



Restaurant  
& Catering

**OUTLINE OF SUBMISSIONS  
PUBLIC HOLIDAYS COMMON ISSUE  
AM2014/301**

**1 DECEMBER 2014**

Restaurant & Catering Industrial  
ABN: 31 739 604 819  
Level 3, 154 Pacific Highway, St Leonards NSW 2065

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## **Restaurant & Catering Industrial**

- 1) Restaurant & Catering Industrial is a Registered Organisation under the Fair Work (Registered Organisations) Act 2009 and represents the industrial interests of restaurants, cafes and catering businesses across Australia.

### **About the Industry**

- 2) The industry turns over some \$20 Billion per annum and is looking down the barrel of 8+% employment growth in the next twelve months. This growth is on top of a sizeable attrition from the industry due to the large number of casual employees engaged.
- 3) Approximately 63% of the industry earns an average 2% after tax and the overall average is only 4%. It is expected profits will further deteriorate in the short term. The restaurant sector is 58% of the hospitality industry and some 62% of employment in the industry. The average employment per business is 8 employees.

### **Outline of submissions**

- 4) Further to the Directions set out by the President Justice Ross on 17 November 2014 Restaurant & Catering Industrial provides the following particulars in respect to the claims to be pursued in respect to part-day public holidays.
- 5) Firstly, our South Australian members have reported significant issues with the introduction of part-day public holidays introduced by the Weatherill Labor Government in 2012. The Fair Work Commission inserted a Schedule into Modern Awards as an interim solution to some of the practical problems arising for the first application of part day public holidays operating from 7PM on Christmas Eve and New Year's Eve 2012.
- 6) A Full Bench of the Fair Work Commission made the following observation the following observation in a Statement issued on 12 September 2013<sup>1</sup> :

*“We propose that the part-day public holiday issue will in any event be considered in detail as part of the four yearly review of modern awards. This issue requires a more enduring resolution. Proceedings as part of the four yearly review will provide parties with an opportunity to put proposals to the Commission for specific ongoing provisions dealing with part-day public holidays within the modern awards.”*

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<sup>1</sup> [2013] FWCFB6916 12 September 2013 @ paragraph 7.

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- 7) We shall seek relief for employers covered by the Restaurant Industry Award, Hospitality Industry (General) Award and Fast Food Industry Award by including a penalty rate of 150% (down from 250%) for full time and part-time employees.
  - 8) We shall seek to insert a facilitative clause allowing employers to reach individual agreement with employees to work on part day public holidays at ordinary rates providing that additional benefits are agreed to, in lieu thereof.
  - 9) The above changes as well as other minor alterations to the wording in the current Schedule are necessary to ensure that businesses can trade in a commercially viable way and not forced to close as current entitlements create unreasonable labour costs.
  - 10) Restaurant & Catering Industrial envisages that it will file circa 10 witness statements from affected business owners and will file other supporting evidence including Survey and Case Law evidence supporting its claims.
  - 11) Restaurant & Catering Industrial considers that 2 days of hearings should be allocated before the Full Bench to address these matters.