



**REIA SUBMISSION IN RESPONSE TO THE FAIR
WORK COMMISSION INITIATIVE OF VARIATION OF
AWARDS - MATTER NUMBER AM2020/12**

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PREPARED BY

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REIA SUBMISSION IN RESPONSE TO THE FAIR WORK COMMISSION INITIATIVE OF VARIATION OF AWARDS

The Real Estate Institute of Australia (REIA) is the peak national association for the real estate profession in Australia.

The REIA's members are the State and Territory Real Estate Institutes, through which around 75-80 per cent of real estate agencies are collectively represented. The Census records the Rental, Hiring and Real Estate Services Industry employment sitting at a total of 117,880. By occupation the key data recorded by ABS Census were some 65,000 business brokers, property managers, principals, real estate agents and representatives.

The REIA represents an important element of the broader property and construction sector which together makes a significant contribution to Australia's social climate and economic development. Property contributes \$300 billion annually in economic activity.

Importantly, REIA represents an integral element of the small business sector. Some 99 per cent of real estate agencies are small businesses and 11 per cent of all small businesses in Australia are involved in real estate.

REIA is committed to providing and assisting research and well-informed on a range of issues affecting the property market.

Introduction

The REIA welcomes the opportunity to provide a submission to the Fair Work Commission on its initiative to vary a number of Awards in response to the COVID-19 pandemic whilst achieving the objective of the modern awards as well as that of the Government's actions to keep as many Australians as possible employed.

REIA notes that the Fair Work Commission is responding to the unique circumstances pertaining to the COVID-19 pandemic and proposes to vary 103 modern awards to provide an entitlement to unpaid 'pandemic leave' and the flexibility to take annual leave at half pay. The Commission proposes that the variations would operate until 30 June 2020.

Importantly, the REIA also notes that the Commission's proposal does not preclude other variation applications being made to modern awards to provide additional measures during the pandemic. In this regard the REIA welcomes the Commission's offer to assist in facilitating discussions with the relevant industrial parties.

Discussion

As the Commission is aware remuneration in the real estate industry for many is on a commission basis. For those involved in sales the norm is to be remunerated by

commission. This includes those on a commission only and those covered by the *Real Estate Industry Award 2020* who are paid a fixed “retainer” plus commission.

The Award requires that an agent make at least \$54.5k - Minimum Income Threshold Amount (MITA) - for the previous three years, or more than 125% of the Award before they can be employed on a commission only basis.

Currently, with the very real expectation of decreased sales activity and thus the major source of revenue, agencies will retain those that meet the MITA and stand down those that don't in order to minimise costs, meet fixed overheads and stay open as long as they can. Further, feedback that REIA has had from its members provides a clear indication that sales agents that currently don't meet the MITA are willing to be engaged on a commission only basis to retain their jobs and some income.

In addition, whilst noting that the intent of the Commission's proposal is to provide an entitlement to leave to employees who have no existing leave entitlements available to them – which is certainly the case for many sales agents, anecdotal evidence suggests that they would rather have the opportunity to continue to work.

It is against this background that the REIA proposes that the current MITA provisions of the *Real Estate Industry Award* be suspended for the duration of the Corona Virus crisis.

An approach that encapsulates the spirit and intent of the Government's initiatives of sharing the burden is to reduce the current MITA provisions by 50%.

It should be noted that a 50% reduction in the MITA means that any sales persons employed by an agency eligible for the JobKeeper payment would be almost guaranteed that they will not be stood down as the JobKeeper payment will cover the reduced Award payment.

The REIA notes that the Commission has proposed that the variations to awards would operate until 30 June 2020.

Sales of real estate have a delay of between 30 and 90 days between an exchange of contract and settlement in normal times. In current circumstances this is most likely to be extended.

Accordingly the REIA proposes that in the case of the *Real Estate Industry Award* the variation would operate till 30 September 2020 with a review prior to this date.

Finally, the REIA would welcome the opportunity to, as offered by the Commission to assist in facilitating discussions with the relevant industrial parties.

REIA recommends that the Commission

- ***Agrees to reduce the current MITA provisions of the Real Estate Industry Award by 50%***
- ***Till 30 September 2020 with a review prior to this date, and***
- ***Assist in facilitating discussions with the relevant industrial parties.***