



# DECISION

*Fair Work Act 2009*

s.185 - Application for approval of a single-enterprise agreement

## **Aldi Foods Pty Limited As General Partner Of Aldi Stores (A Limited Partnership) Trading AS Aldi Stores** (AG2024/4407, AG2025/972 & AG2025/1118)

DEPUTY PRESIDENT SLEVIN

SYDNEY, 20 OCTOBER 2025

*Applications for approval of the ALDI Prestons Agreement 2024, the ALDI Jandakot Agreement 2025, and the ALDI Stapylton Agreement 2025 – concern about passing better off overall test – undertakings not offered – Commission’s power to amend agreements to address concerns – proposal to amend Agreements.*

### **Introduction**

[1] Three applications (the **Applications**) have been made by ALDI Foods Pty Ltd as General Partner of ALDI Stores (**ALDI**) for approval of enterprise agreements known as the ALDI Prestons Agreement 2024 (**Prestons Agreement**), the ALDI Jandakot Agreement 2025 (**Jandakot Agreement**), and the ALDI Stapylton Agreement 2025 (**Stapylton Agreement**) (together **Agreements**). The Applications are made pursuant to s. 185 of the *Fair Work Act 2009* (**the Act**). Each Agreement is a single enterprise agreement. The Commission must approve each Agreement if the requirements in ss. 186 and 187 of the Act are met.

[2] The Applications were made some time ago but, at the request of the parties, determination of them was deferred while appeal proceedings for the approval of another ALDI agreement were finalised. The decision in the appeal, *Appeal by Shop, Distributive and Allied Employees Association* [2025] FWCFB 143 (**Appeal Decision**), which dealt with the ALDI Dandenong Agreement 2024, was published on 16 July 2025.

[3] The Shop, Distributive and Allied Employees Association (**SDA**) is a bargaining representative for the Agreements. It opposes the Applications. The United Workers Union (**UWU**) is a bargaining representative for the Stapylton Agreement, it supports the application for approval of the Stapylton Agreement. The Transport Workers Union of Australia (**TWU**) is a bargaining representative for the Prestons Agreement and the Jandakot Agreement. It supports the application for approval of the Jandakot Agreement. It does not express a view about the approval of the Prestons Agreement.

[4] This decision deals with the SDA’s cases against approval of each of the Agreements. ALDI sought and was granted permission to be represented in the proceedings. I considered the matters raised sufficiently complex that I would be assisted in the efficient conduct of the

proceedings by ALDI being legally represented. ALDI provided a witness statement of Ms Margaret McNaughton who was appointed by ALDI as a bargaining representative for the Agreements.

[5] The basis of the SDA's opposition is that the Agreements do not meet the better off overall test (**BOOT**) in s. 186(2)(d) of the Act. The test is found in s.193 of the Act and it is to be applied in accordance with s. 193A.

[6] Section 193 relevantly reads:

193. Passing the better off overall test

When a non-greenfields agreement passes the better off overall test

(1) An enterprise agreement that is not a greenfields agreement passes the better off overall test under this section if the FWC is satisfied, as at the test time, that:

(a) each award covered employee, and each reasonably foreseeable employee, for the agreement would be better off overall if the agreement applied to the employee than if the relevant modern award applied to the employee; ...

[7] Section s.193A(2) requires the Commission to undertake a "global assessment" as to whether "each employee would be better off" having regard to the terms of an agreement that are more beneficial to employees and to the terms of an agreement that are less beneficial. When applying the BOOT the Commission may have regard to the patterns or kinds of work, or types of employment if they are reasonably foreseeable having regard to the types of enterprise to be covered by the agreement.

[8] The focus of the SDA's complaints is that warehouse employees employed under the Agreements, who are part-time employees and described in the Agreements as Hourly Rate employees, are on a global assessment not better off overall than if the *Storage Services and Wholesale Award 2020 (SSW Award)* applied to them. The SDA contends that each of the Agreements fail to meet the BOOT as:

- a) The rates of pay are insufficient to compensate for shift penalties and overtime payments employees would have earned under the SSW Award.
- b) There is a loss of reasonably predictable hours and finish times for employees, particularly for warehouse employees who have flexible rostering arrangements.
- c) Changes to break times for shifts between 6 and 7 hours are less beneficial than the SSW Award because they may be taken at the end of a shift.
- d) The notional shift length used for payment of public holidays does not reflect the actual ordinary hours of work.
- e) The detriments identified in the Dandenong Agreement proceedings also apply to the Agreements.

[9] The SDA submits that these matters taken together leave the employees to whom the Agreements apply worse off overall than they would be if the SSW Award applied to them.

### **Earlier proceedings**

[10] BOOT arguments have been put by the SDA in proceedings to approve earlier ALDI agreements which are said to contain similar terms to the terms in the Agreements. An account of the history of those challenges was provided by Deputy President Colman in the decision to approve the *ALDI Dandenong Agreement 2024 (Dandenong Agreement)* that was the subject of the Appeal Decision at [15] to [25]<sup>1</sup>. I do not repeat it in full here. I note however:

- a) The Dandenong Agreement that the Deputy President was considering covered store employees and so the BOOT required a comparison with the terms of the *Retail Award 2020 (Retail Award)*.
- b) Prior to 2020, Commission decisions had compared terms in the agreements relating to ALDI's part-time employees to casual employees under the Retail Award. This was because clause 12.6 in the *Retail Award 2010* deemed employees without predictable hours as casuals. Clause 12.6 of the Retail Award was removed in 2020.
- c) The SDA submitted in proceedings for the approval of the *ALDI Brendale Agreement 2023* [\[2023\] FWCA 3892](#), that the correct comparison was to part-time employees under the Retail Award. ALDI contended that the casual terms and conditions should be used but submitted in the alternative a comparison with part-time conditions still met the BOOT. The Commission compared the Agreement to casual conditions and found the BOOT was met.
- d) In *ALDI Minchinbury Agreement 2024* [\[2024\] FWCA 2438](#), the SDA again contended that the appropriate comparator was to the part-time provisions in the Retail Award. ALDI put that the casual conditions were the correct comparator. No submissions were put, and the Commission did not determine the issue and was satisfied that the BOOT was met.
- e) In the proceedings over the Dandenong Agreement both the SDA and ALDI argued that the award comparator for an hourly rate employee was a casual employee. While the original decision referred to the earlier decisions, the Deputy President considered the question afresh and decided that the better view was that, following the removal of clause 12.6 of the Retail Award, the correct comparator was part-time employment. He found there was no longer a basis for finding that the employees were casual employees on the basis of the award clause that deemed employees without predictable hours as casuals. The Deputy President noted that making the comparison to part-time employees was not straightforward given the flexible working arrangements in the agreement went beyond the limits on part-time working hours in the Retail Award.
- f) The Full Bench in the *Appeal Decision* dismissed the appeal by the SDA. In the appeal, the parties did not take issue with the Deputy President's approach of using the part-time provisions in the Retail Award as the comparator.
- g) The Deputy President's original decision included a finding that the less flexible part-time provisions of the Retail Award could provide an additional way to earn overtime, which is a benefit not available under the Dandenong Agreement<sup>2</sup>. However, this comparative detriment is moderated by the effect of the part-time employment arrangements in the Dandenong Agreement being reasonably predictable.
- h) In the Dandenong Agreement proceedings it was found that an assessment could be made on a global basis in the manner required by s. 193A of the Act. On that basis the Deputy President was satisfied that each award covered employee, and each reasonably foreseeable employee for the agreement would be better off overall if the

Dandenong Agreement applied to the employee than if the relevant modern award applied to the employee.

