

## Hospitality and Retail Trade industries

### Industry risk

For the period from 1 January 2020 to 30 November 2020, the FWO resolved 3,494 requests for assistance involving a workplace dispute relating to the Accommodation and Food Services and Retail Trade industry divisions. While the FWO does not make a formal determination of compliance in all workplace disputes, a proxy for non-compliance can be derived by using the outcomes of the matter, that is whether it resulted in a monetary recovery or the use of a statutory enforcement tool. Using this derived approach, Accommodation and Food Services had the highest industry non-compliance rate of 29%, while Retail Trade was third with 28%. The average for all industries was 26%.

**Table 1: Derived non-compliance rates of all industries by ANZSIC division**

ANZSIC Division	Number of disputes	Disputes with Enforcement Tool/Money Recovery	Derived non-compliance rate
<b>Accommodation and Food Services</b>	<b>2223</b>	<b>648</b>	<b>29%</b>
Other Services	799	228	29%
<b>Retail Trade</b>	<b>1271</b>	<b>354</b>	<b>28%</b>
Education and Training	286	78	27%
Agriculture, Forestry and Fishing	372	101	27%
Construction	1798	487	27%
Manufacturing	737	198	27%
Transport, Postal and Warehousing	771	206	27%
Health Care and Social Assistance	1105	286	26%
Administrative and Support Services	1124	282	25%
Wholesale Trade	615	152	25%
Financial and Insurance Services	389	96	25%
Professional, Scientific and Technical Services	811	200	25%
Rental, Hiring and Real Estate Services	561	132	24%
Public Administration and Safety	303	67	22%
Mining	83	18	22%
Arts and Recreation Services	203	41	20%
Electricity, Gas, Water and Waste Services	58	11	19%
Information Media and Telecommunications	90	16	18%

**NOTE: This table excludes workplace disputes finalised where the industry was recorded as Null or Other.**

Focussing on industry sub-sectors (ANZSIC groups), two within these industries, Supermarket and Grocery Stores and Specialised Food Retailing, recorded a non-compliance rate within the Top 10 (40% and 34%, respectively). A further five sub-sectors recorded an above average non-compliance rate.

**Table 2: Top 10 industries<sup>1</sup> with highest derived non-compliance rates by ANZSIC group**

Industry (ANZSIC Group)	ANZSIC Division	Number of disputes	Disputes with Enforcement Tool/Money Recovery	Derived non-compliance rate
Printing and Printing Support Services	Manufacturing	34	15	44%
<b>Supermarket and Grocery Stores</b>	<b>Retail Trade</b>	<b>185</b>	<b>74</b>	<b>40%</b>
Motor Vehicle and Motor Vehicle Part Manufacturing	Manufacturing	28	11	39%
Sheep, Beef Cattle and Grain Farming	Agriculture, Forestry and Fishing	101	35	35%
Other Food Product Manufacturing	Manufacturing	26	9	35%
Agriculture and Fishing Support Services	Agriculture, Forestry and Fishing	44	15	34%
Other Personal Services	Other Services	89	30	34%
<b>Specialised Food Retailing</b>	<b>Retail Trade</b>	<b>167</b>	<b>56</b>	<b>34%</b>
Warehousing and Storage Services	Transport, Postal and Warehousing	21	7	33%
Residential Building Construction	Construction	279	91	33%
<b>Other Accommodation and Food Services and Retail Trade sectors</b>				
Electrical and Electronic Goods Retailing	Retail Trade	71	23	32%
Cafes, Restaurants and Takeaway Food Services	Accommodation and Food Services	1738	534	31%
Pharmaceutical and Other Store-Based Retailing	Retail Trade	182	54	30%
Fuel Retailing	Retail Trade	74	21	28%
Hardware, Building and Garden Supplies Retailing	Retail Trade	45	12	27%
Motor Vehicle Retailing	Retail Trade	87	23	26%
Pubs, Taverns and Bars	Accommodation and Food Services	211	55	26%
Accommodation	Accommodation and Food Services	195	49	25%
Non-Store Retailing	Retail Trade	59	14	24%
Motor Vehicle Parts and Tyre Retailing	Retail Trade	43	10	23%
Furniture, Floor Coverings, Houseware and Textile Goods Retailing	Retail Trade	65	15	23%
Department Stores	Retail Trade	27	6	22%
Recreational Goods Retailing	Retail Trade	54	10	19%
Clothing, Footwear and Personal Accessory Retailing	Retail Trade	200	32	16%
Clubs (Hospitality)	Accommodation and Food Services	79	10	13%

The Regulatory Compliance Risk Model<sup>2</sup>, developed by the FWO's Strategic Analysis team in 2019, further informs our understanding of industry risk. This model identified the Cafes, Restaurants and Takeaway Food Services and Fuel Retailing sectors as high risk.

