

**COMPARISON
BANJOS BAKEHOUSE AWA v SHOP EMPLOYEES (STATE) AWARD**

Preliminary

The letter attached to the AWA from HR establishes that employment is conditional up acceptance of AWA and whilst it invites employees who do not wish to sign to approach their employer, there is no commitment to negotiate.

| Clause | Banjos Bakehouse AWA | Shop Employees (State) Award |
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| 1 Title | The Dingleton Pty Ltd (Coffs Harbour) Agreement 2004 | As above |
| 2 Parties Bound | Single business at Coffs Harbour (Please note that attached documents downloaded from Corporate website relating to job vacancies under Remuneration indicates that minimum conditions as per Award) | Common rule. |
| 3 Variation | Agreement can be varied during currency but by consent and approved by OEA. | By consent of parties/arbitration |
| 4 Relationship to Award | In NSW Agreement displaces Pastry Cooks Award and Restaurants and Catering Employees (State) Award. No reference to the correct Award for Sales Assistants, the Shop Employees (State) Award. | N/A |
| 5 Period of Operation | 1 March 2004 - Valid for 3 years from Approval | Ongoing |
| 6 Definitions | | |
| 6.2 | Casual loading is 25%. | Casual loading is 24.66% |
| 6.4 | Fixed term contract - An employee could be on a fixed term contract indefinitely. No continuity of service. No guarantee of ongoing employment. | No such provision |

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| <p>6.5</p> | <p>40 hour week for full-time employees.</p> | <p>38 hour week.</p> |
| <p>6.6</p> | <p>No benefit of a public holiday if falls on a non-working day. No Picnic day holiday.</p> | <p>Permanent employees who work an average of 5 days per week receive the benefit of a public holiday.</p> |
| <p>6.8</p> | <p>Span of hours for sales employees is 5am to 8pm Monday to Sunday. May work up to 10 hours each day exclusive of meal breaks. No minimum break between shifts.</p> | <p>Refreshment shops Monday to Sunday 7am to 11.30pm. Maximum 9 hours per day with only one long day of 11 hours permitted. 10 hour break between shifts apply.</p> |
| <p>6.10</p> | <p>Overtime for sales employees are pegged at over 80 hours over a two week period or more than 10 hours per day, no more 5 days per week. No weekly maximum applies. Overtime is at the rate of time plus 50% and must be approved by management unless the employee has volunteered to work additional hours for their won personal or family reasons in line with clause 6.18 of Agreement.</p> | <p>Overtime is paid for more than 38 hours work, more then 5 (or 6) days depending on roster, 9 hours per day except 1 day per week may be worked of up to 11 hours. Overtime rate is time and half for first 2 hours and double time thereafter. Sunday overtime work is double time.</p> |
| <p>6.12</p> | <p>A part-time employee can work up to 40 hours per week. Part-time employees can choose to be paid hourly rate of 1/40 of the relevant weekly rate and receive Annual Leave, Personal Leave and Public Holidays or be paid a 25% loading and not receive the aforementioned benefits. Clause 6.12(3) states that a Part-time employee may agree to reduce or increase hours without any penalty by way of overtime or any other penalty payments befalling the employee. Wording does not say "by agreement" and it does not</p> | <p>Part-time employee has a minimum engagement no less than 3 hours per day and between 9 and 30 hours per week. Paid 1/38 of the relevant weekly rate.</p> |

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| | <p>say what happens when the employee does not agree. This provision suggests that part-timers could be treated as casual employees in all respects.</p> <p>Probationary period 1-3 months. Probationary period may be exceeded if employee can establish that a probationary review to terminate or continue the employment of an employee was not conducted due to circumstances beyond its control.</p> <p>A replacement employee can be brought in just to replace some one who is on Parental Leave. Employment is on a temporary basis.</p> <p>Salaried employees - Level 5-7 inclusive. No cap on hours worked.</p> <p>A sales employee can be asked to work in cleaning and production areas.</p> <p>Trainees engaged under the National Training Wage Award.</p> <p>Employees can request to work 'voluntary hours' – outside of ordinary hours without penalty rate for overtime.</p> <p>No minimum engagements apply.</p> | <p>Probationary period is one month.</p> <p>Cleaning restricted to cleaning incidental to the work performed.</p> <p>Work outside of ordinary hours is overtime and is paid at overtime penalty rates.</p> <p>Casual employees minimum daily engagement is 3 hours.</p> |
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| <p>7 Classification</p> | <p>No automatic progression Level 1 to Level 2 Baking Employee - Employee to be assessed approved by employer before employee able to progress.</p> <p>Sales employee is an employee who has 6 months relevant retail experience or has a designated cleaning role. No mention of what they are classified as if do not possess 6 months retail experience, perhaps they don't hire them? Progression to Level 3 Sales position is only achievable if the employee completes a certificate 2 in Retail operations and for progression to Level 3 Baking a Certificate 2 at Food Processing. Employees predominantly doing cleaning will remain on Level 1.</p> <p>Reference to Level 3 Sales Employees seems to conflict with the criteria for progression to a Level 3 from Level 1 as stated above in that here it states that not only must the employee have completed a Certificate 2 in retail operations but be responsible for their own work, work under routine supervision, exercise discretion etc. Potentially this could mean that the employee could deny an employee a Level 3 classification despite having a completed certificate 2 in retail operations.</p> | <p>Classification determined by work performed.</p> |
| <p>8 Higher Duties</p> | <p>Higher classifications for both baking and sales exist Higher duties is payable upon appointment to the task, if less than 3 hours no higher duties is payable, if more than 3 paid at the higher rate. Trainees being supervised in higher duties are in eligible.</p> | <p>In-charge rates apply weekly or pro-rata for all hours worked.</p> |