[11] The SDA challenged the Deputy President’s finding. In dealing with that appeal the Full Bench said:

[62] We have not accepted any of the SDA’s contentions about the weight applied to the other identified detriments (see below). The rostering flexibility detriment identified in the appeal is of a similar nature to the detriment considered by the Deputy President – both detriments relate to slightly different elements of the predictability of hours.

[63] We are satisfied that the Agreement passes the BOOT. We recognise that for some employees the regularity of part-time hours is an important feature. If the predictability of the times at which hours might be rostered is an essential feature of part-time employment for some employees there are other facilities available under the Agreement. For example, employees with immovable family responsibilities may choose to be a Limited Roster Store Assistant under Clause 3 of Schedule 2 of the Agreement, viz:

**“3 Flexible Store Assistants**

If you are employed as a Flexible Store Assistant:

- (a) you are an Hourly Rate Employee;
- (b) you may be rostered to work at any time on any day in a Week from Monday to Sunday;
- (c) you will work up to ten (10) shifts per Fortnight; and
- (d) your hours will be averaged over a Fortnight.”

[64] The detriment associated with the loss of predictability of the hours during which part-time employees might be rostered is a detriment but not a significant detriment. When considered in the context of the other comparative detriments under the Agreement, and in the context of the wages payable under the Agreement being significantly higher than the award rates, we are satisfied that the Agreement passes the BOOT.

[12] I am mindful of the earlier decisions, but each application for approval of an agreement must be determined on its own facts and circumstances.

**The Agreements’ Part-Time terms**

[13] The SDA’s challenge in these proceedings goes to the way part-time Hourly Rate warehouse employees are engaged. The terms of the Agreements for such employees are in similar terms in each Agreement. It is useful to set them out at this point. The relevant terms are:

- (a) Clause 12.1 states that the span of hours of work, overtime arrangements, remuneration and work breaks applicable to warehouse employees are set out in Schedule 3.
- (b) Schedule 3 in the Agreements (and Schedule 4 in the Prestons Agreement) provides for warehouse employees to be engaged as Hourly Rate employees. These employees are employed on the basis that they may be rostered to work at any time on any day of the week, and on average will work up to five shifts per week with

hours averaged over a fortnight. The employee and ALDI are required to agree on the minimum Contract Hours to be worked per fortnight at commencement of employment. Those hours may be varied by agreement. Ordinary hours are defined as hours that do not include overtime. Overtime is payable at 150% of the Base Hourly Rate for all hours required to be worked in excess of 9 ordinary hours in a day or 80 ordinary hours in a fortnight.

- (c) Clause 17 in each Agreement provides for part-time work and describes part-time employees as persons engaged to work fewer than 38 hours per week who receive pro-rata entitlements of full-time employees and may be employed as Hourly Rate employees.
- (d) Clause 22 sets the working arrangements for Hourly Rate employees. It provides that part-time Hourly Rate employees are to agree on Contract Hours at the start of employment. Employees will be rostered their Contract Hours as a minimum each fortnight. Every hour worked, or on leave, counts towards Contract Hours including overtime hours, and any hours worked in excess of Contract Hours in a pay period will be paid at the applicable rate. Where an hourly rate employee does not work Contract Hours due to unavailability, they are required to take accrued annual leave or unpaid leave to make up Contract Hours. If Contract Hours are not worked in a pay period because an employee is not rostered to work Contract Hours, they are paid agreed Contract Hours.
- (e) Clause 24 Rostering Arrangements requires employees to be available and have capacity to be rostered to work in accordance with the Schedule relevant to their work. For warehouse employees that is Schedule 3. Rosters are to be prepared two weeks in advance. In preparing rosters ALDI is required to take into account the following factors; fair allocation of work, adequate breaks between shifts, employee preference, safe transport home, domestic circumstances, and ALDI's business needs. Roster changes may be changed by agreement. Warehouse employees are to be rostered to work a minimum of four hours per shift.
- (f) Clause 45 provides definitions of terms used in the Agreement. It includes the following:

Contract Hours - hours that are set by agreement between ALDI and each Hourly Rate Employee. Contributing hours for Contract Hours calculations are all Hours Actually Worked, hours on authorised paid leave, unpaid leave and public holidays and Hours Actually Worked as overtime and on public holidays.

Flexible Employee - an Hourly Rate Employee who is available to be rostered on any day in a Week for up to five (5) shifts in a Week. Flexible Employees may be rostered to work at any time on these days.

Hourly Rate Employee - an Employee who is engaged by ALDI on an hourly rate of pay and not an annual salary.

Notional Shift Hours based on agreed Contract Hours for Hourly Rate Employees, except Duty Store Managers:

<u>Contract Hours per Fortnight</u>	<u>Notional Shift Hours</u>
21 Contract Hours	5.5 hours
30 Contract Hours	5.5 hours
40 Contract Hours	5.5 hours
50 Contract Hours	5.5 hours
55 Contract Hours	6.0 hours
60 Contract Hours	6.5 hours
70 Contract Hours	7.25 hours
76 Contract Hours	8.0 hours
80 Contract Hours	9.75 hours
90 Contract Hours	9.75 hours
96 Contract Hours	10.0 hours

Duty Store Manager (all contracts) 7.5 hours

Ordinary Hours - all hours worked which are non-overtime hours including those hours which attract a shift loading and penalties.

Ordinary Time Earnings - all allowances, shift loadings and penalties associated with ordinary hours of work and authorised paid leave. It will exclude all overtime earnings.

Part-time Employee - an Employee who works fewer than 38 hours per week on average and receives pro rata remuneration and leave entitlements.

### **ALDI's Evidence**

[14] Ms McNaughton's statement on behalf of ALDI explained how the Agreements were to operate, in particular, in relation to how hours were worked and paid. She said Hourly Rate employees under each Agreement are rostered to work a minimum number of Contract Hours per fortnight. Warehouse employees in the Distribution Centres in Prestons, Jandakot and Stapylton have set commencement times. There is no set finish time for each day. Their rostered days vary from one roster period to the next roster period. At the commencement of each shift, the work required for that shift is notified to employees and an assessment is made about the likely finish time for that day. Breaks are taken as a team and are scheduled based on the length of shift. Where shifts are likely to run for more than 6.5 or 7 hours, 2 breaks are scheduled within the shift. Employees receive payment for their Notional Shift Hours on public holidays not worked, and on paid leave days.

[15] Ms McNaughton's statement dealt with the asserted disadvantages for employees under the Agreements compared to the SSW Award. Those disadvantages included shift penalties. For example, when dealing with the Jandakot Agreement Ms McNaughton responded to SDA calculations, found at Annexure 1 to its submissions, concerning rates of pay for Warehouse Employees. In doing so Ms McNaughton referred to the higher hourly rates paid under the Agreements compared to the SSW Award. ALDI provided a number of tables comparing the rates under the Agreements to the rates under the SSW Award. The tables relevant to pay for warehouse employees employed to work fewer than 38 hours per week under each Agreement which compared the rates payable to part-time employees under the SSW Award are attached to this decision and marked Attachment A.

[16] The SDA calculations also show that a Warehouse Labourer working on a public holiday other than Christmas Day or Good Friday would be worse off on those shifts than under the SSW Award. The SDA calculations showed a Warehouse Labourer who would be engaged under the SSW Award as a Storeworker Grade 1 and engaged for more than 12 months working an afternoon shift starting prior to 6.00 pm would receive \$29.09 per hour for the shift under the Jandakot Agreement which is less than the \$29.41 per hour under the SSW Award.

