

Application and Understanding of the Hospitality Industry (General) Award 2010



Australian Hotels Association



Australian Government

Fair Work
OMBUDSMAN

In early 2011, the Fair Work Ombudsman (FWO) in conjunction with the Australian Hotels Association (AHA) commenced a national education campaign on changes to the Hospitality Industry (General) Award 2010.

The campaign has been funded by the Australian Government through the Fair Work Ombudsman's Shared Industry Assistance Projects (SIAP) Grant Program, which aims to better inform employers (particularly small to medium businesses) about changes to modern awards applicable to their industry sector. Following a competitive selection process, AHA was one of 15 successful organisations selected to deliver the education campaign in conjunction with the FWO.

The Application and Understanding of the Hospitality Industry General Award 2010 (HIGA) (MA000009)

The HIGA commenced on 1 January 2010 and must be read in conjunction with the National Employment Standards (NES). It replaces all former State and Federal hospitality awards, with some exceptions in Western Australia:

There are now three new modern awards underpinning the hospitality industry in Australia:
Hospitality Industry (General) Award 2010
Restaurant Industry Award 2010
Licensed and Registered Clubs Award 2010

Application

The Hospitality Industry (General) Award 2010 ("Award"), (HIGA) will apply throughout Australia to employers engaged in the hospitality industry. This includes:

Hotels	Holiday flats/units	Resorts
Motor inns	Wine saloons	Casinos,
Motels	Wine bars/taverns	Function areas and
Serviced apartments	Liquor booths	Convention centers
Ski lodges	Boarding houses	Health & recreational farms
Private hotels	Condominiums	Hostels
Guest houses	Caravan parks	
Caterers		

The current edition of the HIGA was published on 17 December 2010 and a copy of this award can be downloaded from the AHA national website www.aha.org.au or from the Fair Work Australia website at www.fwa.gov.au.

Managerial & Professional Employees

Employees whose salary is more than \$113,800 per annum (indexed on 1 July each year) are not covered by the HIGA or any Modern Award but are still covered by the National Employment Standards (NES).

Note:

- Clubs are now covered by their own Modern Award, i.e. the Registered and Licensed Clubs Award 2010 (MA000058);
- Restaurants and Cafes are covered by the Restaurant Industry Award 2010 (MA000119).

Former Awards Which Are Now Replaced By HIGA:

Caterers Employees (State) Award	AN120106
Contract Catering and Industrial Services Award - South-Eastern Division 2004	AN140082
Industrial Catering Workers' Award, 1977	AN160179
Catering - Victoria - Award 1998	AP772681
Airport Catering Award 2002	AP818292
Industrial Catering, Cleaning and Incidental Services (AWU and LHMU) Award 2000	AP834748
Hospitality Industry - Accommodation, Hotels, Resorts and Gaming Award 1998, The	AP783479
Hotel Employees (State) Award	AN120249
Motels, Accommodation and Resorts (State) Award	AN120349
Accommodation Industry (other than Hotels) Award - South-Eastern Division 2003	AN140002
Boarding House Employees Award - State (Excluding South-East Queensland) 2003	AN140031
Hotels, Motels, Resorts and Accommodation Award - State (Excluding South-East Queensland) 2005	AN140146
Hotels, Resorts and Accommodation Industry Award - State - South-Eastern Division 2002	AN140147
Hotels, Resorts and Certain Other Licensed Premises Award – State (Excluding South-East Queensland) 2003	AN140148
Boarding Houses, Guest Houses, Etc., Award	AN150015
Motels (SA) Award	AN150087
Hotel and Tavern Workers' Award, 1978	AN160174
Motel, Hostel, Service Flats and Boarding House Workers' Award, 1976	AN160221
Hotels, Resorts, Hospitality and Motels Award	AN170047
Accommodation, Cafes and Restaurants Industry Sector - Minimum Wage Order - Victoria 1997	AP767284
Liquor and Allied Industries Catering, Cafe, Restaurant, Etc. (Australian Capital Territory) Award 1998	AP787016
Liquor Trades Hotels (Australian Capital Territory) Award, 1998	AP787018
Motels, Accommodation and Resorts Award 1998	AP787952
Liquor and Accommodation Industry - Hotels, Resorts and Gaming - (Managerial Staff) - Award 2003	AP821899
Clerical Award – Hotels, Resorts and Certain Other Licensed Premises - State (South East Queensland) 2002.	AN140064
Hotels, Motels, Resorts and Accommodation Award - State (Excluding South East Queensland) 2005	AN140146
Hospitality Industry - Restaurant, Catering and Allied Establishments Award - South Eastern Division 2002	AN140144
Queensland Accommodation Clerical Award 2005	AN140234
Hotels, Resorts and Accommodation Industry Award – South-Eastern Division 2002	AN140147
Hotels, Resorts and Certain Other Licensed Premises Award – State (excluding South-East Queensland) 2003	AN140148
Hotel Clubs Etc Award	AN 150066
Clerks Clubs Hotels & Motels Award	AN 150037

