



Australian Hotels Association
WESTERN AUSTRALIA

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Memorandum

To: AHA(WA) Members
Re: *Restaurant Industry Award 2010*
From: Ron Ballucci, Workplace Relations Manager
Date 18 December 2009

Dear AHA Members

Re:- New Restaurant Award

Applies only to businesses who are constitutional corporations (E.g. PTY LTD companies – ie. not Sole Traders/Partnerships) and those businesses who fall within the scope of the *Restaurant Industry Award 2010*.

The Australian Industrial Relations Commission (AIRC) handed down its final decision in respect to the Modern Restaurant Award on 4 December 2009. For ease, click on the following link in order to access and download a copy of the *Restaurant Industry Award 2010*: <http://www.airc.gov.au/awardmod/awards/restaurant.pdf>

The main key amendments are as follows:

- **Scope** – this award covers employers throughout Australia (federal employers) in the restaurant industry (and their employees) including restaurants, reception centres, night clubs, cafes and roadhouses. However, it does not include a restaurant operated in or in connection with premises owned or operated by employers in hotels, motels or hostels; the fast food industry or clubs.
- **Minimum wages and penalty rates** –
 - The current minimum wages and penalty rates in the NAPSA for the *Restaurant, Tearoom and Catering Workers' Award 1979* will continue to apply from 1 January 2010 until 30 June 2010.

From 1 July 2010, transitional arrangements will commence, whereby differences will be decreased or increased over a five year period gradually resulting in:

- 25% reduction in Saturday penalty rates for full-time/part-time employees;
- 25% increase in Sunday penalty rates for casual employees;
- 25% increase in Public Holiday penalty rates for casual employees;
- An employee (other than a casual) who works Christmas Day when it falls on a weekend, is entitled to an additional loading of 50% of their ordinary time rate for the hours worked on that day and will also be entitled to the benefit of a substitute day;

- Additional rates for ordinary hours are applicable for **all** employees (including casuals) between 10.00 pm and midnight; and between midnight and 7.00 am. Such penalty rates will be calculated at a percentage rate, not a dollar amount ie. 10% of the standard hourly rate (of a Level 4 classification Cook Grade 3 [tradesperson]) per hour extra between 10.00 pm and midnight; and 15% of the standard hourly rate per hour extra between midnight and 7.00 am.
- **Superannuation** – the threshold will be \$350.00 per month – a reduction from \$450.00 per month.
- **Classifications** –
 - Refer to the appropriate level of training at clause 3.1 of the Award. This may have an impact on your current F&B levels 1 - 3;
 - The minimum classification rates for an employee who has completed AQF Certificate III is Level 4. F&B Grade 2 employees automatically move to F&B Grade 3 if they are in possession of a AQF Certificate II even if they are not undertaking the higher duties (e.g. supervision).
- **Transitional provisions** –
 - On 1 January 2010 the *Restaurant Industry Award 2010* commences except for minimum wages, casual and part-time loadings, Saturday, Sunday, public holiday, evening and other penalties and shift allowances;
 - On 1 July 2010 transitional provisions are to be applied when there is a difference in money or percentage terms, between a provision in an award-based transitional instrument ie. *Restaurant, Tearoom and Catering Workers' Award 1979 (NAPSA)* and equivalent provisions in a modern award.
 - Where monetary rates are higher than existing rates, gradual phasing up from 20% over a five year period;
 - Where monetary rates are lower than existing rates, gradual phasing down from 80% over a five year period;
 - From 1 July 2014 – Transitional provisions cease – modern awards commence in their entirety.
 - The employer must apply any increase in minimum wages in this award resulting from an annual wage review.

For further information, please also refer to the attached variation table.

The AHA(WA) website will shortly include a range of fact sheets on the National Employment Standards (NES), the *Fair Work Act 2009* and the Award. Please refer to the new Award in detail as it is different than the current *Restaurant, Tearoom and Catering Workers' Award 1979 (NAPSA)*.

If you have any queries, please contact the AHA Workplace Relations Department on (08) 9321 7701, or email wra@ahawa.asn.au.

Kind Regards



Ron Ballucci
Workplace Relations Manager



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Restaurant Industry Award 2010

