

Industry e-guide

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# Retail

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# Introduction.

The Retail Industry has drastically evolved over the years – from competition of the digital age, Award changes, and the growing scrutiny of the Fair Work Ombudsman (FWO).

Retail business owners may find themselves in a sea of priorities, ensuring that their business remains competitive, while also ensuring that their employees are receiving the right entitlements.

In 2016, the FWO launched a tip-off service for employees to report breaches in the workplace. Since then, they have received over 20,000 tip-offs. The tip-off service was later updated to incorporate 16 languages. They received close to 800 additional tip-offs in languages outside of English.

The service allows for employees to share their grievances of unfair treatment while remaining anonymous. This protects the employee – preserving both their job and relationship with their employer. But this also means that the employer is unaware of what has been shared with the FWO about their business and practices. These tip-offs often result in audits of specific businesses, and they also shape broader campaigns.

It is getting increasingly important that employers are fully aware of their obligations and keep their business compliant. It all begins with the relevant Award that categorises your particular employees. Each Modern Award has its own criteria and specifications.

In early 2018 the Fair Work Commission president said that the language used in industrial awards documentation was “tortuous”, stating that “small business operators want to meet their legal obligations,” but they find the Award system too complex to understand.

This e-guide simplifies the General Retail Industry Award, making it assessable to all retail business owners.



Chapter 1

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# Award coverage.

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# Award coverage.

The definition of retail can be rather broad. It tends to cast its shadow in many sectors, blurring the lines of what is truly retail. Many employers may find it perplexing to identify the specific category for their business, and more importantly it's accompanying Modern Award(s).

The Award an employee falls under will provide the basis of their minimum entitlements, as well as their wages and other conditions such as penalty rates, allowances, leave entitlements, allowances and leave entitlements.

This is important because every employee should be treated fairly, and if a business or employer is unaware of their obligations, they may find themselves under scrutiny with the possibility of action being taken against them.

The General Retail Industry Award 2010 (GRIA) covers employers in the general retail industry and their employees in the classifications set out in the Award.

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# Businesses that fall under GRIA.

General Retail Industry means the sale or hire of goods or services to final consumers for personal, household or business consumption including (but not limited to):



Food retailing, supermarkets, grocery stores



Department stores, clothing and soft goods retailing



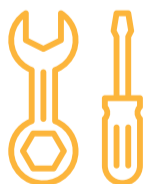
Furniture, houseware and appliance retailing



Recreational goods retailing



Personal and household goods retailing



Household equipment repair services



Bakery shops – where the predominant activity is baking products for sale on the premises

# Businesses that don't fall under GRIA.



Community Pharmacies



Pharmacies in hospitals and institutions providing an in-patient service



Hair and beauty establishments



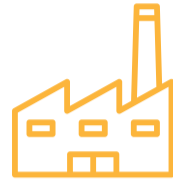
Hair and beauty work undertaken in the theatrical, amusement and entertainment industries



Stand-alone butcher shops



Stand-alone nurseries



Retail activities conducted from a manufacturing or processing establishment other than seafood processing establishment



Clerical functions performed away from the retail establishment



Warehousing and distribution



Motor vehicle retailing and motor vehicle fuel and parts retailing



Fast food operations



Restaurants, cafes, hotels and motels

# Does GRIA cover Retail Managers?

There has been ambiguity when it comes to Retail Managers and their respective Awards. The confusion grows when the manager's job description includes the act of hiring and firing employees.

In order to determine whether your manager is covered by the Retail Award, you will have to examine the duties they perform. Having the responsibility of hiring or firing employees should not be the deciding factor. If the manager's other duties are covered by the classifications of the award, they can indeed be covered by GRIA.



A smiling baker with a beard, wearing a white chef's hat and a dark apron over a white shirt, stands behind a counter. In the foreground, several loaves of bread are displayed on a white surface. The background shows a bakery setting with shelves and equipment.

Chapter 2

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# Types of employment.

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# Types of employment.

The faces in retail are constantly changing. From high staff turnover to the frequent hiring of casual and seasonal workers. Hiring of new employees is unavoidable in retail. What is avoidable, however, is misinterpreting your obligations towards them.

Different employees have different entitlements, so it is important for employers to know which category their employees fall under.

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## **Additional Information:**

These categories are further subdivided to different levels within the Award.

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# Three categories of employment.

There are three categories that employees under GRIA fall in:

- 1) Full-time**
- 2) Part-time**
- 3) Casual**

Employers need to inform their staff at the time of engagement which type of employment they fall under. Accordingly, their work schedule, allowances, breaks and more can be outlined and practised.

