

FAIR WORK AUSTRALIA

APPLICATION TO VARY THE GENERAL RETAIL
INDUSTRY AWARD
2010

Matter No: AM2010/39

AUSTRALIAN RETAILERS ASSOCIATION
SUBMISSION

16TH April 2010



Submission by:

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Australian Retailers Association

- Promoting and protecting retailers for over 100 years

For over 105 years, the Australian Retailers Association (ARA) has been the peak industry body in Australia's \$292 billion retail sector which employs over 1.5 million people. We provide leadership and solutions to improve the long-term viability, productivity and visibility of the retail industry by proactively dealing with government, media and other regulatory bodies on behalf of our members. ARA members comprise a diversity of sizes and types of retailers reflecting the profile of the retail industry, ranging from large national chain retailers to one-person operators throughout the nation.

The ARA provides a range of comprehensive services, advice and representation suited to both small and large retailers in the areas of employment relations, occupational health and safety, tenancy, consumer law and retail business solutions. This includes a range of retail specific training that supports best practice in retail. As an incorporated employer body under the Fair Work (Registered Organisations) Act 2009, the ARA promotes and protects over 5000 independent and national retailers.

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1. EXECUTIVE SUMMARY

1. The Australian Retailers Association (ARA) has made an application to Fair Work Australia (FWA), under section 158 of the Fair Work Act 2009 (Cth) (“the Act”) to vary the terms of the *General Retail Industry Award 2010*.
2. The imposition of a three hour minimum shift in the new General Retail Industry Award 2010 threatens the employment prospects of particular groups of employees, including young students who can and only want to work minimal hours after school during the week, all of which contravene the objectives set by Fair Work Australia.
3. Industrial instruments like pre-reform awards and NAPSAs contain flexibility arrangements to accommodate varying work practices and in many cases allow for minimum payments to casuals of less than three hours – at least so far as the retail trade sector is concerned.
4. In the event FWA is not willing to accept the proposed variation, the ARA would likely consider a secondary position which would retain three hours as the default minimum payment but would allow for the parties to agree on lesser minimum payments for appropriate circumstances.

2. INTRODUCTION

5. The Australian Retailers Association (ARA) has made an application to Fair Work Australia (FWA), under section 158 of the Fair Work Act 2009 (Cth) (“the Act”) to vary the terms of the *General Retail Industry Award 2010*.
6. The Australian Retailers Association has standing to make the application under section 158 of the Act to vary a term of the Award and is a registered employer organisation that is entitled to represent the interests of its employer members that are covered by the Award.
7. Fair Work Australia has been given the power under section 157 to vary modern awards if necessary outside the 4 yearly reviews to achieve modern awards objective.
8. The modern award objectives is set out in section 134 of the Act which states:
9. What is the modern awards objective?

134 (1) *FWA must ensure that modern awards, together with the National Employment Standards, provide a fair and relevant minimum safety net of terms and conditions, taking into account:*

- a. *relative living standards and the needs of the low paid; and*
- b. *the need to encourage collective bargaining; and*
- c. *the need to promote social inclusion through increased workforce*
- d. *participation; and the need to promote flexible modern work practices and the*

- e. *efficient and productive performance of work; and the principle of equal remuneration for work of equal or comparable value; and*
- f. *The likely impact of any exercise of modern award powers on business, including on productivity, employment costs and the regulatory burden; and*
- g. *The need to ensure a simple, easy to understand, stable and unsustainable modern award system for Australia that avoids unnecessary overlap of modern awards; and*
- h. *The likely impact of any exercise of modern award powers on employment growth, inflation and the sustainability, performance and competitiveness of the national economy.*

10. It is the ARA's submission that the proposed amendment is required to achieve the modern award objective. The proposed variation is necessary to ensure the minimum safety net is fair and relevant taking into consideration social inclusion through workforce participation; and promote flexible modern work practices.

11. Pursuant to the AIRC Decision, 2 September 2009. In addition to these legislative considerations the request from the Minister for Employment and Workplace Relations made clear that modern awards were not intended to disadvantage employees nor increase costs for employers¹.

12. The Retail industry is an attractive employment prospect for students who are looking for short employment prospects around school hours and their study times, not to mention it provides them with valuable work experience as retail jobs include salespeople, shopfitters, service

¹ <<http://www.workplace.gov.au/NR/rdonlyres/2C83348A-C1C4-45BB-A8B9-2149187DE3D9/0/ConsolidatedAwardModernisationRequest.pdf>>

providers and people who work in marketing, support services or administration. Favourably so, particular groups of employees, including students are a practical option for retail employers as they provide them, and the prospective employee with flexibility as there is preference to work shorter hours to balance work and study/school commitments and to keep employment costs realistic.

13. Preference to work casual hours are supported by Australian Bureau of Statistics (ABS) Australian Labour market statistics (cat. no. 6105.0) that indicate trends in types of employment have shifted away from traditional permanent employment to a greater interest in casual employment on account of the benefits for both employees and employers. According to ABS, 1.8 million employees were believed to be employed on a casual basis with the overriding benefit of casual employment being the ability to have flexibility to balance work, family, study and other commitments.
14. Section 134(1) of the Act requires FWA to ensure that modern awards and the National Employment Standards provide a fair and relevant minimum safety net of employment terms and conditions. The ARA submits that maintaining a minimum daily casual engagement of three hours in the General Retail Industry Award 2010 contravenes this objective as well as those set out in sub-sections (c), (d) and (f).
15. Maintaining a minimum daily casual engagement of three hours in the General Retail Industry Award 2010 contravenes the objectives above.
16. The imposition of a three hour minimum shift in the new General Retail Industry Award 2010 threatens the employment prospects of particular groups of employees, including young students who can and only want to work minimal hours after school during the week, all of which contravene the objectives above.

17. The variation ARA seeks will promote objective (c) (above) of *the need to promote social inclusion through increased workforce participation*. Students, young people and other groups of casual employees make up a large proportion of the Australian labour market and consequently there is a need to accommodate this section of the labour market by providing a shorter minimum daily casual engagement of 2 hours in the General Retail Industry Award 2010.
18. Having a shorter minimum daily casual engagement than three hours is a realistic option in the retail industry especially taking into consideration that most school students are able to start work around 4:00pm and coincidentally finish with shop closing times which can be anywhere between 5:00 and 6:00pm. Effectively, creating a two hour window for employers and employees to utilise casual employment. The variation ARA seeks to reduce the minimum casual engagement to two hours will enable retailers to employ and pay students for the time they actually work rather than incurring the increased employment costs of paying an additional hour or more for time not worked.
19. The ARA submits the current award provision does not allow sufficient flexibility for the modern needs of employers and employees to work less than three hours.

