

Gardening and Landscaping Services Award 2020

The [Gardening and Landscaping Services Award 2020](#) is an industry Award which covers many different types of roles contained within the Gardening and Landscaping services industry in general. The following are some key items of this Award, please refer to the Award for full references of clauses.

Coverage – Clause 4

This industry award covers employers throughout Australia in the gardening and landscaping services industry and their employees in the classifications listed in [Schedule A – Classification Structure](#), to the exclusions of any other modern award.

Where an employer is covered by more than one award, an employee of that employer is covered by the award classification which is most appropriate to the work performed by the employee and to the environment in which the employee normally performs the work.

NOTE: Where there is no classification for a particular employee in this award it is possible that the employer and that employee are covered by an award with occupational coverage.

<p>The Gardening and landscaping services industry means:</p> <ul style="list-style-type: none"> a) the design, preparation and installation of pavements, landscape features, and/or associated lawns and gardens in parklands, public domain and recreation areas; b) maintenance or horticultural establishment work following practical completion of work; c) the laying-out, construction, cultivation or keeping in order of gardens in connection with private houses; d) landscape and environmental rehabilitation and restoration works on private or public lands; or e) the preparation and maintenance of gardens and grounds including related turf and renovation works in sports fields. 	<p>The award does not cover employers or employees covered by the following awards:</p> <ul style="list-style-type: none"> a) <i>Aged Care Award 2020</i>; b) <i>Amusement, Events and Recreation Award 2020</i>; c) <i>Building and Construction General On-site Award 2020</i>; d) <i>Cemetery Industry Award 2020</i>; e) <i>Educational Services (Schools) General Staff Award 2020</i>; f) <i>Health Professionals and Support Services Award 2020</i>; g) <i>Local Government Industry Award 2020</i>; h) <i>Racing Industry Ground Maintenance Award 2020</i>; or i) <i>Registered and Licensed Clubs Award 2020</i>.
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Individual Flexibility Agreements - Clause 5

<p>An employer and an individual employee may agree to vary the application of the terms of this award relating to any of the following in order to meet the genuine needs of both the employee and the employer:</p> <ul style="list-style-type: none"> a) arrangements for when work is performed; or b) overtime rates; or c) penalty rates; or d) allowances; or e) annual leave loading. 	<p>An agreement may only be made after the individual employee has commenced employment with the employer.</p> <p>Refer to the Award for further provisions relation to Individual flexibility arrangements.</p> <p>An agreement must be one that is genuinely made by the employer and the individual employee without coercion or duress.</p>
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Requests for flexible working arrangements – Clause 6

<p>An employee may request a change in working arrangements. As set out in Clause 65 of the Fair Work Act 2009 (the Act), the request must be in writing and set out details of the change sought and of the reasons for the change.</p> <p>Where an employee makes a request to their employer for a change in working arrangements relating to circumstances that apply to the employee, the employer must give the employee a written response to the request within 21 days.</p>	<p>NOTE: The employer may only refuse the request on reasonable business grounds (see section 65A(3) of the Fair Work Act 2009).</p> <p>Refer to the Act for further provisions relation to Request for flexible work arrangements.</p>
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Facilitative Provisions – Clause 7

A facilitative provision provides that the standard approach in an award provision may be departed from by agreement between an employer and an individual employee, or an employer and the majority of employees in the enterprise or part of the enterprise concerned. Refer to the clause within the Award.

Types of Employment – Part 2

<p>Full Time Employment</p>	<p>A full-time employee is an employee who is engaged to work an average of 38 ordinary hours per week.</p>	<p>At the time of engagement an employer will inform each employee of the terms of their engagement and whether they are to be full-time, part-time or casual.</p>
<p>Part Time Employment</p>	<p>A part-time employee is an employee who:</p> <ol style="list-style-type: none"> is engaged to work less than an average of 38 ordinary hours per week; and receives on a pro-rata basis, equivalent pay and conditions to those of full-time employees who do the same kind of work. 	<p>Some specific provisions for part-time employees include:</p> <ul style="list-style-type: none"> ○ a part-time employee is entitled to annual leave and personal/carer's leave on a pro-rata basis ○ All time worked in excess of the hours mutually arranged will be overtime and paid for at the appropriate overtime rate in accordance with the overtime clause. <p>At the time of engagement, the employer and part-time employee will agree in writing to:</p> <ul style="list-style-type: none"> ● A regular pattern of work specifying the hours worked each day ● Days of the week to work ● The actual start and finish times each day. <p>These details can only be varied by mutual agreement in writing.</p>



