



CATERERS EMPLOYEES (STATE) AWARD

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2. DEFINITIONS

- 2.1 "Casual Employee" means an employee who is engaged as such and paid as such.
- 2.2 "Establishment" includes more than one facility if they are operated by the same employer and are located in the same structure or place.
- 2.3 "Caterer" means an employer carrying on the business of catering whether by contract, by charge for admission, or otherwise within the State; provided that such business shall not include that carried out in restaurants, tea shops, cafeterias or other eating establishments attached to, or carried on or in connection with factories, workshops, banks, business premises or in other like establishments where food is prepared for or served to employees.
- 2.4 "Employee" means an employee whose conditions of employment are regulated by this award.
- 2.5 "Full-time employee" means a permanent employee who is engaged to work an average of 38 ordinary hours in accordance with this award.
- 2.6 "Part-time employee" means a permanent employee who is engaged to work not less than 9 or 15 hours per week (as set out in clause 5.7), nor more than 128 hours per four week period.
- 2.7 "School based apprentice" is an employee who is undertaking an apprenticeship under a training contract while also enrolled in the Higher School Certificate. The school based apprenticeship may commence upon the completion of the Year 10 School Certificate exams. Such school based apprenticeships are undertaken at a minimum Certificate III Australian Qualifications Framework (AQF) qualification level as specified in the relevant Vocational Training Order pursuant to the Apprenticeship and Traineeship Act 2001.

3. CLASSIFICATION STRUCTURE

- 3.1 The following classification structure shall apply:
- 3.1.1 GRADE 1 is an employee who is:
- 3.1.1.1 undertaking up to three months on-the-job training so as to enable the employee to be employed as a Grade 2 employee; or

3.1.1.2 providing general assistance to employees of a higher grade, not including cooking or direct service to customers, and is primarily engaged in one or more of the following:

- Cleaning, tidying and setting up of kitchen, food preparation and customer services areas, including the cleaning of equipment, crockery and general utensils.
- Assembly and preparation of ingredients for cooking.
- Handling pantry items and linen.
- Setting and/or wiping down tables, removing food plates, emptying ashtrays and picking up glasses.
- General cleaning, gardening and labouring tasks.

3.1.2 GRADE 2 is an employee who is primarily engaged in one or more of the following:

- Heating pre-prepared meals and/or preparing simple food items, such as sandwiches, salads and toasted foodstuffs.
- Undertaking general waiting duties of both food and/or beverages, including cleaning of equipment, preparing tables and sideboards, clearing tables, taking customer orders at a table.
- Taking orders by telephone or whilst stationed at a fixed ordering point, serving food and/or beverages to tables.
- Service from a snack bar, buffet or meal counter.
- Receipt of monies, giving change, operation of cash registers, and use of electronic swipe input devices.
- Greeting and seating guests under general supervision.
- Supplying, dispensing or mixing of liquor, including cleaning of bar areas and equipment, preparing the bar for service, taking orders and serving drinks and assisting in the cellar.
- Receiving, storing and distributing goods not involving the extensive use of documents and records.
- Attending a cloakroom.
- Laundry and specialised cleaning duties involving the use of specialised cleaning equipment and/or chemicals.

- Allocated building, maintenance and/or gardening duties.

3.1.3 GRADE 3 is an employee who is primarily engaged in one or more of the following:

- Preparing and cooking a limited range of basic food items such as breakfasts, grills and snacks.
- Waiting duties of food and/or beverages, including providing assistance in choosing the meal and wines by providing detailed information when required of each item listed on menus, advising customers on the appropriate choices of wine and providing information on wine types and all items on the wine list, taking customer orders, serving food and/or beverages, supervising or undertaking the clearing of tables after and during meals, receipt of monies, taking reservations, greeting and seating guests.
- Preparing and serving a range of drinks, including blended and other cocktails.
- Receiving, storing and distributing goods not involving the control of the store or cellar.
- Security work requiring the holding of an appropriate licence.
- Assisting in the instruction on a one to one basis of employees of a lower grade.

3.1.4 GRADE 4 is an employee who is primarily engaged in one or more of the following:

- Undertaking general cooking duties, including a la carte cookery, baking, pastry cooking or butchery.
- Full control of a cellar and/or store, including stock control and ordering.
- Designing, preparing and serving a range of sophisticated cocktails and other drinks, or duties performed by a head bar person.
- Performing specialist waiting duties in a fine dining or otherwise complex catering environment, such as those performed by a head waiter.
- Performing specialist wine waiting and ordering duties.
- Providing basic supervision and instruction to employees of a lower grade.

3.1.5 GRADE 5 is an employee who has completed an apprenticeship or who has passed the appropriate trade test and who is engaged in any of the following:

- Undertaking cooking, baking, pastry cooking or butchering duties.
- Undertaking general and specialised waiting duties.
- Other trade work appropriate to an employee's trade.

The employer may require the employee to provide proof of any previous service or a trade certificate at the time of commencing employment. Where it is established that the employee failed to disclose that information when required to do so such service or qualification shall not be taken into account when assessing any later claim on the employer.

3.1.6 GRADE 6 is an employee who is engaged in supervising, training and co-ordinating staff and who is responsible for the maintenance of service and operational standards. Duties may include preparation of operational reports, development of stock control and security procedures, menu planning, staff rostering and staff recruitment and induction, but an employee at this grade shall not have the right to engage or terminate the services of employees.

3.1.7 GRADE 7 is an employee who has completed an apprenticeship or has passed the appropriate trade test in cookery, butchery, baking or pastry cooking and has completed appropriate additional training and who is engaged in supervising other trade qualified cooks.

3.2 In the event of uncertainty or any dispute arising over classifying employee(s) within the classification structure, the parties shall refer to the training guidelines issued by Tourism Training NSW. These guidelines indicate the relevant training modules, and in more detail, the required competencies that relate to each grade.

3.3 If an employee has been assessed as having achieved the competency level by either:

- completing a course recognised by the Australian Hospitality Review Panel; or
- ACCESS skills assessment scheme

and is performing the duties/functions referred to within the appropriate grade then the employee shall be paid at that grade.

- 3.4 The above grades cover all employees employed by a caterer, but not managerial staff whose principal functions are not described in the grade descriptions. Where an employee's duties are not mentioned within these classifications, the employee shall be classified in a grade which, by reference to the grading descriptors, most closely reflects the skills and responsibilities of the job.

4. TERMS OF EMPLOYMENT

- 4.1 Employees shall be engaged on a full-time, part-time or casual basis. The basis of the engagement will not be changed without giving the employee 28 days' notice of the change or, where the employee requests the change, the basis of engagement may be changed in a lesser period.
- 4.2 Upon engagement an employee shall be informed by the employer of:
- 4.2.1 Whether the employee is to be engaged on a full time, part time or casual basis.
 - 4.2.2 The employee's classification, job description and the duties to be performed.
 - 4.2.3 The working times including when meal breaks and rest breaks will be taken.
 - 4.2.4 Who will supervise the employee.
 - 4.2.5 The training the employee will receive.
 - 4.2.6 The career path the employee can expect.
 - 4.2.7 Whether the employee starts work on probation (not applicable to apprentices or trainees).
- 4.3 Probationary Employment:
- 4.3.1 Employees engaged as full-time or part-time employees without any previous service with the employer may be employed on probation for the first 14 days of employment, during which period the employment may be terminated with one day's notice.
 - 4.3.2 The work of employees on probation will be assessed by the employer, and, the employee will be told no later than 14 days after the employee has started whether the employee will continue in employment after the probation period.