3. PRE-REFORM AWARDS AND NAPSA PROVISIONS

20. Industrial instruments like pre-reform awards and NAPSAs contain flexibility arrangements to accommodate varying work practices and in many cases allow for minimum payments to casuals of less than three hours – at least so far as the retail trade sector is concerned. The ARA has attached as Schedule A summary extracts of a variety of casual employment terms provided in such instruments for illustration. These include the instruments considered by the AIRC for the General Retail Industry Award 2010 during the modernisation process.

21. Two of the pre-reform awards allow for a minimum payment of two hours being the Victorian Shops Award and the Hardware Retail Award which operates in several jurisdictions. NAPSAs operating in SA and WA also allow for minimum payments of two hours in certain circumstances. Many of the instruments also allow for two hour minimums during periods of initial training for a number of weeks.
22. In the case of SA Video stores there is a 2.5 hours minimum which also applies in the ACT on Friday evenings and Saturday mornings. Juniors under the SA Retail Award are entitled to a 1.5 hour minimum payment. In other limited circumstances some of these instruments may not even provide for minimum payments. Three hour minimums are found in many jurisdictions but there are exceptions as indicated in preceding paragraphs to this submission.
23. The ARA also notes what is believed to be an error in the comparative spreadsheet compiled by the AIRC for the retail trade sector. In the summary table for 'Types of employment' for the pre-reform 'SDAEA Victorian Shops Interim Award 2000' it states 'Minimum 3 hrs per day'. However, when the link is clicked to the actual award provision it reflects a minimum payment for two hours. The ARA is concerned that this may have been influential in the AIRC's decision-making for the relevant modern award term.

4. COSTS TO EMPLOYERS AND DISADVANTAGE TO EMPLOYEES

24. FWA may consider whether or not the cost concerns raised by the ARA are effectively balanced out by changes in casual loading where modern award terms are more favourable to the employer. On this point the ARA would submit that casual loadings are subject to transitional arrangements whereas minimum payment provisions are not – the effect of which is increased costs for such employers. The situation here is even worse for employers who are subject to both increases in casual loadings as well as minimum payment increases.
25. FWA may also consider whether the proposed variation would result in a disadvantage to certain employees where minimum payment obligations are effectively reduced. On this point the ARA would submit that employees are effectively disadvantaged because of the existing minimum payment provision. This is a result of employers not being willing or able to offer work - in line with the ARA survey results.
26. If the proposed variation was approved by FWA, then employees who believed they were significantly disadvantaged by the change may also be in a position to apply for a take-home pay order from FWA.
27. In the event FWA is not willing to accept the proposed variation, the ARA would likely consider a secondary position which would retain three hours as the default minimum payment but would allow for the parties to agree on lesser minimum payments for appropriate circumstances.
28. It is ARA's submission that the proposed variation is required as a necessity to achieve the modern award objective (d) and the above pre-modern award clauses is only a partial list of examples that demonstrates that flexibility for casual employment was provided for more in pre-modern awards and by making the variation we seek will

effectively return some flexibility and equity for Retailers and their casual employees.

5. IMPACT TO AUSTRALIAN WORKFORCE AND ECONOMY

29. The retail industry as at December 2009 contributed 4.5% of Australia's Gross Domestic Product (GDP) and is the largest employer in Australia, providing 11% of all jobs with total retail employment at 1,196 million. More than half of these employees are employed on a part-time or casual basis.

30. The result of a three hour minimum is that retailers will effectively terminate casual employees to balance increased costs. Provided is a table showing the cause and effect of the three hour minimum to key stakeholders:

Stakeholders	Cause	Effect
Employers	Not being able to meet 3 hour minimum	Termination of casual staff Loss of time spent on training casual staff Loss of time covering shifts
Casual employees	Terminated due to employer's inability to meet 3 hour minimum	Loss of job and income Loss of work experience
Full-time employees	Having to fill the gap in hours due to the termination of casual employees	Less flexibility at work place Longer hours Less work and life balance

31. Higher real wages will lead to a higher unemployment rate:

According to Australia's Progress 2009² report, unemployment is a key indicator of GDP. Studies have shown that by changing the income distribution against business profits, retailers are forced to reduce investment and aggregate expenditure. This will create unemployment as

² Measures of Australia's Progress, 2009, Australian Bureau of Statistics

retailers struggle with the effect of a 'wages shock'³:

32. Underutilisation of casual employees:

Mission Australia said that youth unemployment has gone up about 30% in comparison to general unemployment as they are the typically the first to be laid off or have their hours cut due to the disadvantage of being low-skilled⁴. The December quarter 2009 *Small Area Labour Markets*⁵ estimates show that unemployment has increased in the majority of areas. ABS reports that in March 2010, part-time employment fell by 10,600⁶. To reduce the labour force underutilisation rate and progress recovery from the global financial crisis (GFC), students should retain their casual positions⁷.

33. Negative impact on Australian work force:

ABS has found that people unemployed for long periods may experience greater economic hardship. Without the opportunity to gain work experience in casual positions, students are unable to increase their rate of 'employability' when entering the increasingly competitive workforce⁸. This may lead students to abandon their educational obligations in pursuit of full-time jobs. With less Australians bearing formal education, there will be a higher reliance on imported skilled professionals.

34. Negative impact on Australian economy:

ABS notes that the recent economic downturn has an even greater effect on the Retail trade sector than the recent recession the early 1990s⁹. With the recent reading of the Australian PSI® pointing to the holding back of

³ A 'wages shock' is a sharp increase in wages with the intention of creating a more equitable income distribution. Empirical work reported by Professor Tom Valentine suggests that as employment depends on real unit labour cost (RULC) rather than real wage, a wage shock will take some time to be absorbed and for unemployment rate to return to its original level.