[17] The SDA also contended that where a Warehouse Labourer worked a public holiday other than Good Friday or Christmas Day, the rate under the Agreement for the day would be \$58.18 which was less than \$63.93 payable under the Award.

[18] Ms McNaughton disputed the calculations on shift penalties stating that for the ordinary shift the minimum shift length is 4 hours and that while the first 3 hours would be paid a rate lower, the fourth hour attracted a higher penalty than the SSW Award. The result being the Agreement paid \$120.72 for the shift while the SSW Award paid \$117.63. I accept ALDI's approach and find that the relevant calculation is for the whole shift and the Agreement pays \$3.09 more for employees working on an afternoon shift commencing before 6.00 pm.

[19] In response to the public holiday example Ms McNaughton contended that while the Agreement public holiday rate for holidays other than Good Friday and Christmas Day was lower, that detriment is made up by the higher hourly rate paid on other days.

[20] The SDA provided figures relating to overtime payments. Using the employees notional shift length as the point at which overtime would apply the SDA contended there was a detriment suffered by employees where overtime of up to 2 hours is worked past the notional shift length. The notional shift length is 5.5 hours. An employee who worked outside their daily hours under the SSW Award would be paid time and a half for overtime for working up to 7.5 hours. Under the Agreement overtime is payable after 9 hours. The SDA provided a spreadsheet setting out the Award overtime rates compared to the Agreement hourly rate. The worst case scenario in the SDA calculations was for a Warehouse Labourer on dayshift who worked a 7.5 hour shift. The SDA calculations show that for the 2 hours beyond 5.5 hours \$76.71 would be payable if SSW Award rates applied. This compared to \$58.18 for those two hours under the Agreement. Ms McNaughton responded that when the full shift including the overtime is taken into account the higher hourly rate for ordinary hours more than compensates for the difference in the rate for the last two hours. Ms Naughton explained that for the full 7.5 hours the employee would be paid \$218.18 under the Agreement compared to \$217.35 for 5.5 ordinary hours and 2 hours overtime under the SSW Award. A difference of 83 cents higher under ALDI Agreement. The SDA calculations identified similar lower hourly payments where two hours overtime was worked by Warehouse Operators and Warehouse Leaders. These were similarly made up when the entire shift was considered. These examples did diminish the benefit of the higher hourly rate in the Agreements but did not extinguish it.

[21] The SDA calculations also identified a similar detriment on an hour-by-hour basis for the payment of overtime for employees required to work overtime of more than two hours. One of the examples given by the SDA was a Limited Roster Operator who would be classified as a Storeworker Grade 1 under the SSW Award who is paid \$34.27 per hour under the Agreements but would be entitled to overtime payments at \$38.36 per hour at time and half and \$51.14 per hour at double time after 2 hours of overtime under the SSW Award. ALDI's

response was the same as the response for the overtime under 2 hours. The detriment is made up because the hourly rate for ordinary hours is greater than the SSW Award rates and so reduced hourly rates on overtime are made up for by the higher ordinary rate of pay during ordinary hours worked. If the difference was not made up on the shift it would be made up over the fortnight. This was demonstrated in tables showing sample rosters. By way of example, one of those rosters was for a Warehouse Operator on a 40-hour contract per fortnight roster. The sample roster showed employees better off by \$136.69 per fortnight. Again, these examples did diminish the benefit of the higher hourly rate in the Agreements but did not extinguish it.

### **The SDA BOOT concerns**

[22] In its submissions the SDA raised BOOT concerns that may be considered both monetary and non-monetary. The concerns are raised in relation to Hourly Rate warehouse employees engaged to work less than 38 hours under each of the Agreements who would be part-time employees if engaged under the SSW Award. I accept that the appropriate comparator for the employees under the Agreements is part-time employment under the SSW Award. The employees are engaged as Hourly Rate employees on Contract Hours of less than 38 hours per week. They are paid pro rata entitlements of full-time employees.

[23] I have set out the SDA concerns earlier and will deal with them seriatim.

- a) *The rates of pay are insufficient to compensate for shift penalties and overtime payments employees would have earned under the SSW Award.*

[24] I have already addressed the shift penalty issued above in setting out Ms McNaughton's evidence. I consider that the relevant calculation is to consider the payment made for the entire shift and that the Agreements pay more for employees working on an afternoon shift due to the higher hourly rate.

[25] The SDA advances its overtime argument on two bases. First, on the basis that if the arrangements in the Agreements applied to employees under the SSW Award the employees as part-time employees would be entitled to be paid every hour worked at overtime rates. Alternatively, that the hours worked above the Notional Shift Hours of 5.5 hours are paid at an hourly rate under the Agreements that is less than the overtime hourly rates in the SSW Award.

[26] If the SDA's first argument is correct it would result in a finding that the hourly rates in the Agreements are less beneficial than the rates applicable under the SSW Award. The argument requires a consideration of the way overtime is paid under clause 10.6 of the SSW Award. That consideration involves construing clause 10 of the SSW Award. Clause 10 reads:

10. Part-time employees

10.1 An employer may employ part-time employees in any classification in this award.

10.2 A part-time employee:

- (a) is engaged to work less than 38 ordinary hours per week;
- (b) has reasonably predictable hours of work; and
- (c) receives, on a pro rata basis, equivalent pay and conditions to those of full-time employees who do the same kind of work.

10.3 At the time of engagement the employer and the part-time employee will agree in writing, on a regular pattern of work, specifying at least:

- (a) the hours worked each day;
- (b) which days of the week the employee will work; and
- (c) the actual starting and finishing times each day.

10.4 Any agreed variation to the regular pattern of work will be recorded in writing.

10.5 An employer is required to roster a part-time employee for a minimum of 3 consecutive hours on any shift.

10.6 All time worked in excess of the hours as mutually arranged will be overtime and paid for at the rates prescribed in clause 21 — Overtime .

10.7 A part-time employee employed under the provisions of clause 10 must be paid for ordinary hours worked at the minimum hourly rate for the class of work performed.

10.8 Commencement of part-time work and return from part-time to full-time work will not break the continuity of service or employment.

**[27]** I note for the purpose of clause 10.6 that clause 21 of the SSW Award relevantly provides at 21.1(b) that overtime for part-time employees will be paid at the rate of 150% for the first two hours and 200% thereafter and at (c) that part-time employees will be paid overtime in accordance with clause 10.6.

**[28]** The SDA contends, that the Hourly Rate employees would be part-time employees under the SSW Award as they fit the description in clause 10.2. Ms McNaughton confirmed that the warehouse employees are employed to work fewer than 38 hours. The employees are also afforded equivalent pay and conditions to those of full-time employees who do the same work on a pro rata basis. The question of whether those hours are reasonably predictable is contested. For the purpose of applying the BOOT however I am satisfied that the setting of agreed minimum Contract Hours on a fortnightly basis is sufficient for the purpose of using part-time employment as the appropriate comparator.

**[29]** The SDA contends that all hours worked by the Hourly Rate employees under the Agreements would, if the SSW Award applied, be paid at overtime rates. The contention arises from clause 10.6 which provides that hours in excess of mutually arranged hours are paid at overtime rates. The SDA contends that the arrangements under the Agreements do not meet the description of mutually arranged hours so all hours are to be paid at overtime rates. I agree with the SDA that the pattern of work under the Agreements do not give rise to mutually arranged hours as contemplated by clause 10.6, I disagree that it follows that if the SSW Award applied all hours worked are in excess of mutually arranged hours and must be paid at overtime rates.

