



# TRAINING WAGE INTERIM (STATE) AWARD

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**1. TITLE**

This award shall be known as the Training Wage Interim (State) Award.

**2. APPLICATION**

- (a) Subject to subclause (c) of this clause, and clause 9, Area, Incidence and Duration, this award shall apply to persons who are undertaking a traineeship (as defined) and is to be read in conjunction with the Parent Award (as defined).
- (b) Notwithstanding (a), this award shall apply provisionally for an interim period:
  - (i) Starting upon the commencement date as recorded on a valid “Application to Establish a Traineeship” signed by both the employer and the Trainee, which has been lodged with the Relevant NSW Training Authority; and
  - (ii) Ending upon the expiry of one calendar month period immediately following the employer’s receipt of the Indenture Papers from the Relevant NSW Training Authority. In any case, the duration for which this award may provisionally apply shall be no longer than two calendar months, or such longer period as may be required to accommodate a delay in processing the “Application to Establish a Traineeship” which is beyond the control of the employer.
- (c) The Parent Award or any former industrial agreement of the Industrial Relations Commission of New South Wales shall apply, except where inconsistent with this award.
- (d) Notwithstanding the foregoing, this award shall not apply to employees who were employed by an employer under an award referred to in subclause (a) of this clause prior to the date of approval of a traineeship relevant to the employer, except where agreed upon between the employer and the relevant union(s).
- (e) This award does not apply to the apprenticeship system or any training program, which applies to the same occupation and achieves essentially the same training outcome as an existing apprenticeship in an award as at 27 April 1998 or in an award that binds the employer.
- (f) At the conclusion of the traineeship, this Award shall cease to apply to the employment of the trainee and the Parent Award shall apply to the former trainee.

### 3. OBJECTIVE

The objective of this award is to assist in the establishment of a system of traineeships which provides approved training in conjunction with employment in order to enhance the skill levels and future employment prospects of trainees, particularly young people, and the long term unemployed. The system is neither designed nor intended for those who are already trained and job ready. It is not intended that existing employees shall be displaced from employment by trainees. Nothing in this award shall be taken to replace the prescription of training requirements in the Parent Award.

### 4. DEFINITIONS

**Structured Training** means that training which is specified in the Training Plan, which is part of the Training Agreement registered with the relevant NSW Training Authority. It includes training undertaken both on and off-the-job in a traineeship scheme and involves formal instruction, both theoretical and practical, and supervised practice. The training reflects the requirements of a Traineeship approved by the relevant NSW Training Authority and leads to a qualification set out in clause 5(f).

**Parent Award** means an award that applies to a Trainee, or that would have applied, but for the operation of this award.

**Relevant Union** means a union party to the making of the Parent Award and which is entitled to enrol the Trainee as a member.

**Trainee** is an individual who is a signatory to a training agreement registered with the relevant NSW Training Authority and is involved in paid work and structured training, which may be on or off the job. A trainee can be full-time, part-time or school-based.

**Traineeship** means a system of training, which has been approved by the relevant NSW Training Authority, and includes full time traineeships and part time traineeships including school-based traineeships.

**Training Agreement** means an instrument which establishes a Traineeship under the Industrial and Commercial Act 1989. (Note: Under the Industrial and Commercial Training Act 1989, a training agreement is also referred to as an indenture).

**Training Plan** means a programme of training which forms part of a Training Agreement registered with the Relevant NSW Training Authority.

**School-Based Trainee** is a student enrolled in the Higher School Certificate, or equivalent qualification, who is undertaking a traineeship which forms a recognised component of their HSC curriculum, and is endorsed by the relevant NSW Training Authority and the NSW Board of Studies as such.

**Relevant NSW Training Authority** means the Department of Education and Training, or successor organization.

**Year 10** for the purposes of this award any person leaving school before completing Year 10 shall be deemed to have completed Year 10.

