire period of employment, including years, months and days
When an employee is terminated or resigns after they have worked continuously for <b>10 or more years</b>	The employee is entitled to be paid out for LSL. LSL payment is worked out on completed years of service only

- An employee who has completed a full qualifying period of service (e.g. 10 years) is entitled to be paid out their full long service leave entitlement (e.g. 8<sup>2/3</sup> weeks) on termination, regardless of the circumstances of the termination.
- Where an employee has a period of service that is less than the full qualifying period and they were terminated by their employer for serious misconduct, they are not entitled to **pro rata** LSL.
- Wageline's [Long Service Leave Calculation Guide](#) can assist with calculating long service leave entitlements.
- Wageline's [record keeping templates](#) include a long service leave record template.



## Resignation, termination and redundancy

### Resignation by the employee

- Except within the first three months of employment, full time and part time employees are required to provide one week's notice.
- A casual employee can resign by providing one hour's notice to the employer.

### 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	<b>1 week</b>
More than 1 year but not more than 3 years*	<b>2 weeks</b>
More than 3 years but not more than 5 years*	<b>3 weeks</b>
More than 5 years*	<b>4 weeks</b>

- \*Employees over 45 years of age with two or more years of continuous service must receive an additional week's notice.



## Redundancy

- An employee is redundant when their employer has made a definite decision that they no longer wish the job the employee has been doing to be done by anyone.
- An employer has a number of obligations in redundancy situations and may be required to pay severance pay. Visit the [Redundancy](#) page for redundancy obligations.

## Dismissal requirements

- Under State laws, employees cannot be dismissed if to do so would be harsh, unfair or oppressive. There must be a valid and fair reason for dismissal, such as:
  - consistent unsatisfactory work performance (which has been raised with the employee and the employee given further training and an opportunity to improve their work performance)
  - inappropriate behaviour or actions or
  - serious misconduct.
- The [Dismissal information](#) page outlines obligations and requirements when an employee is terminated.

## Disclaimer

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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.