**[30]** The SDA's argument commences with the contention that mutually arranged hours referred to in clause 10.6 are those agreed in writing under clause 10.3 at the time of engagement. Clause 10.3 requires a written agreement to specify; the hours of work each day, the days of the week work is to be performed, and the starting and finishing times each day. In clause 10.4 these hours are referred to as the regular pattern of work. At ALDI, employees are only given agreement specifying the guaranteed fortnightly minimum number of hours at

engagement. The matters in 10.3 (a), (b) and (c) are not specified in the written agreement. As these matters are not specified, the SDA reasons, there are no mutually arranged hours of work.

[31] The SDA's contention requires a consideration of the meaning of the expression 'mutually arranged hours' in clause 10.6. I accept that the text of clause 10.6 is to be read in the context of the other provisions in clause 10. Clause 10.6 on its terms provides for additional payment at overtime rates where time in excess of mutually arranged hours is worked. Mutually arranged hours must be a number of hours which if exceeded attract overtime payment. Under clause 10.2 the employee is engaged to work a number of hours per week that are less than 38 hours (the weekly hours). The way those hours are worked is governed by a written agreement that specifies; the hours worked each day (daily hours), the days they are worked (specified days), and the start and finish times (shift hours).

[32] It is clear enough that warehouse employees engaged by ALDI under Schedule 3 of the Agreements do not have mutually arranged hours as contemplated by the SSW Award. The Agreements provide for minimum Contract Hours to be agreed at commencement of employment. The employee may work anytime on any day of the week, with up to 5 shifts per fortnight. The hours are averaged over a fortnight. Overtime applies after 9 hours on a shift or 80 hours in a fortnight. Clause 17 of the Agreements applies to part-time employees such that Contract Hours must be less than 38. Clause 22 sets the working arrangements for Hourly Rate employees who are to be rostered their Contract Hours as a minimum each fortnight. Clause 24 rostering arrangements requires that rosters be prepared 2 weeks in advance. Schedule 3 provides that warehouse employees are to be rostered to work a minimum of 4 hours per shift. When rostering, ALDI must take into account, among other things, employee preference. These provisions do not meet the description of mutually arranged hours in the SSW Award.

[33] ALDI's practice is that when rostering employees it does not specify finishing times. The parties proceeded on the basis that the relevant agreement allowed rosters to specify a start time and not a finish time. I was not taken to, nor could I find, an express provision in the Agreements that permitted ALDI to issue rosters which did not specify a finish time. Regardless, ALDI's practice, as described by Ms McNaughton, is to provide fortnightly rosters with set commencement times but no set finish times. Employees are provided with likely finish times at the commencement of each shift. This in contrast to the SSW Award which provides that start and finish times form part of the part-time agreement reached at commencement of employment. It also differs from clause 20.5 of the SSW Award that provides rosters must show the commencement and finish times of each shift.

[34] The Agreements do however provide that a roster will be issued every fortnight. ALDI's approach to rostering employees is contrary to what I would regard as a common understanding of how rosters in industrial instruments operate. In the Federal Court in the case of *Construction, Forestry, Mining and Energy Union v BHP Coal Pty Ltd* [2011] FCA 1294 Logan J, after observing that there is no special industrial meaning to give to the word roster, said:

[18] The ordinary meaning of the word "roster" is apt to embrace starting and finishing times. One feature of an arrangement which lists terms or periods of duty is the delineation of when a period of duty starts and when a period of duty finishes. That is achieved not just by specifying a particular day, week and month, but also by a time to start and a time to finish on a particular day.

[35] I am inclined to the view that when the term roster is used in the Agreements it embraces both starting and finishing times. A clear indicator of this is that when preparing the roster ALDI is required under clause 24.2(b)(ii) to take into account adequate breaks between shifts. This requires an assessment of the time from the finish of one shift to the beginning of the next. It cannot meet this requirement if it does not know when the first shift finishes. It appears that ALDI's rostering practices are contrary to the Agreements.

[36] I do not consider that I am required to finally determine this issue here. ALDI's practice of not providing finishing times on its roster does contribute to a conclusion that there are no mutually arranged hours for the purpose of clause 10.6. As daily hours are not specified either in the written agreement at commencement, nor at any stage prior to the commencement of a shift, there are no mutually arranged hours for the purpose of assessing whether time is worked in excess of mutually agreed hours under clause 10.6.

[37] Returning to the SDA contention, I am not persuaded that, as there are no mutually arranged hours, clause 10.6 operates such that all hours worked is time worked in excess of the hours as mutually arranged. As can be seen, the Agreements depart from the SSW Award and do not have mutually arranged hours that meet the description in the SSW Award terms. If the SSW Award applied to the employees, ALDI would be in breach of those terms for, at least, failing to comply with clause 10.3. A consequence of that breach however is that clause 10.6 cannot be applied as intended. Clause 10.6 needs there to be mutually arranged hours as the reference point for which additional hours can be identified. It is the additional hours that are paid at overtime.

[38] This does not mean that an assessment cannot be made under the BOOT. It simply means that the SDA's approach is not accepted.

[39] The SDA put an alternative approach. It argued that overtime should apply to hours worked beyond the Notional Shift Hours. Under this alternative position, it contends that any hours worked in excess of the contracted hours should be treated as overtime. The SDA provided comparison tables. These are the tables referred to by Ms McNaughton in the analysis above.

[40] The comparison tables show that for certain classifications, such as Warehouse Labourers, the hourly overtime rates under the award are higher than the hourly rates under the Agreements. One of the examples was a Warehouse Labourer, who would be a store worker grade 1 who earns \$29.09 per hour under the Jandakot Agreement, while the overtime rate under the SSW Award is \$38.36 per hour. This creates a significant gap for overtime hours but as I have found is made up on a shift or fortnightly basis due to the higher rate in the Agreements for Contract Hours.

[41] The SDA also argues that under the Agreements, employees may work beyond their contracted hours without receiving overtime pay, whereas under the SSW Award, those additional hours would attract overtime rates. This means that employees working longer shifts or additional hours would be financially disadvantaged under the Agreements. The SDA emphasises that the financial disadvantage becomes more pronounced when employees work extended hours or multiple shifts that exceed their contracted hours. The Agreements failure to apply overtime rates to these hours results in employees being worse off overall compared to

the SSW Award. The SDA notes that the disadvantage is more significant in Agreements with lower base rates, such as the Jandakot Agreement, compared to the Prestons Agreement, which has higher base rates but the disparity is still present. I accept the argument that for employees consistently working overtime on long shifts, the Agreements may not compensate at a rate sufficient to compensate for those long shifts.

[42] Examples of the various scenarios have already been set out above. I do not repeat them. The ALDI response was that the overtime hourly discrepancy is made up by the higher ordinary rate. ALDI's approach was to refer to Notional Shift Hours and use those hours as the basis for extrapolating the overtime that would be payable on a shift basis or over a fortnight. In the samples provided, assumptions were made about shift lengths. The sample roster tables confirm that the overtime rates under the SSW Award are higher than the hourly rates under the Agreements and that taken over a fortnight the employee is better off under the Agreements. One of the sample rosters already referred to was for a Warehouse Operator on a 40-hour contract per fortnight limited roster. The sample roster showed employees better off by \$136.69 per fortnight or, on the basis that 5 shifts are worked per fortnight, \$27 per shift. It would not take much for that benefit to dissipate if additional hours were worked.

