



**SMALL
BUSINESS
AWA TEMPLATE**



IMPROVING
AUSTRALIAN
WORKPLACES





SMALL BUSINESS TEMPLATE AUSTRALIAN WORKPLACE AGREEMENT

Clause number	Content	Page number
1	Parties to the Agreement	2
2	Explanation of Terms	2
3	Contract of Employment	2
4	Period of Operation	2
5	Disclosure	2
6	Probationary Period	2
7	Basis of Employment	3
8	Roster Arrangements	3
9	Hours of Work	3
10	Additional Hours	4
11	Meal Intervals / Rest Breaks	4
12	Payment of Wages	4
13	Wages	4
14	Wage Review	4
15	Performance Review	4
16	Superannuation	5
17	Absences	5
18	Leave Provisions	5
	18.1 Annual Leave	
	18.2 Personal Leave	
	18.3 Parental Leave	
	18.4 Long Service Leave	
	18.5 Jury Service	
19	Public Holidays	6
20	Workplace Health and Safety	7
21	Accident Make-Up Pay	7
22	Property of the Company	7
23	Confidential Information	7
24	Termination and Resignation	7
25	Redundancy	8
26	Unsatisfactory Work Performance	9
27	Dispute Resolution Procedure	10
28	Anti Discrimination Provisions	11
29	Signature of the Parties	12

AUSTRALIAN WORKPLACE AGREEMENT

1. Parties to Agreement

This Australian workplace agreement (AWA) is made between:

(the Employer)

(ABN)

and the employee whose name and details appear at the end of this AWA.

2. Explanation of Terms

- 'We' means the employer
- 'Us' means the employer
- 'Our' means the employer's
- 'You' means the employee
- 'Your' means the employee's
- 'The parties' means the employer and the employee

3. Contract of Employment

This AWA covers all of your terms and conditions of employment.

You must diligently and faithfully perform all the duties and responsibilities which we give you, and you must abide by any policies and procedures formulated by us

4. Period of Operation

This AWA will take effect:

- For new employees the day after a filing receipt is issued for the AWA by the Employment Advocate.
- For existing employees from the start of the first pay period after the date of the AWA's approval by the Employment Advocate.

It will have a nominal expiry date of three years from the date on which the parties signed the AWA.

5. Disclosure

Nothing in this AWA prohibits or restricts, in any way, disclosure of the contents of this AWA by either party to any other person.

6. Probationary Period

You will be on probation for the first three months of engagement. During this period we will assess your work performance. At any time during the probationary period, we may terminate your employment by giving you one day's notice. During probation, you may terminate your employment by providing the same notice to us.

7. Basis of Employment

You will be employed on a full time, part time or casual basis.

- 7.1 A full time employee works an average of 152 hours over a four week period and is employed on a weekly basis. Beyond this, you may be offered or may seek additional hours, from time to time – see **clause 10** for arrangements. You are entitled to annual leave and personal leave.
- 7.2 A part time employee is employed on a weekly basis on ordinary hours which average between 6 hours per week and 38 hours per week, in each four week period. Your ordinary hours will be set by us on your engagement. Beyond these, you may be offered or may seek additional hours from time to time – see **clause 10** for arrangements. You are entitled to annual leave and personal leave on a pro-rata basis, according to your ordinary hours of work.
- 7.3 A casual employee may be engaged for work on an hourly basis, at any time on any day of the week, and will be paid a loading of *_____ % on the ordinary time rate, in lieu of annual and personal leave, public holidays, notice of termination, and severance and redundancy payments.
- 7.4 By written agreement between you and us, you may move from part time to full time status, or full time to part time status, under this AWA.

**insert percentage loading*

8. Roster Arrangements

We will make every effort to roster our staff in a manner that is fair and equitable and which takes into account the preferences of individuals. For example, if you have family and/or study commitments, we will attempt to accommodate you. However, rosters must be arranged so that the business can operate effectively. This means that we may not always be able to accommodate your preferences.