National Employment Standards (NES):

The National Employment Standards (“NES”) form part of the HIGA and are referred to throughout the HIGA. The NES took effect on 1 January 2010 as the new minimum conditions and is enshrined in the new fair work legislation.

The NES replaces the Australian Fair Pay and Conditions Standard. The ten NES are:

- 1. Maximum Hours of Work** – 38 ordinary hours per week for full time employees, plus reasonable additional hours.
 - 2. Flexible Working Arrangements** – The ability for an employee with parental or guardian responsibilities to request a change to working arrangements to assist with the care of the child. The child must:
 - a.** Be under school age; or
 - b.** Be a child who is under 18 years of age with a disability.
 - 3. Parental Leave** – The entitlement to 12 months unpaid parental leave entitlements, plus an additional 12 months to extend leave to 24 months, with the consent of the employer. Paid parental leave is outside of the HIGA and the NES.
 - 4. Annual Leave** – Four weeks per annum for full time employees and pro rata for part time employees. Potential for an additional one week’s annual leave for a shift worker whose employment meets the shift worker definition.
 - 5. Personal / Carer’s Leave (including Compassionate Leave)** – Two weeks per annum for full time employees and pro rata for part time employees. Compassionate leave is payable to full time and part time employees on the basis of two days per occasion and is not taken from accumulated personal leave.
 - 6. Community Service Leave** – Unpaid leave to undertake eligible community service such as jury service or voluntary emergency management activities. Community service leave is unpaid except for jury service where the employer pays the employee for time spent on jury service less any monies paid to the employee by the courts for the employee’s jury service attendance. This obligation only applies for the first 10 days of jury service.
 - 7. Long Service Leave** – This entitlement will reflect state and territory entitlements subject to any alternate long service leave entitlements that may be derived from a workplace agreement.
 - 8. Public Holidays** – Public holidays are set out in the NES including additional public holidays that are declared under respective state/territory public holiday legislation.
 - 9. Notice of Termination and Redundancy Pay** – Requirements for the giving of notice by an employer and for severance payments in the case of a position being made redundant.
 - 10. Fair Work Information Statement** – A requirement for employers to provide all new employees with this Statement.
-

Please note there is substantially more detail to each of the above NES points. Where they relate to a term in the HIGA that is noted in this Booklet, some, but not all, detail is provided at that section.

Several of the NES are not included in the HIGA. This includes the NES numbered 2, 3, 7 and 10 above. The NES represents minimum conditions, therefore, where the HIGA is silent on the NES listed above, the NES will still apply as legislated minimum conditions for all employees, whether they are covered by an Award or otherwise.

Note: HIGA Clauses 5 and 6 refer to the application of the NES and state that a copy of the HIGA and the NES must be conveniently accessible to employees within the workplace.