[43] My assessment of this material is that while I agree with the SDA that some employees may be better off overall under the SSW Award if consistently working long hours which would attract higher hourly overtime rates under the SSW Award, the ALDI sample rosters suggest that this does not occur. Absence of evidence of employees working this way I am not prepared to find that the overtime rates in the SSW Award are not accommodated in the current rostering arrangements. I note though that the manner of allocating work under the Agreements, specifically the failure to provide a finish time to employees until the commencement of shift, gives ALDI the flexibility it desires for operational purposes but also exposes employees to the possibility of working long hours beyond their Contract Hours or their Notional Shift Hours. On balance however I am satisfied on a monetary basis that the employees are better off overall on the Agreements compared to the SSW Award.

b) *There is a loss of reasonably predictable hours and finish times for employees, particularly for warehouse employees who have flexible rostering arrangements.*

[44] The SDA's next concern is that under the Agreements there is uncertainty over shift lengths. Clause 10.2 of the SSW Award provides that part-time employees have reasonably predictable hours of work. Clause 10.3 provides for agreement over the hours worked each day, which days of the week are worked, and starting and finishing times. The Agreements do not specify any of these things. Employees are required to work any day of the week. ALDI's practice is that they are not provided with a finishing time for shifts. Employees' hours per day change, they are determined at the commencement of each shift.

[45] ALDI submits that this issue was addressed by the Full Bench in the *Appeal Decision* at [63] - [64] where the Full Bench said:

[63] We are satisfied that the Agreement passes the BOOT. We recognise that for some employees the regularity of part-time hours is an important feature. If the predictability of the times at which hours might be rostered is an essential feature of part-time employment for some employees there are other facilities available under the Agreement. For example,

employees with immovable family responsibilities may choose to be a Limited Roster Store Assistant under Clause 3 of Schedule 2 of the Agreement, viz:

“3 Flexible Store Assistants

If you are employed as a Flexible Store Assistant:

- (a) you are an Hourly Rate Employee;
- (b) you may be rostered to work at any time on any day in a Week from Monday to Sunday;(
- (c) you will work up to ten (10) shifts per Fortnight; and
- (d) your hours will be averaged over a Fortnight.”

[64] The detriment associated with the loss of predictability of the hours during which parttime employees might be rostered is a detriment but not a significant detriment. When considered in the context of the other comparative detriments under the Agreement, and in the context of the wages payable under the Agreement being significantly higher than the award rates, we are satisfied that the Agreement passes the BOOT.

[46] I do not consider that this observation assists in determining the current matter. First, the Full Bench referred to the ability of employees to choose a different type of employment. Nothing in the material before me suggests the warehouse employees have a similar choice. Second, the application of the BOOT is a matter of satisfaction of the Commission in each application for approval. The test to be applied is to be applied uniquely and based on the material and submissions before the Commission in each case. Prior decisions, especially at Full Bench level may be persuasive, often compelling, but they do not operate as judgment rules. However, the Full Bench in the *Appeal Decision* was dealing directly with the circumstances relating to the Dandenong Agreement. In the Dandenong matter the Commission was also dealing with ALDI stores which are more predictable in the hours they operate than distribution centres. I also note that it appears in the Dandenong case the SDA accepted that the hours of work were reasonably predictable<sup>3</sup>. It does not do so here. For these reasons I do not consider the Full Bench observation in the *Appeal Decision* assist ALDI’s case.

[47] ALDI submitted that the Agreements provide flexibility in rostering, which is necessary for Aldi's operational requirements. This flexibility is a key feature of the Agreements and is balanced by higher rates of pay and other benefits. It also argues that the SDA has not provided evidence to support its claim that the loss of predictability is a significant non-monetary detriment. ALDI points out that the SDA's submissions on this issue are vague and lack specific examples or evidence.

[48] The SDA submits that employees under the Agreements do not know their finish times nor the total hours they will work each day. While they receive rosters 2 weeks in advance, the rosters only specify the days they are required to work and their start times. It submits that this lack of predictability makes it difficult for employees to plan their lives, including childcare, caring obligations, and other personal commitments. This is described as a significant non-monetary detriment. I agree.

[49] There is no doubt that non-monetary benefit or detriments are to be taken into account when considering the BOOT. The Full Bench in *Appeal by National Tertiary Education Industry Union* [\[2011\] FWAFB 5163](#) at [44] approved an observation made at first instance in that case as follows:

[96] It is trite to observe that awards typically contain both monetary and non-monetary terms and conditions. Obviously enough, the BOOT calls for an overall assessment. Comparing monetary terms and conditions is, at the end of the day, a matter of arithmetic. There is an obvious problem of comparing apples with oranges when it comes to including changes to non-monetary terms and conditions into the “overall” assessment that is required by the BOOT. In such circumstances the Tribunal must simply do its best and make what amounts to an impressionistic assessment, albeit by taking into account any evidence about the significance to particular classes of employees covered by the Agreement of changes to particular non-monetary terms that render them less beneficial than the equivalent non-monetary term in an award. In my view, it may also be relevant to consider the terms of any existing agreement and whether there is a relevant change of position when compared to that existing agreement.

[50] I consider the non-monetary detriment here to be significant. The Agreements provide ALDI with the capacity to determine their labour needs on a daily basis. Starting with the uncertainty associated with daily hours, Ms McNaughton described this as flexibility allowing ALDI to give an estimated finish time at the beginning of a shift subject to operational needs, such as delays in deliveries or other unforeseen events. If it becomes apparent during the shift that the work will extend beyond the initially estimated finish time, employees may be required to stay longer to complete the work. In submissions, ALDI contended that the minimum hours for contract hour employees is 21 Contract Hours per fortnight or 5.5 Notional Shift Hours per day, and up to 70 hours per fortnight. Ms McNaughton’s evidence was that an employee could turn up for a shift and have a notional shift length of 5.5 hours, but not know how long they are required and could work 11 hours.

[51] The Agreements create a type of employment that is more flexible than part-time employment under the SSW Award. The SSW Award provision is a common award term. The history and nature of part-time employment was canvassed in detail in the *4 yearly review of modern awards – Casual employment and Part-time employment* [2017] FWCFB 3541. Here is an extract:

[92] A significant expansion of award part-time employment provisions occurred as a result of the *1995 Personal Carer’s Leave Test Case - Stage 2*. The AIRC Full Bench made the following finding in that matter:

“It is apparent from the evidence that part-time employees are an integral part of the labour force. Part-time employment is one of the ways in which families reconcile their work and family commitments. The evidence shows an employee preference for part-time work, particularly among women.”

[93] The Full Bench went on to determine that, first, part-time work provisions should, on application, be introduced into awards which did not already have them and, second, that the adequacy and relevance of existing provisions should be reviewed against the characteristics of the particular industry or enterprise covered by the award. The Full Bench determined that 2 matters needed to be taken into account in the development of “fair and equitable” part-time work provisions. The first was that it was necessary to ensure that part-time employees were provided with pro-rata entitlements to the benefits available to full-time employees, including equitable access to training and career path opportunities. The second was:

“Secondly, part-time work needs to be clearly distinguished from casual employment. While the provision of pro rata benefits is one means of providing such a distinction

other measures are also needed. In particular part-time work provisions should specify the minimum number of weekly hours to be worked and provide some regularity in the manner in which those hours are worked.

Regularity in relation to hours worked is an important feature of part-time employment. In the absence of such regularity reduced hours of work may not be conducive to reconciling work and family responsibilities. For example, if hours of work are subject to change at short notice it can create problems for organising child care as these arrangements generally require stable hours and predictable timing...”