<p><u>Casual Employment</u></p>	<p>For each hour worked, a casual employee must be paid:</p> <ul style="list-style-type: none"> a) the ordinary hourly rate; and b) a loading of 25% of the hourly rate, for the classification in which they are employed. <p>The casual loading is paid instead of annual leave, paid personal/carer's leave, notice of termination, redundancy benefits and other entitlements of full-time or part-time employment under this Award.</p>	<p>A casual employee is entitled to a minimum period of engagement of 3 hours.</p> <p>An employer engaging a casual employee, must adhere to the casual definition contained within Fair Work Act 2009 s15A and comply with the provisions of the <i>Gardening and Landscaping Services Award 2020</i>.</p> <p>Offers and requests for casual conversion are in accordance with the NES.</p>
<p><u>Junior Employment</u></p>	<p>A junior employee is aged under 20 years of age.</p>	<p>The rate payable to a junior will, in the case of a weekly employee, be calculated to the nearest \$0.10 of the minimum rate, and in the case of an hourly employee, be calculated to the nearest cent.</p>
<p><u>Apprentice</u></p>	<p>To be engaged as an apprentice, the person must be signed to a training agreement for the apprenticeship.</p> <p>Depending on the apprenticeship will depend on whether it is full-time or part-time employment.</p>	<p><u>Attending training</u></p> <ul style="list-style-type: none"> a) An apprentice will be released from work to attend any training and assessment specified in, or associated with, the training contract. b) An apprentice's attendance at training must be without loss of continuity of employment and be paid at the appropriate wages. c) Time spent attending training will be counted as time worked for the purposes of calculating the apprentice's wages and determining their employment conditions. <p>The employer must pay for (or reimburse the apprentice) all training fees and textbooks required for the apprenticeship.</p>
<p><u>Adult apprentice</u></p>	<p>For the purpose of this Award, adult apprentice means a person aged 21 years or over at the time of entering into a training agreement.</p>	<p>A person was employed by the employer immediately prior for at least 6 months as a full-time employee or 12 months as a part-time or regular casual employee to becoming an adult apprentice with that employer, such person will not suffer a reduction in the rate of pay because of entering into a training agreement.</p> <p>The adult apprentice must then continue to receive the minimum wage that applies to the classification specified in the classification immediately prior to entering into the training agreement.</p> <p>The employer must pay for (or reimburse the apprentice) all training fees and textbooks required for the apprenticeship.</p>



<p><u>School-Based apprentice</u></p>	<p>A school-based apprentice is a person who is undertaking an apprenticeship in accordance with this schedule while also undertaking a course of secondary education.</p> <p>A school-based apprentice is considered a part time employee and the provisions and entitlements of part-time employment apply.</p>	<p>Where an apprentice is a full-time school student, the time spent in off-the-job training for which the apprentice must be paid is 25% of the actual hours worked each week on-the-job. The wages paid for training time may be averaged over the semester or year.</p> <p><i>For example</i>, if the school based apprentice works 8 hours each week, 25% of actual hours worked would be 2 hours, therefore the school based apprentice would be paid 10 hours per week.</p> <p>School-based apprentices progress through the relevant wage scale at the rate of 12 months progression for each 2 years of employment as an apprentice or at the rate of competency-based progression if provided for in this award.</p>
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Ordinary hours of work – Clause 13

<p><u>Ordinary hours and rostering arrangements</u></p>	<p>The ordinary hours of work will be 38, or an average of 38, hours per week. Ordinary hours may be averaged over a 4-week cycle.</p> <p>Ordinary hours will not exceed 10 hours per day.</p>	<p>Ordinary hours may be worked:</p> <ul style="list-style-type: none"> a) Monday to Friday between 6.00am and 6.00pm; and b) Saturday between 6.00am and 12.00 noon. <p>An employer may employ a system of <u>rostered days off</u> (instead of working 38 hours per week). Refer to the Award for specific details.</p>
<p><u>Water restrictions</u></p>	<p>Where an employer is subject to water restrictions, the employer may require any employee to perform their ordinary hours of work (or any such ordinary hours) at any time on any day other than a Saturday after 12 noon or on a Sunday.</p> <p>Where the ordinary hours are performed outside the spread of hours specified in the ordinary hours clause above, those hours will be paid at 150% of the ordinary hourly rate.</p>	<p>Water restrictions means restriction or rationing in the use of water in accordance with orders or regulations approved by the appropriate lawful authority.</p>

Breaks – Clause 14

<p><u>Meal Break</u></p>	<p>An unpaid meal break of not less than 30 minutes will be allowed no later than 5 hours after starting work.</p>	<p>An employee required to work through their normal meal break will be paid at 150% of the ordinary hourly rate until such time as they receive a meal break of the usual length.</p>
<p><u>Rest Break</u></p>	<p>Employees will be allowed a paid rest break of 10 minutes each morning or at an appropriate time if water restrictions are in place.</p>	<p>Where agreement is reached between the employer and employee for an additional rest break, the rest break will be unpaid and exclusive of the employee's ordinary hours of work.</p>