## Full-time employment.

A full-time employee is one who is engaged to work an average of 38 hours per week. The 38 hours of the week can be rostered in any of the following ways:

38 hour week roster options
(a) Shorter days (7.6 hours)
(b) Shorter day or days each working week
(c) Shorter fortnight, i.e. 4 hours off in addition to the rostered day off
(d) Fixed day off in a 4-week cycle
(e) Rotating day off in a 4-week cycle
(f) Accumulating day off in a 4-week cycle – maximum of 5 days being accumulated in 5 cycles

Businesses with **more than 15 employees** need to ensure that their full-time employees **do not work more than 19 days per 4-week cycle** – unless stated otherwise in their agreement. If they do, they are entitled to overtime.

## Full-time employees (Sundays) employment.

If you have full-time employees who regularly work on Sundays, they need to have three consecutive days off every four weeks. The consecutive days off will need to include Saturday and Sunday.

However, if the employee has specifically requested for other arrangements – in writing – and the employer agrees to it, the requirement above would not apply. It is vital for employers to record the revised arrangements in the time and wages records.

An employee can terminate the agreement by giving four weeks' notice to the employer.

*\*Employees cannot be coerced into making this request nor can this be presented as a condition of employment.*

## Part-time employment.

Part-time employees have reasonably predictable hours but their hours are lesser than a full-time employees – that is less than 38 hours per week.

Before commencing employment, the employer and employee need to agree in writing on a regular pattern of work including:

- 1) Number of work hours per day**
- 2) Work days**
- 3) Starting and finishing times**

An employer is required to roster a part-time employee for a minimum of three consecutive hours on any shift. A roster may permanently change the days of the week an employee is required to work but not the total hours performed. In the absence of written variation, a part-time employee who works in excess of the agreed upon hours has to be paid overtime.

## Casual employment.

Unlike full-time and part-time employees, casual employees are engaged on an hourly basis. They can work a maximum of 38 hours per week – with a minimum daily engagement of three hours.

A casual employee gets paid 25% more per hour than a full-time employee, a practice called ‘casual loading.’ This is because they get fewer entitlements than full-time employees – such as annual leave and unpaid carer’s leave.

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An employer is required to roster a part-time employee for **a minimum of 3 consecutive hours** on any shift.

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A casual employee gets **paid 25% more per hour** than a full-time employee.

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A woman with dark hair and bangs, wearing a yellow apron over a light-colored long-sleeved shirt, is smiling and looking down at a tray of food she is holding. The background shows a kitchen with shelves containing various items, including jars and a plant. The scene is brightly lit, suggesting a sunny day.

Chapter 3

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# Wages and hours.

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## Wages and hours.

There has been a growing emphasis and focus on underpayments in the retail sector over the past few years. The FWO has been conducting surprise visits and imposing penalties to non-compliant businesses. They have found a sizeable number of employers who are either deliberately or unwittingly underpaying their employees.

The payment model has recently been amended following the July 1 changes in both Minimum Wage and Penalty Rates. Miscalculating employees' salaries will financially impact both the employees and you (with FWO penalties) in the long run. Learn about the legally required wages and hours of work below.

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The FWO has been conducting surprise visits and imposing penalties **to non-compliant businesses.**

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## Ordinary hours.

Ordinary hours refer to your employees' regular timings and hours of work. While 'spread of hours' refers to the time of the day these ordinary hours are worked within.

The number of hours an employee has to work in a week, as well as the times of the day that they work, are determined by two factors:

- (1) The category of employment they fall under (full-time, part-time or casual)
- (2) Industry Awards and specific agreements

## Spread of hours.

Below is the spread of ordinary hours for the Retail Award:

**Monday:** Friday: 7.00am – 9.00pm

**Saturday:** 7.00am – 6.00pm

**Sunday:** 9.00am – 6.00pm

Do note that the spread of hours may differ for the following businesses:

- Newsagencies
- Bakeries
- Video Shops
- Retailers whose trading hours extend beyond 9.00pm Monday – Friday or 6.00pm on Saturday and Sunday.

## Overtime.

Overtime is work performed outside the ordinary hours. It is work performed beyond the maximum number of daily and/or weekly hours, outside the spread of hours, or outside the agreed number of hours in the employment agreement.

When an employee works overtime, they may be entitled to an overtime rate, which is higher than the ordinary rate. Such payments are intended to compensate employees for the inconvenience of having to work additional hours and provide reward for them doing so.