<sup>1</sup> Only sectors with 20 or more identified disputes have been included.

<sup>2</sup> The model assessed workplace non-compliance risk across industry (ANZSIC) groups through the identification and modelling of 14 industry-based 'drivers of non-compliance' to predict non-compliance rates.

## Contraventions alleged for the Accommodation and Food Services and Retail Trade industries

The most common alleged contraventions for the Accommodation and Food Services and Retail Trade industry divisions were Wages and Conditions (13%), Termination (11%) and Annual Leave (8%). Wages and Conditions and Termination were consistent as top contraventions for all 7 sub-sectors with high non-compliance (see Table 3).

**Table 3: Most common contraventions for sub-sectors (ANZSIC group) with higher than average non-compliance rate**

Sector (ANZSIC group)	Top 3 contraventions
Supermarket and Grocery Stores	Termination (11%)   Wages and Conditions (11%)   Annual Leave (10%)
Specialised Food Retailing	Wages and Conditions (15%)   Termination (10%)   Not Paid for Time Worked (9%)
Electrical and Electronic Goods Retailing	Termination (17%)   Wages and Conditions (17%)   Annual Leave (13%)
Cafes, Restaurants and Takeaway Food Services	Wages and Conditions (13%)   Termination (8%)   Underpayment of Base Rate (8%)
Fuel Retailing	Wages and Conditions (14%)   Termination (10%)   Annual Leave (6%)
Pharmaceutical and Other Store-Based Retailing	Termination (20%)   Wages and Conditions (17%)   Annual Leave (9%)
Pubs, Taverns and Bars	Wages and Conditions (17%)   Termination (15%)   Annual Leave (9%)

### *Allegations relating to penalty rate contraventions*

There are a number of contraventions involving penalty rates and overtime. The Accommodation and Food Services and Retail Trade industries were among the top 3 industries for the prevalence of these allegations. Alleged penalty rates and overtime contraventions accounted for 15% and 11% of total alleged contraventions (only exceeded by Public Administration and Safety (16%)).

For the Accommodation and Food Services and Retail Trade industries, the industry sectors with the greatest proportion of alleged contraventions involving penalty rates and/or overtime were:

- Supermarket and Grocery Stores: 22% of alleged contraventions
- Specialised Food Retailing: 17%
- Cafes, Restaurants and Takeaway Food Services: 16%
- Clubs (Hospitality): 16%
- Fuel Retailing: 14%

In addition, of the 30 contraventions recorded for Entitlements – Annualised salary across all industry divisions, 17 were from the Accommodation and Food Services industry. Of these 17, 13 were from the Cafes, Restaurants and Takeaway Food Services industry group.

## Access to education and advice for Accommodation and Food Services and Retail Trade

For the period from 1 January to 30 November 2020, there were 20,107,204 website visits. The pages with the highest number of pageviews related to awards, pay and minimum wages. In addition, the website contains a number of assistance pages specific to the hospitality and retail industries (see Table 4).

Table 4: Pageviews for top five webpages<sup>3</sup> and specific hospitality and retail trade pages