A copy of the National Employment Standards may be downloaded from the AHA national website at www.aha.org.au or from the Fair Work Ombudsman website at www.fairwork.gov.au

HIGA Award Content:

The main (but not all) provisions of the modern Award are detailed, in alphabetical order, in this section of the Booklet. They include:

1. Accommodation and Meals (Clause 39)

When an employer provides their employees with accommodation, meals, or both, the award allows an employer to deduct an amount of money from the employee's wages in accordance with the award clause.

Deductions for adult employees are:

Service provided	Deduction per week (adjusted 1 July annually)
Single room and 3 meals a day	\$165.90
Shared room and 3 meals a day	\$161.75
Single room only, no meals	\$157.61
Shared room only, no meals	\$153.46
A meal	\$6.64

2. Annual Leave (Clause 34)

The annual leave entitlement in the HIGA is in accordance with the NES. It provides 4 weeks of paid annual leave per year for permanent employees.

The Award provides the following additional annual leave arrangements:

- a. Permanent employees who are shiftworkers receive 5 weeks paid annual leave per year. A shiftworker is defined as "a seven day shiftworker who is regularly rostered to work on Sundays and public holidays in a business in which shifts are continuously rostered 24 hours a day for seven hours a shift".
- b. An annual leave loading of 17.5% is payable on all annual leave taken.
- c. An employer may require an employee to take an amount (as determined by the employer) of annual leave by giving at least four weeks notice in the following circumstances:
 - i. To take annual leave as part of a close-down of its operations; or
 - ii. To take annual leave where more than eight weeks leave has been accrued by the employee.
- d. Annual leave accumulates from year to year and unused annual leave is paid out upon termination
- e. Annual leave cannot be cashed out for employees under HIGA

Casual employees do not accrue paid annual leave.

3. Annualised Salary (Clause 27)

This provision applies to non-managerial staff. A manager is defined in Schedule D.2.9 of the HIGA.

An employee may be paid an annual salary that represents at least 25% above their classification rate. This is an annualised salary arrangement.

The arrangement must be agreed to between the employer and the employee and must not provide any disadvantage to the employee (i.e. having regard to normal work patterns).

Payment of a salary means:

- Clauses 32 (Penalty Rates) and 33 (Overtime) do not apply.
- An annualised salary employee is entitled to 8 days off per 4 week cycle.
- Where an annualised salary employee works on a public holiday, they are entitled to a day off in lieu or a day added to their annual leave entitlement.

The employer must keep daily records of working hours with this to be countersigned weekly by the employee. Those records must be kept for a period of 6 years.

4. Award Flexibility Clause (Clause 7)

The HIGA has the AIRC's model 'award flexibility' clause allowing for the employer and employee to agree, in writing, to individual arrangements covering:

- Work arrangements;
- Overtime rates;
- Penalty rates;
- Allowances; and
- Leave loading.

The clause represents an opportunity for employers and employees to reach more flexible, practical and specific arrangements for their workplace.

The arrangement must:

- Be in writing;
- Name the parties to the arrangement;
- Be signed by the employer and the individual employee and, if the employee is under 18 years of age, the employee's parent or guardian;
- State each term of the HIGA that the employer and the individual employee have agreed to vary;
- Detail how the application of each term has been varied by the arrangement between the employer and the individual employee;
- Detail how the arrangement does not disadvantage the individual employee in relation to the individual employee's terms and conditions of employment; and
- State the date the arrangement commences to operate.

A copy of the arrangement is to be provided to the employee, with a copy kept as part of the employee record. The arrangement may be terminated on 4 weeks notice.

This is a new provision for hospitality employers and was not contained in former hospitality Awards and NAPSAs.