## 5. TRAINING CONDITIONS

- (a) The Trainee shall attend an approved training course or training program prescribed in the Training Agreement or as notified to the trainee by the Relevant NSW Training Authority in an accredited and relevant traineeship.
- (b) A Traineeship shall not commence until the relevant Training Agreement, has been signed by the employer and the trainee and lodged for registration with the Relevant NSW Training Authority.
- (c) The employer shall ensure that the Trainee is permitted to attend the training course or program provided for in the Training Agreement and shall ensure that the Trainee receives the appropriate on-the-job training.
- (d) The employer shall provide a level of supervision in accordance with the Training Agreement during the traineeship period.
- (e) The employer agrees that the overall training program will be monitored by officers of the Relevant NSW Training Authority and that training records or workbooks may be utilised as part of this monitoring process.
- (f) Training shall be directed at:
  - (i) the achievement of key competencies required for successful participation in the workplace (eg. literacy, numeracy, problem solving, team work, using technology) and an Australian Qualification Framework Certificate Level I. This could be achieved through foundation competencies which are part of endorsed competencies for an industry or enterprise; and/or

- (ii) the achievement of key competencies required for successful participation in an industry or enterprise (where there are endorsed national standards these will define these competencies) as are proposed to be included in an Australian Qualification Framework Certificate Level II or above.

## 6. EMPLOYMENT CONDITIONS

- (a) A Trainee shall be engaged as a full-time employee for a maximum of one year's duration or a part-time trainee for a period no greater than the equivalent of one-year full-time employment.

For example, a part-time trainee working 2 ½ days per week (including the time spent in approved training) works (and trains) half the hours of a full-time trainee and therefore their traineeship could extend for a maximum of two years.

In any event, unless the Relevant NSW Training Authority directs, the maximum duration for a traineeship shall be thirty-six months.

By agreement in writing, and with the consent of the relevant NSW Training Authority, the relevant employer and the Trainee may vary the duration of the Traineeship and the extent of approved training provided that any agreement to vary is in accordance with the relevant Traineeship.

- (b) A trainee shall be subject to a satisfactory probation period of up to one month, which may be reduced at the discretion of the employer.
- (c) Where the trainee completes the qualification in the Training Agreement, earlier than the time specified in the Training Agreement then the traineeship may be concluded by mutual agreement.
- (d) A traineeship shall not be terminated before its conclusion, except in accordance with the Industrial and Commercial Training Act 1989, or by mutual agreement. An employer who chooses not to continue the employment of a trainee upon the completion of the traineeship shall notify, in writing, the Relevant NSW Training Authority of their decision.
- (e) The Trainee shall be permitted to be absent from work without loss of continuity of employment and/or wages to attend the approved training in accordance with the Training Agreement.

- (f) Where the employment of a Trainee by an employer is continued after the completion of the traineeship period, such traineeship period shall be counted as service for the purposes of any Parent Award or any other legislative entitlements.
- (g)
  - (i) The Traineeship Agreement may restrict the circumstances under which the Trainee may work overtime and shiftwork in order to ensure the training program is successfully completed.
  - (ii) No Trainee shall work overtime or shiftwork on their own unless consistent with the provisions of the Parent Award.
  - (iii) No Trainee shall work shiftwork unless the relevant parties to this Award agree that such shiftwork makes satisfactory provision for approved training. Such training may be applied over a cycle in excess of a week, but must average over the relevant period no less than the amount of training required for non-shiftwork Trainees.
  - (iv) The Trainee wage shall be the basis for the calculation of overtime and/or shift penalty rates prescribed by the Parent Award.
- (h) All other terms and conditions of the Parent Award(s) that are applicable to the Trainee or would be applicable to the Trainee but for this Award shall apply unless specifically varied by this Award.
- (i) A Trainee who fails to either complete the Traineeship or who cannot for any reason be placed in full time employment with the employer on successful completion of the Traineeship shall not be entitled to any severance payment.

The following employment conditions apply specifically to part-time and school-based trainees

- (j) A part-time trainee shall receive, on a pro rata basis, all employment conditions applicable to a full-time trainee. All the provisions of this award shall apply to part-time trainees except as specified in this clause.
- (k) A part-time trainee may, by agreement, transfer from a part-time to a full-time traineeship position should one become available.

- (l) The minimum daily engagement periods applying to part-time employees specified in the Parent Awards shall also be applicable to part time trainees. Where there is no provision for a minimum daily engagement period in the Parent Award(s) or other industrial instrument(s), applying to part-time employees, then the minimum start per occasion shall be 3 continuous hours, except in cases where it is agreed that there shall be a start of 2 continuous hours, on 2 or more days per week, provided that:
  - (i) a 2 hour start is sought by the employee to accommodate the employee's personal circumstances, or
  - (ii) the place of work is within a distance of 5km from the employee's place of residence.
- (m) School-based trainees shall not be required to attend work during the interval starting four weeks prior to the commencement of the final year Higher School Certificate Examination period and ending upon the completion of the individual's last HSC examination paper.
- (n) For the purposes of this award, a school-based trainee shall become an ordinary trainee as at January 1 of the year following the year in which they ceased to be a school student.