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| <p>9 Rates of Pay</p> | <p>Individuals may negotiate higher rates of pay then that which is contained in Agreement.</p> <p>Rates of pay for Adult Level 2 Sales is \$534.80 (at 40 hours per week), \$13.37 per hour.</p> <p>Junior rates 17 and under - 62% = \$8.27 per hour; At 18 yrs - 75% - \$10.00 per hour At 19 yrs - 85% - \$11.34 per hour At 20 yrs - 90% - \$12.00 per hour</p> <p>Paid fortnightly in arrears, pay day nominated by employer, can be changed by the giving of 2 weeks notice.</p> <p>9.2</p> <p>9.3</p> <p>The formula is the wage increase will be the same % increase as the % increase to the tradesmans rate in the National Wage Case decisions to be applied 12 months after the NWC decision has been applied. 12 month wage freeze/lag applies</p> <p>9.4</p> <p>Employees allowed to consume \$5 worth of product daily on the <i>Bake</i> house.</p> <p>9.5</p> <p>Failure to fill time sheet correctly may result in no payment for the corresponding period.</p> | <p>Adult Shop Assistant - \$542.80, \$14.28 per hour (for 38 hours) 40 hour week (ie 2 hours overtime) - \$585.64</p> <p>Junior rates - 40% under 16 - \$5.71 per hour At 16 years - 50% - \$7.12 per hour At 17 years - 60% - \$8.50 per hour At 18 years - 70% - \$10.00 per hour At 19 years - 80% - \$11.43 per hour At 20 years - 90% - \$12.86 per hour</p> <p>Paid weekly (can be paid fortnightly), same day each week no later than 3 days after end of pay period. On public holidays than the day immediately before the public holiday.</p> <p>SWC increase on 28 July each year.</p> |
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| | <p>No Allowances</p> <p>Penalty Rates - Although overtime rates appear in wage schedule and a set span of hours appear for the various classes of employees - there is no overtime provision or mention that work outside the span will be treated as overtime. Overtime worked as "Voluntary hours" does not attract overtime penalty rates.</p> <p>Ordinary rate on Saturday</p> <p>Ordinary rate on a Sunday</p> | <p>Allowances - Various allowances including First Aid - \$1.54 per day, Motor Vehicle - <2000cc - 49 cents per km, > 2000 cc - 53 cents per km, Meal allowance - \$10.40, Uniform \$8.60 per week.</p> <p>Penalty Rates - All time outside of span of hours is overtime.</p> <p>Time and quarter for permanent employees for work on a Saturday and fixed loadings for casual employees i.e. \$5.90 for adult employees and \$3.95 for employees under 21 years of age.</p> <p>Time and half on Sundays.</p> |
| <p>10 Contract of Employment 10.2</p> <p>10.3</p> | <p>Notice provision is a standard provision allowing for up to 4(6) weeks notice.</p> <p>Standard Abandonment of work provision - 3 shifts.</p> | <p>Same provision.</p> <p>No such provision.</p> |
| <p>11 Leave Conditions 11.1.1</p> | <p>Employer can direct employee take accrued leave by the giving of 2 weeks notice - this is contrary to the Annual Holidays Act which compel employers to give at least 4 weeks notice.</p> | <p>Annual Holidays act requires 4 weeks notice to be given to employees.</p> |

