

## Junior Employees and Volunteers

This document has been created to provide clubs with a brief overview of the rules regarding engaging younger volunteers (hereafter referred to as junior volunteers) and junior employees primarily engaged under the *Registered and Licensed Clubs Award 2020* (Clubs Award). Please note that this is not an exhaustive list of everything that may apply to junior volunteers or employees.

### Minimum Working Age

In South Australia there is no legislated minimum age for when someone can begin working, be that as a paid employee or in a voluntary capacity.

Having said the above, clubs still need to be aware of certain restrictions contained in section 78 of the *Education Act 1972* (SA) which states that children of compulsory school age (6-16 years old) can't be employed when they should be at school. A child of compulsory school age should also not be volunteering at a time when they should be at school.

Additionally, it is also an offence to employ children during out of school hours or in an occupation that will or is likely to result in the child being unfit to attend school or participate in an approved learning program or obtain the proper benefit of such. An example of this would be having a child of mandatory school age do work consistently early in the morning before school or work late at night prior to a school day.

### Work Health and Safety (WHS)

The Work Health and Safety Act 2012 (SA) (WHS Act) requires "persons conducting a business or undertaking" (PCBU's) to provide a safe and secure working environment for their staff (employees and volunteers). A PCBU will be any Club that employs at least one person.

Purely volunteer run Clubs whilst not covered by the WHS Act still need to look after their volunteer and visitors safety as they can be liable for injuries caused by other laws e.g. negligence and common law duties of care.

A club should use common sense and be more attentive with junior employees or volunteers and ensure they are properly inducted and supervised as they are likely to have less experience and will be more at risk.

Junior employees and volunteers may also be more susceptible to being bullied, harassed or discriminated against and it is important that they have an appropriate supervisor who is well trained.

In order to ensure that junior employees and volunteers are properly inducted and provided with a safe working environment Clubs should take measures such as:

- Familiarising them with all safety procedures and policies
- Give them clear instructions in writing and verbally
- Demonstrate the safe use of machinery and watch them undertake tasks
- Follow up with them
- Encourage them to ask questions

## **Adults Working with Children - Working with Children and Police Checks**

A few clubs have previously asked if adult employees would require a working with children check (WWCC) if they are working with children. An employee does not automatically need to have a WWCC if they work with children in a service or activity and whether they do or not depends on if what they are doing is deemed “child related work”. Clubs can refer to Clubs SA’s working with children checks fact sheet for more information on what is deemed child related work etc.

There is no legal requirement for people working at not-for-profit's who work with children or generally to have a police check. Instead, this is more so up to the individual clubs and whether they want their employees and volunteers who work with children or in other specific areas to have this to be safe.

## **Junior Employees – Pay and Restrictions**

Under most Modern Awards and Agreements such as Enterprise Bargaining Agreements (EBA’s) there will be a specific minimum rate for junior employees.

Under the Clubs Award a junior employee is anyone who is under the age of 20 and in most circumstances they will be entitled to a junior rate as opposed to the standard adult rate. The junior rates are contained in clause 18.6 of the Clubs Award and are based on a percentage of the relevant adult rate as shown in the table below:

<b>Age</b>	<b>% of the relevant adult rate</b>
Under 18 years of age	60
18 years	70
19 years	85

When someone turns 20 they will be entitled to the full adult rate and junior employees are still entitled to the same award conditions as adult employees including penalty rates, overtime, late and early work, allowances etc.

**Where a junior employee is engaged in the service of alcohol (where permitted) however then as per clause 13.1 of the Clubs Award they must be paid at the adult rate of pay regardless of their age.**

In terms of what is meant by service of alcohol, this includes physically pouring or making drinks, taking orders and payment for alcohol (even if they don’t make the drink), serving alcohol to patrons at tables etc. It won’t however, include those who just handle alcohol without serving it e.g. filling a bar fridge or by virtue of just being in an area with a bar.

The service of alcohol also does not need to be the main duty the junior undertakes and only needs to be part of their duties.

Clubs with employees covered by another Award or Agreement will need to check the junior rates (if any) that are contained within and if a similar provision to clause 13.1 of the Clubs Award exists.

Another instance where an employee under 20 years of age should still be paid the adult rate is where they have completed an apprenticeship, in which case they should receive the relevant adult tradesperson rate.

In the rare event that a club engages a junior employee in a role that is not covered by the Clubs Award or any other Award then the rate applicable will be covered by the junior rates contained in the national minimum wage order.

As well as specific rules and entitlements regarding pay, clause 13.2 of the Clubs Award states that an employee who is under 18 is not allowed to work more than 10 hours in a shift.

### **Junior Employees - Apprenticeships and Traineeships**

Sometimes a club may consider engaging a junior employee as an apprentice (e.g. an apprentice chef) or as a trainee (e.g. a management trainee). When looking to do so a club needs to ensure that they have them undertake this through an approved registered training organisation (RTO).

If a junior employee is not employed as an apprentice or trainee under a formalised training agreement then they can't be called an apprentice or trainee and paid as such.

If a junior employee is engaged as an apprentice or trainee then there will be specific rules and pay that applies to them. The apprentice pay rates in the Clubs Award are all contained in clause 18 and specific provisions and rules applying to them can be found in clause 12.

Some of the rules applying to apprentices are that they need to have the cost of training fees paid by their employer or reimbursed to them (unless there is unsatisfactory progress). Apprentices under 18 also will not be required to work overtime, shiftwork or late work without their express consent.

As for trainees, management trainees have their pay rates contained in clause 18.10 of the Clubs Award but all other trainees will instead have their pay determined by Schedule E of the *Miscellaneous Award 2020* (although their other entitlements will still come under the Clubs Award).