9. Hours of Work

Your ordinary hours may be worked over any days of the week, between Monday and *_____ inclusive, between _____ am/pm and _____ am/pm.

If you are a full time employee, your ordinary hours of work will not exceed an average of 38 hours per week, over a four week period, although the actual hours worked may vary from week to week, with some weeks greater than 38 hours and other weeks less.

If you are a part time employee, your ordinary hours will be set by us, on your engagement, at a number between 6 hours per week and 38 hours per week (your set ordinary hours), averaged over a four week period. This means that the actual hours you work may vary from week to week, with some weeks greater than your set ordinary hours and other weeks less.

If you are a casual employee, you may be engaged for work on an hourly basis, at any time on any day of the week.

The maximum ordinary hours in any one shift will be ten.

You may ask to change your hours, days and times (including breaks and meal times) because of your family responsibilities. We may agree to such a request, if the operation of the business is not adversely affected.

**insert day and times*

10. Additional Hours

Any work outside your ordinary hours of work is called additional hours.

Where you volunteer to work additional hours, you will be paid at your normal hourly rate of pay. Alternatively, you may elect to take paid time off in lieu (TOIL) for the voluntary additional hours which you work. TOIL will be taken at the rate of one hour for every additional hour worked, at a time agreed with us.

Where we direct you to work additional hours, you will be paid 150% of your ordinary hourly rate of pay. Alternatively, you may elect to take paid time off in lieu (TOIL) for the directed additional hours which you work. TOIL will be taken at the rate of one hour and a half for every additional hour worked.

NB: Any regularly rostered hours, above the ordinary hours of work, are considered to be directed overtime.

You may refuse to work additional hours in circumstances where such work would result in your working unreasonable hours, having regard to:

- any risk to your health and safety;
- your personal circumstances, including any family responsibilities;
- the needs of the workplace; and
- the notice (if any) given by us of the additional hours and by you of your intention to refuse it.

11. Meal and Rest Breaks

You are entitled to an unpaid meal break of 30 minutes, after each five hours worked.

You are entitled to a paid rest period of 10 minutes, for each four hours worked, to be taken at a time convenient to the business.

12. Payment of Wages

Your wages will be paid after the end of the pay period into an account nominated by you, or in cash. It is your obligation to provide the correct banking details to us and advise us promptly if there are any changes to those details.

Pay slips giving details of earnings and deductions will be issued, either electronically or in hard copy, with each pay.

13. Wages

You will be paid an *(hourly)/(weekly) rate of \$ _____.

Except where this AWA says otherwise, your wage rate is inclusive of all allowances and penalties. *If you are a casual, it includes your casual loading.*

**delete as appropriate and insert pay rate*

14. Wage reviews

Your wage rate will be reviewed annually. Any increase will take into account your overall work performance and the financial performance of the business.

15. Performance Review

Your work performance will be reviewed and discussed with you annually.

16. Superannuation

Superannuation contributions will be paid as required under the *Superannuation Guarantee (Administration) Act 1992*, as varied from time to time, to a complying Fund.

17. Absences

Where practicable, you must notify us of your absences well in advance of your start time, so alternative arrangements can be made if necessary.

If you are absent due to sickness, we may require a medical certificate, whether you claim sick leave or not.

Where you are absent for another reason and seek paid leave under this AWA, we may require you to provide appropriate evidence of the reason for your absence.

18. Leave Provisions

18.1 Annual Leave

If you are a *full time employee* you are entitled to four weeks paid annual leave for each completed year of service.

If you are a *part time employee* you will accrue paid annual leave on a pro-rata basis, calculated on your set ordinary hours.

Casual employees do not qualify for annual leave because they are paid a loading instead.

The pay rate for annual leave is your ordinary pay rate at the time you take the annual leave, plus 17.5 per cent of that rate for annual leave loading.

Annual leave must be taken at a time mutually agreed with us with a minimum notice period of four weeks. The leave is cumulative - ie unused balances carry over from year to year. However, annual leave should be taken within 12 months of the entitlement.