5. Breaks (Clause 31)

Unpaid breaks of no less than 30 minutes are provided for in the HIGA. The HIGA provides:

- No employee (including a casual) can work for 5 or more hours without an unpaid meal break of at least 30 minutes. The break must be given no earlier than one hour after commencing work and no less than five and a half hours after commencing work
- Where the break is rostered to be taken more than 5 hours after starting work the employee must receive a 20 minute paid break
- Where the break is not taken as rostered, a 50% penalty on the employee's ordinary rate applies until the break is taken or the shift ends
- If the break is not rostered and no break is provided, the employer must pay a 50% penalty on the employee's ordinary rate from the end of 6 working hours to end of the shift or until the break is taken
- If an employee is required to work more than 2 hours overtime an additional 20 minute paid break must be provided.

6. Casual Conversion (Clause 13.4)

The HIGA provides that a casual who has worked regular and systematic hours for a period of at least 12 months may elect to have their employment converted to permanent employment.

An employer can refuse the request for permanent employment on "reasonable grounds" which may be determined having regard to:

- The size and needs of the workplace or enterprise
- The nature of the work the employee has been doing
- The qualifications, skills, and training of the employee
- The trading patterns of the workplace or enterprise
- The employee's personal circumstances, including any family responsibilities; and
- Any other relevant matter.

Once a casual employee has converted to permanent employment, they may only revert back to casual employment with the written agreement of the employer.

The casual conversion clause does not oblige a casual employee to convert to permanent employment, nor does it require an employer to agree to it (i.e. having regard to the dot points above).

7. Community Service Leave (Clause 36)

The HIGA refers to the NES for this entitlement – the concept of Community Service Leave is new.

Community Service Leave includes jury service where the employer pays the employee for time spent on jury service less any monies paid to the employee by the courts for the employee's jury service attendance. This obligation only applies for the first 10 days of jury service. Community Service Leave also includes other voluntary emergency management activities which is unpaid leave.

8. Consultation Over Changes (Clause 8)

The HIGA outlines a requirement to consult if the employer is introducing 'major change' that may have 'significant effects'. In such cases the employer must notify and consult with the affected employee/s and their representative (if any).

9. Dispute Resolution (Clause 9)

The HIGA's dispute resolution procedure requires parties to attempt to resolve disputes at the workplace in the first instance. If not resolved, a party may refer the dispute to Fair Work Australia ("FWA").

Where the dispute is unresolved FWA may "exercise any method of dispute resolution permitted by the Act". This includes:

- Mediation,
- Providing recommendations or opinions, and,
- Conciliation,
- Where the parties agree, arbitration.

A party to the dispute may appoint someone to represent them during the dispute resolution process.

10. Employment Types (Clause 10)

On commencement, the employer must inform the employee of their employment status as either a full time, part time or casual employee:

a. Full time employee

The Award provides the following with regard to full time employees -

- i. They are "engaged to work an average of 38 ordinary hours per week (Clause 11)"
- ii. Hours of work are a minimum of 6 hours and a maximum of 11.5 hours per day (exclusive of meal breaks) (Clause 29.4 (a))
- iii. They cannot be rostered for more than 10 hours on 3 consecutive days without a 48 hour break (Clause 29.4 (b))
- iv. They cannot work more than 8 days of 10 hours in a 4 week period (Clause 29.4 (c))
- v. They must have a break of 10 hours between working days (Clause 29.11)
- vi. Where subject to a rostered day off ("RDO") arrangement - 160 hours per 4 week period with a minimum of 8 days off plus a paid RDO. If a RDO falls on a public holiday the next day is taken to be the RDO. (Clause 29.5)

b. Part time employee (Clause 12)

The Award provides the following with regard to part time employees -

- i. They work less than 38 hours a week and have "reasonably predictable" hours of work
- ii. On engagement the employer needs to agree, in writing, with the employee on a regular pattern of work (i.e. hours worked each day, days of work and starting and finishing times)
- iii. Any changes to hours must be agreed to in writing
- iv. They are to be rostered for / paid a minimum shift of 3 hours including work on weekends and public holidays
- v. All time worked in excess of contracted hours are to be paid as overtime.