Overtime is payable for:

- Hours worked in excess of the ordinary hours
- Time worked outside the spread of hours (excluding shiftwork)
- Time worked outside of the prescribed roster conditions
- Working in excess of 11 hours one day of the week, and in excess of 9 hours on any other day of the week

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Overtime applies to **full-time, part-time** and even **casual employees.**

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## Penalty rates.

In 2017, a decision was made to reduce penalty rates for employees in the retail industry. This will affect penalty rates for casual, part-time and full-time employees.

The changes will roll out gradually over the coming years. Sunday penalty rates will consistently fall until 1 July 2020 for the General Retail Industry Award. The table below is a guide to the changes, for more information contact your workplace relations specialist.

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Penalty rates are higher pay rates given to employees when **they work on weekends, public holidays, overtime, early in the morning and/or late at night.**

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GENERAL RETAIL INDUSTRY AWARD		
Effective period	Penalty Rate (Sunday Work) <i>(Full-time and part-time employees)</i>	Penalty Rate (Sunday Work) <i>(Casual employees)</i>
1st July 2018 to 30th June 2019	180%	185%
1st July 2019 to 30th June 2020	165%	175%
1st July 2020 onwards	150%	175%



# Allowances.

List of common allowances:



Meal allowance



Special clothing / laundry allowance



Excess travel / travelling time reimbursement



Vehicle allowance



Cold work allowance



First aid



Recall allowance



Liquor licence allowance

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Retail employees may be entitled to **extra allowances depending on the circumstances** of their employment.

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# Breaks.

There are two types of breaks – rest breaks (also referred to as crib breaks, rest pauses, or tea breaks) and meal breaks. It is mandatory to provide your employees with breaks to allow them to rest and recuperate.

An employee cannot be required to take a rest break or meal break within one hour of commencing or ceasing of work. It is also not permitted to combine the two breaks.

Below is a standardised outline that employers are required to provide employees. However, the Award flexibility clause can be utilised to permit variations to this by the agreement between the employer and employees.

HOURS WORKED	REST BREAK	MEAL BREAK
< 4 hours	No rest break	No meal break
> 4 hours but < 5 hours	One 10-minute rest break	No meal break
> 5 hours but < 7 hours	One 10-minute rest break	One meal break for > 30mins but < 60mins
> 7 hours but < 10 hours	Two 10-minute rest breaks – to be taken in the first half and second half of the work hours, respectively	One meal break for > 30mins but < 60mins
> 10 hours	Two 10-minute rest breaks – to be taken in the first half and second half of the work hours, respectively	Two meal breaks for > 30mins but < 60mins

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## There are two types of mandatory breaks:

### (1) rest breaks

(also referred to as crib breaks, rest pauses, or tea breaks)

### (2) meal breaks

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Chapter 4

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# Award specific matters.

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## Award specific matters.

The General Retail Industry Award can be quite specific and detailed with its regulations. It is necessary that employers understand exactly what is required from them. Below are a few other areas that employers need to be familiar with.

## Rosters.

Rosters are timetables that clearly define the days and timings an employee is scheduled to work.

Employers have to display staff rosters clearly on a notice board. The roster needs to present information for each employee. It should also indicate three principle things:

- (i) the number of ordinary hours to be worked each week
- (ii) the days of the week on which work is to be performed
- (iii) the start and finish time of work for each day of the week

If there are any permanent changes in the roster, employers must inform the employee of those changes in writing with at least seven days' notice.

If the employee does not agree to the changes in the roster, they should be given at least 14 days in written notice instead of seven days. In his time, discussions will take place with the objective of resolving the matter with Dispute Resolution Principles.

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Rosters can be **required to be produced upon request**. So it is important that employers keep rosters for up to **12 months**.

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## Higher duties allowance.

Higher duties allowance applies to employees who are taking on more duties than what was stipulated in their contracts or in the Award level category that they fall in. They are to be compensated accordingly for the additional duties they are performing.

Employees engaged for more than two hours during one work day or shift on duties that carry a higher rate than their ordinary classification are to be paid the higher rate for such day or shift.

However, if they are engaged for two hours or less during one day or shift, the employee is to be paid the higher rate for the time worked only.

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Employees who take on duties **outside of their level classification (for levels higher than theirs)** are compensated with a higher duties allowance.

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## Employees who work alone.