4.4 Leaving Employment:

4.4.1 An employer may terminate the employment of a full-time or part-time employee by giving the amount of notice set out below for the employee's period of continuous employment or by paying the employee the monies the employee would otherwise have earned during this period:

less than 1 year	1 week
1 year and less than 3 years	2 weeks
3 years and less than 5 years	3 weeks
5 years and over	4 weeks

4.4.2 An employer will not terminate an employee's employment unless the employee has been employed with the employer for less than one month or the employer has told the employee that the employer is unhappy with the employee's employment and the employee has not improved after being given a chance to do so.

4.4.3 Nothing in this clause shall affect the right of the employer to dismiss an employee without notice or without paying any monies instead of notice if the employee has acted dishonestly in employment, the employee has unreasonably failed to carry out a direction properly given to them by a person in charge, or the employee has otherwise behaved so badly as to justify being dismissed without notice

4.4.4 A full-time or part-time employee when leaving employment must give the employer at least one week's notice or the employer may deduct from wages owing any part of the notice period not worked. An employer shall not terminate an employee's employment only because the employee has given notice.

4.4.5 On termination of employment for any reason the employer will give a full or part-time employee a certificate of service stating how long the employee had worked for the employer and what job the employee did.

4.5 Employees shall perform such work as the employer shall, from time to time, reasonably require (including working reasonable overtime) provided the employee is competent to do the work or, if not, the employer is prepared to train the employee to do the work.

4.6 Where an employee is detained at work after the normal finishing time and it is then too late to travel by the employee's usual transport to go home, the employer shall either arrange transport or repay the employee's taxi fare.

- 4.7 Employees shall not to be asked to pay any cash shortages unless the employee deliberately failed to charge the customer the full amount or deliberately failed to collect the amount payable.

5. HOURS

- 5.1 Full time employees will work not more than an average of 38 ordinary hours per week in accordance with this award. These ordinary hours may not be averaged over more than a 4 week period (except if the employee is a seasonal employee).
- 5.2 Full-time and part-time employees will work not more than 5 days per week or, by agreement between the employer and the employee, not more than 20 days in a 4 week period.
- 5.3 Rosters:
- 5.3.1 The employer shall display a roster in a place accessible to all employees. The roster shall set out the starting, finishing and meal times for full-time and part-time employees for each week. The roster shall be posted at least seven days before its commencement.
- 5.3.2 Subject to other clauses of this award, employees must work at such times and on such days as the employer needs them. An employer cannot change the roster of a full-time employee without giving the employee 7 days notice except in an emergency beyond the employer's control. The employer will discuss any change with the employee and try to take into account the employee's family and personal needs.
- 5.4 The ordinary daily working hours of full-time and part-time employees will not be more than 10 hours in any one shift not including the time taken for meal breaks. By agreement between the employer and the employee, an employee, other than an employee under 18 years of age, may work up to 12 ordinary hours including the time taken for a paid meal break, without the payment of a penalty under subclause 11.1 of clause 11, Overtime and Penalty Rates.
- 5.5 Full-time and part-time employees will be given 10 clear hours off between finishing work on one shift and starting work on the next shift or paid double the employees ordinary rate of pay for all time worked until the employee has had ten clear hours off.
- 5.6 If a full-time or part-time employee works less than 3 hours on a shift the employee will be paid for no less than 3 hours worked.

- 5.7 A part time employee's ordinary hours shall be:
- 5.7.1 where there are less than 15 full-time and part-time employees employed at the establishment, not less than 9 hours per week and not more than 128 hours per four week period;
 - 5.7.2 where there are 15 or more full-time and part-time employees employed at the establishment, not less than 15 hours per week and not more than 128 hours per four week period.
- 5.8 If a part-time employee is not given at least 7 days notice or otherwise agrees to a change of rostered hours the employee will be paid an extra 10% for the whole of the period of any affected shift(s) (and any overtime or other penalty payments will be calculated on this extra 10%) except where the change of roster has been requested by the employee.
- 5.9 Subject to clause 11, Overtime and Penalty Rates, if a part-time employee is asked to work extra hours beyond the employee's rostered hours, the employer will pay the employee for the employees work during that time at the rate which will be paid to a casual employee. In addition to all other payments, the rate shall include payment required by the Annual Holidays Act 1944 on termination of employment. Hours worked under the provisions of this subclause shall not otherwise be taken into account in determining a person's entitlement to annual leave payments whether on termination of employment or otherwise.
- 5.10 Seasonal Workers:
- 5.10.1 If the amount of the employer's business changes substantially during the year because of seasonal factors, the employee and the employer can agree to treat a full-time or part-time employee as a seasonal employee. If so, the employer will pay the employee by equal weekly or fortnightly pays notwithstanding the number of hours the employee works in any one day provided that averaged over any period of 52 weeks the employer will not have paid the employee less than the monies the employee would be entitled to receive throughout that period under this award.
 - 5.10.2 If an employee is terminated by the employer, except in circumstances allowing the employer to dismiss them without notice or by the employee for pressing social or domestic or personal reasons the employer will pay the employee any higher amount which would have been earned if the employee had not become a seasonal worker under this clause, calculated from the last anniversary of

the date the employee commenced working for the employer as a full-time or part-time employee.

- 5.11 Where an employee works a broken shift the employer will pay the employee for not less than 8 hours worked on any one shift. The shift will be spread over not more than 2 periods within a span of not more than 14 hours inclusive of meal breaks. For each broken shift worked, an employee shall be paid an allowance of one half of the hourly ordinary rate of pay payable from time to time to employees at the level 2 work classification.

6. MAKE-UP TIME

- 6.1 An employee may elect, with the consent of the employer, to work "make-up time", under which the employee takes time off during ordinary hours, and works those hours at a later time, during the spread of ordinary hours provided in the award, at the ordinary rate of pay.
- 6.2 An employee on a regular night shift may elect, with the consent of the employer, to work "make-up time" (under which the employee takes time off ordinary hours and works those hours at a later time), at the shift work rate which would have been applicable to the hours taken off.

7. MEAL BREAK/REST PAUSES

- 7.1 An employee who is engaged to work in excess of 5 hours shall be given a meal break of between 30 minutes and 1 hour. This meal break shall be given after working not more than 5 hours. By agreement, up to six hours may be worked without a break for a meal. The first meal break taken on any shift shall be unpaid and a meal shall be provided. For full time and part time employees, the second meal break will be a paid break, and the employee will be paid a meal allowance for the second break the amount of which is set out in Item 1 of Table 2 of Part B, or be given a meal.
- 7.2 In addition to a part time or full time employee's meal break(s), such employee will be given a paid rest pause of ten minutes once during each work period of 5 hours.