Tom Valentine is Professor of Banking and Finance and Director of the Centre for Applied Finance in the College of Law and Business, University of Western Australia. Paper: Real Wages and Unemployment: State of Debate (2004)

⁴ The Age, Jobless rises hit most vulnerable, April 14 2010, Ben Schneiders

⁵ Australian Government, Department of Education, Employment and Workplace Relations. *Small Area Labour Markets Australia*, December Quarter 2009

⁶ Media Release April 8 2010 Australia's unemployment rate at 5.3 per cent in March 2010: Australian Bureau of Statistics

⁷ International Labour Organization (ILO) Office to the United Nation states that "Government must ensure that youth were targeted as part of policy interventions that countered the impact of the crisis and integrated youth employment programs to promote their entry into the labour market." United Nations, Commission for Social Development Forty-eighth session. Economic and Social Council SOC/4761, 8 Feb 2010

⁸ Associated trends, Measures of Australia's Progress, 2009, Australian Bureau of Statistics

⁹ Australian Bureau of Statistics, 16 March 2010 4102.0- Australian Social Trends, Mar 2010, The Labour Market During Recent Economic Downturns

services due to soft consumer demand and consecutive contraction in the retail trade sectors showing decreased activity levels, employment up to March 2010 in the retail trade is reported to have fallen strongly¹⁰. By putting further stress on retailers with the implementation of a minimum three hour, struggling retailers will have no choice but to terminate casual students in an effort to stay in business.

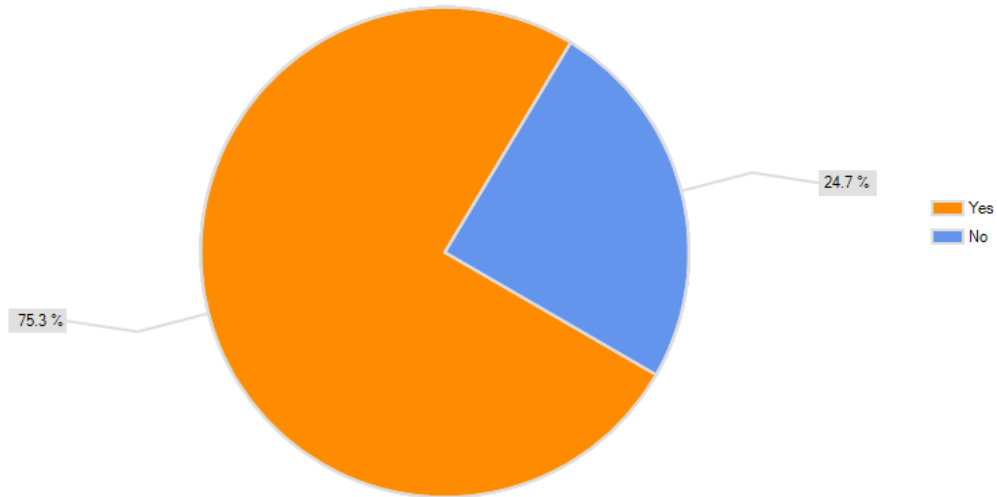
6. ARA MEMBER SURVEY

35. In April 2010 the Australian Retailers Association surveyed its members about the impact of the Modern Award's three hour minimum shifts for casual workers.
36. Responses were received from 336 retailers across Australia. Over 77 percent of survey respondents were small retailers employing up to 15 full-time equivalent staff.
37. The full survey results are provided in Index 1. Below is an overview of survey results which clearly indicates the Modern Award's three hour minimum shifts for casual workers will limit employment opportunities for school students.
38. There is a strong presence of young workers in the retail sector. Over 75 percent of retailers employ students (See Figure A below).

Figure A:

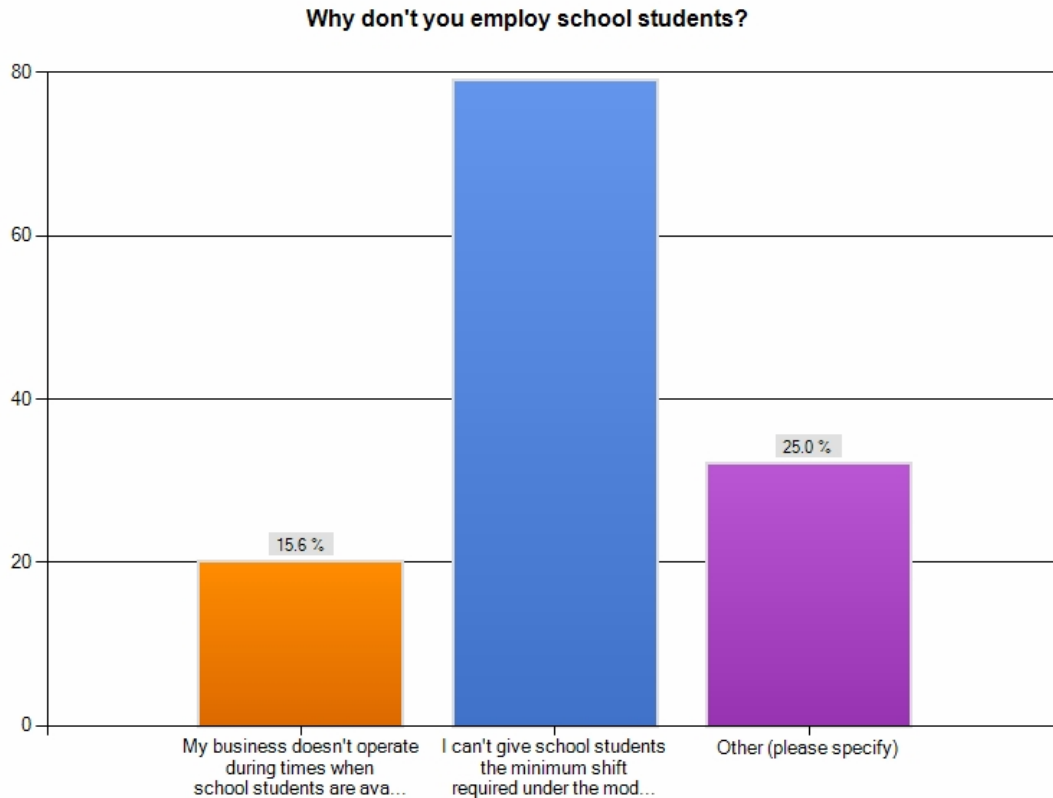
¹⁰ Australian Industry Group-Commonwealth Bank Australian Performance of Services Index®, March 2010

Do you employ school and/or university students?