If the leave is not taken within 12 months, we may direct you to take leave with one month's notice.

If you leave this employment, or are dismissed for any reason, you will receive on termination a payment in lieu of any accrued annual leave entitlement.

By agreement with us, if you accrue more than *_____ weeks leave you may elect to be paid out for excess leave. The payment will be equal to the amount that you would have been paid had the leave been taken.

**insert number of weeks*

18.2 Personal Leave (sickness/family/bereavement)

Personal leave is any leave taken for the purposes of:

- personal illness or injury (sick leave); or
- caring for an immediate family or household member who is ill (family leave); or
- the death of an immediate family or household member (bereavement leave).

If you are a *full time employee*, after 3 months of continuous service, your entitlement to this leave accrues on a pro-rata basis from when you commenced employment. You are entitled to 9 days personal leave per year.

If you are a *part time employee*, after 3 months of continuous service, your entitlement to this leave accrues on a pro-rata basis from when you commenced employment. Your yearly leave entitlement is linked to your set ordinary hours and will be calculated on a pro-rata basis. This leave can be claimed only for the days which you would normally work.

Personal leave is cumulative – i.e. unused balances carry over from year to year. We may grant additional unpaid personal leave for exceptional circumstances at our discretion.

Notice for personal leave should be given in accordance with clause 17.

For the purposes of personal leave, the term *immediate family or household member* means your spouse, partner, parent, grandparent, child, grandchild, sibling, or any person who lives with you permanently.

18.3 Parental Leave

The provisions of the *Workplace Relations Act 1996* will apply.

18.4 Long Service Leave

Long service leave will be provided in accordance with the laws applying in the State/Territory where you work. On request, you will be provided with a summary of key provisions of the legislation.

18.5 Jury Service Leave

If you are called up for jury service, we agree to make up the difference between the daily attendance fee you receive on jury service and your normal wage for the same period. You must provide proof of attendance at jury service and of any payment received at the time of claiming the difference.

19. Public Holidays

Full and part time employees will be granted the following holidays or any other public holiday gazetted in the relevant State or Territory, without deduction in pay:

- New Years Day
- Australia Day
- Labour Day
- Good Friday
- Easter Monday
- Anzac Day
- Queen's Birthday
- Christmas Day
- Boxing Day

All employees, *including casuals*, required to work on a public holiday, will be entitled to a paid day off in lieu, taken at a mutually convenient time, or will be paid at their usual rate plus a loading of *____% of that rate.

**insert percentage loading*

20. Workplace Health and Safety

We the employer and you the employee agree that a safe and secure workplace is important and we will comply with Occupational Health & Safety laws. You will take all practicable steps to ensure your own safety while at work, and to ensure that no action or inaction by you while at work causes harm to any other person. You will ensure safety procedures are followed at all times.

You are to use the safety and protective equipment or clothing provided. You must ensure that you know our health and safety rules and procedures. You will not misuse any equipment, plant or process that is provided to ensure workplace health and safety.

If you do not comply with the rules and procedures, disciplinary action may be taken.

You will report to management as soon as possible any accidents, incidents or hazards arising during the course of your employment. If you have any concerns in relation to your safety or the safety of others in the company, you are to report them to the safety officer or appropriate manager who will take all practicable steps to provide and maintain a safe work environment.

21. Accident Make-Up Pay

Some awards require the employer to pay accident make-up pay, where an employee is injured and then receives workers' compensation payments under State/Territory law.

If the award, which would otherwise cover your employment, provides for accident make-up pay, we will pay it as per the award.

22. Property of the Business

You must take all reasonable care in using our property.

On termination of your employment or upon request, you must return in good condition (subject to fair wear and tear) any property in your possession belonging to us.

23. Confidential Information

Confidential information includes all transactions, records and information pertaining to the business, and any other information which we advise is confidential.

You must not disclose any confidential information to any person, firm, company or other body, unless previously and expressly authorised in writing by us.