## 7. WAGES

### Wages — Full-Trainees

- (a) The weekly wages payable to full time trainees shall be as follows:

Industry/Skill Level A	Table 1
Industry/Skill Level B	Table 2
Industry Skill Level C	Table 3
School-Based Trainees	Table 4

- (b) These wage rates will only apply to Trainees while they are undertaking an approved Traineeship, which includes approved training as defined in this Award.
- (c) The wage rates prescribed by this clause do not apply to complete trade level training, which is covered by the Apprenticeship system.
- (d) The rates of pay in this award include the adjustments payable under the State Wage Case 2000. These adjustments may be offset against:

- (i) any equivalent over award payments; and/or
  - (ii) award wage increases since 29 May 1991 other than safety net, State Wage Case, and minimum rates adjustments.
- (e) Appendix A sets out the skill level of a traineeship. The industry/skill levels contained in Appendix A are, illustrative of the appropriate levels but are not determinative of the actual skill levels (i.e., skill levels A, B or C) that may be contained in a traineeship scheme. The determination of the appropriate skill level for the purpose of determining the appropriate wage shall be based on the following criteria:
- (i) Any agreement of the parties or submission by the parties.
  - (ii) The nature of the industry.
  - (iii) The total training plan
  - (iv) Recognition that training can be undertaken in stages
  - (v) The exit skill level in the Parent Award contemplated by the traineeship.

In the event that the parties disagree with such determination, it shall be open to any party to the award to seek to have the matters in dispute determined by the Industrial Relations Commission of New South Wales.

- (f) For the purposes of this provision, "out of school" shall refer only to periods out of school beyond Year 10, and shall be deemed to
- (i) include any period of schooling beyond Year 10 which was not part of nor contributed to a completed year of schooling;
  - (ii) include any period during which a Trainee repeats in whole or part a year of schooling beyond Year 10;
  - (iii) not include any period during a calendar year in which a year of schooling is completed; and
  - (iv) have effect on an anniversary date being January 1 in each year.

### Wages for Part-time and School-Based Trainees

- (g) This clause shall apply to trainees who undertake a traineeship on a part time basis by working less than full time ordinary hours and by undertaking the approved training at the same or lesser training time than a full-time trainee.
- (h) Table 5 — Hourly Rates for Trainees Who Have Left School and Table 6 – Hourly Rates for School-based Traineeships of Part B, Monetary Rates are the hourly rates of pay where the training is either fully off-the-job or where 20% of time is spent in approved training. These rates are derived from a 38-hour week.
- (i) The hours for which payment shall be made are determined as follows:
  - (i) Where the approved training for a traineeship (including a school based traineeship) is provided off-the-job by a registered training organization, for example at school or at TAFE, these rates shall apply only to the total hours worked by the part time trainee on-the-job.
  - (ii) Where the approved training is undertaken on-the-job or in a combination of on-the-job and off-the-job, and the average proportion of time to be spent in approved training is 20% (i.e. the same as for the equivalent full time traineeship):
    - (1) If the training is solely on-the-job, then the total hours on-the-job shall be multiplied by the applicable hourly rate, and then 20 per cent shall be deducted.
    - (2) If the training is partly on-the-job and partly off-the-job, then the total of all hours spent in work and training shall be multiplied by the applicable hourly rate, and then 20 per cent shall be deducted.

**Note:** 20 per cent is the average proportion of time spent in approved training, which has been taken into account in setting the wage rates for most full time traineeships.
  - (iii) Where the normal full time weekly hours are not 38 the appropriate hourly rate may be obtained by multiplying the rate in the table by 38 and then dividing by the normal full time hours.
- (j) For traineeships not covered by clause 7(b) above, the following formula for the calculation of wage rates shall apply:

The wage rate shall be pro-rata the full time rates based on variation in the amount of training and/or the amount of work over the period of the traineeship, which may also be varied on the basis of the following formula:

$$\text{Wage} = \text{Full time wage rate} \times \frac{\text{Trainee hours} - \text{av. weekly training time}}{30.4^*}$$