An employee who does not meet the part time employee definition, and who is not a full time employee, is a casual employee.

c. Casual employee (Clause 13)

The HIGA provides the following with regard to casual employees -

- i. A casual employee must be paid a 25% casual loading. The casual loading is paid as compensation for annual leave, personal/carerers leave, notice

- or termination and redundancy benefits and other entitlements of full time and part time employment.
- ii. A casual employee is paid an additional loading for working after 7pm Monday to Friday and for working on Saturdays, Sundays and Public Holidays (refer clause 32 of the Award).
 - iii. Each occasion a casual attends work they are to be paid for a minimum of 2 hours work, including work on weekends and public holidays.
 - iv. A casual must be paid at the end of each engagement (shift) unless otherwise agreed to.

11. Make Up Time (Clause 29.9)

An employer and employee may agree that an employee may take time off during their normal duties and make up those hours of work later.

The employer may also agree with the majority of employees to enter into formal make up time arrangements for the workplace. This is subject to certain conditions, as specified in the HIGA.

12. Higher Duties (Clause 25)

The HIGA provides that an employee engaged for two or more hours on one day on duties carrying a higher rate than their ordinary classification must be paid the higher rate for such day. If rostered for less than two hours the employee must be paid the higher rate for the time so worked.

This clause does not apply to food and beverage attendants grade 2 and 3 as defined in Schedule D – Classification Definitions.

13. Overtime (Clause 33)

In accordance with the HIGA, an employer may require a permanent employee to work “reasonable” overtime at overtime rates.

An employee may refuse to work the additional hours if that would result in the employee working unreasonable hours. When determining if the requested additional hours are unreasonable, the employer and employee should have regard to

- a. Any risk to the employee’s health and safety
- b. The employee’s personal circumstances including any family responsibilities
- c. The needs of the workplace or enterprise
- d. The notice (if any) given by the employer of the overtime and by the employee of their intention to refuse it; and
- e. Any other relevant matter.

The following overtime rates are payable to an employee, depending on the time at which the overtime is worked:

- For full time employees – for work done outside of hours set out in the Ordinary Hours of Work clause.
- For part time employees – for work done outside of hours set in accordance with the Part Time Employees clause.

Overtime does not apply to casual employees.

Overtime rates paid to permanent employees are:

- Monday to Friday: 150% of their ordinary hourly rate for the first two hours

of overtime and 200% of their normal rate of pay for the rest of the overtime.

- Between midnight Friday and midnight Sunday: 200% of their ordinary hourly rate for any work done.
- On a rostered day off: 200% of their ordinary hourly rate for any work done with a minimum payment of four hours (even if they work less than four hours).
- Overtime worked on any day stands alone.

14. Payment of Wages (Clause 26)

- Wages will be paid weekly or fortnightly by cash, cheque or EFT.

15. Personal/Carer's Leave and Compassionate Leave (Clause 35)

- This leave is accrued and paid in accordance with the NES which provides for two weeks personal leave per annum for full time employees and pro rata for part time employees. Personal leave accumulates from year to year and is not paid out upon termination.
- Personal leave cannot be cashed out for employees under the HIGA
- Compassionate leave is payable to full time and part time employees on the basis of two days per occasion and is not taken from accumulated personal leave.

Casual employees do not accrue personal leave

16. Public Holidays (Clause 37)

Public holiday arrangements in the HIGA refer back to that provided for in the NES. The NES recognises the following gazetted public holidays:

- 1 January, New Years Day
- 26 January, Australia Day
- Good Friday
- Easter Monday
- 25 April ANZAC Day
- Queen's Birthday Holiday (as the day gazetted in the relevant state public holiday legislation)
- 25 December, Christmas Day
- 26 December, Boxing Day

Plus any other day that is declared under state or territory public holiday legislation as a public holiday, except where the Regulation excludes a day as a public holiday

The NES addresses employer requests of employees to work on a public holiday – it is taken that an employee is entitled to a day free from work on a public holiday – and the circumstances where an employee may refuse to work on a public holiday because the request was unreasonable.