Page name	Pageviews
<a href="http://www.fairwork.gov.au/awards-and-agreements/awards/list-of-awards">www.fairwork.gov.au/awards-and-agreements/awards/list-of-awards</a>	1,456,368
<a href="http://www.fairwork.gov.au/awards-and-agreements/awards">www.fairwork.gov.au/awards-and-agreements/awards</a>	1,147,508
<a href="http://www.fairwork.gov.au/awards-and-agreements/awards/find-my-award/">www.fairwork.gov.au/awards-and-agreements/awards/find-my-award/</a>	962,928
<a href="http://www.fairwork.gov.au/pay">www.fairwork.gov.au/pay</a>	890,731
<a href="http://www.fairwork.gov.au/pay/minimum-wages">www.fairwork.gov.au/pay/minimum-wages</a>	875,221
<b>Top Hospitality pages</b>	
<a href="http://www.fairwork.gov.au/find-help-for/fast-food-restaurants-cafes/fast-food-industry">www.fairwork.gov.au/find-help-for/fast-food-restaurants-cafes/fast-food-industry</a>	103,277
<a href="http://www.fairwork.gov.au/find-help-for/fast-food-restaurants-cafes/restaurant-cafes-industry">www.fairwork.gov.au/find-help-for/fast-food-restaurants-cafes/restaurant-cafes-industry</a>	75,485
<a href="http://www.fairwork.gov.au/find-help-for/fast-food-restaurants-cafes/">www.fairwork.gov.au/find-help-for/fast-food-restaurants-cafes/</a>	45,069
<b>Hospitality: pages relating to overtime, penalty rates and annualised salaries</b>	
<a href="http://www.fairwork.gov.au/pay/penalty-rates-and-allowances">www.fairwork.gov.au/pay/penalty-rates-and-allowances</a> (total Hospitality selections)	<b>14,562</b>
<i>(number of times the page was viewed under the below industry selection filters)*</i>	
Hospitality > Accommodation, hotels or gaming	2,454
Hospitality > Catering (other than by a restaurant)	724
Hospitality > Fast food or takeaway	2,172
Hospitality > Other	1,046
Hospitality > Restaurant or café	8,166
<a href="http://www.fairwork.gov.au/pay/minimum-wages/salary-payments">www.fairwork.gov.au/pay/minimum-wages/salary-payments</a> (total Hospitality selections)	<b>5,711</b>
<i>(number of times the page was viewed under the below industry selection filters)*</i>	
Hospitality > Accommodation, hotels or gaming	1,488
Hospitality > Catering (other than by a restaurant)	201
Hospitality > Fast food or takeaway	965
Hospitality > Other	161
Hospitality > Restaurant or café	2,896
<a href="http://www.fairwork.gov.au/pay/penalty-rates-and-allowances/overtime-pay">www.fairwork.gov.au/pay/penalty-rates-and-allowances/overtime-pay</a> (total Hospitality selections)	<b>4,506</b>
<i>(number of times the page was viewed under the below industry selection filters)*</i>	
Hospitality > Accommodation, hotels or gaming	845
Hospitality > Catering (other than by a restaurant)	322
Hospitality > Fast food or takeaway	805
Hospitality > Other	362
Hospitality > Restaurant or café	2,172
<a href="http://www.fairwork.gov.au/ArticleDocuments/766/annualised-wage-under-awards-template.docx.aspx">www.fairwork.gov.au/ArticleDocuments/766/annualised-wage-under-awards-template.docx.aspx</a>	4,712
<b>Top Retail Trade pages</b>	
<a href="http://www.fairwork.gov.au/articledocuments/872/general-retail-industry-award-ma000004-pay-guide.docx.aspx">www.fairwork.gov.au/articledocuments/872/general-retail-industry-award-ma000004-pay-guide.docx.aspx</a>	50,292
<a href="http://www.fairwork.gov.au/ArticleDocuments/872/vehicle-manufacturing-repair-services-and-retail-award-ma000089-pay-guide.pdf.aspx">www.fairwork.gov.au/ArticleDocuments/872/vehicle-manufacturing-repair-services-and-retail-award-ma000089-pay-guide.pdf.aspx</a>	14,615
<a href="http://www.fairwork.gov.au/library/k600572_penalty-rate-changes-in-the-retail-award">www.fairwork.gov.au/library/k600572_penalty-rate-changes-in-the-retail-award</a>	10,763
<b>Retail trade: Pages relating to overtime, penalty rates and annualised salaries</b>	
<a href="http://www.fairwork.gov.au/pay/penalty-rates-and-allowances">www.fairwork.gov.au/pay/penalty-rates-and-allowances</a> (total Retail Trade selections)	<b>13,314</b>
<i>(number of times the page was viewed under the below industry selection filters)*</i>	
Retail > Clerical - at shop	1,971

<sup>3</sup> Excluding the 'Welcome to the Fair Work Ombudsman' home page.

Retail > Clerical - away from shop	80
Retail > Fast food or takeaway	603
Retail > Other	764
Retail > Retail sales	9,655
Retail > Vehicle sales and repair	241
<b><a href="http://www.fairwork.gov.au/pay/minimum-wages/salary-payments">www.fairwork.gov.au/pay/minimum-wages/salary-payments</a> (total Retail Trade selections)</b>	<b>3,701</b>
<i>(number of times the page was viewed under the below industry selection filters)*</i>	
Retail > Clerical - at shop	322
Retail > Clerical - away from shop	80
Retail > Fast food or takeaway	161
Retail > Other	282
Retail > Retail sales	2,735
Retail > Vehicle sales and repair	121
<b><a href="http://www.fairwork.gov.au/pay/penalty-rates-and-allowances/overtime-pay">www.fairwork.gov.au/pay/penalty-rates-and-allowances/overtime-pay</a> (total Retail Trade selections)</b>	<b>3,821</b>
<i>(number of times the page was viewed under the below industry selection filters)*</i>	
Retail > Clerical - at shop	362
Retail > Fast food or takeaway	161
Retail > Other	241
Retail > Retail sales	2,816
Retail > Vehicle sales and repair	241

**\*Industry specific filters refer to the industry and sub-industry drop down boxes that customers can select to populate on these pages.**