You will not use or attempt to use any confidential information in any manner and for any purpose other than the purpose of the business.

NB: This clause does not restrict the ability of the parties to disclose the contents of this AWA in accordance with clause 5.

24. Termination and Resignation

Except in the case of probationary employees, either party may terminate employment at any time by giving the other party the required period of notice specified below. Instead of providing the specified notice we may choose to make payment in lieu of notice. If you fail to give the required notice, you forfeit the entitlement to any monies owing equal to the amount of notice not given.

Nothing in this Agreement affects our right to dismiss you without notice for serious misconduct and if so dismissed shall only be entitled to be paid for the time worked up to the time of dismissal and any entitlements accrued to such time.

If you are on probation you shall be entitled to one day's notice of termination

The notice of termination period shall be:

By the employer:

Years of Service	Required Notice
Year 1	1 week
Years 2 – 3	2 weeks
Years 4 – 5	3 weeks
Over 5 Years	4 weeks

If you are 45 years or over and have completed at least two years continuous service with us, you will receive one additional weeks notice.

By the employee: Two weeks notice in writing or such other period as agreed by the parties.

You may be entitled to further termination payments as set out in clause 25.

25. Redundancy

Redundancy occurs 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 and this is not due to the ordinary and customary turnover of labour.

In addition to the period of notice prescribed for ordinary termination, if your employment is terminated for reasons set out above you shall be entitled to the following amount of severance pay in respect of a continuous period of service:

NB: For employers who employs fewer than 15 employees, the table below applies only to a maximum of 8 weeks severance pay.

Period of continuous service	Severance pay
Less than 1 year	Nil
1 year but less than 2 years	4 weeks' pay
2 years but less than 3 years	6 weeks' pay
3 years but less than 4 years	7 weeks' pay
4 years and less than 5 years	8 weeks' pay
5 years and less than 6 years	10 weeks' pay
6 years and less than 7 years	11 weeks' pay
7 years and less than 8 years	13 weeks' pay
8 years and less than 9 years	14 weeks' pay
9 years and less than 10 years	16 weeks' pay
10 years and over	12 weeks' pay

"Weeks' pay" means your ordinary time rate of pay.

We shall not be obliged to make a severance payment if we obtain suitable alternative employment for you, whether or not you reject the offer of employment.

This clause also does not apply if you are dismissed for serious misconduct. In that event you are only entitled for time worked up to the time of dismissal.

26. Unsatisfactory Work Performance

- 1) The provisions of the *Workplace Relations Act 1996* relating to ending of employment apply.
- 2) If we are concerned about your work performance we shall meet with you and tell you about our concerns. We will advise you of the standard of work or behaviour that is required and we will discuss ways and methods to improve your work and conduct.
- 3) We may give you some information about appropriate organisations who can offer assistance, training, counselling or dispute resolution to help you improve your work performance.
- 4) We as the employer and you as the employee will have a discussion after which a reasonable period will be set for you to reach an acceptable work performance or conduct. You should be warned that your employment will be ended if acceptable performance levels or appropriate behaviour are not reached.
- 5) We shall discuss with you during the set period whether there has been any improvement by you and, if necessary, to further warn you that your employment will end if that improvement is not reached.
- 6) The meetings and warnings given to you will be put in writing, dated, and signed by us as the employer and you as the employee.
- 7) If you cannot achieve an acceptable level of performance or behavior within the period set, you may be dismissed from employment with appropriate notice or payment instead of notice.