39. The Modern Retail Award's three hour minimum shift for casual workers is directly limiting employment opportunities for young Australians. Of those respondents who don't employ student workers, over 61 percent of them said they can't give school students the minimum shifts required under the Modern Award (see Figure B below).

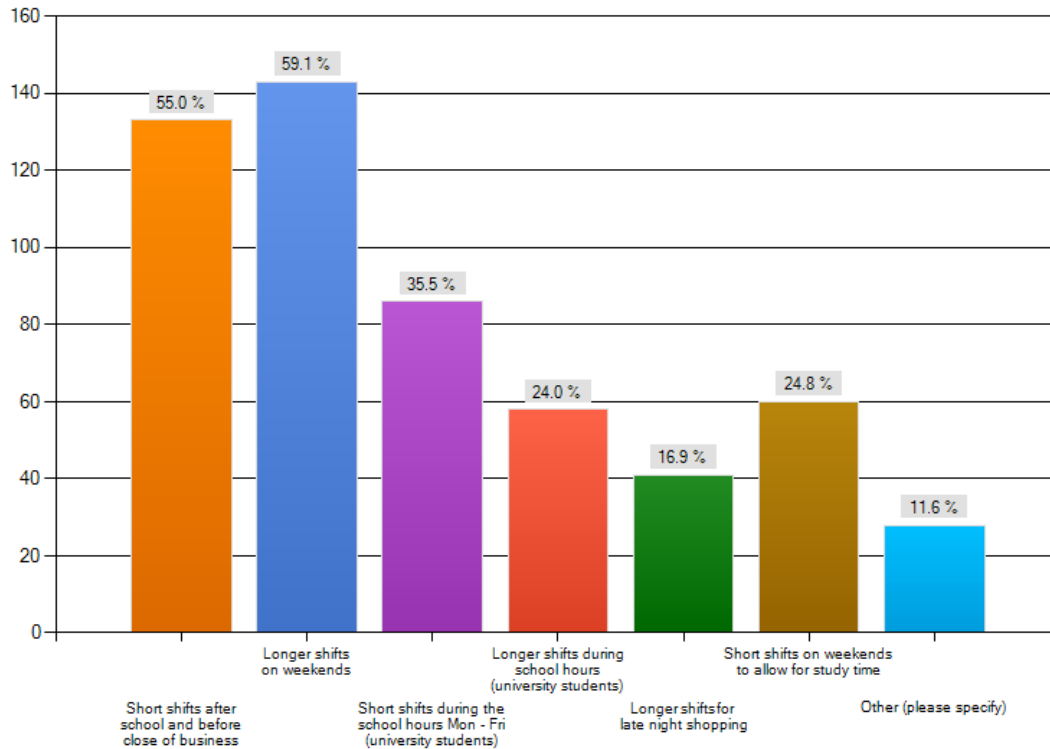
Figure B:



40. Retailers recognise student employees require flexible working hours and offer student employees shifts that work around their study and schooling commitments. Over 59 percent of retailers employ students to work longer than the minimum shifts on weekends, 55 percent of retailers employ for short shifts in between the end of school hours and close of business. Almost 25 percent of retailers still only employ students for short shifts on the weekends to allow for their study time. (See Figure C below).

Figure C:

What kinds of shifts do your student employees usually work?



41. Retail survey respondents also commented on the flexibility student workers require to their schooling and study commitments.

a. *“Student’s busy lives often means non-dependability, so more flexible working arrangements will assist them in being available for work after school, where they might not normally be able to be put on a roster. Also, this would help take the pressure off the full time and part time workers in the afternoons, especially if they have children, and request more flexible working hours.”*

b. *“Previously I was very flexible..they (student employees) start as soon as they can get here...if they are held up at school that was fine..they live locally so they were happy to work for short period rather than not at all.*

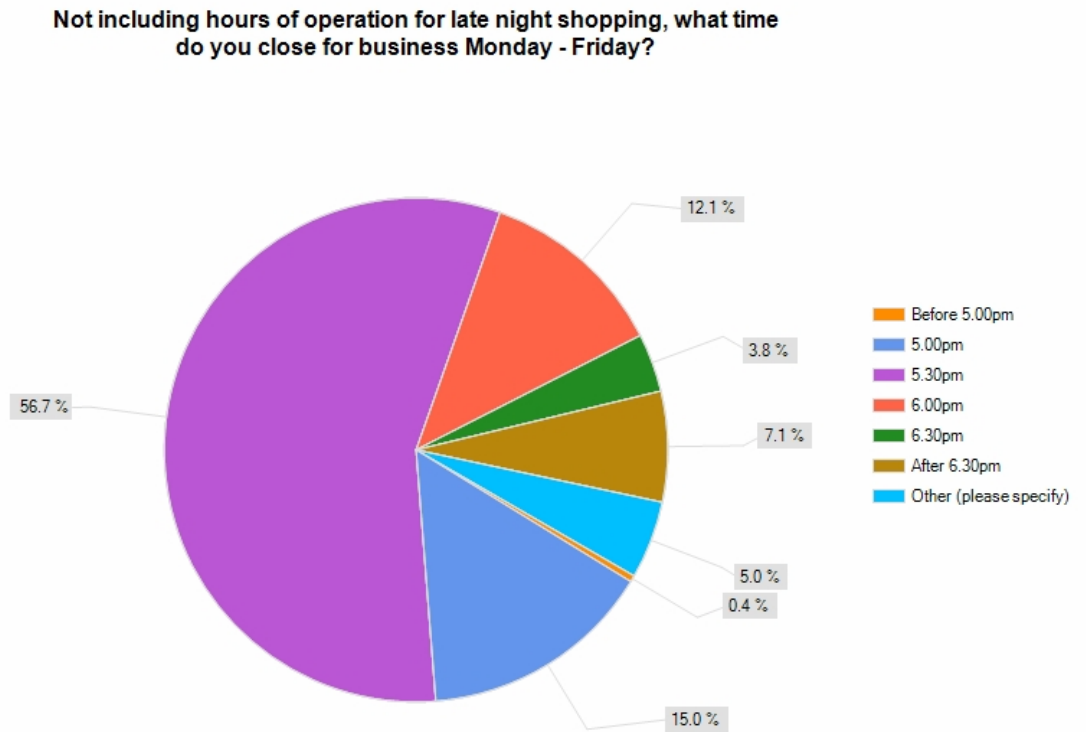
42. As highlighted in Point 22, previous awards accommodated for training requirements. Retail survey respondents also offered their concern

regarding training and team meetings that run for shorter periods than the required minimum:

- a. *“Lesser ability to call team meetings (usually last 1 hour, but will have to pay 3).”*
- b. *“We will not be able to “get the team” together for sales meetings etc - skill levels and communication will suffer.”*
- c. *“This (the Modern Award’s three hour minimum shift for casuals) also means that they (student workers) will not get the training that will enable them to work when they are at university...I prefer 18 y.o's to have some experience....”*

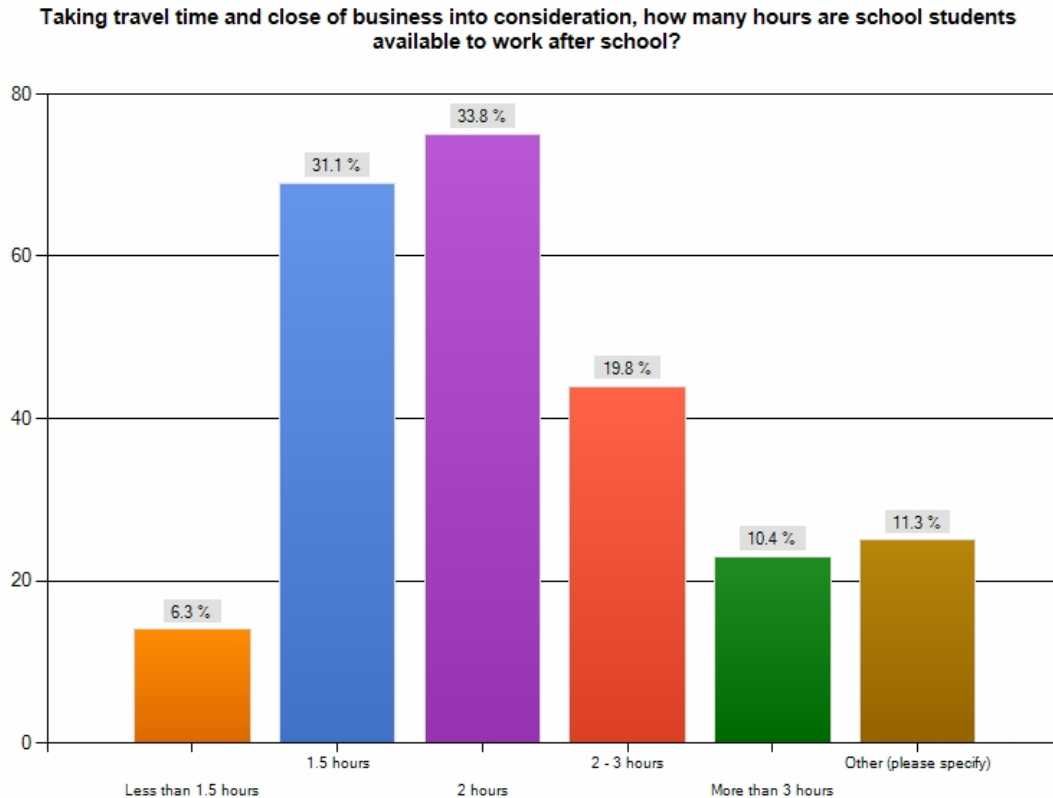
43. Short shifts offered to student employees on weeknights are a result of available hours once travel time for students and shop trading hours are taken into account. Most commonly, from Monday to Friday retailers close for business at 5.30pm. (See Figure D below).

Figure D:



44. Taking travel time from school to work into account, retailers understand school students are most commonly (33.8 percent) only available for 2 hour shifts after school on weekdays. A further 31.1 percent of retailers said students were only available for 1.5 hours of work on weekdays after school. (See Figure E below).

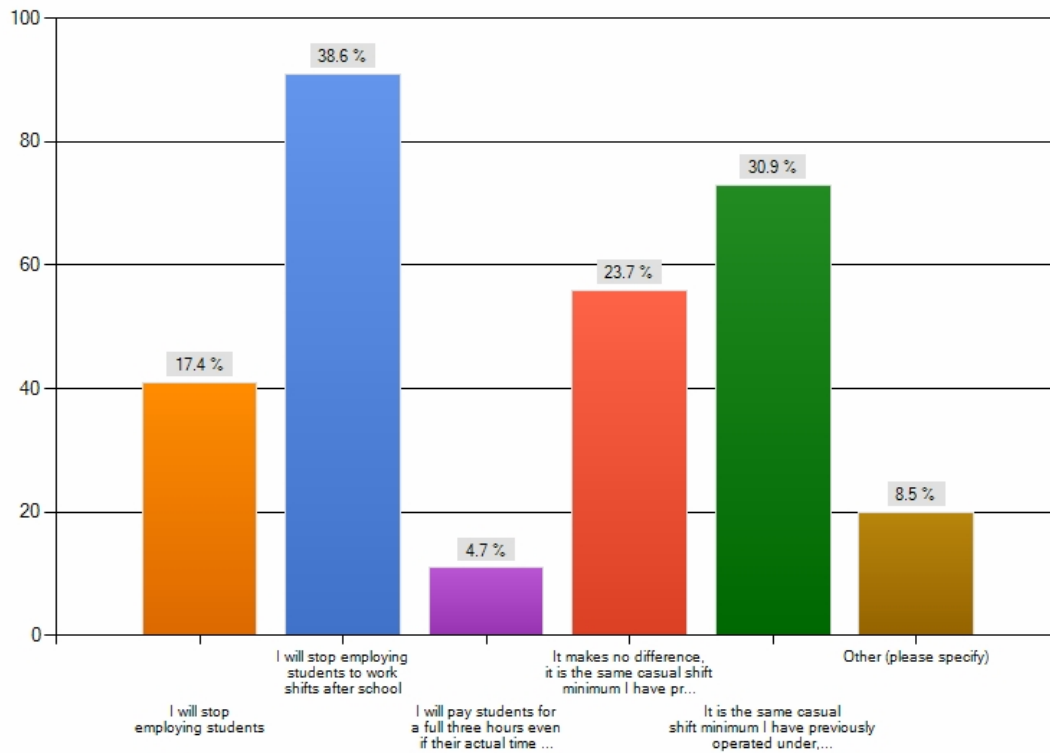
Figure E:



45. Figure F below highlights that the 3 hour minimum negatively impacts the ability for over 86 percent of retailers to provide employment to school students. When asked 'What does the three hour shift minimum mean for your business?', over 17 percent of retailers said they would stop employing students altogether; over 38 percent of retailers said they would stop employing students to work after school. Over an additional 30 percent said the Modern Award offered the same casual shift minimum the operated under previously but a two hour minimum would encourage them to employ more student workers.