8. CASUAL EMPLOYEES

- 8.1 Casual employees will not be entitled to annual leave loading or compassionate or bereavement leave, payment for jury service or as a blood donor and clauses 5, 6, 18, 19, 20, 21, 24, 25, 26, and 28 do not apply to them.

- 8.2 The ordinary daily working hours of casual employees will not be more than 10 hours in any one shift not including the time taken for meal breaks. By agreement between the employer and the employee, hours per shift may be not more than 12 including the time taken for meal breaks (employees under 18 years of age will not be required to work more than 10 hours in any one shift), without the payment of a penalty under sub-clause 11.1 of clause 11, Overtime and Penalty Rates.
- 8.3 If a casual employee works less than 3 hours on a shift the employee will be paid for no less than 3 hours worked. Provided that casual employees employed by the Australian Jockey Club or Sydney Turf Club to work at metropolitan gallop racing fixtures must be paid a minimum of 4 hours pay for each engagement at such a fixture.
- 8.4 Casual employees will not be entitled to any public holiday penalty unless the employee works on a public holiday.
- 8.5 An employee who incurs in excess of one hour in actual and reasonable travelling to a job at a location irregularly or infrequently serviced by the employer shall be paid for time spent travelling in excess of one hour at ordinary rates of pay. Such employees shall also be paid an allowance as set out in Item 4 of Table 2 of Part B for reimbursement of fares.
- 8.6 A casual employee who is engaged to attend and attends a function which is postponed shall be paid 2 hours pay. Provided that no employee shall attend at the place of employment if public notice of the postponement has been given either by press, radio or both, or by other means, not less than two hours prior to the employee's starting time at the function. Provided that the employer will be required to prove that such notification was given. Where a race meeting has been cancelled or postponed and in lieu thereof a phantom fixture is conducted, employees not required for duty for the purpose of the phantom race meeting are to have their entitlements determined in accordance with the provisions of this subclause.

8.7 Secure Employment

(a) Objective of this Clause

The objective of this clause is for the employer to take all reasonable steps to provide its employees with secure employment by maximising the number of permanent positions in the employer's workforce, in particular by ensuring that casual employees have an opportunity to elect to become full-time or part-time employees.

(b) Casual Conversion

- (i) A casual employee engaged by a particular employer on a regular and systematic basis for a sequence of periods of employment under this Award during a calendar period of twelve months shall thereafter have the right to elect to have his or her ongoing contract of employment converted to permanent full-time employment or part-time employment if the employment is to continue beyond the conversion process prescribed by this subclause.
- (ii) Every employer of such a casual employee shall give the employee notice in writing of the provisions of this sub-clause within four weeks of the employee having attained such period of twelve months. However, the employee retains his or her right of election under this subclause if the employer fails to comply with this notice requirement.
- (iii) Any casual employee who has a right to elect under paragraph (b)(i), upon receiving notice under paragraph (b)(ii) or after the expiry of the time for giving such notice, may give four weeks' notice in writing to the employer that he or she seeks to elect to convert his or her ongoing contract of employment to full-time or part-time employment, and within four weeks of receiving such notice from the employee, the employer shall consent to or refuse the election, but shall not unreasonably so refuse. Where an employer refuses an election to convert, the reasons for doing so shall be fully stated and discussed with the employee concerned, and a genuine attempt shall be made to reach agreement. Any dispute about a refusal of an election to convert an ongoing contract of employment shall be dealt with as far as practicable and with expedition through the disputes settlement procedure.
- (iv) Any casual employee who does not, within four weeks of receiving written notice from the employer, elect to convert his or her ongoing contract of employment to full-time employment or part-time employment will be deemed to have elected against any such conversion.
- (v) Once a casual employee has elected to become and been converted to a full-time employee or a part-time employee, the employee may only revert to casual employment by written agreement with the employer.
- (vi) If a casual employee has elected to have his or her contract of employment converted to full-time or part-time employment in accordance with paragraph (b)(iii), the employer and employee shall, in accordance with

this paragraph, and subject to paragraph (b)(iii), discuss and agree upon:

- (1) whether the employee will convert to full-time or part-time employment; and
- (2) if it is agreed that the employee will become a part-time employee, the number of hours and the pattern of hours that will be worked either consistent with any other part-time employment provisions of this award pursuant to a part time work agreement made under Chapter 2, Part 5 of the Industrial Relations Act 1996 (NSW);

Provided that an employee who has worked on a full-time basis throughout the period of casual employment has the right to elect to convert his or her contract of employment to full-time employment and an employee who has worked on a part-time basis during the period of casual employment has the right to elect to convert his or her contract of employment to part-time employment, on the basis of the same number of hours and times of work as previously worked, unless other arrangements are agreed between the employer and the employee.

- (vii) Following an agreement being reached pursuant to paragraph (vi), the employee shall convert to full-time or part-time employment. If there is any dispute about the arrangements to apply to an employee converting from casual employment to full-time or part-time employment, it shall be dealt with as far as practicable and with expedition through the disputes settlement procedure.
- (viii) An employee must not be engaged and re-engaged, dismissed or replaced in order to avoid any obligation under this subclause.

(c) Disputes Regarding the Application of this clause

Where a dispute arises as to the application or implementation of this clause, the matter shall be dealt with pursuant to the disputes settlement procedure of this award.

- (d) This clause has no application in respect of organisations which are properly registered as Group Training Organisations under the Apprenticeship and Traineeship Act 2001 (or equivalent interstate legislation) and are deemed by the relevant State Training Authority to comply with the national standards for Group Training Organisations established by the ANTA Ministerial Council.

(e) Exemption

The abovementioned casual conversion clause will not apply to persons who:

- (i) perform work pursuant to the Technical and Further Education Commission Act 1990.

9. WAGES

9.1 Full-Time Employees:

9.1.1 Adult full-time employees shall be paid the appropriate minimum weekly wage rate for the employees grade as set out in Table 1 of Part B of this award.

9.1.2 Wage rates will be calculated to the nearest 10 cents.

9.2 Part-Time Employees:

9.2.1 Part-time employees shall be paid an hourly rate equal to the appropriate weekly rate divided by 38.

9.2.2 Terms and conditions of this award applicable to full-time employees shall apply to part-time employees on a pro-rata basis.

9.3 Casual Employees:

9.3.1 Casual employees will be paid for each hour worked 1/38 of the weekly rate for the grade which applies to the employee plus 20%. All overtime and other penalty payments will be calculated on this rate.

9.3.2 Casual employees are also entitled to be paid 1/12th of the employees ordinary pay, as defined in the Annual Holidays Act, to pay for the employees annual holiday entitlement.

9.4 Rates of Pay for school based apprentice

9.4.1 The hourly rates for full time apprentices as set out in this Award shall apply to school based apprentices for total hours worked including time deemed to be spent in off-the job training.

9.4.2 For the purposes of subclause 9.4.1 of this clause, where a school based apprentice is a full time school student, the time spent in off-the-job training for which the school based apprentice is paid is deemed to be 25 per cent of the actual

hours worked on-the-job each week. The wages paid for training time may be averaged over the school term or year.