27. Dispute Resolution Procedure

Refer to Appendix A

28. Anti – discrimination Provision

Refer to Appendix B

APPENDIX A

Dispute Resolution Procedure

In relation to any matter that may be in dispute between the parties to this AWA ('the matter'), the parties:

- a. will attempt to resolve the matter at the workplace level, including, but not limited to:
 - i. the employee and his or her supervisor meeting and conferring on the matter; and
 - ii. if the matter is not resolved at such a meeting, the parties arranging further discussions involving more senior levels of management (as appropriate); and
- b. acknowledge the right of either party to appoint, in writing, another person to act on behalf of the party in relation to resolving the matter at the workplace level; and
- c. agree to allow either party to refer the matter to mediation if the matter cannot be resolved at the workplace level; and
- d. agree that if either party refers the matter to mediation, both parties will participate in the mediation process in good faith; and
- e. acknowledge the right of either party to appoint in writing, another person to act on behalf of the party in relation to the mediation process; and
- f. agree that during the time when the parties attempt to resolve the matter:
 - i. the parties continue to work in accordance with their contract of employment unless the employee has a reasonable concern about an imminent risk to his or her health or safety; and
 - ii. subject to relevant provisions of any state or territory occupational health and safety law, even if the employee has a reasonable concern about an imminent risk to his or her health or safety, the employee must not unreasonably fail to comply with a direction by his or her employer to perform other available work, whether at the same workplace or another workplace, that is safe and appropriate for the employee to perform; and
 - iii. the parties must cooperate to ensure that the dispute resolution procedures are carried out as quickly as is reasonably possible; and
- g. agree not to commence an action:
 - i. to obtain a penalty under section 17OVV of the Act; or
 - ii. to obtain damages for breaches of an AWA; or
 - iii. to enforce a provision of the AWA or Part VID of the Act (other than an action to enforce section 17OVU of the Act); unless:
 - iv. the party initiating the action has genuinely attempted to resolve the dispute at the workplace level; and
 - v. either:
 - A. a period of 7 days has expired from the date when the party initiating the action gave notice that mediation is not requested; or
 - B. mediation was requested by either party and that mediation has been completed.

As at 1 January 2004 - Schedule 9 Prescribed Model Dispute Resolution Procedure
Subregulation 30ZI (2) – The Workplace Relations Regulations

APPENDIX B

Anti-discrimination provision

The parties to this AWA agree that:

- (a) it is their intention to achieve the principal object in paragraph 3 (j) of the Workplace Relations Act 1996 , which is to respect and value the diversity of the work force by helping to prevent and eliminate discrimination at their enterprise on the basis of race, colour, sex, sexual preference, age, physical or mental disability, marital status, family responsibilities, pregnancy, religion, political opinion, national extraction or social origin; and
- b) any dispute concerning these provisions and their operation will be progressed initially under the dispute resolution procedure in this AWA; and
- (c) nothing in these provisions allows any treatment that would otherwise be prohibited by anti-discrimination provisions in applicable Commonwealth, State or Territory legislation; and
- (d) nothing in these provisions prohibits:
 - (i) where the AWA is approved before 23 June 2000, the payment of junior rates of pay;
 - or
 - (ii) any discriminatory conduct (or conduct having a discriminatory effect) that is based on the inherent requirements of a particular position; or
 - (iii) any discriminatory conduct (or conduct having a discriminatory effect) if:
 - (A) the employee is a member of staff of an institution that is conducted in accordance with the doctrines, tenets, beliefs or teachings of a particular religion or creed; and
 - (B) the conduct was in good faith to avoid injury to the religious susceptibilities of that religion or creed.

SIGNATURES OF THE PARTIES

Australian workplace agreement made under the Workplace Relations Act 1996, between;

(Employer)

and

(Employee)

Signatures:

FOR THE EMPLOYER:

Name in full (printed):

Signature:Date:

Position:

Employer Address:

Witnessed By:

Name in full (printed):

Signature:

Witness Address:

FOR THE EMPLOYEE:

Name in full:

Signature:Date:

Witnessed By:

Name in full (printed):

Signature:

Witness Address:

In order to become legally binding an AWA for each employee must be lodged with the Employment Advocate for filing and approval. It will then become binding when a filing receipt is issued for new employees, or an approval notice is issued for existing employees. Paying an employee under an AWA that has not been filed or approved may result in a monetary liability for payments due under the relevant award or applicable industrial instrument.