Figure F:

What does the three hours shift minimum for casual workers mean for your business?



46. Retailers also commented on how the three hour minimum limited their ability to offer employment to young workers which instils a strong work ethic, independence and a sense of responsibility in young Australians entering the workforce:

- a. *“The min 3 hr shift has previously stopped me from allocating after school shifts. We do it sometimes but it is a dead cost to pay someone when they are not there.*
- b. *“We don't really employ many after school casuals because of that very reason - we can't (or wouldn't) employ someone for 1.5hrs but pay them for 3hrs.”*
- c. *“We would give our school students more shifts if the award was reduced to 2hrs.”*

- d. *“This (three hour minimum) is discriminating school children from employment.”*

7. SUPPORT DOCUMENT 1: SCHEDULE A

PRE-REFORM

47. AP796250 - Shop, Distributive and Allied Employees Association - Victorian Shops Interim Award 2000

- a. 10.4.2(a)(ii) in any other week - at the ordinary wages plus 25%. An employee shall be entitled to a minimum payment as for two hours' work on any day.
- b. 10.4.2(b) in food shops, clothing and footwear shops and electrical, furniture and hardware shops at the ordinary wages rate plus 25%. An employee shall be entitled to a minimum payment as for two hours work on any day.

48. AP830231CRV – Airport Retail Concessions Award 1990

- a. 11.5.2 A casual employee shall be paid for a minimum of three hours work at the appropriate rate on each engagement.

49. AP798407 - Shop, Distributive and Allied Employees' Association - Hardware Retail Industry Award 1999

- a. 10.7.2 Casual employees shall receive a minimum payment as for two hours work on any day worked.

50. AP794740 - Retail and Wholesale Industry - Shop Employees - Australian Capital Territory - Award 2000

- a. 13.4.3(g) Casual employees must be paid for a minimum of three hours for each start except in the case of a Friday night (6.30 p.m. to 9.00 p.m.) and a Saturday morning when they must be paid for a minimum of two and a half hours However casual employees on their first two engagements may be employed with no minimum engagement period for the purposes of training only

51. AP794741CRN - Retail, Wholesale and Distributive Employees (NT) Award 2000

- a. 10.2.4 On each occasion a casual employee is required to attend work he or she is entitled to a minimum payment for three hours work.

52. AP822182 - Video Industry (South Australia) Award 2000

- a. 9.3 A casual employee shall be engaged for a minimum period of 2.5 hours on any day.

NAPSAs

53. AN150130 - Retail Industry (South Australia) Award

- a. CLAUSE 4.4 CASUAL EMPLOYEES
- b. 4.4.3 Casual employees shall receive a minimum period of engagement of 3 hours for each engagement. Junior casual employees who work between 4.00pm and 6.00pm Monday to Friday shall be subject to a minimum period of engagement of 1.5 hours within the period specified in this paragraph. Should such an employee work between 6.00pm and 6.30pm, the employee shall be entitled to a minimum period of engagement of 2 hours for work performed between 4.00pm and 6.30pm.

54. AN140257 - Retail Industry Award - State 2004

- a. (b) Casual employees shall receive a minimum payment of 3 hours for any day:
- b. Provided that casual employees may be engaged for a minimum of 2 hours per week in the first 2 weeks of employment for the purposes of training.

55. AN120499 – Shop Employees (State) Award

56. CASUAL EMPLOYEES - ALL SHOPS

- a. All Shops Casual employees shall be paid an hourly rate equal to the appropriate weekly rate divided by 38, plus 15 per cent, calculated to the nearest half cent with a minimum payment on any one shift of three hours work.
- b. Provided that upon employment, a new casual employee may be engaged for a minimum of two hours for the first two engagements, provided that these engagements shall be for the purpose of training only.

57. AN170088 - Retail Trades Award

12. CASUAL EMPLOYEES

- a. Transport Workers

...

A minimum payment as for 4 hours shall be paid.

...

b. Nightfill Employees

...

(iv) No Casual Employees shall be paid for less than four hours for work performed on any given night.

c. All Others

...

(ii) Subject to any different prescription contained elsewhere in this award, no casual employee shall be employed for less than four hours for work performed on any given day within the span of ordinary hours.

58. AN160292 - Shop and Warehouse (Wholesale and Retail Establishments) State Award 1977

CASUAL WORKERS

(2) The minimum period of engagement for casual workers shall be three consecutive hours on any day. Provided that:-

- (a) School students who are employed solely to collect trolleys in or about a shopping centre complex may be employed for a minimum of two consecutive hours between 4.00 p.m. and 6.00 p.m. Monday to Saturday inclusive;
- (b) Employees who are undergoing a period of training may be employed for a minimum of two consecutive hours in each of two such training periods which shall be undertaken in the first fortnight of employment;

8. SUPPORT DOCUMENT 2: STATEMENTS FROM RETAILERS

FAIR WORK AUSTRALIA

Fair Work Act 2009

APPLICATION TO VARY THE GENERAL RETAIL INDUSTRY AWARD 2010

AM2010/39.