- \* **Note:** 30.4 in the above formula represents 38 ordinary full time hours less the average training time for full time trainees (i.e. 20%) a pro rata adjustment will need to be made in the case where the Parent Award specifies different ordinary full time hours: for example where the ordinary weekly hours are 40, 30.4 will be replaced by 32.
- (i) “Full time wage rate” means the appropriate rate as set out in Table 1 — Industry/Skill Level A, Table 2 — Industry/Skill Level B, Table 3 — Industry/Skill Level C and Table 4 — School-based Traineeships of Part B, Monetary Rates.
- (ii) “Trainee hours” shall be the hours worked per week including the time spent in approved training. For the purposes of this definition, the time spent in approved vocational training may taken as an average for that particular year of the traineeship.
- (iii) “Average weekly training time” is based upon the length of the traineeship specified in the traineeship agreement or training agreement as follows:

$$\text{Av. Weekly Training Time} = \frac{7.6 \times 12}{\text{length of the traineeship in months}}$$

**Note 1:** 7.6 in the above formula represents the average weekly training time for a full time trainee whose ordinary hours are 38 per week a pro rata adjustment will need to be made in the case where the Parent Award specifies different ordinary time hours for example, where the ordinary weekly hours are 40, 7.6 will be replaced by 8.

**Note 2:** The parties note that the traineeship agreement will require a trainee to be employed for sufficient hours to complete all requirements of the traineeship, including the on the job work experience and demonstration of competencies the parties also note that this would result in the equivalent of a full day’s on the job work per week.

**Example of the calculation for the wage rate for a part time traineeship.**

A school student commences a traineeship in year 11 the ordinary hours of work in the Parent Award are 38. The training agreement specifies two years (24 months) as the length of the traineeship.

“Average weekly training time” is therefore  $7.6 \times 12/24 = 3.8$  hours.

“Trainee hours” totals 15 hours; these are made up of 11 hours work which is worked over two days of the week plus 1-1/2 hours on the job training plus 2-1/2 hours off the job approved training at school and at TAFE.

So the wage rate in year 11 is:

$\$181 \times \frac{15 - 3.8}{30.4} = \$66.68$  plus any applicable penalty rates under the Parent Award.

The wage rate varies when the student completes year 11 and passes the anniversary date of 1 January the following year to begin year 12 and/or if “trainee hours” changes.

**8. GRIEVANCE PROCEDURES**

- (a) Procedures relating to grievances of individual trainees
  - (i) A trainee shall notify the employer as to the substance of any grievance and request a meeting with the employer for bilateral discussions in order to settle the grievance.
  - (ii) If no remedy to the trainee's grievance is found, then the trainee shall seek further discussions and attempt to resolve the grievance at a higher level of authority, where appropriate.
  - (iii) Reasonable time limits must be allowed for discussions at each level of authority.
  - (iv) At the conclusion of the discussions, the employer must provide a response to the trainee's grievance, if the matter has not been resolved, including reasons for not implementing any proposed remedy. At this stage an employer or a trainee may involve an industrial organization of employers or employees of which he/she is a member.
  - (v) If no resolution of the trainee's grievance can be found, then:

- (1) if the dispute relates to issues of training then the matter may be referred to the NSW Commissioner for Vocational Training in accordance with the Industrial and Commercial Training Act 1989; or
  - (2) if the dispute relates to industrial issues then the matter may be referred to the Industrial Relations Commission of New South Wales by either the employer, an industrial organization of employers or a union representing the trainee.
- (vi) While this grievance procedure is being followed, normal work shall continue.
- (b) Procedures relating to disputes, etc. between employers and their trainees:
  - (i) A question, dispute or difficulty must initially be dealt with at the workplace level where the problem has arisen. If the problem cannot be resolved at this level, the matter shall be referred to a higher level of authority.
  - (ii) If no resolution can be found to the question, dispute or difficulty, the matter may be referred to the Industrial Relations Commission by any party to the dispute or the industrial organization representing any of the parties to the dispute.
  - (iii) Reasonable time limits must be allowed for discussion at each level of authority.
  - (iv) While a procedure is being followed, normal work must continue.
  - (v) The employer may be represented by an industrial organization of employers and the trainees may be represented by an industrial organization of employees for the purpose of each procedure.

## **9. AREA, INCIDENCE AND DURATION**

It is the intention of this award that it shall only apply where there are declared traineeships (as defined) in place.