The HIGA provides, in addition to the provisions of the NES, that:

- a. By agreement between the employer and the majority of employees in the relevant enterprise or section of the enterprise, an alternative day may be taken as the public holiday in lieu of a prescribed public holiday.
- b. For full time employees whose rostered day off falls on a public holiday they must either:

- i. Be paid an extra days pay; or
- ii. Be provided with an alternative day off within 28 days; or
- iii. Receive an additional day of annual leave.

A rostered day off means any continuous 24 hour period between the completion of the last ordinary shift and the commencement of the next ordinary shift on which an employee is rostered for duty.

17. Redundancy (Clause 17)

With regard to redundancy, the Award refers back to the provisions of the NES for redundancy pay requirements, and the circumstances where the employee is entitled to such payment.

Those circumstances are that the:

- Termination was by the employer because the employer no longer requires the job done by the employee to be done by anyone, except where this is due to the ordinary and customary turnover of labour, or
- Termination was by the employer because of the insolvency or bankruptcy of the employer.

In summary, the main elements of the redundancy provision in the NES are:

- a. Exemptions:
 - i. Employers with fewer than 15 employees do not have to pay severance, and
 - ii. Employees with less than 12 months continuous service (regardless of the size of the employer) are not entitled to severance pay.
- b. Severance – the amount payable is based on length of service:

Employee’s period of continuous service with the employer on termination	Redundancy Pay
At least 1 year but less than 2 years	4 weeks
At least 2 years but less than 3 years	6 weeks
At least 3 years but less than 4 years	7 weeks
At least 4 years but less than 5 years	8 weeks
At least 5 years but less than 6 years	10 weeks
At least 6 years but less than 7 years	11 weeks
At least 7 years but less than 8 years	13 weeks
At least 8 years but less than 9 years	14 weeks
At least 9 years but less than 10 years	16 weeks
At least 10 years	12 weeks

The HIGA provides detail on the following additional redundancy elements:

- Transfer to lower paid duties arrangements.
- The employee leaving during the notice period (notice as per the termination provision in the NES).
- The employee’s entitlements with regard to job search.
- Transitional provisions.

The transitional provisions in the HIGA provide that where a NAPSA that applied prior to the operation of the HIGA provided a more beneficial severance payment, the more beneficial

severance payments in that NAPSA will prevail until 31 December 2014. From 2015, all severance payments are in accordance with the NES.

18. Rostering (Clause 30)

The HIGA provides:

- The roster for full time and part time employees must show the start and finish times and name of each employee.
- A roster may be altered by mutual consent, or by 7 days notice.
- Employees are to be provided 14 days notice of rostered days off where practicable.

19. Superannuation (Clause 28)

This clause is as per the relevant superannuation legislation with a number of funds listed as possible default funds – in the absence of the employee utilising their right to choose a fund.

The HIGA recommended superannuation funds are:

- a. HOST-PLUS;
- b. Sunsuper;
- c. InTrust Super;
- d. HostWest Superannuation Fund;
- e. Westscheme Superannuation Fund;
- f. Asset Limited: or
- g. any superannuation fund to which the employer was making superannuation contributions for the benefit of its employees before 12 September 2008, provided the superannuation fund is an eligible choice fund.

The HIGA provides that:

- Voluntary employee contributions are available when authorised by an employee
- The superannuation threshold for employer contributions is \$350.00 a month
- Employees are entitled to superannuation whilst on paid leave or receiving workers' compensation payments (while still employed).

20. Termination (Clause 16)

Notice Given by Employer:

The notice of termination an employer is required to give to an employee is provided for in the NES, and is notice based on length of service.