STATEMENT OF BARRY CALNON

I, Barry Calnon, of the Company, Deniliquin Jewellers, located at ? ADDRESS
NOW, state as follows:

1. I am the owner/manager of the above-mentioned company.
2. I am an employer of casual employees, consisting of school students, who perform shifts that start from 3.30pm to 5.30pm.
3. These shifts have been designed to cater to school students who are unable to perform longer shifts due to their educational obligations.
4. I am unable to allow these employees to work past the close of business which is 5.30pm on weekdays.
5. The work offered by my shop has provided current and past casual employees with a strong work ethic and a positive learning experience that is socially and financially beneficial.
6. As a result of the Modern Retail Award's three hour minimum shift for casual employees, I will not be able to offer these shifts to employees as they are not able to commence work earlier due to their necessary educational obligations.
7. As a result of the Modern Retail Award's three hour minimum shift for casual workers, I have decreased the hours for one student employee and I may be forced to terminate employment for two other student employees, all of whom can only work on weekends or after school hours during the week.
8. The Modern Retail Award's three hour minimum shift will also limit the options of future school students seeking work experience in our business.
9. One of my casual employees is disadvantaged, in that she comes from a broken family and is working to save up for an overseas school excursion. Without a job at our shop, she will be socially excluded and not experience what her peer group experiences.
10. We have found that Casual employees get to develop a strong sense of responsibility & maturity as well as a strong work ethic. This helps prepare them for professional life upon graduation.
11. By offering students three hours pay for two hours worth of work it encourages unrealistic expectations out of life. It also sets a bad approach to the meaning of productivity.
12. Employment offered to casual staff is a big investment by the retailer. We employ these students throughout the year, including the quiet times so that they will be competent & well trained for the busy times, like Christmas trading & holiday periods
13. Obviously it is very much of mutual benefit that I continue to employ these girls for two hours a day after school.

Name:

Barry Cannon
(BARRY CANNON)

This statement is endorsed by the following employees and community representatives:

• Current casual employees

Name: *Harleigh Pattinson*

Comment:

Signature: *Howman*

Name: *Carlisle Howman*

Comment:

Signature: *Pattinson*

Name:

Comment:

Signature:

• Former casual employees

Name:

Name:

Comment:

Comment:

Signature:

Signature:

• Parents of casual employees

Name: *Not*

Name:

Comment: *Available*

Comment:

Signature:

Signature:

• Teachers of casual employees

Name:

Name:

Comment: *Not Available*

Comment:

Signature:

Signature:

• Others

FAIR WORK AUSTRALIA
Fair Work Act 2009
APPLICATION TO VARY THE GENERAL RETAIL INDUSTRY AWARD 2010
AM2010/39.

STATEMENT OF MAX SEYMOUR

I, **Max Seymour**, of the Company **Seymour's Department Store**, at address
state as follows:

1. I am the owner manager of the above-mentioned company.
2. I am an employer of casual employees, consisting of school students, who perform shifts that start from 3:30pm to 5pm.
3. These shifts have been designed to cater to school students who are unable to perform longer shifts due to their educational obligations.
4. I am unable to allow these employees to work past the close of business which is 5:00pm on weekdays.
5. The work offered by my shop has provided current and past "after-school" student employees with a strong work ethic and a positive learning experience that is socially and financially beneficial.
6. As a result of the Modern Retail Award's three hour minimum shift for casual employees, I will not be able to offer these shifts to "after-school" students as they are not able to commence work earlier due to their necessary educational obligations.
7. As a result of the Modern Retail Award's three hour minimum shift for casual workers, I have restricted employment for "after-school" students and other student employees who can now only work on weekends or on Wednesday's as part of their "School Based Work Experience Programme..
8. The Modern Retail Award's three hour minimum shift will also limit the options of future school students seeking work experience.

Comment: We in small business have been employing "after-school" students for a very long time – in fact, possibly decades or more. This type of "One Size Fits All" legislation is an impediment to country towns, in particular. For employers to legally work within the framework of these new laws small business will have to turn away every enthusiastic school student because of its impracticable literal rule.

Solution: If the three (3) three hours minimum rule must apply for casual employees? Legislate and make provision/s for the exception of bona-fide school age students and, revert to the "common sense" application of a minimum 1.5 hour engagement.

Please consider the school-age labour market that is available from 3:00, 3:30pm (more realistically) till 5pm in many cases. These young people want to commence working for Australia – please don't forget them nor let them down. I have been in business for a long time and enjoy the vitality that these people experience when, at an early age, they have a job!

Name: **Max Seymour**

Date: **15/04/2010**

Signature: 



FAIR WORK AUSTRALIA
Fair Work Act 2009
APPLICATION TO VARY THE GENERAL RETAIL INDUSTRY AWARD 2010
AM2010/39.

STATEMENT OF CHARLIE DUYNHOVEN

I, Charlie Duynhoven, of the Terang & District Co-operative Limited

ADDRESS

I, state as follows:

1. I am the manager of the above-mentioned company.
2. I am an employer of casual employees, consisting of school students, who perform shifts that start from 4pm to 5.30pm.
3. These shifts have been designed to cater to school students who are unable to perform longer shifts due to their educational obligations.
4. I am unable to allow these employees to work past the close of business which is 5.30pm on weekdays.
5. The work offered by my shop has provided current and past casual employees with a strong work ethic and a positive learning experience that is socially and financially beneficial.
6. As a result of the Modern Retail Award's three hour minimum shift for casual employees, I will not be able to offer these shifts to employees as they are not able to commence work earlier due to their necessary educational obligations.
7. As a result of the Modern Retail Award's three hour minimum shift for casual workers , I have decreased the hours for six student employees who can now only work on weekends.
8. The Modern Retail Award's three hour minimum shift will also limit the options of future school students seeking work experience.

Night fill staff in the supermarket have also been effected reducing the amount of staff required to restock the shelves on Monday nights, therefore staff are now required to only work every second week.

Name: Charlie Duynhoven

Date: 16/04/2010

Signature:

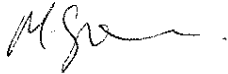
This statement is endorsed by the following employees and community representatives:

• **Current casual employees**

Name: Matthew Spencer

Comment:

Signature:



Name: Leticia Harrison

Comment:

Signature: Leticia Harrison

• **Parents of casual employees**

Name: JANE SPENCER

Comment:

Signature: 

• **Teachers of casual employees**

Name: PAUL HENDERSON

Comment:

Signature:

• **Others**

Name: KERRIN MCKENZIE

Comment:

Signature:



Name: Tim McLean

Comment:

Signature: Tim McLean

Name: Tim Scroggie

Comment:

Signature: Scroggie

Name: MICHAEL SPENCER

Comment:

Signature: 

Name:

Comment:

Signature:

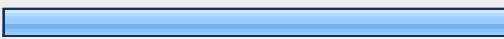


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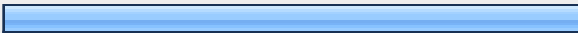

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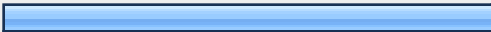

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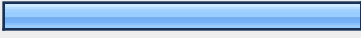