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Overtime breaks	An employee working overtime will be allowed a paid break of 20 minutes duration without deduction of pay after each 4 hours of overtime worked if the employee continues work after the break.	Where the period of overtime is to be for more than one and a half hours, an employee will be allowed a meal break of 20 minutes after ordinary hours before starting overtime, paid for at the ordinary hourly rate. An employer and employee may agree to any variation to meet the circumstances of the work in hand provided that the employer will not be required to make payment in respect of any time allowed in excess of 20 minutes.
Rest period after overtime duty	When overtime work is necessary it will, wherever reasonably practicable, be arranged so that employees have at least 10 consecutive hours off duty between the work on successive days. Where an employee (other than a casual employee) works so much overtime that there is less than 10 hours between finishing overtime on one day and starting their ordinary work on the next day, the employee will be released, until they have had at least 10 consecutive hours off without loss of pay for ordinary working time occurring during such absence.	If, on the instructions of the employer, an employee resumes work or continues work without having had 10 consecutive hours off duty they will be paid at 200% of the ordinary hourly rate until the employee is released from duty for such period and the employee can then be absent until they have had 10 consecutive hours off duty without loss of pay for ordinary working time occurring during that absence.

Overtime – Clause 19

Please refer to this clause for information on what is considered reasonable overtime and the factors to be considered.

	Day overtime is worked	% of <u>ordinary hourly rate</u>
Full-time and part-time employees	Time worked in excess of: <ul style="list-style-type: none"> • 38 ordinary hours in a week; or outside spread of hours; or • 10 hours per day: <ul style="list-style-type: none"> ○ First 2 hours ○ After 2 hours 	150% 200%
Casual employees	Time worked in excess of: <ul style="list-style-type: none"> • 38 ordinary hours in a week; or outside spread of hours; or • 10 hours per day: <ul style="list-style-type: none"> ○ First 2 hours ○ After 2 hours 	175% 225%
Public Holidays	<ul style="list-style-type: none"> • A full-time or part-time employee required to work on a public holiday will be paid for a minimum of 4 hours • A casual employee required to work on a public holiday will be paid for a minimum of 4 hours 	250% 275%

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Call back	An employee required to attend for work after leaving the place of employment will be paid a minimum of 4 hours' pay at the appropriate rate for each attendance, provided that the employee will not be required to work a full 4 hours' work if the job they were recalled to perform is completed within a shorter period.
Time off instead of payment for overtime	<p>An employee and employer may agree in writing to the employee taking time off instead of being paid for a particular amount of overtime that has been worked by the employee.</p> <p>The period of time off that an employee is entitled to take is the same as the number of overtime hours worked. For example - an employee worked 2 overtime hours is entitled to 2 hours' time off.</p> <p>Refer to the Award for further details.</p>

[Superannuation – Clause 18](#)

An employer is required to comply with Superannuation legislation and make relevant employer contributions as determined by the legislation. An employee can make voluntary contributions as well.

[Absence from work](#)

Subject to the governing rules of the relevant superannuation fund, the employer must also make the superannuation contributions in the following situations:

- a) **Paid Leave** – while the employee is on any paid leave;
- b) **Work-related injury or illness**—for the period of absence from work (subject to a maximum of 52 weeks) of the employee due to work-related injury or work-related illness provided that:
 - i. the employee is receiving workers compensation payments or is receiving regular payments directly from the employer in accordance with the statutory requirements; and
 - ii. the employee remains employed by the employer.

[Leave and Public Holidays – Part 6](#)

