



23 February 2017

Dear AHA Member,

Re: Fair Work Commission decision on penalty rates

Today's decision by the Fair Work Commission (FWC) on the Australian Hotels Association (AHA) application to reduce penalty rates for the Hospitality Industry (General) Award delivers important reductions in penalty rates that will help the hospitality industry create more jobs and offer more hours, but does not go far enough.

The FWC's long overdue decision follows 3 years of representations by the AHA and our accommodation subsidiary Tourism Accommodation Australia (TAA) to the 4 year review of the Modern Award.

The AHA has led this fight on behalf of the industry, and has developed submissions and been involved in a number of hearings before the FWC in relation to this issue.

The AHA's case challenged the status quo of cost-prohibitive penalty rates on weekends and public holidays. This battle on industrial relations was funded out of AHA reserves built up over many years and fighting fund fees were not required from membership to run this once in a generation fight.

This has been a long and expensive process, involving a large amount of work from the WA Workplace Relations team and our external legal advisers.

Forty-three AHA members had the courage to represent members by stepping into the witness box and being cross examined by Union barristers and the full bench of the FWC.

FWC Decision

In a 550-page decision following one of the most extensive evidentiary cases ever heard, the FWC found that existing penalty rates are restricting trading in hospitality businesses, lowering staffing levels and restricting the type and range of services provided to our community. The changes announced by FWC Commission President Iain Ross, who was appointed by Bill Shorten as Minister for Employment in 2012 have the potential to create new jobs and boost economic growth.

Commission President Iain Ross said that:

'The evidence also supports the proposition that a lower Sunday penalty rate would increase service levels with a consequent increase in employment (in terms of hours worked by existing employees or the engagement of new employees). In particular, a reduction in Sunday penalty

rates is likely to lead to: more stores being open on Sundays, increased Sunday trading hours, a reduction in hours by some owner operators, an increase in overall hours worked in retail stores’.

The changes to penalty rates awarded by the FWC will give businesses more capacity and new incentives to hire staff, more hours to existing staff but the benefits would have been greater if the reductions were more significant.

What are the changes?

The Commission resolved to make the following changes to the *Hospitality Industry (General) Award*:

	Full Time & Part time employees	Casual employees
Sunday Penalty Rates	Reduction (Currently 175%, changed to 150%)	No change
Public Holiday Rates	Reduction (Currently 250%, changed to 225%)	Reduction (Currently 275%, changed to 250%)

When will the changes take effect?

The changes to the public holiday rates will commence on 1 July 2017.

It hasn't been confirmed when new Sunday penalty rates will commence. The FWC is seeking submissions as to some 'provisional views' which have been proposed in respect of the change to Sunday penalty rates. Provisional views include 'take home pay orders' which would require employers to preserve current employees' take home pay.

Whilst we didn't get everything we asked for, it is a step in the right direction.

Further information

A summary of the FWC's decision can be found [here](#).

Members will be updated as more information becomes available.

Please contact Libbi McLean or Madeleine Brown from AHA(WA)'s IR Team on 9321 7701.

Kind regards,

Bradley Woods
CEO/EXECUTIVE DIRECTOR



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