- (i) This award shall apply to all classes of trainees who would ordinarily be covered by any other Parent Award made by the Industrial Relations Commission of New South Wales, excluding the County of Yancowinna, other than:

- (a) Trainees within the scope of awards to which the following unions are a principal party:

Transport Workers' Union of Australia, New South Wales Branch;

National Union of Workers, New South Wales Branch;

The Australasian Meat Industry Employees' Union, New South Wales Branch;

The Australasian Meat Industry Employees' Union, Newcastle and Northern Branch;

Shop Distributive and Allied Employees' Association, New South Wales;

Shop Assistants and Warehouse Employees' Federation of Australia, Newcastle and Northern, New South Wales.

- (b) Trainees engaged within the scope of any Training Wage Awards or Parent Awards with training wage provisions, which are in line with this Award, including but not limited to the following Awards:

AWU Training Wage (State) Award;

Coachmakers, & c., Road and Perambulators Manufacturers (State) Award;

Clerical Industry (State) Training Wage Award;

Confectioners (State) Training Wage Award;

Metal trades (Training Wage) (State) Award;

Nurses' (Private Sector) Training Wage (State) Award;

Private Hospitals, Aged Care and Disability Services Industry (Training) (State) Award;

Rural Traineeships (State) Consolidated Award 1999;

Sawmillers, & c., (State) Award;

School Support Staff (Catholic Schools) (State) training Wage award 2001;

Theatrical Employees (Training Wage) (State) Award.

- (c) Trainees engaged within the scope of any Award, which refers to the National Training Wage Award, including but not limited to the following Awards:

Food Preservers (State) Award;

Motels, Accommodation and Resorts, & c. (State) Award;

Printing Industries (State) Award.

- (d) Trainees engaged in the building and construction industry within the scope of coverage of the Construction, Forestry, Mining and Energy Union (New South Wales Branch) will have their conditions and rates of pay determined in accordance with clause 39.3 of the National Building and Construction Industry Award 2000, as varied.
- (e) Trainees engaged within the scope of any Enterprise or project Award.
- (f) Trainees whose employment falls within the Area, Incidence and Duration of the following Awards on the basis that leave is reserved for the parties to make application for their inclusion in this Award in the future:

Animal Welfare, General (State) Award;

Animal Welfare, Institutional (State) Award;

Bread Industry (State) Award;

Canteen, & c., Workers (State) Award;

Caterers Employees (State) Award;

Cleaning and Building Services Contractors (State) Award;

Clothing Trades (State) Award;

Club Employees (State) Award;

Dairying Industry Employees (State) Award;

Furniture and Furnishing Trades (State) Award;

Gelatine and Glue Industry (State) Award;

Health, Fitness and Indoor Sports centres (State) Award;

Hotel Employees (State) Award;

Miscellaneous Workers Home Care Industry (State) Award;

Miscellaneous Workers' Kindergartens and Child Care Centres (State) Award;

Paint and Varnish Makers, &c. (State) Award;

Photographic Industry (State) Award;

Private Pathology Laboratories (State) Award;

Real Estate Industry (State) Training Wage Award;

Recorded Music and Visual Entertainment Reproduction (State) Award;

Restaurant, & c., Employees (State) Award;

Security Industry (State) Award.

- (g) Trainees employed under the State Public Sector industrial instruments, including but not limited to areas of rail, bus, police, energy, fire, teaching and health and trainees covered by the Crown Employees (Public Service Training Wage) Award 2000 and the Public Hospital (Training Wage) (State) Award.
  - (h) Trainees employed by entities established and defined under the Local Government Act 1993, including all trainees employed under the terms of the Local Government (State) Award 2001 and its successors.
- (ii) This interim award shall take effect from the beginning of the first pay period to commence on or after 24 December 2001 and shall have a nominal term of twelve months.

## **APPENDIX A - Industry Skill Levels**

### **Industry/Skill Level A:**

Office Clerical.  
Commonwealth Public Sector Clerical.  
State Public Sector Clerical.  
Local Government Clerical.  
Finance, Property and Business Services.

### **Industry/Skill Level B:**

Wholesale and Retail.  
Recreation and Personal Services.  
Transport and Storage.  
Manufacturing.  
Wholesale and Retail – Vehicle Repair Services and Retail Sector

### **Industry/Skill Level C:**

Community Service and Health  
Pastoral.  
Environmental.