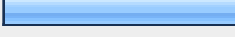
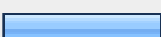
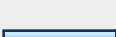
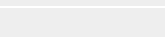

9. SUPPORT DOCUMENTS 4: ARA SURVEY ANALYSIS






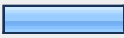
Awad Modernisation - 3 hour minimum shifts for casual workers

1. Please describe the size of your retail outlet/s?			
		Response Percent	Response Count
Small business (employing up to 15 full time equivalent staff)		77.4%	260
Medium sized business (employing between 15 - 50 full time equivalent staff)		15.8%	53
Large business (employing over 50 full time equivalent staff)		6.8%	23
		answered question	336
		skipped question	0

2. Are you aware that, under the Modern Retail Award, casual workers must be paid for a minimum of three hours per shift?			
		Response Percent	Response Count
Yes		89.0%	299
No		11.0%	37
		answered question	336
		skipped question	0

3. Do you employ school and/or university students?			
		Response Percent	Response Count
Yes		75.3%	253
No		24.7%	83
		answered question	336
		skipped question	0

4. What kinds of shifts do your student employees usually work?			
		Response Percent	Response Count
Short shifts after school and before close of business		55.0%	133
Longer shifts on weekends		59.1%	143
Short shifts during the school hours Mon - Fri (university students)		35.5%	86
Longer shifts during school hours (university students)		24.0%	58
Longer shifts for late night shopping		16.9%	41
Short shifts on weekends to allow for study time		24.8%	60
Other (please specify)		11.6%	28
		answered question	242
		skipped question	94

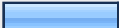



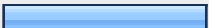

5. Taking travel time into consideration, when are your student workers available to start work after school?			
		Response Percent	Response Count
3.00pm		6.3%	14
3.30pm		26.0%	58
4.00pm		43.0%	96
4.30pm		6.3%	14
After 4.30pm		11.7%	26
Other (please specify)		18.4%	41
		answered question	223
		skipped question	113

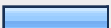
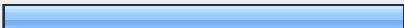
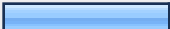
6. Not including hours of operation for late night shopping, what time do you close for business Monday - Friday?

		Response Percent	Response Count
Before 5.00pm		0.4%	1
5.00pm		15.0%	36
5.30pm		56.7%	136
6.00pm		12.1%	29
6.30pm		3.8%	9
After 6.30pm		7.1%	17
Other (please specify)		5.0%	12
		answered question	240
		skipped question	96

7. Taking travel time and close of business into consideration, how many hours are school students available to work after school?

		Response Percent	Response Count
Less than 1.5 hours		6.3%	14
1.5 hours		31.1%	69
2 hours		33.8%	75
2 - 3 hours		19.8%	44
More than 3 hours		10.4%	23
Other (please specify)		11.3%	25
		answered question	222
		skipped question	114

8. What does the three hours shift minimum for casual workers mean for your business?			
		Response Percent	Response Count
I will stop employing students		17.4%	41
I will stop employing students to work shifts after school		38.6%	91
I will pay students for a full three hours even if their actual time work is less than this		4.7%	11
It makes no difference, it is the same casual shift minimum I have previously operated under		23.7%	56
It is the same casual shift minimum I have previously operated under, but a two hour minimum would encourage me to employ more student workers		30.9%	73
Other (please specify)		8.5%	20
		answered question	236
		skipped question	100

9. Why don't you employ school students?			
		Response Percent	Response Count
My business doesn't operate during times when school students are available		15.6%	20
I can't give school students the minimum shift required under the modern award		61.7%	79
Other (please specify)		25.0%	32
		answered question	128
		skipped question	208

10. SUPPORT DOCUMENT 4: RESPONDENTS' COMMENTS FROM ARA SURVEY

What does the three hours shift minimum for casual workers mean for your business?

1. Have already stopped after school shifts and reduced our school time employees and will not employ more without the short shifts after school there are insufficient hours available for them to be trained and keep up their skill level.
2. Student's busy lives often means non-dependability, so more flexible working arrangements will assist them in being available for work after school, where they might not normally be able to be put on a roster. Also, this would help take the pressure off the full time and part time workers in the afternoons, especially if they have children, and request more flexible working hours.
3. We don't really employ many after school casuals because of that very reason - we can't (or wouldn't) employ someone for 1.5hrs but pay them for 3hrs (or previously 4).
4. The min three hour shift has previously stopped me from allocating after school shifts. We do it sometimes but it is a dead cost to pay someone when they are not there.
5. Lesser ability to call team meetings (usually last 1 hour, but will have to pay 3).
6. We will not be able to "get the team" together for sales meetings etc - skill levels and communication will suffer.
7. Will do my best to run my roster so this does not affect me, but when it does I guess I will be left with no choice.
8. It will stop me bring students in over the 2 hour lunch period at w/e also stop bring in students at busy period at tea 6/8.
9. Previously i was very flexible..they start as soon as they can get here...if they are held up at school that was fine..they live locally so they were happy to work for

short period rather than not at all. This also means that they will not get the training that will enable them to work when they are at university...i prefer 18 year old's to have some experience....

10. We would give our school students more shifts if the award was reduced to 2hrs.
11. This is discriminating school children from employment.
12. It will stop me bring students in over the 2 hour lunch period at w/e also stop bring in students at busy period at tea 6/8.
13. The problem for us is if it is very quiet we can't shorten our casuals shifts and let them leave early.
14. We have never been able to consider this (hiring school students because of the 3hr minimum requirement).

11. SUPPORT DOCUMENT 5: REFERENCES

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6. Economic and Social Council 2010, Policies, Cooperation in Response to Global Economic Crisis 'Inadequate', Assistant Secretary General Tells Social Development Commission, United Nations, viewed on 15 April 2010, <<http://www.un.org/News/Press/docs/2010/soc4761.doc.htm>>
7. Australian Bureau of Statistics 2010, 4102.0- Australian Social Trends, Mar2010, The Labour Market During Recent Economic Downturns, ABS, viewed 12 April 2010, <<http://www.abs.gov.au/AUSSTATS/abs@.nsf/Lookup/4102.0Main+Features20Mar+2010>>
8. Australian Industry Group - Commonwealth Bank Australian Performance of Services Index®, Australian PSI® March 2010, The Australian Industry Group, viewed 15 April 2010, <<http://www.aigroup.com.au/economicindicators/psi>>