Lone workers are simply people who work alone without direct or close supervision and this is usually legal. This includes workers who work in a fixed workplace but are isolated, 'on call workers' who work overtime, and workers who open and close work premises.

Just because an employee works alone, it does not mean that they are classified as Level 3 in GRIA. To determine which classification an employee falls under, various factors need to be considered, such as their duties and reason behind employment. Assessing an employee's classification should be on a case by case basis.

# Employee level classification.

The General Retail Industry Award can be further broken down to specific levels. The level that your employee falls under informs their entitlements such as hourly wages.

When determining the classification level applicable to your employee, it is important to consider the following:



Qualification and training



Years of experience



Tasks

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When you are confident about the level you feel your employee falls under, **compare it against the level above and below** to ensure that you have selected the right one.

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Chapter 5

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# Workplace health and safety.

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# Workplace health and safety.

Health and safety laws place responsibility on employers to identify any risks and notify their employees of best practices. Within the retail industry, there are approximately 10,500 serious workers' compensation claims annually.

Over **half of all serious claims** in retail trade came from the following:

- traumatic joint
- ligament
- muscle and tendon injuries

## Manual handling – handling boxes, cartons, and other objects.

The term manual handling applies to any activity that requires the use of force exerted by a person to lift, lower, push, pull, carry or otherwise move, hold or restrain any object or person.

While the weight of any load is critical, the frequency of lifting, posture while lifting, the surrounding environment and the employee's physical fitness are also important factors to consider.





Below are some other ways employers and retail managers can keep staff safe:

- Making sure in-store and back-of-store areas are free from clutter
- Following safe stock management practices such as minimising excess stock or items left lying around
- Ensuring staff do not lift stock from ground level onto shelves, as it puts an increased strain on their body. It is advisable to use an elevated work surface like a trolley or table
- Using safer alternatives to A-frame ladders or step ladders to access stock such as an appropriate platform-style ladder

## Stress.

Workplace stress is a very real occurrence in the modern workplace, with the incidence of stress-related claims having risen dramatically in the last ten years.

Workplace stress derives specifically from conditions in the workplace. These conditions may either cause stress initially or aggravate the stress already present from other sources.

These may arise from the content of work, for example work which is monotonous or lacks variety, or too much or too little work to do. Work that results in a person feeling unable to cope and unsupported may lead to illness, injury and job failure.

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Stress can also arise from the content of work. Work that results in a person feeling unable to cope and unsupported **may lead to illness, injury and job failure.**

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# Personal security at work.

Occupational violence is when a worker is physically or verbally attacked or threatened in the workplace or while they are working. Sources of violence in the retail industry include dissatisfied customers and criminal activity, for example robbery.

Tips to prevent occupational violence:

- Install security lighting or video surveillance
- Improve workers' ability to see potential offenders
- Reduce background noise
- Install locks on doors and windows and consider the use of security grills
- Improve cash handling procedures and roster enough staff to handle cash
- Avoid rostering young people alone at night
- Don't leave young people alone to close the business

Tips to manage cash more safely:

- Make cash less visible or less accessible
- Only open the cash drawer when in use and install an audible device to indicate opening of the cash drawer
- Store cash in a safe and count cash in a secure room
- Encourage cashless purchasing (credit cards or EFTPOS)
- Use a bank that is close to the workplace and make frequent, random deposits
- Avoid using public transport when carrying money
- When going to the bank, let someone know when you are expected to return
- Use signs such as 'no cash kept on premises'
- Make sure the point of sale worker is visible from the outside of the organisation
- Roster enough staff to keep delays to a minimum, reducing potential for customer aggression (this may also help to improve customer satisfaction)
- Provide information, training and supervision to help workers deal with security issues and aggressive or violent customers
- Advise workers to report incidents of violence
- If workers are in the workplace during a robbery or violent incident, arrange for counselling for them to access

Maintaining high standards of health and safety will also see benefits to the business and protect it from any bad publicity or potential employee unrest that might follow a serious accident or prosecution.

For more information on work health and safety, as well as employment relations, contact Employsure's advice line at 1300 651 415.

# Navigating workplace relations can be confusing.

Employsure works directly with employers to ensure they stay on top of rapidly changing legislation and provide a fair and safe workplace for their staff.

Whether it be dealing with a difficult employee, facing a tribunal claim or reviewing workplace health and safety, our clients can rest assured we have them covered.

**Get in touch with us today to find out how we can help your business grow.**

**1300 651 415**

[www.employsure.com.au](http://www.employsure.com.au)

 **employsure**  
workplace relations specialists