

Best Practice Guide

Payment of wages | National System

This guide is intended to assist Western Australian small business employers in the National industrial relations system in complying with their wage obligations to their employees. If your business is covered by the Western Australian industrial relations system, visit www.wageright.com.au for more information.



Is my business covered by the National industrial relations system or the Western Australian industrial relations system?

Most private sector employers in Australia are covered by the National or 'Fair Work' industrial relations system, including all 'Pty Ltd' companies.

Sole traders, unincorporated partnerships, and unincorporated trust arrangements are covered by Western Australia's industrial relations system.

- National System
- Western Australian System (**do not use this guide** - visit [here](#) for more information)

Modern awards and enterprise agreements

Does a modern award or enterprise agreement apply to any of my employees?

Modern awards and enterprise agreements set out the minimum rates of pay and conditions for most employees in Australia. Where neither a modern award or enterprise agreement applies, an employee will be award/agreement free.

- Modern award
- Enterprise agreement
- Award/agreement free

If you are unsure whether a modern award or enterprise agreement applies you should obtain professional advice.

Where do I find the employee classification levels under my modern award or enterprise agreement?

Every employee covered by a modern award or enterprise agreement needs to be assigned with a classification level, which is effectively their job. This usually involves reviewing the “minimum wages” clause of the modern award or enterprise agreement to identify the relevant classifications. An employer will then usually need to consult a schedule or definitions section for further details of the duties and tasks performed within each classification.

While relatively simple in theory the task of correctly classifying employees can often become a confusing and difficult task. If you are unsure of the correct classification for your employees, or if any classification applies at all, be sure to obtain professional advice.

Where do I find the base rates of pay for each of my employees (excluding any penalty rates)?

Each employee’s minimum rate of pay depends on their classification level, and is typically outlined in a “minimum rates” clause in modern awards or an equivalent “rate of pay” clause in enterprise agreements. Employers should note that some modern awards and agreements may provide for lower rates of pay for certain employees such as apprentices, juniors, trainees, and those receiving a supported wage.

Summaries of applicable penalty rates and loadings for modern awards can be found on the Fair Work Ombudsman’s [website](#).

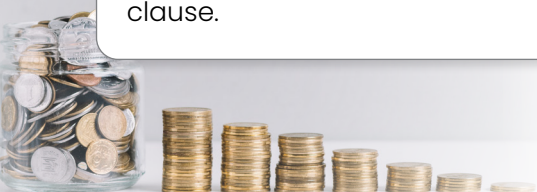
What are the different penalty rates and loadings under my modern award or enterprise agreement?

In addition to the minimum rates in your modern award or enterprise agreement, an employee may also be entitled to receive an additional payment, called a “penalty” or a “loading”, depending when work is performed. Sometimes the rates are different between full-time, part-time, shiftworkers and casual employees. Some common and uncommon examples of penalties and loadings are listed below, but there may be others depending on your modern award or enterprise agreement.

Common	Uncommon
<input type="checkbox"/> Casual loading <input type="checkbox"/> Public Holiday <input type="checkbox"/> Saturday <input type="checkbox"/> Overtime <input type="checkbox"/> Sunday <input type="checkbox"/> Evening/night	<input type="checkbox"/> Breaks between shifts <input type="checkbox"/> Worked after end of rostered shift <input type="checkbox"/> Worked through meal break <input type="checkbox"/> Split shifts

Where do I find the allowances in my modern award or enterprise agreement?

Some modern awards and enterprise agreements require employees to be paid an allowance in certain situations. Examples of common allowance types include a laundry allowance when an employee is required to wash their uniform, and a meal allowance payable after an employee works a certain amount of overtime. Allowances are usually grouped together under their own “allowances” clause.





Award/agreement free

What is the current minimum hourly rate of pay for my award/agreement free employees?

Where neither a modern award nor enterprise agreement applies to an employee, their minimum rate of pay is set by the [National Minimum Wage](#). These types of employees are not entitled to any penalty rates and loadings, except casual loading. This is only the minimum, and it is very common for award/agreement free employees to be paid above the minimum wage in accordance with an employment contract.

⚠ Tips

Employment contracts

- Employment contracts provide additional terms and conditions but cannot be anything less than the modern award or enterprise agreement that applies to an employee, or the National Minimum Wage.
- Some modern awards and enterprise agreements require certain things to be communicated to employees in writing, such as their classification level, so employment contracts are an effective way to do this.
- Some common terms and conditions in employment contracts include longer notice periods (particularly for executive level employees), confidentiality requirements, and annualised salary arrangements.

Annualised salary

- Instead of paying your part-time or full-time employees by the hour, you may decide to pay an annualised salary so they receive the same amount each pay period across the year.
- Some modern awards and enterprise agreements have special rules about how these salaries need to be calculated.
- An employee being paid a salary cannot receive any less than they would otherwise be entitled to under a modern award or enterprise agreement.
- You should make sure to review salaries at least every 12 months.

Employees

Hours of work

- Casual employees do not have any guaranteed number of hours, and you should never promise a casual employee that they will receive a certain number of hours each week.
- Full-time employees usually work on average 38 hours per week, and under some modern awards and enterprise agreements this may be spread over a period of up to 4 weeks.
- Part-time employees will usually agree to a pattern of work at the outset of employment. Some modern awards and enterprise agreements provide strict requirements about how hours of work for part-time employees may be rostered and worked, so it is important to be familiar with any requirements for part-time employees.
- Employers should carefully check their modern award or enterprise agreement to ensure they are aware of the different ways an employee may become entitled to overtime rates. Quite often overtime rates will be applicable if an employee works in excess of a daily and/or weekly maximum amount of hours. Overtime may also be applicable for work performed at certain times of day.
- For award/agreement free employees, while they do not need to be paid overtime rates, they can only be required to work more than 38 hours if the request is reasonable.

Disclaimer

The information contained within this best-practice guide is of a general nature and is not intended to be a comprehensive summary of the law and should not be relied upon as legal advice.

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Where can I find further help?

The [Fair Work Ombudsman](#) can assist you with questions you have concerning employee pay, applicable pay rates, employee hours of work and leave entitlements.

For more information, visit www.wageright.com.au or www.fairwork.gov.au.

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