The notice an employer must give an employee is:

Period of Continuous Service	Period of Notice
Not more than 1 year	1 week
More than 1 year but not more than 3 years	2 weeks
More than 3 years but not more than 5 years	3 weeks
More than 5 years	4 weeks

In addition to the notice above, employees 45 years old or over and who have completed at least 2 years continuous service with the employer shall be entitled to an additional weeks notice.

The NES also provides that an employer cannot terminate an employee's employment unless they have given the employee written notice of the day of the termination (i.e. the day the termination of employment has effect).

The notice cannot be given after the termination date. This requirement represents a new obligation on employers, and employers must comply with it.

Notice Given by Employee:

The NES does not provide for employee notice requirements and defers to the HIGA for notice requirements. The HIGA provides that the notice an employee gives is the same as the notice an employer must give, except for the additional weeks notice based on the employee's age.

In addition, the HIGA provides that where an employee fails to give the required notice, the employer may withhold from any monies due to the employee on termination an amount not exceeding the amount the employee would have been paid under the HIGA if they had worked the period of notice required, less any period of notice actually given by the employee.

Where an employer has given notice of termination to an employee, an employee must be allowed up to one day time off without loss of pay for the purpose of seeking other employment. The time off is to be taken at times that are convenient to the employee after consultation with the employer.

Wage Rates, Classifications And Roles

The HIGA wage rates and classification structure as at the first full pay period on or after 1 July 2010 (revised 1 July annually). These rates are subject to transitional arrangements, where applicable.

Classification	Minimum Weekly	Hourly
Introductory	\$569.90	\$15.00
Level 1	\$586.50	\$15.43
Level 2	\$609.00	\$16.03
Level 3	\$629.90	\$16.58
Level 4 (Trade)	\$663.60	\$17.46
Level 5	\$705.30	\$18.56
Level 6	\$724.20	\$19.06

Note:

Detailed wage rates are provided to AHA members through their state/territory branch offices and are also accessible through the Fair Work Online Pay Rates Calculator at www.fairwork.gov.au.

These wage rates are reviewed by Fair Work Australia annually with any annual increase applicable from the first full pay period commencing on or after 1 July each year.

Junior rates of pay are applicable as a percentage of the relevant adult rate – see clause 20.5 of HIGA.

Managerial employees (as defined in clause D.2.9 of Schedule D of HIGA), have two minimum annual salary rates as per clause 20.2 of HIGA. A hotel manager or venue manager is award free and outside of the scope of HIGA.

Apprentice cook rates are set out in clause 20.4 of HIGA whilst trainees are provided for under the provisions of HIGA and Schedule F of HIGA, the National Training Wage.

Employee respective classification definitions can be found in Schedule D of HIGA

Allowances

Allowances provided for in the Award are:

- Meal allowance – where working more than 2 hours of overtime
- Clothing, equipment and tools
- Laundry allowance
- Vehicle allowance
- Forklift allowance
- First Aid allowance
- Broken period allowance
- Reimbursement for special clothing – when purchased by the employee
- Protective clothing provided at no cost
- Working late – provision of transport in certain circumstances
- Working early – provision of transport in certain circumstances
- Working away from usual place of work allowance – where more than 80kms

State Specific Requirements:

Arrangements particular to Western Australia:

Refer to AHA National Office website at www.aha.org.au for Schedule C of the HIGA and the transitional arrangements as applicable to Western Australia.

Schedule C – Transitional Provisions in respect of Western Australia

In addition to the Model Transitional Provisions as set out by Schedule A of the HIGA Western Australian hospitality businesses have additional transitional provisions.

This relate to:

- Junior employees

Whilst Clause 15.1 of the HIGA states that junior liquor service employees must be paid adult rates of pay, junior liquor service employees working in Western Australia are not entitled to adult rates of pay until they are 20 years of age.