- 9.4.3 Where this Award specifies a weekly rate for full time apprentices the hourly rate shall be calculated by dividing the applicable weekly rate by 38.

10. MIXED FUNCTIONS

An employee who is required by the employer to carry out work on a temporary basis that carries a higher rate of pay than the employee's ordinary classification, shall be paid the higher rate while doing that work. This clause shall not apply to work performed under supervision for training purposes.

11. OVERTIME AND PENALTY RATES

11.1 If the employer requires an employee to work:

- 11.1.1 overtime being for full-time employees more than 38 hours per week or the employer may average these hours over up to a 4 week period (except if the employee is a seasonal employee);
- 11.1.2 overtime being for part time employees more than 128 hours in a 4 week period (except if the employee is a seasonal employee);
- 11.1.3 overtime being more than the ordinary daily working hours set out in subclause 5.4 of clause 5, Hours;
- 11.1.4 on a Saturday (except if 11.2 applies to the employee);
- 11.1.5 on a Sunday

the employer will pay the employee extra wages (called a penalty) being:

in the case of 11.1.1 and 11.1.2 time and one half of the ordinary rate of pay for the first 2 hours worked and after that double time,

in the case of 11.1.3 double the ordinary rate of pay for all overtime worked,

in the case of Saturday work time and a quarter of the ordinary rate of pay for all time worked (except if 11.2 applies),

in the case of Sunday work time and a half of the ordinary rate of pay for all time worked.

11.2 Where an employee works ordinary hours between midnight and 6.00 am they are to be paid an extra 30% penalty for all time worked during these hours. Notwithstanding the foregoing, if the employee works more than half of a regular shift on any day between midnight and 6.00 am, the employer will pay the employee for all time worked on that shift an extra 30% penalty and clauses 11.1.3 and 11.1.4 will not apply to the employee. The above penalties are not payable for work on Sundays and Public Holidays, or for overtime worked under subclause 11.1.1.

11.3 Time off in lieu of payment for overtime:

The employee may, with the consent of the employer take time off within 12 months of becoming entitled to these payments instead of being paid with the time off being calculated at the rate of one hour off for every hour worked. Time off not taken within 12 months will be paid out at the overtime rates applying at the time it was earned.

12. PUBLIC HOLIDAYS

12.1 Public holidays are New Year's Day, Good Friday, Easter Saturday, Easter Monday, Christmas Day, Boxing Day and the days on which Australia Day, Anzac Day, Queen's Birthday and Labour Day are observed as public holidays. The third Monday in February of each year shall be a holiday for the purpose of this clause.

12.1.2 Where a substitute day is proclaimed or gazetted to replace any of the above days, the substituted day shall be the public holiday in lieu of the original day.

12.1.3 An employer and an employee, or an employer and the majority of employees in an establishment, may agree to observe an alternative day as a holiday in lieu of the third Monday in February.

12.2 If an employee works on a public holiday, the employee shall be paid at the rate of double time and one-half for all time worked.

12.3 All overtime worked on a public holiday shall be paid at the rate of double time and one-half.

12.4 If an employee, other than a casual employee, does not work and would normally be rostered to work on a public holiday, the employee will be paid the employees normal ordinary wages for that week.

- 12.5 If an employee, other than a casual employee, is not normally rostered to work regularly on the same days each week and the employee is not rostered to work on a public holiday, the employer will either pay the employee an additional day's wages, or add a day to the employees annual holiday's leave, or give the employee another day off on ordinary pay within 28 days after or within one week before that public holiday.
- 12.6 An employer may not change an employee's normal rosters to avoid paying the employee for a public holiday.
- 12.7 If an employee, other than a casual employee, is absent from work on the working day before or the working day after a public holiday without reasonable excuse, the employee shall not be entitled to payment for such a holiday.

13. JUNIORS

The minimum weekly wage rate for a junior employee shall be calculated by applying the following percentages of the appropriate adult rate for the classification in which the employee is employed:

Age	%
17 years of age and under	62
18 years of age	70
19 years of age	80
20 years of age	90

14. APPRENTICES

14.1 The minimum weekly wage rate for apprentices shall be calculated by applying the following percentages to the total rate of a Grade 5 employee.

Four year apprentice cooks	% of Grade 5
1st year (or equivalent training stage)	46
2nd year (or equivalent training stage)	54
3rd year (or equivalent training stage)	67
4th year (or equivalent training stage)	80

"Equivalent training stage" recognises that an employee could receive credit for training undertaken prior to the commencement of the employees apprenticeship or have the ability to accelerate the period of the employees apprenticeship.

14.2 Tool Allowance:

An apprentice in cooking who provides the employees own tools shall be paid an allowance set out in Item 2 of Table 2 of Part B.

14.3 Progression through Wage Structure

14.3.1 School based apprentices progress through the wage scale at the rate of 12 months' progression for each two years of employment as an apprentice.

14.3.2 The rates of pay are based on a standard apprenticeship of four years. The rate of progression reflects the average rate of skill acquisition expected from the typical combination of work and training for a school based apprentice undertaking the applicable apprenticeship.

14.4 Conversion from a school based to a full time apprenticeship

Where an apprentice converts from a school based to a full-time apprenticeship, all time spent as a full-time apprentice counts for the purpose of progression through the wage scale set out in this Award. This progression applies in addition to the progression achieved as a school based apprentice.

14.5 Conditions of Employment

Except as provided by this award, school based apprentices are entitled to pro rata entitlements of all other conditions of employment contained in this Award.

14.6 Disputes and Disciplinary Matters

The provisions of the Apprenticeship and Traineeship Act 2001 shall apply for the resolution of disputes and disciplinary matters.

15. PAYMENT OF WAGES

15.1 All wages will be paid weekly or fortnightly by cheque or electronic funds transfer into up to two accounts nominated by the employee from time to time or by cash as the employer may choose.

15.2 Casual employees will be paid at the end of each continuous pay period that they work (but no longer than weekly or fortnightly by consent) either by cash or as the employer may choose.

15.3 Wages will be paid or transferred into the employees nominated account within 2 business days of the end of each pay period.

15.4 All wages will be calculated in 10 minute intervals for time worked of less than an hour.

16. WORKING TOGETHER

16.1 The parties to this award recognise the need for employers and employees to work closely to make the employers organisation a better place to work and to make business better. Employers shall consult with employees either individually, within working groups, or all together.

16.2 Individually:

Employers shall meet with employees from time to time and at least twice a year to discuss matters such as the employees' progress, job performance, problems, training programme and career prospects.

16.3 As work groups:

Employers and employees shall hold meetings from time to time and at least twice a year to discuss how the business is doing, what changes can be made to increase business and work efficiency, any concerns either party has about work or work related matters and any proposed changes that may lead to employees being made redundant.

16.4 An employer shall not harm an employee in employment because an employee has expressed an opinion.

17. ANNUAL LEAVE

(see the Annual Holidays Act 1944)

17.1 After an employee has worked for the employees employer for 12 consecutive months the employer will pay the employee a loading of 17½% on the employees annual holiday pay each time the employee take holidays or on termination of employment.