[94] Part-time employment provisions awarded after the *Personal Carer’s Leave Test Case - Stage 2 Decision* did not contain express restrictions limiting their operation to persons with family responsibilities, but provisions drafted in accordance with the principles established in that decision tended to be structured in a way which facilitated their utilisation by employees with family responsibilities. The part-time employment provision established for the *Hospitality Industry - Accommodation, Hotels, Resorts and Gaming Award 1995* as a result of the *Award Simplification Decision* became a model clause adopted in many awards. Its features were described in a Full Bench decision issued as part of the award modernisation process conducted pursuant to Part 10A of the WR Act as follows:

“[136] ... The provision characterises a regular part-time employee as an employee who works less than full-time hours of 38 per week, has reasonably predictable hours of work and receives, on a pro rata basis, equivalent pay and conditions to those of full-time employees who do the same kind of work. It requires a written agreement on a regular pattern of work, specifying at least the hours worked each day, which days of the week the employee will work and the actual starting and finishing times each day, with variation in writing being permissible. All time worked in excess of mutually arranged hours is overtime.”

...

[97] Thus the typically distinctive features of the award regulation of part-time work – the requirement for written agreement specifying the number of hours to be worked and the days and times in the week when these hours are to be worked, alterable by written agreement only – reflect the original rationale for part-time employment to which we have earlier referred. Part-time employment has been treated as peculiarly suitable for those with major family or other personal commitments in their lives, and award provisions have not been constructed simply to allow any person to be employed on any number of hours below full-time hours.

**[52]** It can be seen that the key purpose of part-time employment is to accommodate workers with family or personal commitments. This is achieved by ensuring that part-time employment is not merely a means to employ anyone at reduced hours but ensuring the hours worked are regular and predictable. Part-time provisions were to include written agreements at the commencement of employment specifying as a minimum, the hours worked each day, which days of the week will be worked and the actual starting and finishing times each day with changes allowed only by a further written agreement. The SSW Award part-time provisions reflect that purpose. The Agreements depart from it. The Agreements’ provisions create uncertainty about hours of work. There are rostering rules that allow preference to be expressed on a fortnightly basis, but that preference is to be balanced with a number of other factors including operational needs. The SSW Award protections are reduced to rostering rules. This is a detriment to employees. It also perverts the purpose of part-time employment and blurs the distinction between part-time and casual employment.

[53] Further, the way in which the ALDI part-time employees’ hours are regulated not only impedes the ability to meet family and personal commitments, but they also prevent them from supplementing the income they receive from ALDI with income from a second job. The requirement that they be available to work on any day of the week prevents the workers from organising other employment to supplement their income. In the case of employees on 21 Contract Hours a fortnight, the fewest hours referred to in clause 46 of the Agreements, this is a significant detriment. The current minimum wage for a full-time employee annualised is \$49,301.20.<sup>4</sup> The sample rosters in Ms McNaughton’s statement provide annual total earnings for employees including additional hours. Those figures were:

Warehouse Labourer (part-time) 40 hour contract per fortnight working 13 hours more than the minimum each fortnight	\$42,594.00
Warehouse Labourer (Stapylton) 40 hour contract per fortnight working 3 hours more than the minimum each fortnight	\$42,594.00
Palletiser (Jandakot) 50 hour contract per fortnight working 4 hours more than the minimum each fortnight	\$59,275.65
Palletiser (Stapylton) 40 Hour Contract per fortnight 3 working 3 hours more than the minimum each fortnight	\$43,664.86
Warehouse Operator (Stapylton) 40 hour contract per fortnight Limited roster – no additional hours	\$37,983.04

[54] Four out of five of the example rosters give an outcome that the employee earns less over a year than the full-time minimum wage. The terms of the Agreements prevent them from working in a second part-time or casual job to supplement the wages they receive from ALDI. This is a significant detriment.

*(c) Changes to break times for shifts between 6 and 7 hours are less beneficial than the SSW Award because they may be taken at the end of a shift.*

[55] This issue was raised by the SDA on the basis that the Agreements allow, and ALDI’s practice is to require, employees to take an unpaid break at the end of the shift and require employees to stay at work for those 30 minutes. ALDI’s response was that the SDA had not brought evidence that this was ALDI’s practice. It did not disagree that the practice was permitted by the Agreements. I agree with the SDA that this is a detriment. As the prevalence of the practice is not evident, I am not able to assess its significance because I do not know how prevalent the practice is.

(d) *The notional shift length used for payment of public holidays did not reflect the actual ordinary hours of work.*

[56] ALDI pays the employees on public holidays an amount equivalent to the Notional Shift Hours specified in clause 45 of the Agreements. The SDA submits this does not reflect the actual ordinary hours of work. ALDI responds that there is no evidence that its notional shift length method does not result in a detriment. I agree with ALDI that there is no direct evidence about the notional shift lengths not reflecting ordinary hours. The sample rosters provided by Ms McNaughton suggest that hours are regularly worked above the notional shift lengths, but those hours are not significant. If there is a detriment it is not significant.

(e) *Detriments identified in the Dandenong Agreement proceedings which the SDA contends also apply to the Agreements.*

[57] The SDA also relied upon the detriments identified in the first instance decision<sup>5</sup> and the appeal decision<sup>6</sup> dealing with the Dandenong Agreement. Those matters are dealt with at [31] to [38] of the first instance decision. ALDI responded that the Dandenong Agreement was found to pass the BOOT despite these detriments in both decisions.

[58] The matters were:

- a) **Medical Examinations and Testing:** Employees are required to attend medical examinations and submit to drug and alcohol testing, with a waiver of doctor-patient confidentiality. It was noted that whether the clause is a detriment will depend on an employee's point of view. Some employees may regard the arrangements as invasive, while others may not. The clause can be seen as beneficial, as it provides free medical services which might detect medical concerns bearing on an employee's ability to do their job and facilitate their successful treatment. I agree that the provision is both beneficial and detrimental. I consider that the waiver of doctor-patient confidentiality outweighs the potential benefit of diagnosis and treatment of adverse health conditions even where the waiver acknowledges that ALDI will keep the information confidential.
- b) **Scheduling of Work:** The Dandenong Agreement did not contain an entitlement to 2 consecutive days off per week or 3 per fortnight, nor did it provide employees with a right to work no more than 6 consecutive days. Further, the Dandenong Agreement conferred rights on employees who regularly work on Sundays to have 3 consecutive days off per 4-week cycle. ALDI submitted in the Dandenong Agreement proceedings that the evidence of Ms McNaughton, was that under clause 24 of the Dandenong Agreement, employees may nominate their rostering preferences each roster cycle, and that ALDI takes these into consideration when rosters are prepared. It also takes into account what would be a fair allocation of work and time off across the particular team, adequate breaks between shifts, safe transport home, and any special domestic circumstances, as well as business requirements. These provisions also apply here. It was found that the Dandenong Agreement's omission of these award rights are detriments, but that clause 24 went some way to address them and they were regarded as relatively minor matters. I consider the rostering rules to be a poor substitute for the rights conferred on

employees in the SSW Award and consider these matters to be detrimental to employees.

- c) Overtime rates of pay: The SDA argument in the Dandenong matter included that the Dandenong Agreement did not provide for overtime at 200% after the first 3 hours, but instead a flat 150% rate for all overtime hours, and that store managers and store employees would be worse off when working overtime beyond 3 hours under the Dandenong Agreement, as compared to their position under the Retail Award. Storage workers were also said to be worse off under the Dandenong Agreement as compared to the SSW Award, which prescribes overtime of 200% after 2 hours. The SDA's argument here was different and I have dealt with it above. I agree with ALDI that there is no detriment as the lower overtime hourly rates are compensated for by the higher ordinary rates.
- d) The SDA submitted in the Dandenong case that clause 20.5 of Schedule 2 of the Dandenong Agreement was less beneficial than the Retail Award in respect of annual leave loading. This is so, but the difference is a small one and does not affect my overall conclusion. I come to the same conclusion here.