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| 11.1.2 | Annual Leave to be taken at a time fixed by the employer. | Employer can give notice to take leave. |
| 11.1.3 | Employees required to take at least 10 consecutive days Annual Leave each year. Can hold over no more than 5 days over from previous year ie a total of 25 days. Payment in lieu may be made for balance of days not taken in any one anniversary year ie can be paid out 10 days each year. | No cash out of Annual Leave. Can take Annual Leave as single days at times agreed. |
| 11.1.4 | No Annual Leave loading applies - incorporated into base rate. | Leave Loading of 17.5% applies on fully accrued leave |
| 11.2 | Up to 10 paid days (80 hours) each year for Personal Leave purposes. This pool includes Sick Leave. | Sick Leave accrues at 38 hours first year and at 61 hours each year thereafter. |
| 11.2.3 | Medical evidence required. | Proof of evidence that employer may reasonably require. |
| 11.3 | 3 days (24 hours) of an employees' Personal Leave entitlement available to use for Bereavement Leave . Part-time employees are entitled to use 30% of their Personal Leave entitlement for Bereavement Leave. | Bereavement Leave - Standalone entitlement of 3 paid days for each bereavement. Pro-rata for part-time employees. |
| 11.4 | 5 days of an employees' Personal Leave entitlement available to use as Carer's Leave . | Carer's Leave - full use of Sick Leave entitlement. |
| 11.5 | Public holiday is paid at ordinary rate. Employees whose working day falls on a public holiday | Public Holiday is paid at double time and a half. Public Holiday work is voluntary. Payment for when it is |

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| | will be required to work if business operations require. When employee required to work on a public holiday will be given time off will be at time for time (no penalty). Employee must give 2 weeks notice of time off in lieu. Must be taken 2 months after accrues (no mention of what happens when not taken in the requisite period). At the employers absolute discretion employee may be paid at double time rather than be given time off in lieu. | a non-working day is paid by mutual agreement i.e. a days pay, a day added to Annual Leave or another day off with pay within 28 days or prior to the public holiday. |
| 11.6 | 12 months Parental Leave available to permanent employees. Can request to return to work part-time only if the employer can accommodate. No Adoption Leave available. | 12 months Parental Leave available to permanent employees and employees with casual employees with 12 months service. Parental Leave includes Adoption Leave. |
| 11.7 | Long Service Leave - governed by state legislation. | Same. |
| 11.8 | Special Leave may be considered by employer for emergency services and employees may bank overtime hours which can be used in the event of a natural disaster. | N/A. |
| 11.9 | You will be paid your normal pay, jury fees to reimburse employer. | Employee paid the difference between jury fees and normal pay. |
| 12 Superannuation | Superannuation paid into a complying fund. | Superannuation is paid into REST through Retail Employees Superannuation Award. |
| Hours of Work 13.1 | 7 day operation. Weekends are to be treated no different to week days. Employer, whilst mindful of the employees preference of hours, may direct employees to work a roster within the span of ordinary hours. | Employer to take into account the employees family responsibilities. |

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| <p>13.2</p> <p>13.3</p> <p>13.4</p> <p>13.5</p> <p>13.6</p> <p>13.7</p> <p>OHS 14</p> | <p>Employees will be rostered on weekly basis. Employee will be given 1 weeks notice of a roster change or less in the event of unforeseen circumstances.</p> <p>Same Level employees may swap shifts provided advance approval given by management.</p> <p>5 minute rest pause after 3 to 5 hours of work. Rest breaks to be taken at times directed by management.</p> <p>30 minute unpaid meal break after 5 hours of work at times directed by management.</p> <p>Standown - No payment for plant breakdown, strikes, stoppage.</p> <p>Time off in lieu for overtime will be at time for time.</p> <p>Standard OHS clauses hygiene, smoking - may be terminated for smoking whilst wearing Company Uniform with the logo visible.</p> <p>Uniforms supplied, no provision for a laundry allowance.</p> <p>Requirement to adhere to policy as amended from time to time.</p> | <p>Permanent employees to be provided with a roster which will not be subject to frequent variations unless by mutual agreement.</p> <p>More than 4 hours = 10 minutes, 9 hours or more receive a second 10 minutes rest break.</p> <p>More than 5 hours = Between 30 minutes and 60 minutes.</p> <p>No standown provision in Award.</p> <p>Time off for overtime will be at penalty equivalent.</p> <p>OHS prescribed by state legislation.</p> <p>When Uniforms supplied, employees paid a laundry allowance.</p> <p>N/A</p> |
| <p>14.7</p> <p>18 Policies</p> | | |

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| 21 Dispute Resolution | <p>No role for AIRC. Start at lower levels then senior management then referred to mediation by either party. Work to continue according to employment contract.</p> <p>Parties agree to not commence action under s170VV or obtain damages for breach AWA or part VW of Act other than to enforce s170VU of the Act unless party initiating action has genuinely attempted to resolve issue at workplace and 7 days has expired since mediation or 7 days after party initiating action gave notice that mediation is not requested.</p> <p>Old federal standard of 8 weeks.</p> | <p>Normal work continues as procedure is being followed. Employees entitled to be represented by Union. Right of recourse through NSW IRC for conciliation and/or Arbitration of Disputes.</p> <p>No such undertakings given.</p> |
| 22 Redundancy | | Redundancy is up to 20 weeks pay for 6 years or more of service. |
| 24 Private Work | Restriction on work which may be a conflict of interest | No such restrictions |
| Supported Wage | No Supported Wage provision. | Supported Wage. |
| Reasonable Overtime | No provision | Test Case provision. |
| Union Clauses | No provision | Payroll Deductions apply. |