17.2 An employee may elect with the consent of the employer, subject to the Annual Holidays Act 1944, to take annual leave not exceeding five days in single day periods or part thereof, in any calendar year at a time or times agreed between the employer and the employee.

17.3 An employee and employer may agree to defer payment of the annual leave loading in respect of single day absences, until at least five consecutive annual leave days are taken.

18. PARENTAL LEAVE

An employee, is entitled to unpaid maternity leave, paternity leave or adoption leave under the *Industrial Relations Act 1996*.

19. SICK LEAVE

19.1 An employee, other than a casual employee, who has worked for the employer for more than one month shall be entitled to up to 38 hours off in the first year of employment and 60.8 hours off in each of the second and subsequent years of employment without loss of pay if the employee is unable to attend work because the employee is ill or has been injured.

19.2 An employee must give the employer as much notice as possible if the employee is to take sick leave, and give the employer any reasonable proof that the employer may ask.

20. PERSONAL/CARER'S LEAVE

20.1 Use of Sick Leave:

20.1.1 An employee, other than a casual, with responsibilities in relation to a class of person set out in clause 20.1.3.2 who needs the employee's care and support, shall be entitled to use, in accordance with this subclause, any current or accrued sick leave entitlement, provided for at Clause 19 of the award, for absences to provide care and support, for such persons when they are ill. Such leave may be taken for part of a single day.

20.1.2 The employee shall, if required, establish by production of a medical certificate or statutory declaration, the illness of the person concerned and that the illness is such as to require care by another person. In normal circumstances, an employee must not take carer's leave under this subclause where another person has taken leave to care for the same person.

20.1.3 The entitlement to use sick leave in accordance with this subclause is subject to:

20.1.3.1 the employee being responsible for the care and support of the person concerned; and

20.1.3.2 the person concerned being:

- 20.1.3.2.1 a spouse of the employee; or
 - 20.1.3.2.2 a de facto spouse, who, in relation to a person, is a person of the opposite sex to the first mentioned person who lives with the first mentioned person as the husband or wife of that person on a bona fide domestic basis although not legally married to that person or;
 - 20.1.3.2.3 a child or an adult child (including an adopted child, a step child, a foster child or an ex-nuptial child), parent (including a foster parent and legal guardian), grandparent, grandchild or sibling of the employee or spouse or de facto spouse of the employee; or
 - 20.1.3.2.4 a same sex partner who lives with the employee as the de facto partner of that employee on a bona fide domestic basis; or 20.1.3.2.5 a relative of the employee who is a member of the same household, where for the purposes of this paragraph:
 - 20.1.3.2.5.1 “relative” means a person related by blood, marriage or affinity;
 - 20.1.3.2.5.2 “affinity” means a relationship that one spouse because of marriage has to blood relatives of the other; and
 - 20.1.3.2.5.3 “household” means a family group living in the same domestic dwelling.
- 20.1.4 An employee shall, wherever practicable, give the employer notice prior to the absence of the intention to take leave, the name of the person requiring care and that person’s relationship to the employee, the reasons for taking such leave and the estimated length of absence. If it is not practicable for the employee to give prior notice of absence, the employee shall notify the employer by telephone of such absence at the first opportunity on the day of absence.

20.2 Unpaid Leave for Family Purpose:

An employee may elect, with the consent of the employer, to take unpaid leave for the purpose of providing care and support to a class of person set out in 20.1.3.2 above who is ill.

21. BEREAVEMENT LEAVE

21.1 An employee, other than a casual employee, shall be entitled to up to three days bereavement leave in each year of employment without deduction of pay, up to and including the day of the funeral, on each occasion of the death of a person prescribed in subclause 21.3 of this clause.

21.2 The employee must notify the employer as soon as practicable of the intention to take bereavement leave and will, if required by the employer, provide to the satisfaction of the employer proof of death.

21.3 Bereavement leave shall be available to the employee in respect to the death of a person prescribed for the purposes of Personal/Carer's Leave in subclause 20.1.3.2 of clause 20 Personal/Carers Leave provided that for the purpose of bereavement leave, the employee need not have been responsible for the care of the person concerned.

21.4 An employee shall not be entitled to bereavement leave under this clause during any period in respect of which the employee has already been granted other leave.

21.5 Bereavement leave may be taken in conjunction with other leave available under subclauses 20.1 and 20.2 of the said clause 20. In determining such a request the employer will give consideration to the circumstances of the employee and the reasonable operational requirements of the business.

22. WORK CLOTHES AND SAFETY EQUIPMENT

22.1 The employer will provide an employee with all necessary safety equipment and protective clothing. The employee must use/wear these items at all times when necessary and must take good care of them.

22.2 The employer will replace all broken or lost items but the employer can ask the employee to pay the employer back if they are lost or broken because of carelessness of the employee. The onus of proving this will be on the employer.

22A. SECURE EMPLOYMENT (OCCUPATIONAL HEALTH AND SAFETY)

Occupational Health and Safety

- (i) For the purposes of this subclause, the following definitions shall apply:
 - (a) A "labour hire business" is a business (whether an organisation, business enterprise, company, partnership, co-operative, sole trader, family trust or unit trust, corporation and/or person) which has as its business function, or one of its business functions, to supply staff employed or engaged by it to another employer for the purpose of such staff performing work or services for that other employer.
 - (b) A "contract business" is a business (whether an organisation, business enterprise, company, partnership, co-operative, sole trader, family trust or unit trust, corporation and/or person) which is contracted by another employer to provide a specified service or services or to produce a specific outcome or result for that other employer which might otherwise have been carried out by that other employer's own employees.
- (ii) Any employer which engages a labour hire business and/or a contract business to perform work wholly or partially on the employer's premises shall do the following (either directly, or through the agency of the labour hire or contract business):
 - (1) consult with employees of the labour hire business and/or contract business regarding the workplace occupational health and safety consultative arrangements;
 - (2) provide employees of the labour hire business and/or contract business with appropriate occupational health and safety induction training including the appropriate training required for such employees to perform their jobs safely;
 - (3) provide employees of the labour hire business and/or contract business with appropriate personal protective equipment and/or clothing and all safe work method statements that they would otherwise supply to their own employees; and
 - (4) ensure employees of the labour hire business and/or contract business are made aware of any risks identified in the workplace and the procedures to control those risks.
- (iii) Nothing in this subclause (c) is intended to affect or detract from any obligation or responsibility upon a labour hire business arising under the Occupational Health and Safety Act 2000 or the

Workplace Injury Management and Workers Compensation Act
1998.

23. LAUNDRY ALLOWANCE

23.1 The employer will launder an employee's special clothing or pay the employee a laundry allowance the amount of which is set out in Item 3 of Table 2 of Part B.

23.2 Special clothes are those which the employer asks the employee to wear as a uniform and which the employee could not use for everyday wear or, if the employee is a chef or cook, the employees uniform.

24. JURY SERVICE

24.1 If an employee, other than a casual employee, is required to attend for jury service the employer will pay the employee the difference between what the employee would have earned while working for the employer and the amount of jury pay received by the employee.