Variation Table Effective 1 January 2010

Please read in conjunction with Award No MA000119

	Modern Restaurant Industry Award 2010	Comment	Current Restaurant, Tearoom & Catering Workers' Award 1979 (NAPSA)
Full-time and Part-time (Ordinary hours) Saturday Penalty	125%	Remains 150% until 30 June 2010. Will gradually reduce to 125% with transitional arrangements	150%
Full-time and Part-time (Ordinary hours) Sunday Penalty	150%		150%
Full-time and Part-time (Ordinary hours) Public Holiday Penalty	250%		250%
Casual Rate Monday - Friday	125%		125%
Casual Rate Saturday	150%		150%
Casual Rate Sunday	175%	Remains 150% until 30 June 2010. Will gradually increase to 175% with transitional arrangements	150%
Casual Rate Public Holiday	250%	Remains 225% until 30 June 2010. Will gradually increase to 250% with transitional arrangements	225%
Morning Penalty (Full-time, Part-time <u>AND</u> Casual)	15% per hour (between 12am - 7am Monday - Friday)	Remains as per NAPSA until 30 June 2010. Will gradually increase with transitional arrangements 15% is <u>of the standard hourly rate (level 4).</u>	\$1.51 per hour (between 12am - 7am Monday – Friday) Note, full-time/part-time only
Evening Penalty (Full-time, Part-time <u>AND</u> Casual)	10% per hour (between 10pm - 12am Monday - Friday)	Remains as per NAPSA until 30 June 2010. Will gradually increase with transitional arrangements. 10% is <u>of the standard hourly rate (level 4).</u>	\$1.44 per hour (between 7pm - 7am Monday – Friday) Note, full-time/part-time only
Split Shift Allowance (Full-time/Part-time)	5.4% of the 'standard' hourly rate (level 4)	Applies to a broken work day and paid for each work period of two hours or more	\$2.37 per day

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	Modern Restaurant Industry Award 2010	Comment	Current <i>Restaurant, Tearoom & Catering Workers' Award 1979</i> (NAPSA)
Tool Allowance (Cooks)	\$1.55 per day up to a maximum of \$7.60 per week	Applies if required by employer to use own tools	\$6.25 per week
Laundry Allowance	'Agreed sum of money'	Based on demonstrated costs of laundering the items	\$3.10 per week \$4.70 per week (cooks)
First Overtime Monday - Friday (Full-time/Part-time)	150% (for the 1 st two hrs) and 200% (thereafter)	No change	150% (for the 1 st two hours) and 200% (thereafter)
Overtime on Saturday (Full-time/Part-time)	175% (for the 1 st two hours) then 200% (thereafter)	Remains as per NAPSA until 30 June 2010. Will gradually decrease to 175% for 1 st two hours with transitional arrangements	200% (all overtime)
Overtime on Sunday (Full-time/Part-time)	200%	No change	200% (all overtime)
Superannuation Guarantee Threshold	\$350 per month	SG threshold reduced	\$450 per month
Meal Allowance	\$10.07	Refer to Clause 24.1 of the Award	\$9.70
Uniforms	Employer must pay/provide uniforms	Deduction not allowable from wage. Refer to Clause 24.3 (g) of the Award	
District Allowance	Payable as per NAPSA	Refer to Location Allowance	Clause 41-Location Allowance
Part-time employees	Must be agreed hours. Anything above is paid at overtime rates	Requires written consent for any changes to agreed hours.	Less than 38 hours per week is paid at ordinary rates of pay
Junior employees	If serving liquor, paid adult rates	Increase for 18 year old employees. Transitional arrangements to apply from 1 Jan 2010.	Junior rates apply
Junior employees	19 year old now paid junior rates @ 85%	Transitional arrangements to apply from 1 Jan 2010. Note Take Home Pay Orders.	19 year old is paid adult rates
Junior employees	Wages calculated to nearest 0.10 cents	Round up	N/A
Apprentices	No provision for a 3 or 3.5 year term	Awaiting advice	3, 3.5 and 4 year terms applies

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	Modern Restaurant Industry Award 2010	Comment	Current <i>Restaurant, Tearoom & Catering Workers' Award 1979</i> (NAPSA)
Sous Chef	May be covered by Award	Prior to Modern Award, Sous Chef award-free. Refer to Classifications.	
National Training Wage	See Schedule D		Refer to Clause 43
School-based Apprentices	See Schedule E		
Appropriate level of training	Classification may be changed for your employee	Refer to Definition at Clause 3.1 of the Award	
Annual Leave Loading	17.5% paid to full-time and part-time employees	Also payable on unused annual leave on termination	17.5% paid to full-time and part-time employees only for annual leave <i>taken</i> or after 12 months completed service.
National Employment Standards (NES)	Applies to all employees. Refer to NES Fact Sheets		
Meal Breaks	An unpaid 30 minute break must be taken after no more than 5 hours of work.	<ul style="list-style-type: none"> • Includes casuals • If no break taken then payment at 150% • Note other paid breaks to be given 	
Rosters	7 day notice for staff. 2 weeks notice of RDO's/Days off	If changed by mutual consent, suggest consent in writing	
Minimum break between shifts	10 hour break between shifts		
Additional Week Annual Leave	Additional week annual leave for shift workers	See Definition of 'shift worker' at 35 (1)(b) of Award	
Fair Work Information Statement – NES (new employees)	FWIS to be distributed to all new employees. Refer to NES Fact Sheet effective 1 Jan 2010	To be given to all new employees. Keep written documentation of proof. Suggest include with employment contract	
Wages continue as per Australian Fair Pay Commission decision of 1/10/2008	Current minimum wages continue to apply – no immediate change.	Subject to transitional arrangements 1 July 2010. Anticipated wage increase adjustment on this date	
Take Home Pay Orders	Modern awards are not intended to result in less take-home pay. Employee's overall take-home pay should not be reduced	Fair Work Australia can make a 'take-home pay order' requiring the payment to remedy the situation.	

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