[59] The SDA also noted that the Dandenong Agreement contains less generous redundancy provisions than the Retail Award in respect of taking time off during the notice period. Further, the SSW Award provides for a job search entitlement. However, as the SDA acknowledged, severance benefits under the Dandenong Agreement are more generous than those in the awards, which simply defer to the NES. The Dandenong Agreement provides less generous annual leave loading compared to the Retail Award.

### **Conclusion on BOOT**

[60] I am required to make a global assessment as to whether each employee would be better off having regard to the terms of an agreement that are more beneficial to employees and to the terms of an agreement that are less beneficial. In these cases, there are some monetary detriments and non-monetary detriments.

[61] ALDI's contention is that the detrimental aspects of the Agreements are compensated for by the higher pay. The pay is higher under the Agreements, so much can be seen from the rates in Attachment A to this decision and the sample rosters provided by Ms McNaughton. I do not consider that those rates of pay are enough to compensate for the detriments taken as a whole. The most significant factor is the non-monetary detriment created by the lack of certainty in working hours. I have taken the other detriments as against the SSW Award into account. Those matters may be compensated for by the higher rates but the loss of the benefit of certain working hours which is the lynch pin of part-time work in the SSW Award is not.

[62] I come to this conclusion making a global assessment in relation to the part-time warehouse employees in the manner required by s 193A. I am not satisfied that each award covered employee, and each reasonably foreseeable employee for the Agreements would be better off overall if the Agreements applied to them than if the SSW Award applied to them. The Agreements therefore do not pass the BOOT.

## **Undertakings**

[63] Where the Commission has a concern that an agreement does not meet the BOOT, s 190 allows an agreement to be approved if an undertaking is provided. An undertaking must meet the requirements in s 190(3) that it is not likely to cause financial detriment to any employee or result in substantial changes to the agreement. Section 191 provides that if the undertaking is accepted it is taken to be a term of the agreement.

[64] I am of the view that the concern I have about the Agreements could be addressed by an undertaking. That undertaking would be along the lines that Hourly Rate part-time employees agree in writing on a regular pattern of work, specifying at least, the hours worked each day, the days of the week the employee will work, and the actual starting and finishing times each day. Consequential changes may also be necessary to ensure that the rosters reflect the terms of the agreed regular pattern of work.

[65] At the conclusion of the hearing, I asked ALDI whether it would like the opportunity to provide an undertaking, and to address any BOOT concerns that arose. Counsel for ALDI said it would not.

## **Approving an Agreement with Amendments**

[66] Section 191A provides that if the Commission has a concern that an agreement does not meet the BOOT it may approve the agreement by amending the agreement to address the concern. Section 191B provides that if the Commission specifies an amendment, the agreement is taken to be amended by the amendment.

[67] For the reasons expressed above I have a concern that the Agreements do not meet the BOOT. My concern is set out above. The most significant concern is that Hourly Rate part-time employees will not be better off overall under the Agreements compared to the SSW Award due to the unpredictable nature of their hours of work. The hours are unpredictable due to the requirement that they be available to work on any day of the week, and not knowing prior to commencing a shift the time they are required to be at work. I am satisfied that an amendment to the Agreements can address that concern.

[68] I propose to exercise the discretion and to specify an amendment that the Agreements provide for ALDI to reach agreement with each of its Hourly Rate part-time employees on a regular pattern of work, specifying at least, the hours worked each day, which days of the week the employee will work, and the actual starting and finishing times each day and to record that agreement in writing. Consequential changes will also be necessary to ensure that the rosters reflect the terms of the agreed regular pattern of work.

[69] Subsection 191A(3) provides that before exercising the power the Commission should seek the views of the parties. In order to obtain those views the matters will be listed for directions on 3 November 2025 at 10:00 AM.



DEPUTY PRESIDENT

*Appearances:*

*Ms A Perigo of Counsel for the Applicant  
Mr A Amin for the SDA*

*Hearing details:*

*4 September 2025  
Via Microsoft Teams Video*

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### Attachment A

#### Jandakot Agreement

Table 1: Warehouse Operators employed to work fewer than 38 hours per week.

Flexible Warehouse Operator	Adult Rate	SSWA Grade 2 Part time
Monday to Friday 5am-6am	\$35.28	\$29.03 (12.5% loading)
Monday to Friday 6am-6pm	\$35.28	\$25.80 or \$29.03 (12.5% loading if part of early morning shift) or \$29.67 (15% loading if part of afternoon shift)
Monday to Friday 6pm-12am	\$42.34	\$29.67 (15% loading)
Monday to Friday 12am-5am	\$45.86	\$33.54 (30% loading)
Saturday	\$52.92	\$38.70 (50% loading)
Sunday	\$70.56	\$51.60 (100% loading)
Public Holidays (apart from Good Friday and Christmas Day)	\$70.56	\$64.50 (150% loading)

Table 2: Palletisers employed to work fewer than 38 hours per week.

Flexible Palletiser	Adult Rate	SSWA Grade 1 (after 12 months) Part Time
Monday to Friday 5am-6am	\$32.51	\$28.77 (12.5% loading)
Monday to Friday 6am-6pm	\$32.51	\$25.57 or \$28.77 (12.5% loading if part of early morning shift) or
Monday to Friday 6pm-12am	\$39.01	\$29.41 (15% loading if part of afternoon shift)
Monday to Friday 12am-5am	\$42.26	\$33.24 (30% loading)

Saturday	\$48.77	\$38.36 (50% loading)
Sunday	\$65.02	\$51.14 (100% loading)
Public Holidays (apart from Good Friday and Christmas Day)	\$65.02	\$63.93 (150% loading)

Table 3: Warehouse Checkers employed to work fewer than 38 hours per week.

Flexible Warehouse Checker	Adult Rate	SSWA Grade 3 Part time
Monday to Friday 5am-6am	\$36.22	\$29.85 (12.5% loading)
Monday to Friday 6am-6pm	\$36.22	\$26.53 or \$29.85 (12.5% loading if part of early morning shift) or \$30.51 (15% loading if part of afternoon shift)
Monday to Friday 6pm-12am	\$43.46	\$30.51 (15% loading)
Monday to Friday 12am-5am	\$47.09	\$33.24 (30% loading)
Saturday	\$54.33	\$34.49 (50% loading)
Sunday	\$72.44	\$53.06 (100% loading)
Public Holidays (apart from Good Friday and Christmas Day)	\$72.44	\$66.33 (150% loading)

Table 4: Warehouse Labourers employed to work fewer than 38 hours per week.

Flexible Warehouse Labourer	Adult Rate	SSWA Grade 1 (after 12 months) Part Time
Monday to Friday 5am-6am	\$29.09	\$28.77 (12.5% loading)
Monday to Friday 6am-6pm	\$29.09	\$25.57 or

		\$28.77 (12.5% loading if part of early morning shift) or \$29.41 (15% loading if part of afternoon shift)
Monday to Friday 6pm-12am	\$34.91	\$29.41 (15% loading)
Monday to Friday 12am-5am	\$37.82	\$33.24 (30% loading)
Saturday	\$43.64	\$38.36 (50% loading)
Sunday	\$58.18	\$51.14 (100% loading)
Public Holidays (apart from Good Friday and Christmas Day)	\$58.18	\$63.93 (150% loading)

**Prestons Agreement**

Table 5: Warehouse Operators employed to work fewer than 38 hours per week.