24.2 The employee shall give the employer proof that the employee was on jury service and the amount received.

24.3 The employee must tell the employer as soon as the employee knows that the employee is required for jury service.

25. BLOOD DONORS

If an employee wishes to donate blood, the employee may do so during working hours without loss of pay provided that:

25.1 The time and day selected meet with the employer's convenience and does not unduly disrupt the employers operations.

25.2 The employee is able to donate blood at a place within 5 walking minutes of the workplace.

25.3 The employee must provide the employer with proof that the employee donated blood; and

25.4 This entitlement is limited to a maximum of 2 hours on no more than 3 occasions in any one year of employment.

26. REDUNDANCY AND TECHNOLOGICAL CHANGE

26.1 Application

- 26.1.1 This Clause shall apply in respect to full time and part time persons employed in the classifications specified by Clause 3, Classification Structure.
- 26.1.2 In respect to employers who employ 15 or more employees immediately prior to the termination of employment of employees, in the terms of Clause 26.5.
- 26.1.3 Notwithstanding anything contained elsewhere in this Clause, this Clause shall not apply to employees with less than one year's continuous service and the general obligation on employers shall be no more than to give such employees an indication of the impending redundancy at the first reasonable opportunity, and to take such steps as may be reasonable to facilitate the obtaining by the employees of suitable alternative employment.
- 26.1.4 Notwithstanding anything contained elsewhere in this Clause, this Clause shall not apply where employment is terminated as a consequence of conduct that justifies instant dismissal, including malingering, inefficiency or neglect of duty, or in the case of casual employees, apprentices or employees engaged for a specific period of time or for a specified task or tasks, or where employment is terminated due to the ordinary and customary turnover of labour.

26.2 Introduction of Change - Employer's Duty to Notify

- 26.2.1 Where an employer has made a definite decision to introduce major changes in production, program, organisation, structure or technology that are likely to have significant effects on employees, the employer shall notify the employees who may be affected by the proposed changes and the Union to which they belong.
- 26.2.2 "Significant effects" include termination of employment, major changes in the composition, operation or size of the employer's workforce or in the skills required, the elimination or diminution of job opportunities, promotion opportunities or job tenure, the alteration of hours of work, the need for retraining or transfer of employees to other work or locations and the restructuring of jobs.

Provided that where this award makes provision for alteration, it shall be deemed not to have significant effect.

26.3 Employer's Duty to Discuss Change

- 26.3.1 The employer shall discuss with the employees affected and the Union to which they belong, inter alia, the introduction of the changes referred to in subclause 26.1 above, the effects the changes are likely to have on employees and measures to avert or mitigate the adverse effects of such changes on employees, and shall give prompt consideration to matters raised by the employees and/or the Union in relation to the changes.
- 26.3.2 The discussions shall commence as early as practicable after a definite decision has been made by the employer to make the changes referred to in subclause 26.2 of this Clause.
- 26.3.3 For the purpose of such discussions, the employer shall provide to the employees concerned and the Union to which they belong all relevant information about the changes, including the nature of the changes proposed, the expected effects of the changes on employees and any other matters likely to affect employees, provided that any employer shall not be required to disclose confidential information the disclosure of which would adversely affect the employer.

26.4 Redundancy - Discussions Before Terminations

- 26.4.1 Where an employer has made a definite decision that the employer no longer wishes the job the employee has been doing to be done by anyone pursuant to subclause 26.2.1, and that decision may lead to the termination of employment, the employer shall hold discussions with the employees directly affected and with the Union to which they belong.
- 26.4.2 The discussions shall take place as soon as is practicable after the employer has made a definite decision which will invoke the provision of subclause 26.4.1 and shall cover, inter alia, any reasons for the proposed terminations, measures to avoid or minimise the terminations and measures to mitigate any adverse effects of any termination on the employees concerned.
- 26.4.3 For the purpose of the discussion the employer shall, as soon as practicable, provide to the employees concerned and the Union to which they belong all relevant information about the proposed terminations, including the reasons for the proposed terminations, the number and categories of employees likely to be affected, and the number of employees normally employed and the period over which the

terminations are likely to be carried out. Provided that any employer shall not be required to disclose confidential information the disclosure of which would adversely affect the employer.

26.5 Termination of Employment - Notice for Changes in Production, Programme, Organisation or Structure

This subclause sets out the notice provisions to be applied to terminations by the employer for reasons arising from production, program, organisation or structure, in accordance with subclause 26.2.1.

26.5.1 In order to terminate the employment of an employee, the employer shall give to the employee the following notice:

Period of Continuous Service	Period of Notice
Less than one year	1 week
1 year and less than 3 years	2 weeks
3 years and less than 5 years	3 weeks
5 years and over	4 weeks

26.5.2 In addition to the notice above, employees over 45 years of age at the time of the giving of the notice, with not less than two years' continuous service, shall be entitled to an additional week's notice.

26.5.3 Payment in lieu of the notice above shall be made if the appropriate notice period is not given. Provided that employment may be terminated by part of the period of notice specified and part payment in lieu thereof.

26.6 Notice for Technological Change

This subclause sets out the notice provisions to be applied to termination by the employer for reasons arising from technology in accordance with subclause 26.2.1 of this award:

26.6.1 In order to terminate the employment of an employee, the employer shall give to the employee three months' notice of termination.

26.6.2 Payment in lieu of the notice above shall be made if the appropriate notice period is not given. Provided that employment shall be terminated by part of the period of notice specified and part payment in lieu thereof.

26.6.3 The period of notice required by this subclause to be given shall be deemed to be service with the employer for the purposes of the Long Service Leave Act 1955, the Annual Holidays Act 1944, or any Act amending or replacing either of these Acts.

26.7 Time Off During the Notice Period

26.7.1 During the period of notice of termination given by the employer, an employee shall be allowed up to one day's time off without loss of pay during each week of notice, to a maximum of five weeks, for the purpose of seeking other employment.

26.7.2 If the employee has been allowed paid leave for more than one day during the notice period for the purpose of seeking other employment the employee shall, at the request of the employer, be required to produce proof of attendance at an interview or the employee shall not receive payment for the time absent.

26.8 Employee Leaving During the Notice Period

If the employment of an employee is terminated (other than for misconduct) before the notice period expires, the employee shall be entitled to the same benefits and payments under this Clause to which the employee would have been entitled had the employee remained with the employer until the expiry of such notice. Provided that in such circumstances the employee shall not be entitled to payment in lieu of notice.

26.9 Statement of Employment

The employer shall, upon receipt of a request from an employee whose employment has been terminated, provide to the employee a written statement specifying the period of the employee's employment and the classification of or the type of work performed by the employee.

26.10 Notice to Centrelink

Where a decision has been made to terminate employees, the employer shall notify CentreLink thereof as soon as possible, giving relevant information, including the number and categories of the employees likely to be affected and the period over which the terminations are intended to be carried out.

26.11 Centrelink Employment Separation Certificate

The employer shall, upon receipt of a request from an employee whose employment has been terminated, provide to the employee an Employment Separation Certificate in the form required by CentreLink.