Annual Leave	<p>Annual leave is provided for in the NES.</p> <p>A shiftworker means an employee whose ordinary working period includes Saturdays, Sundays and/or public holidays which the employee may be regularly rostered to work. A Shiftworker is entitled to an additional week of annual leave per year.</p>	<p>Annual leave carries over year to year.</p> <p>During a period of annual leave an employee must also be paid an annual leave loading equal to 17.5% of the wages the employee would ordinarily receive.</p> <p>Refer to the Award for Excessive Leave accruals.</p> <p>Refer to the Award for Annual leave in advance.</p> <p>Refer to the Award for Cashing out of annual leave.</p> <p>Refer to the Award for Annual close-down. The employer is required to provide one months' notice in writing of an intention to have a close down.</p>
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Personal/carer's leave and compassionate leave	<ul style="list-style-type: none"> • A full-time employee is entitled to 10 days personal/carer's leave per year • A part-time employee receives a pro-rata amount of personal/carer's leave based on ordinary hours of work. • A casual employee is entitled to 2 days of unpaid carer's leave for each permissible occasion. 	<p>Personal/carer's leave rolls over year to year.</p> <p>For details of when an employee can be absent from work due to personal/carer's leave, refer to the Award and the National Employment Standards (NES) within the <i>Fair Work Act 2009</i>.</p> <p>Refer to the Award and the NES for further information relating to compassionate leave, parental leave, community service leave.</p> <p>Long service leave is provided for within the relevant State Legislation.</p>
Family and domestic violence leave	<p>All employees (including full-time, part-time, casual) are entitled to 10 days paid leave in a 12 months period of the employee's employment. This leave does not accumulate from year to year.</p>	<p>The employee may take paid family and domestic violence leave if:</p> <ol style="list-style-type: none"> a) the employee is experiencing family and domestic violence; and b) the employee needs to do something to deal with the impact of the family and domestic violence; and c) it is impractical for the employee to do that thing outside the employee's work hours. <p>For example, attending court hearings, accessing support services, attending counselling and appointments with medical, financial or legal professionals.</p>
Public Holidays	<p>Public holidays are provided for in the NES.</p>	<p>Refer to the Award for specific on part-day public holidays and substitute days.</p>

[Workplace Delegate, Consultation and Dispute Resolution – Part 7](#)

[Workplace Delegates Rights – Clause 25A](#) - Please note this is a new clause – please refer to the Award for further provisions.

A workplace delegate (a person appointed or elected in accordance with the rules of an employee organisation, to be a delegate or representative) must give the employer written notice of their appointment or election as a workplace delegate. If requested, the workplace delegate must provide the employer with evidence that would satisfy a reasonable person of their appointment or election. An employee who ceases to be a workplace delegate Right of representation must give written notice to the employer within 14 days.

A workplace delegate may represent the industrial interests of eligible employees who wish to be represented by the workplace delegate in matters including:

- a. consultation about major workplace change;
- b. consultation about changes to rosters or hours of work;
- c. resolution of disputes;
- d. disciplinary processes;
- e. enterprise bargaining where the workplace delegate has been appointed as a bargaining representative under section 176 of the Act or is assisting the delegate's organisation with enterprise bargaining; and
- f. any process or procedure within an award, enterprise agreement or policy of the employer under which eligible employees are entitled to be represented and which concerns their industrial interests.

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Please refer to the Award for specific details on:

- [consultation about a major workplace change – clause 26,](#)
- [consultation about changes to rosters or hours of work – clause 27,](#)
- [dispute resolution – clause 28.](#)

Termination of Employment and Redundancy – Part 8

Termination – Clause 29

The National Employment Standards (NES) set out the requirements for notice of termination by an employer S117 and S123 of the *Fair Work Act 2009*.

Employee’s period of continuous service with the Employer at the end of the day the notice is given	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

- If the employee is over 45 years old and has completed at least 2 years of continuous service with the employer at the end of the day the notice is given, then the employee receives an additional 1 week notice if the employee is terminated or made redundant.
- The notice of termination required to be given by an employee is the same as that required of an employer except that the employee does not have to give additional notice based on the age of the employee.
 - PLEASE NOTE: If an employee who is at least 18 years old does not give the period of notice required, then the employer may deduct from wages (not leave) due to the employee under this award an amount that is no more than one week’s wages for the employee.

Payment on Termination of employment

Final payments on termination must be made within 7 days to the employee via cheque, cash or electronic funds transfer.

The employer must pay the employee:

- (i)** the employee’s wages under this award for any complete or incomplete pay period up to the end of the day of the termination; and
- (ii)** all other amounts that are due to the employee under this award and the [NES](#).

Redundancy – Clause 30

Redundancy is provided for in accordance with the [NES](#) S119-123 of the *Fair Work Act 2009*. Amount of redundancy pay as per Section 120 of *Fair Work Act 2009*:

	Employee's period of continuous service* with the employer on termination	Redundancy pay period (at employees current rate of pay)
1	At least 1 year but less than 2 years	4 weeks
2	At least 2 years but less than 3 years	6 weeks
3	At least 3 years but less than 4 years	7 weeks
4	At least 4 years but less than 5 years	8 weeks
5	At least 5 years but less than 6 years	10 weeks
6	At least 6 years but less than 7 years	11 weeks
7	At least 7 years but less than 8 years	13 weeks
8	At least 8 years but less than 9 years	14 weeks
9	At least 9 years but less than 10 years	16 weeks
10	At least 10 years	12 weeks

*A reference in this section to continuous service with the employer does not include periods of employment as a casual employee of the employer.

Classifications Structure – Schedule A

Refer to Schedule A for information about duties of each different level within the Award.