Flexible Warehouse Operator	Adult Rate	SSWA Grade 2 Part time
Monday to Friday 5am-6am	\$38.59	\$29.03 (12.5% loading)
Monday to Friday 6am-6pm	\$38.59	\$25.80 or \$29.03 (12.5% loading if part of early morning shift) or \$29.67 (15% loading if part of afternoon shift)
Monday to Friday 6pm-12am	\$44.38	\$29.67 (15% loading)
Monday to Friday 12am-5am	\$50.17	\$33.54 (30% loading)
Saturday	\$57.89	\$38.70 (50% loading)
Sunday	\$77.18	\$51.60 (100% loading)
Public Holidays (apart from Good	\$77.18	\$64.50 (150% loading)

Friday and Christmas Day)		
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Table 6: Palletisers employed to work fewer than 38 hours per week.

Flexible Palletiser	Adult Rate	SSWA Grade 1 (after 12 months) Part Time	Road Transport and Distribution Award Distribution Facility Level 1
Monday to Friday 5am-6am	\$35.64	\$28.77 (12.5% loading)	\$38.51 (overtime for day worker); \$33.37 (30% loading for night shift)
Monday to Friday 6am-6pm	\$35.64	\$25.57 or \$28.77 (12.5% loading if part of early morning shift) or	\$25.67
Monday to Friday 6pm-12am		\$29.41 (15% loading if part of afternoon shift)	\$30.16 (17.5% loading if part of afternoon shift)
Monday to Friday 6pm-12am	\$40.99	\$29.41 (15% loading)	\$30.16 (17.5% loading if part of afternoon shift)
Monday to Friday 12am-5am	\$46.33	\$33.24 (30% loading)	\$33.37 (30% loading for night shift)
Saturday	\$53.46	\$38.36 (50% loading)	\$38.51 (50% loading)
Sunday	\$71.28	\$51.14 (100% loading)	\$51.34 (100% loading)
Public Holidays (apart from Good Friday and Christmas Day)	\$71.28	\$63.93 (150% loading)	\$64.18 (150% loading)

Table 7: Warehouse Checkers employed to work fewer than 38 hours per week.

Flexible Warehouse Checker	Adult Rate	SSWA Grade 3 Part time
Monday to Friday 5am-6am	\$40.88	\$29.85 (12.5% loading)
Monday to Friday 6am-6pm	\$40.88	\$26.53 or \$29.85 (12.5% loading if part of early morning shift) or \$30.51 (15% loading if part of afternoon shift)

Monday to Friday 6pm-12am	\$47.01	\$30.51 (15% loading)
Monday to Friday 12am-5am	\$53.14	\$33.24 (30% loading)
Saturday	\$61.32	\$34.49 (50% loading)
Sunday	\$81.76	\$53.06 (100% loading)
Public Holidays (apart from Good Friday and Christmas Day)	\$81.76	\$66.33 (150% loading)

Table 8: Warehouse Labourers employed to work fewer than 38 hours per week.

Flexible Warehouse Labourer	Adult Rate	SSWA Grade 1 (after 12 months) Part Time
Monday to Friday 5am-6am	\$33.62	\$28.77 (12.5% loading)
Monday to Friday 6am-6pm	\$33.62	\$25.57 or \$28.77 (12.5% loading if part of early morning shift) or \$29.41 (15% loading if part of afternoon shift)
Monday to Friday 6pm-12am	\$38.66	\$29.41 (15% loading)
Monday to Friday 12am-5am	\$43.71	\$33.24 (30% loading)
Saturday	\$50.43	\$38.36 (50% loading)
Sunday	\$67.24	\$51.14 (100% loading)
Public Holidays (apart from Good Friday and Christmas Day)	\$67.24	\$63.93 (150% loading)

**Stapylton Agreement**

Table 9: Warehouse Operators employed to work fewer than 38 hours per week.

Flexible Warehouse Operator	Adult Rate	SSWA Grade 2 part time
Monday to Friday 5am-6am	\$36.07	\$29.03 (12.5% loading)
Monday to Friday 6am-6pm	\$36.07	\$25.80 or \$29.03 (12.5% loading if part of early morning shift) or \$29.67 (15% loading if part of afternoon shift)
Monday to Friday 6pm-12am	\$41.48	\$29.67 (15% loading)
Monday to Friday 12am-5am	\$46.89	\$33.54 (30% loading)
Saturday	\$54.11	\$38.70 (50% loading)
Sunday	\$72.14	\$51.60 (100% loading)
Public Holidays (apart from Good Friday and Christmas Day)	\$72.14	\$64.50 (150% loading)

Table 10: Palletisers employed to work fewer than 38 hours per week.

Flexible Palletiser	Adult Rate	SSWA Grade 1 (after 12 months) Part Time
Monday to Friday 5am-6am	\$33.04	\$28.77 (12.5% loading)
Monday to Friday 6am-6pm	\$33.04	\$25.57 or \$28.77 (12.5% loading if part of early morning shift) or
Monday to Friday 6pm-12am	\$38.00	\$29.41 (15% loading)
Monday to Friday 12am-5am	\$42.95	\$33.24 (30% loading)
Saturday	\$49.56	\$38.36 (50% loading)
Sunday	\$66.04	\$51.14 (100% loading)
Public Holidays (apart from Good Friday and Christmas Day)	\$66.04	\$63.93 (150% loading)

Friday and Christmas Day)		
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Table 11: Warehouse Checkers employed to work fewer than 38 hours per week.

Flexible Warehouse Checker	Adult Rate	SSWA Grade 3 Part time
Monday to Friday 5am-6am	\$38.21	\$29.85 (12.5% loading)
Monday to Friday 6am-6pm	\$38.21	\$26.53 or \$29.85 (12.5% loading if part of early morning shift) or \$30.51 (15% loading if part of afternoon shift)
Monday to Friday 6pm-12am	\$43.94	\$30.51 (15% loading)
Monday to Friday 12am-5am	\$49.67	\$33.24 (30% loading)
Saturday	\$57.32	\$34.49 (50% loading)
Sunday	\$76.42	\$53.06 (100% loading)
Public Holidays (apart from Good Friday and Christmas Day)	\$76.42	\$66.33 (150% loading)

Table 12: Warehouse Labourers employed to work fewer than 38 hours per week.

Flexible Warehouse Labourer	Adult Rate	SSWA Grade 1 (after 12 months) Part Time
Monday to Friday 5am-6am	\$30.54	\$28.77 (12.5% loading)
Monday to Friday 6am-6pm	\$30.54	\$25.57 or \$28.77 (12.5% loading if part of early morning shift) or \$29.41 (15% loading if part of afternoon shift)
Monday to Friday 6pm-12am	\$35.12	\$29.41 (15% loading)

Monday to Friday 12am-5am	\$39.70	\$33.24 (30% loading)
Saturday	\$45.81	\$38.36 (50% loading)
Sunday	\$61.08	\$51.14 (100% loading)
Public Holidays (apart from Good Friday and Christmas Day)	\$61.08	\$63.93 (150% loading)

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<sup>1</sup> [2024] FWCFA 3774.

<sup>2</sup> [\[2024\] FWCA 3774](#) at [36].

<sup>3</sup> [\[2024\] FWCA 3774](#) at [36]

<sup>4</sup> Hourly rate of \$24.95 x 38 x 52 = \$42,5940.00

<sup>5</sup> [\[2024\] FWCA 3774](#)

<sup>6</sup> [\[2025\] FWCFB 143](#)