26.12 Transfer To Lower-Paid Duties

Where an employee is transferred to lower-paid duties for reasons set out in subclause 26.2, the employee shall be entitled to the same period of notice of transfer as the employee would have been entitled to if the employee's employment had been terminated, and the employer may, at the employer's option, make payment in lieu thereof of an amount equal to the difference between the former ordinary-time rate of pay and the new ordinary-time rates for the number of weeks of notice still owing.

26.13 Severance Pay

26.13.1 Where an employee is to be terminated pursuant to subclause 26.5, subject to further order of the Industrial Relations Commission of New South Wales, the employer shall pay the employee the following severance pay in respect of a continuous period of service.

If an employee is under 45 years of age, the employer shall pay in accordance with the following scale:

Years of service Under 45 years of age Entitlement

Less than 1 year	Nil
1 year and less than 2 years	4 weeks
2 years and less than 3 years	7 weeks
3 years and less than 4 years	10 weeks
4 years and less than 5 years	12 weeks
5 years and less than 6 years	14 weeks
6 years and over	16 weeks

26.13.2 Where an employee is 45 years old or over, the entitlement shall be in accordance with the following scale:

Years of service 45 years of age and over entitlement

Less than 1 year	Nil
1 year and less than 2 years	5 weeks
2 years and less than 3 years	8.75 weeks
3 years and less than 4 years	12.5 weeks
4 years and less than 5 years	15 weeks
5 years and less than 6 years	17.5 weeks
6 years and over	20 weeks

26.13.3 "Week's pay" means - the all-purpose rate for the employee concerned at the date of termination and shall include, in addition to the ordinary rate of pay, over award payments, shift penalties and allowances paid pursuant to this award.

26.14 Incapacity to Pay

Subject to an application by the employer and further order of the Industrial Relations Commission of New South Wales, an employer may pay a lesser amount (or no amount) of severance pay than that contained in subclause 26.13 above.

The Commission shall have regard to such financial and other resources of the employer concerned as the Commission thinks relevant, and the probable effect of paying the amount of severance pay in subclause 26.13 of this Clause will have on the employer.

26.15 Alternative Employment

Subject to an application by the employer and further order of the Commission, an employer may pay a lesser amount (or no amount) of severance pay than that contained in subclause 26.13 above if the employer obtains acceptable alternative employment for an employee.

27. SUPPORTED WAGE

27.1 Definitions:

- 27.1.1 “Accredited Assessor” means a person accredited by the management unit established by the Commonwealth under the Supported Wage System to perform assessments of an individual’s productive capacity with the Supported Wage System.
- 27.1.2 “Assessment Instrument” means the form provided for under the Supported Wage System that records the assessment of the productive capacity of the person to be employed under the Supported Wage System.
- 27.1.3 “Disability Support Pension” means the Commonwealth pension scheme to provide income security for persons with a disability as provided under the Social Security Act 1991, as amended from time to time or any successor to that scheme.
- 27.1.4 “Supported Wage System” means the Commonwealth Government system to promote employment for people who cannot work at full award wages because of a disability, as documented in “Supported Wage System: Guidelines and Assessment Process”.
- 27.1.5 “Commonwealth Government Authority” means the Commonwealth Government Department whose responsibility includes the administration of the Supported Wage System.

27.2 Application:

- 27.2.1 This clause applies only to employees who are unable to perform the range of duties to the competence level required within the class of work for which the employee is engaged, because of the effects of a disability on the employees productive capacity and who meet the impairment criteria for the receipt of a Disability Support Pension.
- 27.2.2 This clause does not apply to any existing employee who has a claim against the employer which is subject to the provisions of Workers’ Compensation legislation.
- 27.2.3 This clause does not apply to employers in respect of the employers facility, programme, undertaking service or the like which receives funding under the Disability Services Act 1986 and fulfils the dual role of service provider and sheltered employer to people with disabilities who are in receipt of or are eligible for a Disability Support Pension, except with respect to an organisation which has received

recognition under Section 10 or Section 12A of the Act, or if a part only has received recognition, that part.

27.3 Wages:

27.3.1 Following the trial period prescribed in clause 27.4.5, employees to whom this clause applies shall be paid the applicable percentage of the minimum rate of pay prescribed by the relevant parent award for the class of work which the person is performing according to the following schedule:

Assessed Capacity Rate % of Relevant Parent Award

10%	10%
20%	20%
30%	30%
40%	40%
50%	50%
60%	60%
70%	70%
80%	80%
90%	90%

Notation: Where a person's assessed capacity is 10% the person shall receive a high degree of assistance and support.

27.3.2 Notwithstanding anything otherwise contained in this award, the weekly ordinary time rate of pay for employees employed under the terms of this clause shall not be less than the amounts as are fixed from time to time by a competent Commonwealth Government Authority for the purposes of the Supported Wage System.

27.3.3 The weekly wage shall be the rate of pay for all purposes.

27.4 Employment Conditions:

27.4.1 For the purpose of establishing the percentage of the award rate to be paid to an employee under this award, the productive capacity of the employee will be assessed in accordance with the Supported Wage System and documented in an assessment instrument by either:

27.4.1.1 The employer and the union to which the employee belongs, in consultation with the employee or, if desired by any of these:

27.4.1.2 The employer, the employee and an accredited Assessor.

27.4.2 Lodgement of Assessment Instrument:

27.4.2.1 All assessment instruments under the conditions of this award, including the appropriate percentage of the award rate to be paid to the employee, shall be lodged by the employer with the Registry of the Industrial Relations Commission of New South Wales.

27.4.2.2 All assessment instruments shall be agreed and signed by the parties to the assessment, provided that where the union is not a party to the assessment, it shall be referred by the Registry to the union by certified mail and shall take effect unless an objection is notified to the Registry within ten working days.

27.4.3 Review of Assessment:

The assessment of the applicable percentage shall be subject to annual review or earlier on the basis of a reasonable request for such a review. The process of review shall be in accordance with the procedures for assessing capacity under the Supported Wage System.

27.4.4 Workplace Adjustment:

An employer wishing to employ a person under the provisions of this clause shall take reasonable steps to make changes in the workplace to enhance the employee's capacity to do the job. Changes may involve re-design of job duties, working time arrangements and work organisation in consultation with other employees in the area.

27.4.5 Trial Period:

27.4.5.1 In order for an adequate assessment of the employee's capacity to be made, an employer may employ a person under the provision of this award for a trial period not exceeding 12 weeks, except that in some cases additional work adjustment time (not exceeding four weeks) may be needed.

27.4.5.2 During the trial period the assessment of capacity shall be undertaken and the proposed wage rate for a continuing employment relationship shall be determined.

27.4.5.3 Work trials should include induction or training as appropriate to the job being trialed.

27.4.5.4 Where the employer and employee wish to establish a continuing employment relationship following the completion of the trial period, a further contract of employment shall be entered into based on the outcome of assessment under clause 27.4.

28. TRAINEESHIPS

28.1 Application:

This clause applies only to persons employed in a traineeship which has been registered with the Relevant NSW Training Authority.

