

IN THE FAIR WORK COMMISSION

Matter No: AM2019/17

Section 156 – Four Yearly Review of Modern Awards – finalisation of variation determinations – Tranche 2- Restaurant Industry Award – Hospitality Industry (General) Award

COMMENT

28 February 2020

UNITED WORKERS' UNION

1. This comment is made pursuant to the direction of the Full Bench in the statement of 14 February 2020 inviting comments by 28 February 2020 concerning the finalisation of the exposure drafts and variations to the *Hospitality Industry (General) Award 2010* ('the Hospitality Award') and the *Restaurant Industry Award 2010* ('Restaurant Award').
2. In relation to both awards, we have no substantive concerns in relation to the exposure drafts and the draft variations other than the comments below.

Hospitality Award

Clause 28.4 - Overtime rate

3. This clause provides for over time to junior employees and apprentices and their ordinary rate is described elsewhere as the '*junior rate*' or '*apprenticeship rate*' rather than as an ordinary rate of pay. Junior employees are employees who are classified within the general classifications of the Award but paid a lower rate by virtue of their age. Apprentices are arguably a classification. Note 2 does allude to this state of affairs but an amendment to the note may be useful:

NOTE 2: Schedule B –Summary of Hourly Rates of Pay sets out the hourly overtime rate for all employee classifications *including junior employees and apprentices* according to when overtime is worked.

Clause 29.2 Penalty rates

4. Similarly, the note here could be amended to remind the reader of the clause's application to junior employees and apprentices.

Restaurant Award

5. Similar amendments to the notes at clause 23.4, dealing with overtime, and clause 24, dealing with penalty rates, clarifying that these clauses apply to junior employees and apprentices may also be useful.

United Workers' Union

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