- Breaks

Every employee will be entitled to a break of not less than half hour nor more than one hour after not more than five hours of work.

Where it is not possible for an employer to grant a meal break, the employee must be paid a 50% loading until such time as the employee is released for a meal.

Arrangements particular to South Australia:

Refer to AHA National Office website at www.aha.org.au for Schedule B of the HIGA and the comprehensive transitional arrangements.

Arrangements particular to Queensland

Refer to AHA National Office website at www.aha.org.au for specific arrangements applicable to Queensland. Due to many NAPSAs applying within both South East Queensland and outside of the South East Queensland area, transitional arrangements as per Schedule A of the HIGA will apply. The most significant differences that will represent transitional conditions are Saturday and Sunday penalties and overtime.

Are you a hospitality industry employer?

Are you operating under the correct new modern award?

Hospitality Award	Restaurant industry means Restaurants	Clubs Award
<p>Hospitality Industry includes:</p> <p>Hotels</p> <p>Motor Inns</p> <p>Motels</p> <p>Boarding Establishments</p> <p>Condominiums and establishments of a like nature</p> <p>Health or Recreational Farms</p> <p>Private Hotels</p> <p>Guest Houses</p> <p>Serviced Apartments</p> <p>Caravan Parks</p> <p>Ski Lodges</p> <p>Holiday Flats or Units</p> <p>Ranches or Farms</p> <p>Hostels, or any other type of residential or tourist accommodation</p> <p>Wine Saloons, Wine Bars or Taverns</p> <p>Liquor Booths</p> <p>Resorts</p> <p>Caterers</p> <p>Restaurants operated in or in connection with premises owned or operated by employers otherwise covered by this award</p> <p>Casinos</p> <p>Function areas and convention or like facilities operating in association with the aforementioned.</p>	<p>Reception Centers</p> <p>Night Clubs</p> <p>Cafes and Roadhouses and includes any tea room, café, and catering by a restaurant business</p>	<p>Club means any club which is registered and licensed under the provisions of relevant State or Commonwealth Statutes (Liquor and/or Gaming Acts, Associations' Incorporation Acts or Corporations Acts) and which is established and operates on a not-for-profit basis for the benefit of members and the community</p> <p>this award covers the work of bar attendants or stewards employed in a club situated on a football ground, cricket ground or sports ground and persons engaged as green keepers, ground attendants, gardeners, propagators, lawn mower and motor roller drivers and general labourers in the construction and maintenance of bowling greens and golf courses</p>

Whilst this document provides an overview of the most significant changes that commenced from 1 January 2010 and 1 July 2010, Hoteliers are strongly encouraged to carefully read the HIGA themselves in order to identify the impact of the HIGA on their individual businesses.

A copy of the HIGA and the NES can be downloaded from the AHA national website by going to the National Modern Award link on the home page at www.aha.org.au or from the Fair Work Ombudsman website at www.fairwork.gov.au.



This booklet is intended to provide an overview of the main elements of the Hospitality Industry (General) Award 2010 and the National Employment Standards.

The information provided is for general information purposes only and does not constitute legal advice.

Legal Disclaimer

The Fair Work Ombudsman (FWO) is committed to providing useful, reliable information to help you understand your rights and obligations under workplace laws.

The information contained in this publication is:

- *general in nature and may not deal with all aspects of the law that are relevant to your specific situation; and*
- *not legal advice.*

Therefore, you may wish to seek independent professional advice to ensure all the factors relevant to your circumstances have been properly considered.

This information was published on 5 April 2011. The FWO does not accept legal liability arising from or connected to the accuracy, reliability, currency or completeness of this information.

Whilst due care has been taken in preparing this booklet, no responsibility is accepted by the AHA National Office, the respective AHA state/territory branch offices or employees officers or contractors of the AHA and its branch offices for the accuracy of the information therein contained.

All liability is expressly disclaimed for any damage which may arise from any person acting on any statement or information contained herein.