28.2 Definitions:

28.2.1 A “traineeship” is a program of training comprising structured training with an employer, and it will include training conducted by a Registered Training Organisation that has been approved by the Vocational Education Training Accreditation Board. For the purposes of the traineeship, structured training shall mean formal instruction and closely supervised practice directly related to that instruction that is undertaken according to the provisions of the training agreement.

28.2.2 A “training agreement” means an agreement between an employer and a trainee for registered training and employment which is approved by the Relevant NSW Training Authority.

28.2.3 A “trainee” is an employee undertaking a traineeship who is bound by a training agreement.

1. “Relevant NSW Training Authority” means the Department of Education and Training or its successor organisation.

28.3 Training Conditions:

A trainee undertaking a traineeship shall be engaged as a full-time employee for a traineeship of a nominal period of one year or as approved by the Relevant NSW Training Authority, provided that the trainee shall be subject to a satisfactory probation period of up to one month.

28.4 All Trainees:

- 28.4.1 The time spent off the job at training shall be allowed without loss of continuity of employment.
- 28.4.2 Where employment of a trainee by an employer is continued after completion of the traineeship period, the traineeship period shall be counted as service for all award and statutory entitlements where consistent with relevant legislation.
- 28.4.3 For the purposes of the Long Service Leave Act 1955 where an employee has entered into a contract of employment with an employer within a 12 month period after the completion of the traineeship with the employer, the period of the employee's traineeship with the employer shall be taken into account for the purposes of ascertaining the period of service of the employee with that employer under that contract of employment.
- 28.4.4 Preference in continuation of employment shall be given to trainees, where possible, should vacancies occur at the conclusion of the training period.
- 28.4.5 The provisions of the Workplace Injury Management and Workers Compensation Act 1998 and the Occupational Health and Safety Act 1983 shall apply to trainees.
- 28.4.6 It is acknowledged by the parties to this award that the purpose of the relevant traineeships is to create education and career opportunities for persons who would otherwise be unemployed, and to that extent the traineeship systems will not be utilised by employers as a means of displacing existing regular employees, whether full-time, part-time or casual.
- 28.4.7 The employer shall ensure that the trainee is permitted to attend prescribed off-the-job training and is provided with on-the-job training approved by the Relevant State Training Authority.
- 28.4.8 The union shall be afforded reasonable access to trainees and the trainees records, consistent with the Industrial Relations Act 1996.

28.5 Wages:

28.5.1 The weekly wage payable to Trainees shall be calculated by multiplying the hourly rate applicable to the trainee by 38, less the average weekly training time to be spent in structured training.

28.5.2 Junior hourly rates shall be calculated in accordance with Clause 13 – Juniors. The rate for employees 21 years of age and over shall be calculated at the rate for a Grade 2 employee.

28.5.3 The average weekly training time to be spent in structured training shall be calculated by averaging the total number of hours that the trainee, during each year of employment, spends in structured training over the total number of weeks in that year of employment under the traineeship.

29. GRIEVANCE HANDLING AND DISPUTES PROCEDURE

29.1 Procedures Relating to Grievances of Individual Employees:

29.1.1 The employee is required to notify (in writing or otherwise) the employer as to the substance of the grievance, request a meeting with the employer for bilateral discussions and state the remedy sought.

29.1.2 A grievance must initially be dealt with as close to its source as possible, with graduated steps for further discussion and resolution at higher levels of authority.

29.1.3 Reasonable time limits must be allowed for discussion and resolution at higher levels of authority.

29.1.4 At the conclusion of the discussion, the employer must provide a response to the employee's grievance, if the matter has not been resolved, including reasons for not implementing any proposed remedy.

29.1.5 While a procedure is being followed normal work must continue.

29.2 Procedures Relating to Disputes etc. Between Employers and their Employees:

29.2.1 A question, dispute or difficulty must initially be dealt with as close to its source as possible, with graduated steps for further discussion and resolution at higher levels of authority.

29.2.2 Reasonable time limits must be allowed for discussion at each level of authority.

29.2.3 While a procedure is being followed, normal work must continue.

29.3 The employer may be represented by an industrial organisation of employers and the employees may be represented by an industrial organisation of employees for the purposes of each procedure.

30. EXHIBITION OF AWARD IN WORKPLACE

A copy of this award must be exhibited in a conspicuous place at the workplace.

31. EMPLOYEE REPRESENTATIVE AND UNION BUSINESS

Where there is no union delegate on site, the employer will recognise any person appointed by a majority of employees as an employee representative. The employer will not recognise more than one employee representative for less than 50 persons who are employed by the employer at any one time. The employer will provide a notice board in a staff area for the employee representative (who may be a union delegate) to place notices, including union notices, provided that the notices do not contain defamatory or offensive material.

32. ANTI-DISCRIMINATION

32.1 It is the intention of the parties bound by this award to seek to achieve the object of section 3(f) of the Industrial Relations Act 1996 to prevent and eliminate discrimination in the workplace. This includes discrimination on the grounds of race, sex, marital status, disability, homosexuality, transgender identity, age and responsibilities as a carer.

32.2 It follows that in fulfilling their obligations under the dispute resolution procedure prescribed by this award the parties have obligations to take all reasonable steps to ensure that the operation of the provisions of this award are not directly or indirectly discriminatory in their effects. It will be consistent with the fulfilment of these obligations for the parties to make application to vary any provision of the award which, by its terms or operation, has a direct or indirect discriminatory effect.

- 32.3 Under the Anti-Discrimination Act 1977, it is unlawful to victimise an employee because the employee has made or may make or has been involved in a complaint of unlawful discrimination or harassment.
- 32.4 Nothing in this clause shall be taken to affect:
- (a) any conduct or act which is specifically exempted from anti-discrimination legislation;
 - (b) offering or providing junior rates of pay to persons under 21 years of age;
 - (c) any act or practice of a body established to propagate religion which is exempted under section 56(d) of the Anti-Discrimination Act 1977;
 - (d) a party to this award from pursuing matters of unlawful discrimination in any State or federal jurisdiction.
- 32.5 This clause does not create legal rights or obligations in addition to those imposed upon the parties by the legislation referred to in this clause.

33. AREA, INCIDENCE AND DURATION

- 33.1 This award replaces the Caterers', &c., Employees (State) Award published 7 August 1998 (306 I.G. 17).
- 33.2 This award applies to all employees who perform work described in the classification structure in this award employed by caterers, whether catering by contract, by charge for admission, or otherwise, carrying on the business within the State, excluding the County of Yancowinna, within the jurisdiction of the Restaurant, &c., Employees (State) Industrial Committee.
- 33.3 This award takes effect from the beginning of the first pay period to commence on or after two months from 6 June 1998 and shall remain in force for a period of one year.
- 33.4 The changes made to the award pursuant to the Award Review under section 19(6) of the Industrial Relations Act 1996 and Principle 26 of the Principles for Review of Awards made by the Industrial Relations Commission of New South Wales on 28 April 1999 (310 I.G. 359) take effect on and from 22 June 2004.

This award remains in force until varied or rescinded, the period for which it was made already having expired.